

**CITY OF PROVIDENCE
ZONING BOARD OF APPEALS**

COOKE TWENTY FIVE REALTY, LLC	:
KITE ARCHITECTS, LLC	:
Appellants	:
	:
VS.	:
	:
PROVIDENCE HISTORIC DISTRICT	:
COMMISSION	:
Appellee	:

INTRODUCTION

Now comes the Appellants, Cooke Twenty Five Realty, LLC and KITE Architects, LLC, and hereby submits this Memorandum of Law in Support of its Appeal. The decision of the Providence Historic District Commission lacks sufficient evidentiary support in the record, exceeds the scope of its jurisdiction, is affected by serious error of law, and is arbitrary and capricious. As a result, the substantial rights of the Appellants have been prejudiced. For the reasons stated herein, the decision should be reversed, or at a minimum, remanded with instructions for proper procedure to be followed.

FACTS AND PROCEDURAL HISTORY

Appellant, Cooke Twenty Five Realty, LLC (“Cooke”) is the owner of real property located at 118-126 Benevolent Street, Providence, Rhode Island (the “Property”). Appellant, KITE Architects, LLC (“Kite”) (together with Cooke, the

“Appellants”) is a Rhode Island limited liability company well recognized for its work in historic preservation projects. The Appellants filed an application (the, “Application”) with the Providence Historic District Commission (the “HDC”) for a certificate of appropriateness related to the proposed plans to develop the Property into three single family residences with detached garages on three separate lots. Presently, the Property is comprised of two (2) vacant lots but the land area is sufficient such that Cooke has the right to subdivide the Property into three (3) lots. Each resultant lot of the subdivision would be in complete compliance with the dimensional requirements of the Zoning Ordinance of the City of Providence (the “Ordinance”). The three proposed lots are approximately equal in size and have fifty (50) feet of frontage. The proposed single family use is by-right in the R1 zone. *Exhibit 1*, p. 5, ln 1-18.

Each proposed home would be forty (40) feet in height with an approximate 2,110 square foot footprint. *Id.*; *Exhibit 4*. Each proposed lot would be in excess of 5,000 square feet accessible via a private driveway accessing the detached garages in the rear. *Id.* at p. 6, ln. 1-2. The garages are each twenty (20) feet in height with a 620 square foot footprint. The garages are not visible from the street. *Exhibit 5*. The HDC received a Staff Report which found the project to be consistent with Standard 8 because the proposal was “architecturally and historically compatible

with the property and district having an appropriate size, scale and form that will not have an adverse effect on the property or district.” *Exhibit 3*.

The Application was presented by architect Christine West. As noted throughout the hearings, Ms. West is well renown for her expertise on architectural design in historic districts, and is one of Providence’s most widely respected architects involved in historically sensitive areas. Ms. West testified as to the character of the area and the other buildings surrounding the Property. *Exhibit 1*. at p. 6, ln 5-19. She described the surrounding area of Cooke, Benevolent, and Governor Streets as having an eclectic makeup featuring “pretty much every style you can think of” from larger homes and buildings, to Victorian style and Federal style homes. *Id.* Ms. West considered this character of the neighborhood in her conceptual design of the three homes to be constructed. *Id.*

The process for obtaining a certificate of appropriateness is a multi-step process which requires first of obtaining conceptual approval related to size and massing of the proposed construction followed by a more detailed examination of the design and impact on the site features which occurs in a public hearing for final approval. The hearings in this matter were only on the first stage of conceptual approval and thus the scope of the HDC’s review was limited to size, massing, and site layout. As such, the Application was not required to present final detailed plans

which would be required at the final approval stage after conceptual approval was obtained.

Ms. West presented “general design” materials depicting the massing on the lots. She testified that the proposed lots and all structures were in full conformity with the Ordinance. *Id.* at p. 7, ln. 17-22; *Exhibit 6*. Ms. West stated that although the Application called for three separate residences with unique features which would be detailed in final plans, she designed the layout to also appear as a single cohesive design. *Id.* at p. 8, ln 9-14; p. 59, ln. 11-15 (“We are intentionally stripping this down to just the basics with placeholders for entries and detail and form. We would not literally build this. This is a diagram of massing.”). In designing a project that would be compatible with the Cooke-Power Historic District, Ms. West informed the HDC that she chose “four local inspiration precedents, all within fairly close” proximity of the Property in designing the size, massing and style for the three proposed homes. *Id.* at p. 8, ln.19-24; *Exhibit 7*.

Since the area featured a blend of large and modest homes, Ms. West indicated that the Application was designed to appear as “one large home with wings” from certain vantage points. However, to recognize the variation in size, the homes were designed to appear from the front, as they are in reality, as three (3) single family homes compatible in size and massing with the other modest sized single family homes in the neighborhood. *Exhibit 2*, p. 15, ln. 12-18 (“one of the

techniques...is to have three houses that are related to each other, and very clearly built at the same time, almost to give the illusion of a grander residence...fitting the scale of the neighborhood.”) The homes were designed with an “A-B-A rhythm.” Thus, through this design process, the Application was compatible with elements of the various designs reflected in the existing character of this historic area. *Exhibit 1*, p. 9, ln 6-24. Ms. West noted that the Ordinance’s requirements on setbacks provided “limited” flexibility as to where the structures could be positioned on the lots. *Id.* at p. 10, ln. 1-6.

The Application was designed with respect for the greenery and tree canopy in the area. *Id.* at p. 11. Ms. West noted that not only did the proposal protect any significant trees on the Property, but also was sensitive to significant, and insignificant, trees on abutting properties. She testified that a landscape plan and tree protection plan would be designed prior to final approval in conjunction with the City Forrester. The foundations would be designed to protect root systems as required. *Id.* at p. 11, ln. 8-24.

In the July hearing, the HDC noted that Ms. West’s proposed design was reflective of percent set by the existing homes on Cooke Street and was not as “boxy” as those on Governor. *Id.* at p. 12, ln. 14-24; p. 14, ln. 13-16. Ms. West testified and presented visual evidence that the subdivision into three lots was “perfectly compatible with the surrounding density and the neighborhood pattern.”

Id. at p. 58, ln. 4-5. Additionally, there was a discussion related to the garages. One member of the HDC questioned why the garages were laid out the same on each parcel. Ms. West noted that due to the Ordinance, and the desire to protect as many of the trees as possible and leave sufficient green space, the Application was limited in options related to the garages. *Id.* at p. 16, ln 3-16. Planning Staff Member Jason Martin interjected on the subject of the trees at one point in the hearing to remind the HDC and public that a tree mitigation plan would be filed for approval prior to final approval. *Id.* at p. 32, ln. 1-8. Ms. West repeatedly discussed the careful attention that was paid in the design to protecting the green space on the Property to be compatible with the “lush” character of the existing area. *Id.* In response to how the garages could be varied in appearance, Ms. West noted that there would be difference in the details of the exterior of the garage such as dormers and windows depicted on the submissions for final approval but the same was not properly considered at the conceptual stage of review. *Id.* at p. 17, ln 1-19.

There was public comment regarding the Application. Most of the speakers stated that they wanted less development on the site and suggested that the Ordinance and what it allows for by-right development should be disregarded. There were comments related to tree preservation and the importance of green space.

The Application was well received by the HDC at the July hearing. *Id.* at p. 19, ln. 2-19. Commissioner Fontecchio stated, “At this level, I don’t have any problem with what’s being shown” and “I think the idea of the...ABA to the garages is a great idea.” *Id.* Commissioners Lund and Kaplan were equally pleased. *Id.* Vice Chairman Sanderson stated he was a bit concerned about the homes looking too similar, but acknowledged that the detail for variation would be fleshed out at the next stage. *Id.* Further, in response to public comment, Vice Chairman Sanderson also noted that the only matter to be considered at the conceptual review stage related to the height, scale and massing. *Id.* at p. 41, ln. 16-24 (“I would note that several of the comments...expressed concern about the architectural development. And that is not what is on our agenda for tonight. The agenda for tonight is...how might this piece of land be developed”).

Specially, as to the consideration of size and massing, Commissioner Dotson expressly noted that the three 5,000 square foot lots “were in keeping with what’s happening in the neighborhood.” *Id.* at p. 44, ln. 1-5. Mr. Fontecchio echoed the appropriateness of the subdivision into three lots for the construction of three single family homes. *Id.* at p. 45, ln. 12-13; p. 46, ln. 2-19. He also noted that the project was consistent with the required canopy coverage consistent with the Ordinance and character of the area. *Id.* at p. 47, ln. 8.

As the HDC deliberated on the Application, which was recommended for approval by Planning Staff, Mr. Fontecchio asked the Appellants to provide more extensive documents on massing, beyond those typically required of an applicant at conceptual level review. *Id.* at p. 49, ln. 4-10. However, despite wanting to see some additional information, Mr. Fontecchio continued to express support for the three lot plan stating, “I don’t feel it appropriate to say this can only be two houses.” *Id.*, p. 49, ln. 16-17. He also expressed support for the garage plan indicating that the garages are “way in the backyard. I don’t think they’re really going to read front and center from the streetscape.” *Id.* at p. 55, ln. 1-5.

The HDC voted to continue the Application’s consideration to the next meeting and requested that the Appellants provide “more massing comparisons closing to their immediate neighbors...” In order to ensure that the right additional information would be provided, Ms. West sought to clarify what changes, if any, the HDC was looking for in the proposal. She specifically asked if the HDC would like the form of the buildings changed to reflect more of the “Victorian” style rather than the current design which was closer to the “Federal” style in the area. *Id.* at p. 56, ln. 4-7. In response, she was told that was not a requested change as a condition of approval. *Id.* at p. 10-11.

The Application was heard in a second public hearing on September 4, 2024 and improperly focused on issues more suited for final approve, i.e. trees and

landscaping. *Exhibit 2*. Ms. West responded to correspondence from the City Forrester and reiterated that the Application would be fully compliant with the requirements of a tree compliance plan. Once again, tree compliance plans are not part of conceptual review. *Id.* at p. 11, ln. 9-16. Despite that it was premature to do so, Ms. West did testify as to the steps taken in the design process to establish critical root zone protection for the neighbors intrusive sycamore maple tree. There are no structures in the critical root zone. *Id.* at p. 12, ln. 8-22. The same is true for the critical root zone associated with certain Atlas Cedar trees to the west. *Id.* at p. 13, ln. 1-14. Finally, Ms. West demonstrated, once again, that there are no significant trees on the Property and that the plans provide for compliance with canopy coverage. *Id.* at p. 13, ln. 14-24. She showed the HDC that the plans call for a “very dense green buffer.” *Id.* In fact, the total canopy coverage associated with the Property is “more than double” that which is required by law. *Id.* at p. 14, ln. 2-7.

Ms. West testified as to modifications made to protect the critical root zones previously mentioned. These modifications included moving the positioning of one of the garages. *Id.* at p. 15, ln. 4-6. As to size and height, Ms. West demonstrated to the HDC that the top of each gable on the houses is below the 40 foot height requirement and that “there are houses both smaller and wider, as well as taller on either side and across the street.” *Id.* at p. 16, ln. 11-16. Further, Ms. West testified

and presented clear evidence that the proposed lot sizes were “very much in the same scale, size, as most of the neighbors...some are larger...there are some smaller lots. We fit handily in the middle. *Id.* at p. 17, ln. 1-11; *Exhibit 4; Exhibit 10.* Ms. West testified and presented visual evidence that the Application is well within the scale and “ordinary” for the neighborhood.

Ms. West also showed the HDC the 3D model that they requested from different vantage points to further demonstrate the hand in glove feel of this design with the area. *Id.* at p. 27, ln. 12-24; *Exhibit 9.* She demonstrated with direct examples of how the proposed roof shapes, height, dormers are “indistinguishable from the neighborhood context.” *Id.* As she presented, Ms. West began calling out specific structures in the area that were used as inspiration for the design of this project. By way of example, Ms. West presented visual evidence showing similarities between the new construction and the “Aldrich House” across the way. The roof, dormers, portico and “overall symmetric volume with aligned windows” as well as the stairs were all drawn from the Aldrich House. *Id.* In reference to the “rounded dormers”, Ms. West directed the HDC to 37 Cooke Street for an example of where that selection was derived.

Following the presentation, the HDC heard from members of the public. Despite this clear evidence, the public remained opposed to approval and sought a continuance yet again. Members of the public offered lay opinion that the property

would be better divided into two lots rather than three. The lay witnesses also speculated about the impact of the development of the three houses on trees in the area, despite that being outside the scope of conceptual level review. Other property owners testified that the project was out of scale with the surrounding area but their testimony was conclusive in nature and lacked specific examples. *See Id.* at p. 51, ln. 1-14. The lay witnesses also offered commentary on the loss of trees from the project.

JP Couture testified as an expert in architecture. Mr. Couter served on the HDC in the past. He was allowed to testify as an expert in urban design and architecture in a historical context. *Id.* at p. 45, ln. 1-9. Mr. Coutre took issue with the detached garages, despite the fact that they cannot be seen from most vantage points. The Chairman pointed out that the garages are behind the homes and are not visible and thus he was not bothered by them. *Id.* at p. 83, ln. 12-17. David Schwartz testified as an arborist. He testified that it was his opinion that the project would disrupt trees in the area because “50 percent of the root systems are within the development area.” Essentially, Mr. Schwartz opposed any use of the property other than greenspace. *Id.* at p. 56, ln. 1-8. Mr. Daganhardt, the City Forrester, testified that the plan shows the required canopy coverage but could only speculate as to what the future would hold for the root systems running under the

development. *Id.* at p. 60, ln 10-21. He acknowledged that the trees potentially impacted were not significant. *Id.*

Prior to the hearing, a second Staff Report (“Second Staff Report”) was submitted. *Exhibit 11*. The Second Staff Report, unlike the first which recommended approval, contained no recommendation. There was no explanation why the Second Staff Report was silent. Without clarity to the contrary, it is presumed that the recommendation was unchanged. The Second Staff report noted that additional information was received by the City Forrester which caused the Appellants to decide to move a garage to not impact the root zone of a tree from an adjacent property, despite no obligation to do so. *Id.* The Second Staff Report also notes that the Forrester indicates that there are no significant trees impacted by the Application and that the proposal is compliant with the tree canopy requirements. The Forrester notes that he did have concerns that there were some mature trees that could be impacted on the Property based on the driveway construction in the future.

After public comment, the HDC deliberated and asked questions of its staff and attorney. The Chairman was clearly concerned about the consideration of matters beyond the scope of conceptual review, particularly issues related to the tree preservation and landscape plan which are not part of conceptual review. He attempted, unsuccessfully to redirect the HDC back to the proper information to

weigh against the standards. *Id.* at p. 76, ln. 2-9. Mr. Fontecchio remained focused on the trees, particularly the intrusive cedar tree with roots running under the proposed homes. *Id.* at p. 80, ln. 13-22. He felt he needed more clarity on the subject of trees. *Id.*

Commissioner Kaplan and Vice Chairman Sanderson expressed concerns with the mass, size and scale yet could not rebut the Chairman's statements that the evidence showed that the proposal was similar to the rest of the area. *Id.* at p. 85, ln. 1-13. Vice Chairman Sanderson actually confirmed what Ms. West testified to, that there is a blend of large and small houses, which was the reason why she designed the project to reflect both the larger and small homes within the cohesive vision of the development. *Id.* at p. 85, ln. 16-21. Mr. Sanderson acknowledged that there were no designated historic gardens or landscapes in the area, but stated that did not mean "tree canopy cannot be considered part of the context." *Id.* at p. 86, ln. 22-24.

Chairman Haggerty was supportive of the conceptual plans. *Id.* at p. 88, ln. 20-24. He specifically noted that the lot size and proposed coverage was "within two-tenth of a percent" of the immediate neighbors. *Id.* at p. 89, ln. 1-24. He stated his analysis of the information presented on density and built out physical form on the lots was "verbatim" to the surrounding area precedents. He stated that the 3D modeling showed that the massing was acceptable and compatible with the area as

there was “precedent for it literally next to these parcels.” *Id.* In response, Ms. Dotson said she wasn’t bothered by the footprint, rather she was concerned with the height despite the fact that the structures were under the limits allowed by zoning and she was shown information that the height was in keeping with the surrounding area. *Id.* at p. 89, ln. 23-24.

The HDC struggled to reach any consensus. Commissioner Fontecchio stated that he was not bothered by the garages or the three lots but rather that the proposed homes seemed to have less “verticality to them” than the others in the area. *Id.* at p. 90, ln 18-24; p. 91, ln. 1-12. Mr. Kaplan said he couldn’t support it because the public testimony opposed it. *Id.* at p. 91, ln. 13-19.

At the close of deliberation, despite each member seemingly having their own opinions about different aspect of the development proposal and there not being a consensus on the size, massing, and scale, Vice Chairman Sanderson moved to deny the approval. The motion carried with Chairman Haggerty voting against the motion. There was no vote to make any specific findings of fact, no discussion of the evidence presented by the Appellants, and no explanation for the final determination. Instead, a conclusory statement that the design did was incongruous with the area and did not meet Standards 7 and 8 was read into the record by Planning Department Staff and the vote was taken. A written decision

was later issued with far more detail and justification than what was expressed by the HDC. *Exhibit 13*.

STANDARD OF REVIEW

The Appellants have the right to challenge the Decision of the HDC to the Board pursuant to R.I.Gen.Laws §§45-24.1-7.1, 45-24.1-7.2, and 45-24.1-9. This Board reviews the HDC's Decision based upon the record below. The Board must reverse the HDC's Decision upon a finding that the HDC committed procedural error, clear error, or that the Decision is lacking in evidentiary support.

R.I.Gen.Laws §45-24.1-7.2.

APPLICABLE LAW AND STANDARDS

Historic Area Zoning was created by the General Assembly pursuant to R.I.Gen.Laws §45-24.1 *et seq.* The legislative intent was to provide a mechanism for new development or rehabilitation of historic structures to stimulate the economy and meet the modern needs of society while simultaneously providing safeguards to protect historic structures and the integrity of historic districts. *See* R.I.Gen.Laws §45-24.1-1. For new construction, the process requires an applicant with a proposed project to obtain a "certificate of appropriateness" from the HDC. §45-24.1-1.1(3). A certificate of appropriateness issues when the HDC finds that, based on the applicable standards, that a proposed project is "not incongruous with

those aspects of...the district which the commission has determined to be historically or architecturally significant.” *Id.*

In reviewing a request for certificate of appropriateness for new construction, the HDC considers the manner in which the proposal meshes with the surrounding historic district. Any decision to deny an application must be based on the evidence before the HDC which must demonstrate that the project is incongruous with those aspects of the district which are determined to be significant. R.I.Gen.Laws §45-24.1-4(d) and (e). When the HDC deems the loss of a historic feature in connection with a proposal to be significant, the HDC is required to consider whether the significant feature may be preserved by the applicant with an “economically feasible plan for preservation” thereof. *Id.* at (f).

The City of Providence has promulgated certain “Standards and Guidelines” to be applied by the HDC. Relevant to this appeal are Standards 7 and 8. Standard 7 states:

Where historic architectural or site features are determined by the Commission to contribute to the historic character of the property or the district, proposed alterations or additions affecting such features shall be reviewed more stringently.

Standard 8 reads:

New additions...or new construction shall not destroy the historical materials or general features that characterize the property. The new work *may be differentiated from the old* and shall be compatible with the massing, size, scale and architectural features of the property and

the surrounding neighborhood, to protect the historic integrity of the property and the site.

Further, certain aspects of a project may be exempt from review. Under “Exemptions from Review” item six (6), entitled “Plant Materials” states that the removal of trees, shrubs, hedges and plants “is not reviewed except where part of a historic landscape.” The exemption also gives priority to buildings over trees stating that trees shall not be placed in a manner which will lead to the deterioration of the buildings fabric. *Standards*, p. 6-7.

The Standards break the review process down into four phases, to wit, (1) preapplication, (2) conceptual review, (3) final review and (4) construction detail review. This Application is at the conceptual review stage. At conceptual review, an applicant should present information that includes “identification of the use of the new structure, a statement of design philosophy and a conceptual design showing height, scale, roof form, setback, shape, rhythm, materials and major site elements.” *Standards*, at p.47. The Standards make it clear that after conceptual review, an applicant proceeds to provide more detailed plans which respond to the comments associated with conceptual review that provides further clarity as to the “relationships of various buildings and site elements to each other, relate interior arrangements to external appearance, address issues such as projections and recess,

doors and windows, trim and ornament, *landscaping, etc...*” [emphasis added].
Standards, p. 49-50.

The Standards also provide a general design criteria. The Design Criteria notes that “it is impossible to mandate a specific design for new construction” in historic districts. The Design Criteria seeks to “provide a framework within which design creativity *and the needs of the property owner can co-exist with respect for historic districts.*” [emphasis added]. New construction is required to “reflect the design trends and concepts of the period in which it is created, while recognizing that a new building or addition must fit into an existing framework of a variety of older buildings.” *Standards*, p. 48. The Standards require only conceptual floor plans, roof plan, and exterior elevations showing the design concept for all four elevations, all interior floors and the roof. They do not require landscaping plans or tree preservation plans at the conceptual level. *Id.*, at p. 49.

ARGUMENT

I. **The HDC committed prejudicial error of law by holding the Appellants to the standards more applicable to final review as opposed to conceptual review.**

The HDC based its denial of the conceptual level approval by considering factors, particularly issues related to canopy cover, trees, and landscaping, among others, which are outside of the scope of what is considered for conceptual approval. *See Standards* at p. 48-49. The Standards are clear. The only factors to be

considered at conceptual review are scope, size, massing, height, roof form, setback, shape, rhythm and materials. *Id.* at p. 47. Landscaping, doors, windows, trim and site elements are considered at final review only. *Id.* at p. 48. As is clear from the transcripts, the motion to deny, and the written Decision, the HDC was considerably sidetracked by speculation related to the impact of the development on insignificant trees on neighboring properties, greenspace, and tree canopy. Not only was it an error of law to consider items reserved for the next level of review, but it was also prejudicial to the Appellants because they had not yet reached a point in the process where detailed landscape and tree protection plans would have been prepared, submitted, and supplemented with expert testimony. As such, the hearing amounted to an ambush by the members of the public and their experts who presented premature, speculative, and conclusory statements that clearly impacted the HDC's Decision. *See Exhibit 13.* All of this, despite the undisputed facts in the record, admission of Planning Staff in the Staff Reports, and testimony of the City Forrester that the subject trees were not part of historically significant landscapes and that the plans presented by the Appellants are not only compliant with the Ordinance's requirements for canopy cover but were in fact in considerable excess of the minimum requirements.

The Appellants are prejudiced by a process before the HDC that was indisputably out of sequence and resulted in a record flooded with speculation,

conjecture, and lengthy public comment related to matters reserved to the final plan stage. The HDC voted to deny the application primarily based on issues of landscape and trees, without having considered a proposed landscape plan or tree protection plan, or even providing the Appellants with an opportunity to develop one. In fact, during deliberations, Commissioner Kaplan acknowledged on the record that the speculative and voluminous testimony from the neighbors which almost exclusively focused on trees and the non-historically significant landscaping on *other* properties caused him to vote against the Application. *Exhibit 2*, p. 91, ln. 13-19.

The HDC's written Decision made a total of 17 findings of fact and conclusions of law of which seven (7) focused on trees and landscaping. *Exhibit 13*. In the hearing, when the HDC had Mr. Martin from its staff recite a motion to deny for them to adopt, Mr. Martin's recitation focused heavily on landscape and trees stating, "you have heard from the City Arborist and a recognized expert witness who agreed that the adjoining trees, both significant trees and mature trees, would be, in their opinion, irreparably harmed with the current proposal." *Exhibit 2*, p. 97, ln 10-15. Thereafter, Vice Chairman Sanderson chimed in to state, "[a]nd I think we should add to that last line, something to the Commission recognizes that this district is characterized by vegetated yards and tree canopy." *Id.* at p. 91, ln. 16-20. The HDC then proceeded to vote to deny the conceptual approval 4-1.

It is clear that the focus of the hearing on trees had an impact on the HDC. In the first hearing, the HDC was supportive of the project wanting simply to see more detailed, though not required, massing plans in the form of a 3D massing study. In fact, Ms. West specifically confirmed that was all that the HDC wanted in the way of further information. *Exhibit 1*, p. 56, ln. 4-11. The HDC did not ask the Appellants to produce landscaping or tree protection plans, acknowledging in the first hearing that such information was appropriate at the next stage of review. *Id.* at p. 32, ln. 1-8; p. 41, ln. 16-24; *Exhibit 2*, p. 23-24.

It was acknowledged that the landscaping in the area was not connected to historically significant gardens or landscapes. The Standards are clear that not only are trees and landscaping not considered until final approval, but also that “[i]nstallation, replacement or removal of trees, shrubs, hedges and plans *is not reviewed except where part of historic landscape.* *Standards* at p. 7 and p. 47. To the extent that the HDC’s Decision purports to treat the trees and greenery in the area as important “site features” in an effort to justify its wrongful denial of approval, the Standards are equally clear that the “relationships of the building and site elements to each other [and]...landscaping” is considered at the final approval stage, not conceptual. *Id.* at p. 48. Thus, it cannot be any clearer that the hearing’s intense focus on landscaping and trees was inappropriate, violated the procedure laid out in the Standards, and prejudiced the entirety of the HDC Decision.

The HDC's entire Decision was impacted by its failure to follow the proper policy. *Exhibit 13*. The HDC made findings of fact on whether the Property should be divided into three lots as opposed to two, the proper size, position, massing, location of the garages and driveways all based on their concerns about the impact of the Application on insignificant trees on the Property, invasive trees on other properties, and a significant tree on an adjacent property. Thus, their entire conceptual review was polluted with inappropriate information regarding factors that were sequentially not part of the conceptual review process.

Not only did the HDC commit clear error by considering landscaping and tree site elements at conceptual review, their Decision to deny the Application based on those concerns was arbitrary and capricious. The HDC accepted the speculative testimony of the City Forrester and the neighbors' arborist Mr. Schwartz without providing an equal opportunity to present expert testimony to the Appellants. The Appellants did not have the opportunity to present expert testimony, in the form of an arborist report, tree protection plan and landscape plan because such information is not required as part of conceptual level review under the Standards. The Appellants repeatedly reminded the HDC that at the next stage they would present said information which was considered at the final approval process, not conceptual. *Exhibit 1*, p. 8, ln. 9-14; *Exhibit 2*, p. 59, ln. 11-15; p. 32, ln. 1-8. Rather than proceed in the ordinary course, the HDC denied the Application

accepting speculation that even though what was before them related to this non-historically significant landscape exceeded the requirements of the Ordinance and positioned buildings outside of the critical root zone of any significant tree without providing an equal opportunity for the Appellants to address the issue. *Exhibit 2*, at p. 12, ln. 8-22; p. 13, ln. 1-4. As such, not only was it error of law to consider this information as a central basis for denying the Application, the blind acceptance of the information, without allowing it to be rebutted, was arbitrary and capricious.

II. It is not within the purview of the HDC to pass on whether or not the Property may be divided into three lots.

In each hearing, the debate between a majority of the Commissioners reflected support for the subdivision of the property into three lots, yet the Decision purports that a majority of the members opposed the division of the Property into three lots despite no such vote having been taken and no reference being included in the Motion to Deny. *Exhibit 1*, p. 49, ln. 16-17 (“I don’t feel it appropriate to say this can only be two houses.”); p. 19, ln. 2-19; p. 45, ln. 12-13; p.46, ln. 2-19; *Exhibit 2*, p. 90, ln. 18-24; p. 91, ln. 1-12. This is a critical part of the Decision because it has a significant impact on the ability of the Appellants to go back to the HDC with an alternative design if unsuccessful on the other aspects of this Appeal. The HDC contends that an applicant cannot bring forth a proposal for this Property for one year unless it is significantly different. If the Decision’s denial of the subdivision

stands, then any proposal would need to be two lots in order to be materially different. This is prejudicial to the Appellants as a two lot development is not economically feasible.¹ The HDC Standards do not pertain to the question of how many lots into which the Property may be divided provided that the lots meet the Ordinance's dimensional criteria as to size, setback, etc. The HDC's consideration as to the lot dimensions is limited to whether the set backs are consistent with the surrounding area.

The enabling law gives the HDC jurisdiction only over the "construction, alteration, repair, moving, and demolition" of "structures" not the number of lots which property may be divided into. R.I.Gen.Laws §45-24.1-1. The statute defines a structure as "anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including but not limited to, buildings, gazebos, outbuildings, decorative and retaining walls, and swimming pools." R.I.Gen.Laws §45-24.1-1.1. Further, R.I.Gen.Laws §45-24.1-references jurisdiction only over structures and not the subdivision of land itself. The statute requires a certificate of appropriateness only for "construction, alteration, repair, removal or demolition affecting the exterior appearance of a structure or its appurtenances within a historic district..." By the clear and unambiguous

¹ Unlike many aspects in the Ordinance in which economic feasibility is not considered, the HDC is required under the law to consider whether their decisions or suggested alternatives impact the economic feasibility of a proposal.

provisions of the statute, it is clear that the only jurisdiction the HDC has is over what happens with the land itself is the siting of a building upon a lot, and the site features thereon if they are historically significant within the scope of their Standards. *Id.*

The HDC's Standards equally do not authorize it to determine whether the simple division of property into legally conforming buildable lots is within their lawful purview. To the extent that the HDC claims jurisdiction, such claim is in excess of the authority granted unto it under statute and is thus preempted. The Standards expressly state that a certificate of appropriateness is only needed for "major alterations, new construction, demolition and moving of *structures...*" [emphasis added]. *Standards*, at p. 5. The Standards list modifications that constitute "Major Alterations" on pages 36 through 41. The subdivision of land into compliant lots is not among the enumerated modifications within their jurisdiction. Additionally, the scope of conceptual review does not include the HDC's opining as to the appropriateness of a by right subdivision. *Standards*, at p. 47-49.

Once again, the HDC's focus outside of its jurisdiction prejudiced its entire Decision just like with the concerns related to landscaping and canopy cover. The Decision expressly states that the Application continued to seek approval for three lots and three homes "despite the Commission's prior concerns related to three

buildings, versus two.” Further, the Decision states that “[w]hile the lot is buildable...this application with these three proposed structures is incompatible. The Commission is on the opinion that a redesign project for two buildings would have greater flexibility.” *Exhibit 13*. Essentially, the HDC is preventing the Appellant from developing any structure on the third lot of the subdivision because it believe that Property should remains as two lots. Not only is this outside of its jurisdiction, but it would render the third lot arbitrarily non-buildable constituting a taking of Cooke’s property and exposing the City to damages.

If the HDC reached consensus that three lots and three homes was incompatible with the area, it exceeded its authority. Further, as the Decision and some members referenced that a plan for two homes would be more well received, it is clear that the consideration of this Application outside of its jurisdiction prejudiced the entire process for conceptual review. As such, the Decision must be overturned as its is unlawful, extra-jurisdictional, and results in a taking of the third proposed lot of the subdivision.

III. The HDC’s denial of conceptual level of approval is not supported by legally competent evidence.

The HDC’s denial of conceptual level approval of this Application on the basis that the scope, size, height, massing and design are incongruous with the surrounding historic district is unsupported by substantial evidence in the record. The HDC adopted unsubstantiated and speculative testimony as to these aspects of

the Application which is clearly overcome by the weight of the evidence presented by the Appellants. The testimony of Ms. West, as recognized expressly by Chairman Haggerty, and the documents presented with the Application make it abundantly clear that the size, scale, massing, roof form, setback, shape and rhythm all are compatible with the area and the Decision's finding of incongruence was not supported by evidence in the record. The Decision's denial on these elements was pretextual as it was really based on its concerns about limiting the subdivision to two lots and placating to the neighbors' objections related to trees rather than the actual design of the buildings within the conceptual level standards. After the first hearing, it was clear that the issues raised in the Decision were not troubling the HDC and there was no new evidence to justify such a reverse in position other than not wanting to upset the neighbors or other preservationists for their subjective concerns. In July, after the presentation, Mr. Fontecchio, stated "At this level, I don't have any problem with what's being shown...I think the idea of the...ABA to the garages is a great idea." *Exhibit 1*, p. 19, ln. 2-19. This comment was not met with disagreement by any of the other Commissioners.

A. Size and scale

While the HDC should have limited its consideration to the size of the buildings, not the proposed subdivided lots, its determination that the size of the lots was out of scope with the neighborhood is clearly erroneous and unsupported

by legally competent evidence in the record. Ms. West testified that the lot size of the three lots was compliant with the Ordinance's requirements and consistent with the lot sizes in the area. *Exhibit 1*, p. 6, ln. 5-19; p.7, ln. 17-22; p. 58, ln. 4-5; *Exhibit 2*, p. 17, ln. 1-11. As shown in *Exhibit 4*, which was submitted with the presentation material, the three lots comprising the Property are within 2.2 percent of the median lot size for the surrounding area. This is objective data that clearly demonstrates that the lot size as proposed is within the normal scope and size of the surrounding area. *See also Exhibit 12*.

Additionally, the building footprints are objectively consistent with the surrounding area as well as shown on *Exhibit 4*. *See Exhibit 2*, p. 17, ln. 1-11. The information represented to the HDC, and summarized in the chart in *Exhibit 12*, clearly, and irrefutably, demonstrate that the building footprint is the median for the surrounding area. Thus, by definition, the footprint of the buildings are compatible with the historic district and it is arbitrary and capricious to hold otherwise.

The same can be said for building height. There was outcry from the neighbors that the buildings were too tall. However, the objective proof demonstrates that those claims are false and that the proposed building height is consistent with the historic district's prevailing trends. *Exhibit 1*, p. 7, ln. 17-22; *Exhibit 2*, p. 15, ln. 12-18. First, the Ordinance limits building height in the neighborhood to 40 feet. It is undisputed that each proposed building height is

within the limits of the Ordinance. Additionally, as made clear in the summary chart in *Exhibit 12*, the buildings' three stories are consistent with the prevailing features in the area. When surveying the height of buildings on the same street or same block in the area, out of twelve (12) existing buildings, seven (7) are three stories just like the proposed homes in the Application. The HDC expressed no objections with this very same proposal in July. In fact, when directly asked about making changes to the design, the HDC stated that none were needed. Thus, the Application is compatible with the height of most of the buildings in the area. There is no evidence to the contrary in the record.

This information is also visually depicted in the street elevation provided by the Appellant to the HDC in the Application. *Exhibit 10*. The street elevations show not only the proposed height of the buildings juxtaposed against the existing buildings on the same street, but also how that height remains consistent with the surrounding structures as the grading of Benevolent Street drops. Even with the decline in grading, the buildings remain visually consistent with the height of the adjacent and surrounding structure thus having no objective impact on the character of the area. There is further visual evidence of this consistency in the massing perspectives provided at the second hearing. *Exhibit 9*. In these three dimensional views of the Properties within the broader neighborhood context, once

again it is clearly demonstrated that the height of the buildings is consistent with the surrounding area. *Exhibit 2*, p. 89, ln. 1-24.

This objective evidence clearly shows that the size and height of the structures is consistent with the historic district's prevailing trends. The public comment to the contrary is simply false, biased, self-serving and motivated out of a desire to limit the development of this Property such that the current residence can enjoy the greenery provided by keeping the lots vacant. The HDC clearly overlooked this information and their decision that the size and scope of the lots and proposed structures is incongruous with the historic district is lacking in competent evidentiary support.

B. Massing and Design Philosophy

The evidence in the record clearly shows that the massing of the proposed homes and garages are consistent with the surrounding area. *Id.* The HDC's findings that the massing was incompatible was prejudiced by the HDC's focus on the neighbors' complaints related to speculative impact on tree coverage and opposition to a three lot proposal. After the first hearing, the HDC asked the Appellants to expend the resources and man hours to provide three dimensional massing perspectives despite the application process for conceptual review not requiring the same to be submitted. In hopes of working with the HDC, the Appellants agreed to and did provide the same. *Exhibit 9.*

Massing refers to the shaping or modeling of a building's form, volume, and size. It involves the arrangement of different building elements, such as walls, windows, doors, roof, and other components to create a unified form. Massing is an important first step in the design process as it establishes the overall form of the building and its relationship to its surroundings. At the conceptual level of review, the HDC does not consider the door and window elements of massing which is reserved for final approval. *Standards*, at p.48.

The evidence demonstrates that the massing of the buildings is consistent with the surrounding area. *Exhibit 9*. The massing concept was derived from inspiration, as well as the design choices, from four properties in the surrounding area on Cooke and Governor streets. *Exhibit 7*. The massing perspectives provide four different views of how the massing of the three proposed homes fits into the neighborhood. *Exhibit 9*. In fact, it is so compatible that is difficult to distinguish the proposed new structures from the existing structures unless you know what you are looking for. These visuals also demonstrate that the roof form of the proposed structures blends in nicely with its neighboring properties. *Exhibit 1*, p. 8, ln. 14-24; *Exhibit 2*, p. 27, ln. 12-24; *See Exhibit 7, Exhibit 8, and Exhibit 9*. There is simply no evidence in the record to justify the conclusory statement that the massing is out of context and incongruous.

As to design choice, there is no evidence in the record, other than indefinite subjective opinion of lay witnesses, to support a finding that the design philosophy is out of step with the historic district. The testimony of all the witnesses involved is in agreement on one thing, there is no single prevailing design for the area. The area features large house and smaller house. The area has Victorian, Federal, and Neo-Georgian era home designs. The larger homes were located on Governor and the smaller homes on Cooke. Benevolent Street, where this Property is located, is the middle ground of the historic district. Ms. West testimony clearly shows her sensitivity to all of that in her design choices. She explained that she chose an ABA style layout which would be compatible from the front perspective with the size of the modest homes in the area from the front view on Benevolent Street, but would appear as a larger single estate consistent with the feel of the larger homes from the perspective looking in the direction of where the larger homes are located. The design clearly reflects an achievement of address all the aspects of a neighborhood that has no single characteristic.

There is no single design standard for new construction in a historic area. There is no requirement to imitate or copy the homes that existed. The purposes of the Standards is to permit new construction in a manner that is sensitive to the surrounding historic structures in the area. The Standards state, "New construction should reflect design trends and concepts of the period in which it was created

while recognizing that a new building...must fit into the existing framework of a variety of older buildings.

At the first hearing, the HDC's only concern was whether the three proposed buildings were too similar to each other, not whether they would fit into the fabric of the neighborhood. The HDC noted the diversity of different era represented in the area. Thus, a new design that was sensitive to the types of properties in the area, would fit within the eclectic nature of the neighborhood by definition.

Despite their concerns about the symmetry between the three proposed properties, in the first hearing Ms. West noted that the details which would be presented as part of final approval, i.e. dormers, windows, stairs, porches, trim, etc., would provide distinguishing factors between the three proposed buildings such that from the front they would not appear as a "suburban subdivision". The HDC stated that it liked the ABA design conceptually, and did not, when specifically asked by Ms. West, request changes to the design of the building and its references to the Federal era architecture in the area as part of the additional information and changes to be made prior to the second hearing. *Exhibit 2*, p. 49, ln.16-17.

In the second hearing, the HDC seemed to forget that. The HDC drilled on design detail that was outside of the scope of what is reviewed conceptually. The HDC Decision faulted Ms. West for not modifying the design that it expressly told her she did not have to change in the first hearing. *Exhibit 1*, p. 56, ln. 4-11. The

HDC, while acknowledging repeatedly in the hearings that the garages were not visible and did not have an impact on the design, stated, without basis in evidence, that the moving of the garage to accommodate the Forrester's requests related to the neighbor's tree's root zone, disrupted the ABA design. In the first hearing, the members of the public lamented the identical position of the unseen garages. In the Decision, the HDC chastised the Appellants' for moving one of the garages such that they were no longer in identical positions on the lots. It seems that the Appellants were "damned if you do, damned if you don't."

The HDC stated that there was no precedent for three homes built at the same time in the neighborhood. Other than conjecture of Mr. Couture, there was no objective evidence produced to support that. In any event, this neighborhood is defined by a contrast of designs. Thus, a design that is not identical to what currently exists but emulates aspects of different designs within the area, would be consistent with the area's historically sensitive but diverse design character. Further, the acceptance of Ms. Couture's statement that detached garages are uncommon in the area is objectively false and unsupported by the evidence presented. In fact, as summarized in *Exhibit 12*, one third (1/3) of the existing properties in the immediate area have detached garages. In any event, the HDC repeatedly stated throughout the hearings that the detached garages were not a significant factor because they were not visible. It was not until it was attempting

to justify its pretextual denial aimed at coercing Cooke into developing only two lots that it took issue with these detached garages that are hidden from site.

The elevations and renderings clearly demonstrate that the conceptual design is consistent with the surrounding area. It draws on the existing precedent of four properties in the area. *Exhibit 7*. It emphasizes the Federal era style that exists in the area, without tasteless imitation. The design achieves compatibility with the larger estates and more modest homes simultaneously. The concerns related to whether the three buildings are too similar to each other is a matter of design detail which would be solved for in the final approval process.

There is insufficient evidence in the record to support the HDC's denial on the basis of massing and design philosophy. Once again, the HDC put the cart before the horse procedurally and ignored the objective evidence presented by the Application.

C. Green space and tree canopy

Despite consideration of trees and landscaping to be premature for conceptual level approval, even if considered the HDC's denial is lacking in evidentiary support. As Ms. West testified, and the Forrester confirmed, even at the conceptual level the Application is in excess of the required canopy cover by more than double the requirement and the proposed construction does not impact any significant trees on the three proposed lots. The preservation of the "lush green"

character of the area is displayed on the renderings submitted with the proposal.

Exhibit 1; p. 32, ln. 1-8. This rendering shows that so much canopy cover is preserved that one cannot even see the buildings. In fact, Ms. West had to present an image which removed the trees from the front just so the design could be clearly seen for purposes of an example. Further, the site plan which presents an overhead view of the lots and buildings demonstrates ample greenspace throughout each lot.

Exhibit 6.

There is no objective evidence to support the finding that the conceptual plans do not provide for adequate canopy and do not maintain the “lush green” feel of the street.

D. The Decision’s objection to the similarities of the three proposed buildings to each other amounts to the sort of “rigid adherence” to elements of the historic district that has been rejected by our Supreme Court.

The challenge of developing in this area is that there is no one style to be compatible with. This conceptual design is reflective of elements of all the different “architectural languages” expressed in the area. In an area with diverse expressions of historic architecture, uniformity is by definition impossible to achieve. Yet, the aspect of this Application in terms of design the Decision takes issue with is the similarities between the three proposed homes with each other. The HDC focused on this point despite the testimony from Ms. West that what was before them was a “stripped down plan” that was conceptual in nature with the

important details that they were looking for to follow in the next stage. *Exhibit 1*, p. 59, ln. 11-15. The Decision state that there are “no buildings built of repetitive design, with little to no variation between them” making them incongruous with the area which features elements from the Federal era to the early 20th century. Putting aside the clear testimony and evidence that these buildings are designed with the elements of the Federal Era and Neo-Georgian era as inspiration, there is no evidence to support the conclusion that there is “no variation” between the buildings.

While the buildings are generally similar in size, expression of the Federal era design, and position on the lots, Ms. West was clear that the exteriors would be detailed with differences in dormers, windows, doors, entries, etc. to be visible distinguishable from each other. *Exhibit 2*, p. 27, ln. 12-24. As had been repeated throughout this brief, such detail is considered at final approval, not conceptual. It was even expressed by Vice Chairman Sanderson that consideration of the very factors which caused him to move to deny the Application were properly considered at final approval, not conceptual. *Exhibit 1*, p. 19, ln. 2-19; p. 41, ln. 16-24. In any event, the position of the buildings is limited by the Ordinance’s requirements on setbacks. There is only so much variation that the Ordinance allows on each lot, and that ability has been maximized in the ABA design. However, the issues the HDC Decision takes with this aspect of the design as

improper as a matter of law. Our Supreme Court has long held that “there is no requirement of rigid adherence in proposed construction or alterations to existing architectural style. It is enough if it can be said that the proposed plans are generally compatible with the architectural character of the district.” *Hayes v. Smith*, 167 A.2d 546, 549 (R.I. 1961).

The evidence shows that the layout, design and positions of these buildings on the lots is generally consistent with the surrounding historic district. The evidence in the record does not support the HDC’s findings on this point and the law itself does not require the sort of rigid application of the compatibility standards as the HDC is deploying in this case.

CONCLUSION

For the reasons stated herein, the HDC’s Decision should be overturned, or at least remanded for proper consideration.

Dated: November 11, 2024.

Respectfully Submitted,

Appellants,

By their Attorney,

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EXHIBIT 1

In The Matter Of:
118-126 Benevolent Street
Vacant Lot (Power-Cooke) Application

Providence Historic District Hearing
July 22, 2024

Rebecca J. Forte
Certified Professional Court Reporters
33 Rollingwood Drive
Johnston, RI 02919
(401)474-8441

STATE OF RHODE ISLAND
PROVIDENCE HISTORIC DISTRICT COMMISSION

* * * * *
PROCEEDINGS AT HEARING IN RE:

118-126 BENEVOLENT STREET,
VACANT LOT (POWER-COOKE) APPLICATION

* * * * *

JULY 22, 2024
4:45 P.M.

PROVIDENCE HISTORIC DISTRICT COMMISSION
444 WESTMINSTER STREET
1ST FLOOR, CONFERENCE ROOM
PROVIDENCE, RI 02903

REBECCA J. FORTE COURT REPORTING
33 Rollingwood Drive
Johnston, Rhode Island 02919
(401) 474-8441

1	I N D E X	
2	WITNESS FOR THE APPLICANT	PAGE NUMBER
3	CHRISTINE WEST & ANDREW DOYLE, KITE ARCHITECTS.....	5
4		
5	PUBLIC COMMENTS:	
6	LAURIE LEE (140 GOVERNOR STREET).....	20
7	CLAUDIA ELLIOTT (130 BENEVOLENT STREET).....	24
8	BONNIE MITTLEMAN (121 BENEVOLENT STREET).....	25
9	CYNTHIA RAGONA (253 GEORGE STREET).....	28
10	MARK & JENNIFER MASIELLO (26 COOKE STREET).....	33
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BOARD MEMBERS PRESENT:

- Edward Sanderson, Vice Chair
- Catherine Lund
- Rachael Dotson
- Neal Kaplan
- Glen Fontecchio

STAFF PRESENT:

- Jason Martin
- Lev Simon

1 MONDAY, JULY 22, 2024
2 (Commencing at 4:45 P.M.)
3 **VICE CHAIR SANDERSON:** All right. Good
4 afternoon. This is a meeting of the Providence Historic
5 District Commission. It's Monday, July 22nd. And we
6 will begin with a roll call. As Vice Chair, I'm filling
7 in for our Chairman. My name is Ted Sanderson.
8 **MR. KAPLAN:** Neal Kaplan.
9 **MS. LUND:** Cathy Lund.
10 **MR. FONTECCHIO:** Glen Fontecchio.
11 **MS. DOTSON:** Rachael Dotson.
12 **MR. MARTIN:** Jason Martin, staff.
13 *****
14 **VICE CHAIR SANDERSON:** Let's see. So we
15 are up to number seven, right?
16 **MR. KAPLAN:** Number seven.
17 **VICE CHAIR SANDERSON:** Oh, this is case
18 number 24.079, 118-126 Benevolent Street, a vacant lot.
19 So we will ask you to each identify yourself for the
20 record and raise your hand and promise to tell the
21 truth.
22 **MS. WEST:** Christine West, principal at
23 KITE Architects. I swear to tell the truth.
24 **MR. DOYLE:** Andrew Doyle, architect at

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1 KITE Architects. I swear to tell the truth.
 2 **VICE CHAIR SANDERSON:** Thank you very
 3 much. And welcome. All right. So Christine and Andrew
 4 are here to talk about the request to construct three
 5 single-family residences with detached garages. So this
 6 is 118-126 Benevolent Street. It's currently divided
 7 into two lots, but would be divided into three
 8 necessary, and for all intents and purposes, equal lots
 9 with approximately 50-foot-wide street frontage. We
 10 have a new three-story single-family residence each with
 11 about 1,500-square-foot footprint and a 40-foot height
 12 over full basements with detached garages. Private
 13 driveways for each. They're all obviously separate
 14 lots. Staff has found the building's form and siting is
 15 appropriate for the location. This is a conceptual
 16 review as this is new construction. And I will after
 17 that be quiet and let Christine and Andrew walk us
 18 through the proposal.
 19 **MS. WEST:** Great. Good, thank you.
 20 Yeah, so I'll just tell you, Jason. Yeah, perfect.
 21 Okay. So what we have on screen is the photos on site a
 22 few weeks ago of the existing property. Again, it's
 23 vacant right now, and it's currently subdivided into two
 24 lots. As we'll see in the site plan, the proposal is to

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1 re-divide them into three lots each over the
 2 5,000-square-foot minimum. It's a little hard to tell
 3 the context from this side. So we've included a couple
 4 other shots.
 5 You can go to the next one. Right. So in your
 6 presentation materials, you will see this overhead
 7 aerial view which shows the surrounding neighborhood.
 8 So we're just off of Cooke Street, between that and
 9 Benevolent -- sorry, Governor Street. The properties to
 10 the left are larger. Most three-story or
 11 two-and-a-half, as we go to Governor Street, we start to
 12 get more in the range of Victorian. To the left, it's a
 13 bit more kind of Federal-era inspired. We have the very
 14 large Governor apartment building to the lower right.
 15 And pretty much every style you can think of is
 16 represented within a two-block area. So it's been
 17 interesting to kind of think about what might be
 18 appropriate for a new construction, you know, that's
 19 built in 2024.
 20 The next slide, if you can do that, also shows in
 21 the other direction. Now we come back to these. But
 22 again, we'll -- we have some examples coming up of
 23 showing, you know, Inspiration ones. We've chosen ones
 24 that kind of have more of a uniform and sort of more

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1 predominant presence on Cooke Street. So, you know,
 2 fairly large, moderate density. I would say there's
 3 definitely much denser neighborhoods in Providence,
 4 there's definitely less. But I think we're dealing with
 5 a fairly typical urban pattern for basically this
 6 section. And it is a new historic zone. So slightly
 7 different from College Hill, maybe you might be familiar
 8 with the recent history of the adoption.
 9 Okay. So we can go to the next one. Do we have
 10 the (inaudible) slide in here, or is that after?
 11 **MR. DOYLE:** That's going to be at the
 12 end, but we could --
 13 **MS. WEST:** Okay.
 14 **MR. DOYLE:** -- just skip if you wanted
 15 to.
 16 **MS. WEST:** Yeah. Why don't we just
 17 quickly show you what we're looking at here. This would
 18 be the division into three. And these diagrams are
 19 really not final. They're really meant to convey the
 20 general design intent of the massing location of the
 21 footprints. And we also intend to comply fully with the
 22 zoning requirements in place. As new construction, you
 23 know, that's under our control. And so, we wanted to
 24 prove that we could meet the pervious, impervious

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1 coverage requirements that overall setbacks and still
 2 meet our access driveway requirements and such.
 3 Okay. So we can go through the next two to three
 4 site diagrams. Okay. And we also know that this is
 5 massing and conceptual review, but wanted to share these
 6 footprints. These are single-family homes. The
 7 detached garage is just a garage. We do not have any
 8 kind of ADU planned at this moment. It is, again,
 9 meeting the intent of the single-family zoning
 10 requirements. Each home will be substantially similar
 11 on the interior. As you'll see in a moment, we do
 12 intend to vary the siting as well as the composition of
 13 each home to reflect It's a unique character that still
 14 fit cohesively within a single design.
 15 So, let's go to the next -- and that's the garage
 16 plan. Again, as you can see, it's a fairly small room.
 17 It could be a workshop, it could be a playroom, it could
 18 be a guest room, but it's not the intent to make this an
 19 ADU. Okay. So here we are, the more entertaining
 20 things. So we've chosen four local Inspiration
 21 precedents, all within fairly close reach of this house.
 22 And you can see, we're zeroing in on the three, the one
 23 on the right in the top row, and then the bottom two
 24 with more of a Federal style. Well, maybe late Georgian

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1 with it's characterized by a very simple square
2 rectangular volume, symmetry, and alignment of the
3 windows. Generally, an entry feature, many with hip
4 roofs, some balustrade. There are other examples that
5 have the dormers that we'll see in a moment.
6 We also included the one on the upper left, The
7 Governor Apartments because It has this very interesting
8 way of presenting itself to the street in three parts
9 with the center set back and the two wings. And I'll
10 describe a more subtle version of that and why that's
11 relevant as the inspiration, because that is a much
12 earlier example of architecture than these other homes.
13 Okay. Next page, please. Okay. So this is an
14 overview of what we're looking at. Obviously, this is
15 very conceptual. We're not showing the adjacent
16 properties in this view. But the intent here is to
17 provide three houses that are related to each other and
18 almost appear as if they were one home with wings. The
19 distance that you're able to get away from on the
20 street, it's not a terribly wide street. I don't know
21 if anybody will be fooled for long, but the general
22 impression is to create this sort of ABA rhythm. So
23 obviously, the center one is taller and more prominent.
24 And that is actually shifted closer to the street. We

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1 have a fairly limited range of how far we can push and
2 pull these within the zoning. We have five feet of
3 wiggle room. We understand that the setback is a
4 minimum of 11.1. We're allowed to go to 16.1. So we're
5 trying to leverage that to create some push/pull to make
6 that centerpiece more prominent.
7 And again, the exact design details we are still
8 working through, but the intent is to have these all at
9 the same elevation. The property does slope about eight
10 feet from the very northwest down to the very southeast.
11 Most of it is flat until it kind of dips at the far
12 right. So we're working through the grading now, but
13 the intent is to have these to meet the maximum height
14 of 40 feet and not an inch more, yet still maintain kind
15 of an alignment. You can see how we're using the
16 dormers on the side ones to -- and identical designs on
17 the right and left to kind of reinforce some of the
18 symmetry that's inherent in the design inspiration. And
19 then you can see, you know, generous use of the dormers
20 over the garage to create that bonus room.
21 Okay. Let's look at the next sketch. Again, very
22 similar. And, you know, trying to stay within the
23 precedent of the very rigid alignment to create that
24 symmetry, that balance, and do what we can with the

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1 interiors to make sure that makes sense and not like a
2 more contemporary house that might have windows that are
3 more functionally specific. And use some tricks to
4 disguise where we might have, say, a kitchen counter
5 that is near -- I don't need to go into detail. But
6 this kind of gives you an idea of that height and
7 elevation.
8 I do want to specifically mention the trees. I
9 understand there's a neighbor. It's just come to our
10 attention at this hearing that -- and we'll hear from
11 the neighbor that there's a very large maple on the
12 other side of the property line, it's not on this
13 property, that we want to be very careful to protect.
14 It looks like a very important tree. So there are
15 definitely things you can do during construction to be
16 sensitive to that, understand how the roots work, take
17 care of them. We have experience and some knowledge
18 about how to do that. We'll look at the foundation
19 design. We'll see what we can do to make sure that the
20 neighbor's property isn't negatively impacted. There
21 are a number of other smaller trees. We have informally
22 measured them, and we have not found any significant
23 trees on the property. We'll, of course, confirm that
24 with an arborist.

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1 All right. I'll leave it at that. Oh, one more.
2 Yes. Yes, that's going to come up the street looking
3 back.
4 **MS. LUND:** What --
5 **MR. FONTECCHIO:** Do you happen -- I'm
6 sorry. Do you happen to have pictures of the houses
7 across the street from this site?
8 **MS. WEST:** They're a little hard to see
9 with this screen resolution. Apologies. We don't,
10 because they're pretty clear in the overhead aerial
11 view, but maybe we can zoom in.
12 **MR. FONTECCHIO:** Or the streetscape?
13 **MS. WEST:** Yeah, yeah. That's the
14 aerial view.
15 **MS. LUND:** This is a process.
16 **MR. KAPLAN:** Perfect, yeah.
17 **MS. WEST:** Oh, sorry, if I can't --
18 **MR. FONTECCHIO:** Exactly.
19 **MS. WEST:** Yeah. So this is a
20 side-by-side townhouse, both single families, but with a
21 party wall, and then there's that house. And then --
22 **MR. FONTECCHIO:** And then the house
23 immediately to the east of the site, there's a,
24 apparently, late 19th century Queen Anne, maybe a hint

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1 of shingle-style full colonial porch I think. Big
2 building.
3 **MS. WEST:** Yeah.
4 **MR. FONTECCHIO:** On the corner.
5 **MS. WEST:** That one. Is that what
6 you're talking about?
7 **MR. FONTECCHIO:** I don't think so. The
8 one I'm thinking of, it -- it's on, it's on the same
9 side of the street as the proposed development.
10 **MS. WEST:** Oh. This one?
11 **MR. FONTECCHIO:** A big, big tower.
12 There we go.
13 **VICE CHAIR SANDERSON:** Um-hum.
14 **MR. FONTECCHIO:** So those buildings that
15 we just looked at seem to have a different architectural
16 character than the sort of boxy conceptual.
17 **MS. WEST:** Yeah, we intent -- right.
18 Well, we intentionally went more towards the Cooke
19 Street precedent, rather than the Benevolent Street
20 precedent -- the Governor -- sorry, than the Governor
21 Street. The Governor Street is definitely more
22 Victorian, more multifamily, just a very different kind
23 of character than we want to do with these single-family
24 homes where the precedents that we showed are going west

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1 towards Cooke Street. And it's there that we're
2 considering the kind of insolence on this.
3 **VICE CHAIR SANDERSON:** But again, this
4 is conceptual review.
5 **MS. WEST:** Yes.
6 **VICE CHAIR SANDERSON:** At this point?
7 **MS. WEST:** Yup.
8 **VICE CHAIR SANDERSON:** Because this is a
9 very --
10 **MS. WEST:** I'm also doing the
11 street-view thing so I can show you. Yeah. So --
12 **MS. DOTSON:** We're breaking Google.
13 **MS. WEST:** Yeah, exactly. Yeah, so in
14 particular, if you go a little bit south on Cooke
15 Street, you see some very fine examples of style. Yeah,
16 this one.
17 **MR. DOYLE:** Yeah, that's around the
18 corner, right?
19 **MS. WEST:** Right there.
20 **MS. LUND:** And then the large brick one
21 right across the street. Is the plan for brick houses
22 or is it different material?
23 **MS. WEST:** We're not submitting anything
24 on materials today. So I don't want to make any

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1 commitments.
2 **MS. LUND:** Sure.
3 **MR. KAPLAN:** This is about sphere and
4 mass, right?
5 **MS. WEST:** It is.
6 **MR. KAPLAN:** (Inaudible) and it's all
7 conforming to all of your zoning issues?
8 **MS. WEST:** Correct.
9 **VICE CHAIR SANDERSON:** Yeah.
10 **MS. LUND:** What did, what did everyone
11 think about the garages being in such a straight line?
12 It just looked a little --
13 **MR. KAPLAN:** Kind of uniform?
14 **MS. LUND:** Yeah. And then maybe that's
15 the only place they can go with --
16 **MS. WEST:** Yeah. So we're locked in by,
17 you know, physical requirements of a car. It has
18 certain turning radius and needs to get into the garage.
19 We didn't want to face the doors towards the street. It
20 honestly doesn't buy you much room. We actually get
21 more yard space if the doors are pointed away. And
22 also, it's just not nice to have your garage like facing
23 into the street. So that's the reason we turned the
24 corner. And we would be able to go to the site plan to

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1 check out what I mean. That's where we started with is
2 kind of putting them a little front and center, but --
3 **MS. LUND:** Yeah, it just seems like if
4 they were -- if the spacing or something, it just feels
5 a little like a subdivision. You know, everything is in
6 exactly the same position.
7 **MS. DOTSON:** Um-hum.
8 **MS. WEST:** Yeah. Yeah, I mean, we
9 definitely have some flexibility there. We also wanted
10 to make sure we had a good green space, you know, having
11 some vegetation, having everything -- in the hatched
12 area is really green space and pervious cover, you know,
13 stone pine paths or otherwise compliant. So, you know,
14 it's a very lush neighborhood, and certainly having that
15 green space is an amenity. So having space behind the
16 garage isn't as much of a priority I guess.
17 **MS. LUND:** Sure.
18 **MS. WEST:** But I just want to make sure.
19 And given the concerns about the tree, you know, that
20 might make sense. I will say it is very tough to meet
21 some of these pervious cover maximums with the
22 traditional patterns that we see in the neighborhood.
23 So, but mathematically it works, so.
24 **MS. DOTSON:** I think the only thing that

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1 stuck out to me about the garage is, you know, we have
 2 an ABA pattern for the houses, and the garages were all
 3 the same. And maybe if there was a window difference or
 4 just --
 5 **MS. WEST:** Oh yeah.
 6 **MS. DOTSON:** -- something that might
 7 help.
 8 **MS. WEST:** Yeah, maybe that would
 9 address Cathy's concern about the uniformity and have
 10 the similar kind of variation in that.
 11 **MS. DOTSON:** Yeah.
 12 **MS. LUND:** Yeah.
 13 **MS. WEST:** Yeah. That's a great idea.
 14 **MS. DOTSON:** And so I know you said you
 15 weren't -- the plan wasn't to do ADUs in the garage, but
 16 are you -- is sewage running back to the garages or is
 17 it just going to be electric?
 18 **MS. WEST:** I don't know that we're at
 19 that stage yet.
 20 **MS. DOTSON:** Okay.
 21 **MS. WEST:** But yeah, if it was a guest
 22 room, a toilet would be, you know, a nice amenity. Even
 23 if it's a workshop, it would be nice to have that
 24 amenity. You know, there's a lot of live-work people

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1 who don't want to have to run back to the main house
 2 every time.
 3 **MS. DOTSON:** Um-hum.
 4 **MS. WEST:** So, you know, I think it's
 5 likely that we would either do that or let the new owner
 6 do that.
 7 **MS. DOTSON:** Okay.
 8 **MS. WEST:** As you know, the definition
 9 of ADU is the cooking area. You can have a guest room
 10 that's a bath and everything.
 11 **MS. DOTSON:** Um-hum.
 12 **MS. WEST:** It's once they have a kitchen
 13 that it starts to become a legal ADU.
 14 **VICE CHAIR SANDERSON:** Well, not for
 15 much longer.
 16 **MS. LUND:** Yeah. Right.
 17 **VICE CHAIR SANDERSON:** Pretty sure they
 18 will be.
 19 **MS. LUND:** Yeah.
 20 **MR. FONTECCHIO:** By the time these are
 21 built, they will be allowed.
 22 **MS. LUND:** Um-hum.
 23 **MS. DOTSON:** Right.
 24 **MS. WEST:** But yeah, it is.

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1 **VICE CHAIR SANDERSON:** Yeah, yup.
 2 **MR. FONTECCHIO:** I don't have a problem
 3 with it at this level.
 4 **VICE CHAIR SANDERSON:** What?
 5 **MR. FONTECCHIO:** At this level, I don't
 6 have any problem with what's being shown. I think
 7 there's a lot of details and that's where the character
 8 is really going to come into vision.
 9 **VICE CHAIR SANDERSON:** Okay.
 10 **MR. FONTECCHIO:** But I think the idea of
 11 the -- applying the ABA to the garages is a great idea.
 12 **MS. WEST:** Sure.
 13 **MS. LUND:** I don't have anything else.
 14 **VICE CHAIR SANDERSON:** I think the same
 15 concern about the main buildings looking too similar to
 16 each other so that it looks like a mini subdivision is a
 17 good point to make. I'm sure that you plan to detail
 18 them, and I mean within the general mass we could adjust
 19 the buildings themselves.
 20 **MS. WEST:** Yeah.
 21 **VICE CHAIR SANDERSON:** And I would
 22 encourage the buildings to fit in with the buildings
 23 that are immediately adjacent to them, as well as
 24 buildings that are block or two away. Just as you go

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1 forward thinking about the design development.
 2 Any other comments before we do public? Is there
 3 a public comment?
 4 **MR. MARTIN:** Yes, sir, Mr. Chair. I've
 5 got two in the audience.
 6 **VICE CHAIR SANDERSON:** A couple of hands
 7 raised in the audience. Yeah.
 8 **MR. MARTIN:** I got a couple of hands
 9 raised in the audience. Let me just go to the -- I'll
 10 get the digital out of the way first, if you don't mind.
 11 **VICE CHAIR SANDERSON:** Okay.
 12 **MR. MARTIN:** Laurie Lee was first to
 13 raise your hand. So I'm going to hear that. Hi,
 14 Laurie.
 15 **MS. LEE:** Hi there. Can you hear me?
 16 **MR. MARTIN:** Yup.
 17 **MS. LEE:** Okay. My name is Laurie Lee.
 18 And my husband and I live at 140 Governor Street. My
 19 backyard abuts the property at 118-126 Benevolent
 20 Street.
 21 I appreciate that the developer and architect have
 22 been respectful of the historic character of the
 23 neighborhood. My main concern is that there will be
 24 several mature trees taken down at the eastern end of

1 the property, which will remove the buffer between my
 2 property and theirs and limit our privacy. Especially
 3 given the proposed height of these homes. In addition,
 4 I am wondering whether the developer will be replacing
 5 the existing fence. And I'm concerned about what it's
 6 going to be replaced with. We also want to share our
 7 concerns about the Impact that the construction will
 8 have on the neighborhood. When the home at 253 George
 9 Street was built in 2018, the stormwater runoff
 10 repeatedly flooded our property. The new owners and
 11 their builder had to expand their planned stormwater
 12 management pond and take other steps to mitigate that
 13 issue. And I'm concerned that with the necessary
 14 regrading of the lot and subsequent building, our
 15 property and those of our neighbors will again be
 16 inundated with water, mud, and other runoff.
 17 And I know, Christine, you mentioned that, that it
 18 dips toward the eastern end, and that's exactly what I'm
 19 talking about. So I want to make sure that you're going
 20 to be mindful of that. I don't see these issues
 21 addressed in these site plans, and I just wanted to make
 22 sure that the developer and architect have considered
 23 them. I also would like to reiterate the point that
 24 you've already made, that it would be nice for these

1 buildings to echo the design of the homes directly
 2 around them, directly surrounding them, as opposed to
 3 just those that are a block or two away.
 4 So thank you very much, and I'm interested to hear
 5 more.
 6 **VICE CHAIR SANDERSON:** Jason, let me --
 7 thank you for your comment. But let me ask you, Jason,
 8 some of the comments, I think, have to do with issues
 9 that the Historic District Commission does not control,
 10 like drainage and runoffs.
 11 **MR. MARTIN:** Most of those issues,
 12 unfortunately, that were brought up, we don't.
 13 **VICE CHAIR SANDERSON:** Where would some
 14 of those issues be considered, if not here?
 15 **MR. MARTIN:** They'll be considered
 16 during the actual building review process for the
 17 building permit. They will require those things to be
 18 in place. I guess it's been up to the owner, you know,
 19 the developer of the property to communicate those
 20 things to the adjacent owners so they're just aware of
 21 what's happening. But I would say to Laurie, and any
 22 other abutters of the property, if there are issues
 23 yeah, you should make them aware, the Building
 24 Department, as soon as possible. But again, all those

1 types of things that were mentioned will be addressed
 2 during the building permit process and the plan review.
 3 But unfortunately --
 4 **MS. LEE:** And the -- will that be the
 5 same for the fence as well?
 6 **MR. MARTIN:** The -- no. The fence would
 7 come to us -- well, to staff typically for review. If
 8 they were to replace the existing chain link fence if
 9 I'm remembering correctly --
 10 **MS. LEE:** Actually, it's currently a
 11 wooden fence.
 12 **MS. LUND:** Wooden pole.
 13 **MR. MARTIN:** A wooden pole fence on the
 14 sides. Yeah, so typically with a fence, if they're
 15 replacing an existing fence that's there, they would
 16 come to staff and not -- you know, wouldn't -- we would
 17 only usually -- if it was a new fence that didn't exist
 18 before, we ask that they get the abutters' consent on
 19 those. But for an existing fence, we would just approve
 20 that in-house. And again, if someone wanted to remove a
 21 fence and not put it back, I don't know that necessarily
 22 we would mandate that there be a fence there. There's
 23 nothing that says there has to be a fence there. I'm
 24 not -- and again, I have no idea what the intent of the

1 owners will be in the future, but I would assume they
 2 would like a fence. But, but yeah, we wouldn't -- I
 3 mean if someone removes a fence, it's not like we would
 4 sternly object to that in most cases. Unless for some
 5 reason it had some character-defining feature. Because
 6 you're always obviously at will to put your -- a fence
 7 up on your side if you would like as well.
 8 **VICE CHAIR SANDERSON:** Okay. Thank you,
 9 Jason. Other comments?
 10 **MR. MARTIN:** Claudia Elliott, you were
 11 next up with your hands.
 12 **MS. ELLIOTT:** Hi. Yes, I'm Claudia. I
 13 live in that Queen Anne on the corner of Benevolent and
 14 Governor. That is split into two, so there's an
 15 entrance on the Governor side, and there's an entrance
 16 on the Benevolent side. And that's where my husband and
 17 I live. So I just want to -- I think Laurie made most
 18 of the comments that I had on my list actually. But I
 19 would like to reiterate just the look of that house,
 20 this big Queen Anne next to what seemed to be I don't,
 21 you know, I -- the word subdivision has been used. It
 22 just seems to not really go. And I just wonder if we
 23 could -- I wish the drawings would have, or even a
 24 photo, would have included not what was across the

1 street or caddy corner on Governor, or even looking at
 2 Cooke. But to the house that's right next door, I mean
 3 literally feet away from the east, the property that's
 4 going to be built on the East Side of that vacant lot.
 5 I'm also -- I would also like to share my concern
 6 about the trees. They -- a lot of trees recently have
 7 been cut back along that line between my house and the
 8 vacant lot. And I would just be very, very sad if they
 9 were all to come down. I'm also concerned about the
 10 light, or the impact on lighting of my house by this
 11 three-story building only a few feet away. So those are
 12 some of the concerns I have, I think, at this time. So
 13 mostly I'm reiterating what has already been said.
 14 Thank you very much.

15 **VICE CHAIR SANDERSON:** Thank you.
 16 **MR. MARTIN:** Last online is Mr.
 17 Mittleman, Daniel. Daniel should be right here.
 18 **MRS. MITTLEMAN:** Yeah. I'm here.
 19 **MR. MARTIN:** Hi.
 20 **MRS. MITTLEMAN:** Actually, you have his
 21 wife. He had to leave for a meeting, so you have
 22 Bonnie.
 23 **MR. MARTIN:** Okay. Hi, Bonnie.
 24 **MRS. MITTLEMAN:** Hi. As I sit at my

1 desk, I am looking at the lot. We recently purchased
 2 121 Benevolent directly across the street and are
 3 currently purchasing 123. So we own two of the direct
 4 properties across the street with view of this lot. And
 5 I'm shaking right now. So I apologize a little bit.
 6 But I think I'll express very much the similar concerns
 7 of the other neighbors.
 8 We chose this -- we've lived on the East Side for
 9 10 years, and we've downsized. And so we chose this
 10 because of its quiet location, the trees, you know, just
 11 everything about it and the Victorian style. So I would
 12 say while the developer spent a lot of time describing
 13 how they're matching the style of the neighborhood, I
 14 don't think that they are. For me, the East Side, the
 15 neighborhood can be square by square, street by street,
 16 all very beautiful, all gorgeous, all within its right.
 17 But directly across the street, which she did not show,
 18 are three Victorian homes. And that is more
 19 representative of the neighborhood that we selected and
 20 have now invested to spend the rest of our life, I hope.
 21 And I also sort of agree with some of the statements
 22 that it's looking very sterile and subdivided and
 23 commercial. It just looks very boxy. I just feel like
 24 a little could be given to the direct contact, the

1 direct neighborhood that these homes are being
 2 constructed rather than the one that is down the street.
 3 Because this is a -- it's a little bit different here.
 4 So I mean, I'm not an architect. I don't know how to
 5 express it in those particular terms, but as a person
 6 who is invested in a home directly across the street,
 7 I'm very concerned about there's no room for them to
 8 plant trees. You know, it looks like it's going to be a
 9 very sterile environment. And it doesn't feel like the
 10 neighborhood. And I'm sorry if that's very harsh.

11 **VICE CHAIR SANDERSON:** Thank you for
 12 your comment.
 13 **MR. MARTIN:** Okay. Claudia, did you
 14 raise your hand again or did I just --
 15 **MRS. MITTLEMAN:** No. Well, I may have
 16 accidentally clicked it. So let me unclick it. All
 17 right.
 18 **MR. MARTIN:** No, that was your body.
 19 **MRS. MITTLEMAN:** Nope. Oh, we're
 20 still --
 21 **MR. MARTIN:** Oops, sorry. Claudia, did
 22 you want to speak again?
 23 **MRS. MITTLEMAN:** I did have one more
 24 comment. I'm not sure if it's totally relevant to this

1 conversation. But there is a diseased ash tree on the
 2 east corner, like right up against the fence, like
 3 really, really against Laurie's property and mine. It's
 4 very tall. I've had TF Morra Green out at my property,
 5 and he just stayed looking at that tree that is on the
 6 vacant lot. And it's at an advanced stage of emerald
 7 borer ash disease. And he said it's an imminent threat
 8 to our properties because those limbs can just fall,
 9 even if you don't -- you know, they can just fall. So I
 10 just wanted to point that out because that seems to be
 11 something that should be taken care of before anything
 12 else. Thank you.

13 **MR. MARTIN:** Okay. Thank you. All
 14 right, Mr. Chair, that's all for online. There are a
 15 couple of people in the audience.
 16 **VICE CHAIR SANDERSON:** Yup.
 17 **MR. MARTIN:** If you want to come up and
 18 just -- the mic is here, or you can take the mic back to
 19 you. If you don't want to come up, it's okay.
 20 **MS. RAGONA:** Hi. I'm Cynthia Ragona.
 21 I'm also a neighbor. I live at 253 George, which is in
 22 the backyard on the other side of the rear fence. I'm
 23 the one who flooded Laurie's house. So the water issues
 24 were something I wanted to point out to everybody. It

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1 is a problem. I don't think regardless of whatever the
 2 current zoning laws are that the density that's proposed
 3 here is at all in keeping with the current neighborhood.
 4 They have, they've jammed as much as they can possibly
 5 jam onto this lot. There -- as another speaker
 6 mentioned, there's not a room for a tree. Those garages
 7 are going to be two stories, three feet away from the
 8 rear fence. And I'm worried about water. I don't think
 9 it's going to look appropriate to the neighborhood.
 10 Others have spoken to style. I just think it's too much
 11 house. And in the architectural drawing, it doesn't
 12 look that way. But if you're to stand on the street and
 13 imagine three houses of that size with a detached
 14 garage, I really can't even picture it. I live in a
 15 mirror lot. These two lots were once co-owned. And
 16 they were all formerly part of the Aldrich property.
 17 And I have a two-story single family home with a
 18 detached garage in the same exact amount of space as
 19 what they're proposing here.
 20 In addition, these -- what they proposed, they,
 21 they, they're cookie-cutter-looking houses that look
 22 like a -- like people have said, like a suburban
 23 subdivision, which doesn't at all fit with the
 24 beautiful, you know -- what I, what I love about the

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1 East Side is we do have things from different periods
 2 and different character and everything is not like
 3 everything next to it. And these are kind of like
 4 little townhouses right next to each other. And it's,
 5 it's going to look, it's going to look weird.
 6 Finally, I'm the one with the tree. On the other
 7 side of the fence next to their Subdivision A, we have a
 8 quite large maple. When we subdivided the original lot
 9 for just ours, we actually negotiated the property line
 10 to get that tree. And when we did our construction, we
 11 were exceptionally cognizant to have no one trample
 12 those, pound down those roots to save that tree. And I
 13 don't see any way that garage, and maybe -- I don't know
 14 much about construction. But maybe even that driveway
 15 can exist without harming the roots of that tree. I
 16 don't know if making that an attached garage on that
 17 side or something is a solution, but the tree is nearly
 18 against like a foot or two, a foot maybe off the fence
 19 on that side. So I don't see how construction there
 20 is -- it's a, it's a big old tree.
 21 And then as I said, the water issues were just
 22 something I wanted to get on the record for someone to
 23 listen that that is in the back corner of what is
 24 Subdivision C, which is where Laurie's house is. And we

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1 have a rain garden back there, which we have solved.
 2 And we're all good now. But there's water issues a lot
 3 more than I would have thought on a hill. And I worry
 4 with all of the limited amount of what I see as grass
 5 and trees there. Thank you.
 6 **VICE CHAIR SANDERSON:** Thank you.
 7 **MR. FONTECCHIO:** Actually, I do have a
 8 question for you.
 9 **MS. RAGONA:** Yes.
 10 **MR. FONTECCHIO:** With that large tree,
 11 have you spoken to the City Forester?
 12 **MS. RAGONA:** About this project?
 13 **MR. FONTECCHIO:** Well, about that tree
 14 in general. Because it probably would be worth it.
 15 **MS. RAGONA:** I have not. I only learned
 16 about this project on Saturday afternoon. And I had no
 17 reason to before that.
 18 **MR. FONTECCHIO:** He's a good resource.
 19 **MS. RAGONA:** Thank you.
 20 **VICE CHAIR SANDERSON:** I was just -- I
 21 was going to ask Jason after everybody had spoken, but
 22 since you brought up the City Forester, let's put Jason
 23 on the spot.
 24 How does the City address large trees?

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1 **MR. MARTIN:** There's a significant tree
 2 here, and it's going to be impacted by construction. So
 3 there's gonna have to be a tree mitigation plan filed,
 4 which I'm sure the architects are aware of. And so
 5 they'll go to the City Forester, and he will come up
 6 with a plan that will -- they will have to follow -- the
 7 construction will have to follow to mitigate, you know,
 8 the impact to the tree.
 9 **MS. RAGONA:** Thank you.
 10 **MR. FONTECCHIO:** And what about other
 11 trees on the property or next to it?
 12 **MR. MARTIN:** So these, these parcels
 13 each -- Lev, what's the canopy requirement here offhand?
 14 Do you know offhand? If not, I don't want to put you on
 15 the spot either.
 16 **MR. SIMON:** I don't know it off the top
 17 of my head. I think it's 20 percent or something.
 18 **MR. MARTIN:** Yeah. So each, each parcel
 19 in the R zone has a canopy requirement that's required
 20 by planting specific trees. So they have to meet that
 21 requirement. So that will happen as part of a plan
 22 review at the Building Department as well.
 23 Unfortunately, most of the concerns everyone's are
 24 bringing up related to site and control, erosion and

1 trees, are handled not by us, but by the Building
 2 Department in that process.
 3 **MR. MASIELLO:** My name is Mark Masiello.
 4 I'm the owner of the adjacent lot to the left, which
 5 would be to the west, which is a garden. I own and live
 6 in the house directly across the street, 26 Cooke
 7 Street, which is the corner of Cooke and Benevolent.
 8 This is on Benevolent. And I'm the former owner of this
 9 lot. In fact, I bought this lot because I was concerned
 10 about overdevelopment in the neighborhood, and I wanted
 11 to preserve the historic nature of the neighborhood.
 12 When this neighborhood became part of the historic zone,
 13 I decided that I would be able to sell this lot because
 14 I thought I could rely on this Commission to protect the
 15 overdevelopment of this neighborhood. The history of
 16 this lot is that I sold it to a family who wanted to
 17 live there with their in-laws. And they had young
 18 children, and they wanted to build a home for themselves
 19 and a small home on the property for their in-laws. And
 20 they wanted their young children to be able to play.
 21 This lot is a very special -- this block is a very
 22 special block. I don't know if you know the history of
 23 this. But this is -- it was part of the Aldrich House
 24 Estate. This lot and this block were bought up by the

1 Aldrich family because they wanted to create a botanical
 2 garden on this. The lot that's adjacent to the west
 3 that I own, I also purchased so that it would not be
 4 overdeveloped. It has a greenhouse, which the Aldrich's
 5 built in order to be able to service the botanical
 6 garden, which was never built. So I think it's very
 7 important to realize that this neighborhood, this
 8 historic area has a lot of gardens and green space in
 9 the history of that.
 10 It seems to me that this proposed development
 11 by -- I'm sorry. I sold this to this family. The
 12 family had a death in the family. The mother passed
 13 away. And they chose to sell this property very
 14 recently to a New York-based development firm. It seems
 15 to me that this plan is very careful to hit every single
 16 mathematical minimum and maximum of the zoning rules.
 17 However, this Commission's mission, as I understand it,
 18 is to -- and I have this right here. But it's to ensure
 19 that the size, scale and form are appropriate and will
 20 not have an adverse effect on either the property or the
 21 district, the neighborhood. And I think this is, you
 22 know, totally inappropriate for the neighborhood. This
 23 is high-density housing. This is a neighborhood with
 24 diverse architecture. I live in an Italianate house.

1 We have Victorian homes. We have Federal-style homes.
 2 This, if you look, it's, you know -- this is math.
 3 This is to maximize the square footage on every single
 4 piece of property to the inch. You know, It's 50 feet
 5 is -- the minimum footage is 50 feet. I would argue
 6 that there should not be more than two homes on this
 7 property which was what was contemplated when I sold
 8 this lot to the prior family. Because that would be
 9 more consistent with the neighborhood, which is filled
 10 with green space. This way we'll lose a tremendous
 11 amount of green and garden space if this were to be
 12 developed with cookie-cutter housing. And this is, as
 13 you all said, this is a subdivision within a historic
 14 neighborhood.
 15 I also would ask you -- I think there are a couple
 16 of things in this. I know it's just a concept, but I
 17 think are misrepresented. If you could bring the
 18 elevation up, please, from the street. While we're
 19 doing that, I also want to say that I've spoken with the
 20 director of the -- could you go one more? Right there.
 21 That's perfect. I also spoke with the director of the
 22 Rhode Island Historical Society, who also believes that
 23 this neighborhood, what is fitting for this neighborhood
 24 is that it should be two homes, not, not shoehorning

1 three in. What was said in the earlier testimony by
 2 Christine, the architect, was that the slope of this
 3 hill would be eight feet at the eastern side. Well,
 4 that's a six-foot doorway. And that doesn't look
 5 anywhere near that retaining wall at the sidewalk. It
 6 would be up to the windows basically, which would make
 7 the height of the house, which is set at the absolute
 8 maximum of 40 feet, would make it 40 feet above the
 9 street level.
 10 **MRS. MASIELLO:** Forty-eight feet.
 11 **MR. MASIELLO:** Forty-eight feet. I'm
 12 sorry. Yes. Forty plus the eight. There's a slope.
 13 They're a serious slope. And it's not one tree. On the
 14 eastern side of the property, on my -- the property that
 15 I own that's adjacent, there's a row of trees. What are
 16 the type? I forget.
 17 **MRS. MASIELLO:** I'm not sure the type,
 18 but Mark and I have worked for several years to maintain
 19 the green nature of this corner. I restored the
 20 greenhouse and the lot on the -- is that the western
 21 side of this drawing. And we mowed and maintained the
 22 lot when it was empty and had our arborist maintain the
 23 trees. I wasn't aware that there was an ill tree on the
 24 corner. But there are also beautiful trees all along

1 the street. And there are more trees that are quite
2 large between the project and the first neighbor on the
3 right side. I think it's a misrepresentation to say
4 that there's only one important tree. I've walked that
5 lot daily for the last six years.

6 I had also mentioned that the light space, that
7 it's glorious that is shed on all of that part of
8 Benevolent Street will definitely be blocked by these
9 buildings. I would also mention that while it's true
10 that the yellow house is directly across the street from
11 this building on the furthest right, it's our driveway
12 that actually looks at the majority of this lot. Our
13 home is across the street from this lot, and we look at
14 it every single day. And it is in no way in keeping
15 with the architecture of our home or the Rhode Island
16 Historical Society home or the home that is directly
17 kitty-corner across from the greenhouse. And I think it
18 would be a tragedy, frankly. Although, I think KITE
19 does an excellent job. And I think they've proposed
20 beautiful structures. I think it is very inappropriate
21 for this parcel of land and for the neighborhood in
22 general. And they've noted, you know, that it would be
23 an improvement to some of the buildings that exist on
24 Governor Street, but it would be a complete detraction

1 from what's actually happening closer to the project at
2 the corner of Cooke and Benevolent Street.

3 **MR. MASIELLO:** I just think that, you
4 know, great care is necessary to ensure that this does
5 not look like a real estate development in a historic
6 neighborhood. And, you know, I think that, that, you
7 know, zoning standards are one thing, but this is about
8 aesthetics and what's appropriate, what's the
9 appropriate scale of what's being built in this historic
10 neighborhood that has a history of gardens and green
11 space.

12 **VICE CHAIR SANDERSON:** Thank you all for
13 your comments.

14 **MR. MARTIN:** Thank you.

15 **MR. FONTECCHIO:** Jason, could you
16 clarify something just for me so that I understand
17 better?

18 **MR. MARTIN:** Um-hum.

19 **MR. FONTECCHIO:** These lots, presuming
20 that what's been presented is correct, and that they do
21 meet the zoning ordinance, and there was no, as I'm
22 understanding it, pre-existing deed restrictions on this
23 lot when it was sold that limited it to two residences
24 or something.

1 **MR. MARTIN:** Um-hum.

2 **MR. FONTECCHIO:** My understanding is the
3 specifics of it being three houses, we don't actually
4 have any --

5 **MR. MARTIN:** Not true.

6 **MR. FONTECCHIO:** Okay. We do have?
7 Okay.

8 **MR. MARTIN:** Yeah. No, no, you -- and
9 so this goes back to say the Angell Street conversation,
10 of 64 Angell Street, where it's the Planning
11 Department's, you know, I guess, opinion that -- and
12 that has been corroborated by the Law Department, that
13 you have the ability to say, and you may be the only
14 agency in the city that has this ability, to say that
15 something that is buildable may not be buildable because
16 it's in a historic district because of massing and
17 things like those issues.

18 **MR. FONTECCHIO:** Okay. All right. We
19 have to -- we cannot -- it's my understanding, the
20 correct meaning of it. We can't look at a pretty piece
21 of empty land and say, we'd like to see it stay empty.
22 We won't let anything be built on it. But we can look
23 at proposed development of that piece of land and say
24 that for various reasons the proposed development would

1 not be in character with the historic district.

2 And on Angell Street, where we looked at it
3 recently, they wanted to put four new houses surrounding
4 a colonial mansion. And we offered the opinion,
5 advisory, not binding, to the City Planning Commission,
6 that given the character of the surrounding historic
7 district of that parcel, and grade conditions and other
8 specific issues, that it seemed unlikely that it would
9 be possible to come up with a architectural construction
10 plan for those four houses that this body would ever
11 approve because it would interfere with the historic
12 character of the district in various ways. Didn't mean
13 that something couldn't happen there. It meant that
14 that proposal for a five-lot subdivision on what's
15 currently a single-family house would have those
16 problems.

17 So it seems to me that if we believed -- if we
18 concluded that it would not be possible, it would be
19 extremely difficult to build three houses of this scale
20 and mass on this property without adversely affecting
21 the historic district. We could make that conclusion.
22 But we could not say, let's just leave this empty
23 because it's so nice.

24 **VICE CHAIR SANDERSON:** Okay.

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1 **MRS. MASIELLO:** Well, in light of what
2 you're saying though, I would invite you to review the
3 street view again, but pay attention to what's happening
4 actually in front of this space and at the corner. And
5 I would also note that the photographs that were shown
6 earlier are very old and in the colder months. If you
7 were to see this space now, you would see that it's lush
8 and green like most of Providence has been this year.
9 **VICE CHAIR SANDERSON:** And I appreciate
10 your comment.
11 **MRS. MASIELLO:** And it's very tree --
12 **VICE CHAIR SANDERSON:** And I guess as
13 Chair, I need to -- now that everybody's had a chance to
14 make a comment, I need to close the public comments
15 period, let the Commissioners have further deliberation.
16 I would note that several of the comments, which I
17 think were very good, expressed concern about the
18 architectural development. And that is not what's on
19 the agenda for tonight. The agenda for tonight is
20 could -- how might this piece of land be redeveloped.
21 And so we're looking at height, scale, mass. We're not
22 looking at how many windows there are across the front,
23 or where the front door might be, or what the detailing
24 around it might be. That would come later. And it

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1 would come before us in a public hearing, and you would
2 all have an opportunity to comment on those issues as
3 well. But tonight, we're talking about the development
4 envelope and basically, whether we would be giving
5 approval for the architects and the developer to come
6 back with more developed plans to carry it forward, or
7 whether we are not ready to give that approval. So let
8 me turn back to Commissioners.
9 **MR. MARTIN:** Well, if you don't mind,
10 can I get the applicants back to the table?
11 **VICE CHAIR SANDERSON:** Oh okay.
12 **MR. FONTECCHIO:** Jason, it's impossible
13 to put the aerial view up on the screen?
14 **MR. MARTIN:** Yeah. You want to bring up
15 a Google aerial?
16 **MR. FONTECCHIO:** Yeah, that would be
17 fine. Oh, okay. Can you share that with Jason? We're
18 looking at an aerial, it's actually an MLS, but it shows
19 the structures and it shows the property lines.
20 **MS. WEST:** Can I share (inaudible) with
21 you?
22 **MR. MARTIN:** You'd have to get on the
23 Zoom meeting, and then I'd have to do it that way.
24 **MS. WEST:** Are these supposed to be

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1 showing?
2 **MR. MARTIN:** Yeah, let's just go with
3 what we have available to us.
4 **MS. WEST:** That's fine.
5 **MR. MARTIN:** So also, I just want to
6 make sure. Lev, am I currently sharing this though? I
7 don't think I am.
8 **MR. SIMON:** No, not yet.
9 **MR. MARTIN:** All right. So I'm going to
10 stop sharing. Okay. Here we go. All right. Just
11 check on your screen that --
12 **MR. SIMON:** You're showing that whole
13 window, right? So if you were to go into the aerial
14 view --
15 **MR. MARTIN:** Yup.
16 **MR. SIMON:** -- where the city would show
17 up.
18 **MR. MARTIN:** Yeah. I'm just going to
19 use Google right now.
20 **MS. DOTSON:** Okay. Can I, can I talk,
21 or you want me to wait?
22 **MR. MARTIN:** No, you'll be fine.
23 **MS. DOTSON:** Okay. I think what we're
24 seeing is that the lot size is around 5,000 square feet,

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1 right?
2 **MS. WEST:** Um-hum, yup.
3 **MS. DOTSON:** Perfect. That's actually
4 not out of keeping with what's happening in the
5 neighborhood. I think the thing that's not meshing is
6 that, you know, or referencing houses that are grander
7 and taller on a different block. The lot size is right,
8 but the massing on the lot is a little bit different in
9 this block.
10 **MS. WEST:** Yeah. It's -- and I know
11 that that's been repeated down the block, and it's
12 literally across the street.
13 **MS. DOTSON:** Yeah, yeah.
14 **MS. WEST:** With the big taller brick
15 thing.
16 **MS. DOTSON:** Yeah.
17 **MS. WEST:** I just want to point out that
18 many of the houses are not immediately adjacent.
19 **MS. DOTSON:** Right.
20 **MS. WEST:** But again.
21 **MS. DOTSON:** No, but I think we're in
22 agreement is that what you're opposing with the division
23 of the three is not necessarily out of keeping with the
24 neighborhood, but perhaps the height and massing is

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1 where I think people in the neighborhood might be having
2 an issue.
3 **MR. FONTECCHIO:** Yeah, because we're
4 actually looking at -- and, again, this is the MLS,
5 which we're trying to figure out how to get it up on
6 there. But if you look directly across the street, if
7 you look at three lots across the street, actually are
8 the width of this property. So I understand the
9 sentiment and I am concerned about designing structures
10 that fit appropriately. And I'm thankful that it's you
11 guys because generally your work is really good.
12 But in terms of the lot widths, they really are in
13 keeping, or even a little bit more than what's directly
14 across the street.
15 **MS. WEST:** That goes all the way up
16 there.
17 **MR. FONTECCHIO:** Yeah. Okay. And even
18 on the next slide. And there's a kind of a curious
19 situation because one of the houses is a party house,
20 party-line house, and then there's an additional
21 property line. But there's actually four lots, and it's
22 almost the exact same width as the combined width of
23 those two lots that are being subdivided to three.
24 **VICE CHAIR SANDERSON:** So, what's your

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1 conclusion for that?
2 **MR. FONTECCHIO:** I know, I just -- I
3 find it hard to state that this could only be two lots,
4 two structures on this width of property based on what's
5 directly across the street.
6 **MS. LUND:** Yeah, literally directly
7 across the street.
8 **MR. FONTECCHIO:** Again, not saying that
9 exactly the massing that's been proposed is where we
10 should be, but going back even a little bit further just
11 what the -- and again, I feel bad because if there had
12 been a deed restriction when those lots were sold, we
13 wouldn't be here talking about it.
14 **VICE CHAIR SANDERSON:** Right.
15 **MR. FONTECCHIO:** But if both zoning
16 state that that's an appropriate lot size, and the
17 pattern across the street, which is like the nearest
18 relationship, it seems like the three lots is
19 appropriate. It's just how you --
20 **MS. LUND:** Yeah. How are the houses
21 going to sit on them?
22 **MS. DOTSON:** Um-hum.
23 **MR. FONTECCHIO:** And I mean, as that
24 proposed plan, again, not saying that that's what it

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1 should ultimately be, I think it was eleven feet from
2 sidewalk to structure. Eleven feet is a decent
3 distance. You can get a tree to grow. It could be, and
4 I think that that gets into the details when you're
5 looking at the landscape plan, is that are there large
6 species trees prescribed as part of this? They will be
7 small when they go in, yes, but they will grow.
8 And there is the required canopy cover. I just, I
9 don't want to get into a situation where we're saying
10 you can't do something that's directly across the
11 street.
12 **MR. KAPLAN:** The only other thing I can
13 think of is whether you find that there's enough
14 information for you to make a decision to like where you
15 choose to do that. And, and I, and I, and I know --
16 like a street rendering here doesn't really do it
17 justice.
18 **MR. FONTECCHIO:** No.
19 **MR. KAPLAN:** And that's why there isn't
20 one, quite frankly. We talked -- I talked about this
21 with the architects. It just didn't really -- because
22 of the way this proposal is and what is adjoining it,
23 it's pretty laid out what it was.
24 **MR. FONTECCHIO:** Right.

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1 **MR. KAPLAN:** Which why we -- I just want
2 to make sure you're all comfortable with that too.
3 **MR. FONTECCHIO:** And again, if that lot
4 when it was subdivided from the remainder of the garden
5 with the greenhouse, if that had been five feet smaller,
6 we wouldn't be talking about it being three lots because
7 then it wouldn't have met zoning but --
8 **VICE CHAIR SANDERSON:** Definitely not
9 met zoning.
10 **MS. DOTSON:** Was there ever a garden
11 there?
12 **VICE CHAIR SANDERSON:** I don't know what
13 the history of this site is.
14 **MS. DOTSON:** Okay.
15 **VICE CHAIR SANDERSON:** Actually, as far
16 as my historical point of view.
17 **MS. DOTSON:** Okay.
18 **VICE CHAIR SANDERSON:** I've accepted it
19 as a part of the Aldrich mansion estate.
20 **MS. LUND:** Would there be an advantage
21 to us doing what we did on Angell Street and actually
22 going out there?
23 **VICE CHAIR SANDERSON:** I don't think so.
24 **MS. LUND:** And seeing --

1 **VICE CHAIR SANDERSON:** I mean I don't
2 know any more than --
3 **MS. LUND:** Right.
4 **MR. FONTECCHIO:** I don't know how people
5 feel, and this is putting a little bit more burden on
6 Christine and her team. It would be easier for us to
7 evaluate the massing if we knew a little bit more.
8 Because right now -- and I think this is also what's
9 making people nervous is that they really look like
10 little plastic but not really houses.
11 **MS. LUND:** Right.
12 **MR. FONTECCHIO:** And if it really
13 studied a little bit more what the massing was without
14 getting into final details and all that, I think that
15 would make me feel more comfortable. But at the same
16 time, I don't feel it appropriate to say this can only
17 be two houses.
18 **MS. LUND:** Right.
19 **VICE CHAIR SANDERSON:** If we give
20 conceptual approval for massing, height and scale, and
21 exactly the same footprint comes back with architectural
22 development next time around, and we say, gee, that
23 house is just too big on that lot, or is this the time
24 that we have to say that the houses look like they're

1 too big on this lot?
2 **MR. MARTIN:** You can always change your
3 mind because of the way the process works. That's why
4 there's two approvals to it. It just will open you up
5 to arguments as to why you did that.
6 **VICE CHAIR SANDERSON:** Yeah.
7 **MR. MARTIN:** And make that, you know --
8 **VICE CHAIR SANDERSON:** Okay.
9 **MR. FONTECCHIO:** And again, it's also
10 clear that the expression of the volume is really driven
11 by the detailing of it.
12 **MS. DOTSON:** And we have a pretty clear
13 record here tonight of some potential issues with the
14 street.
15 **MR. FONTECCHIO:** And I think the other
16 thing is that it's an opportunity for the applicant to
17 really develop a more detailed height study. Because I
18 think the statement that was made by the individual
19 about the current grade dropped significantly. Well,
20 you're measuring from that grade, even if you choose to
21 put the house on an eight-foot plinth at the end. And
22 does this work? Would you subtract that dimension out?
23 I think a little bit more detail about the proposed
24 heights and the structures and how that relates would be

1 good information for us.
2 **MR. KAPLAN:** Yeah, I think I agree with
3 Glen that clearly there is buildable land there. And
4 the owner has a right to build well-designed buildings
5 there.
6 The information presented tonight does not
7 persuade me, does not show me how that will be
8 accomplished in a manner that would be compatible with
9 the historic district. And so I'm uncomfortable having
10 an official -- voting a position that three houses is
11 okay. And I don't yet see how that will work out. But
12 I don't doubt that development can and should be
13 approved with an appropriate design on this land. But I
14 guess I would need some more information, some more help
15 understanding exactly what you were saying, that how
16 will these buildings fit onto this parcel in a manner
17 that is not incongruous with the historic district. And
18 I would emphasize the immediate radius of architectural
19 neighbors rather than picking -- I won't say cherry
20 picking. But picking buildings from a several-block
21 area rather than be more aware of the immediate context.
22 **MR. FONTECCHIO:** Yeah. And actually, to
23 your point, I think it's also important to look at when
24 you look at those houses, whatever the context is, it's

1 not just the house, but it's how does that house sit on
2 its property? Because a lot of times these very simple
3 boxy houses have a lot of breathing room around them.
4 Whereas, a lot of times the Victorians, you know, are a
5 little bit more nested into things.
6 So I think that's a really good point, that it's
7 not just the style of the house being chosen, but yeah,
8 it's here. Because you could pick something anywhere on
9 the East Side and find something that's what you want to
10 find.
11 **VICE CHAIR SANDERSON:** Right.
12 **MS. LUND:** So shrinking these houses
13 would not be enough?
14 **MR. FONTECCHIO:** Well, or maybe it's the
15 expression of the house.
16 **MS. LUND:** Yeah.
17 **MR. FONTECCHIO:** Maybe a more vertical
18 gable street-facing would feel more appropriate when
19 their slices of bread.
20 **MS. LUND:** Right. Okay.
21 **MS. DOTSON:** So, Jason, are you saying
22 if we conditionally approve the three --
23 **MR. MARTIN:** I -- well, where you're at
24 now, you're continuing.

1 **MS. LUND:** Okay. Yeah.
 2 **MR. FONTECCHIO:** I'd be most comfortable
 3 with that.
 4 **VICE CHAIR SANDERSON:** I don't see
 5 enough without -- right.
 6 **MS. LUND:** I'm not comfortable without
 7 really nailing the massing.
 8 **MR. MARTIN:** I just want to make clear
 9 to the applicant what we're looking for and the reason
 10 for the continuance. Which sounds like you'd like more
 11 massing comparisons closing to their immediate
 12 neighbors, and then based on that, maybe the potential
 13 of exploring different forms. But I think first you
 14 want to see what these look like compared before we jump
 15 to redesigning things necessarily.
 16 **MS. DOTSON:** Right. But what we were
 17 stating earlier, it would be hard to say --
 18 **MR. MARTIN:** Correct.
 19 **MS. DOTSON:** We couldn't walk that back
 20 later.
 21 **MR. MARTIN:** You could walk it back. I
 22 just wouldn't advise you to do that.
 23 **MS. DOTSON:** No (inaudible).
 24 **MS. LUND:** I think we need to know the

1 massing before we (inaudible) --
 2 **MR. MARTIN:** I think instead you should
 3 ask for massing and, you know, and ideally a pre -- some
 4 sort of 3D model so we can kind of see those massing,
 5 and go from that at that point.
 6 **MS. DOTSON:** We've seen -- yeah, we've
 7 seen drawings of the whole block from past applicants.
 8 **MR. MARTIN:** Yeah. I think the three --
 9 personally, I think the drawings of the whole block,
 10 just like elevation drawings are very deceptive because
 11 you never see anything in elevation. And I hate to say
 12 that because that's how we do most of our rulings. But
 13 you never really see anything in elevation. So
 14 something that shows more of a massing study gives you a
 15 much better impression of, I think, what you're
 16 searching for, because we have elevations in essence at
 17 this point. And what -- I think some of the comments we
 18 heard are also related to, too, of how these things
 19 relate to what's physically kind of in the block around
 20 is what I'm hearing from everybody.
 21 **MR. FONTECCHIO:** I guess, you know, not
 22 discounting the impact to the significant tree, and
 23 that's something that's beyond my understanding. That's
 24 relevant for the Forester. The garages separate from

1 their impact to the tree bother me the least. They're
 2 way in the backyard. I don't think that they're really
 3 going to read front and center from the streetscape.
 4 It's really how the faces of these structures relate to
 5 the streetscape.
 6 **MR. MARTIN:** So with that, you can --
 7 **VICE CHAIR SANDERSON:** So are we ready
 8 to --
 9 **MR. MARTIN:** I don't know.
 10 **VICE CHAIR SANDERSON:** Or do we have to
 11 request the applicant --
 12 **MR. MARTIN:** You're asking for more
 13 information. So technically no, you don't really have
 14 to ask. I mean we can ask, and I don't know if the
 15 applicants want to weigh in any at all on anything at
 16 this point.
 17 **MS. WEST:** Yeah. I just want to clarify
 18 because I did hear a lot of discussion asking for more
 19 detail and more development. My understanding that this
 20 is conceptual and massing, you know, we can certainly
 21 come back with additional detail if that is the request
 22 of the Commission. We're not going to voluntarily offer
 23 to continue or defer.
 24 **VICE CHAIR SANDERSON:** Right.

1 **MS. WEST:** So I want to understand
 2 exactly what you're looking for with that because, you
 3 know, architectural features are clearly important to
 4 any kind of style. You know, going down the path of
 5 this Federal style is very, very different from
 6 Victorian. And if that's your mandate, I would rather
 7 have that be clear.
 8 **VICE CHAIR SANDERSON:** I don't think
 9 that's the --
 10 **MR. FONTECCHIO:** I don't think that's
 11 the mandate. But again, for example, and I'm preaching
 12 to the choir here, Christine, because you know this
 13 stuff easily as well as I do. The perception of a
 14 structure that's like that, versus a structure of the
 15 exact same width, that is -- that just feels very
 16 different in terms of the density on the street. And I
 17 think that's where at least my concern is right now.
 18 Not saying that those structures are found in the
 19 neighborhood or maybe even appropriate, it's just that
 20 maybe this type of structure needs more breathing room
 21 than something that presents this way.
 22 **MR. MARTIN:** So just for clarity, again,
 23 you're looking for additional massing information?
 24 **MS. LUND:** Yes.

1 **MR. MARTIN:** Okay.

2 **VICE CHAIR SANDERSON:** And, Christine,

3 has it ever been in the discussion, do you recall

4 (inaudible) what might come on this lot in terms of, you

5 know, size and scale and number of buildings?

6 **MS. WEST:** Yeah. Well, I mean, I will

7 say, you know, that three seems to make the most sense.

8 It fits well within the zoning, it fits well within the

9 pattern of this neighborhood and many others in

10 Providence. So it seemed self-evident that this was a

11 good direction.

12 I think when it comes to question of style, when

13 you're doing new construction and imitating historic

14 forms, I think that's a very, very careful line to

15 cross. Because, you know, you can't just mix and match

16 like potpourri. It's gonna look terrible and strange.

17 So if we do a shift in our design precedent, we want to

18 be rigorous in understanding what the elements of that,

19 that style are. You know, I'm happy to revisit that,

20 that design.

21 I'm losing a little bit of track of your original

22 question. But are you asking, was it, did we question

23 two or three?

24 **VICE CHAIR SANDERSON:** Yeah.

1 record.

2 The other thing that is we're caught in a very

3 difficult position here because we've intentionally held

4 back detail and development of that detail because we

5 don't want to spend the hundreds of hours it takes to

6 really do this right before we have an indication of

7 whether this is even a project. If this is a

8 non-starter, we don't want to waste anybody else's time.

9 So, you know, it -- you know, the comments about cookie

10 cutter and the like are completely -- I don't think

11 they're a correct reading of what we're presenting. We

12 are intentionally stripping this down to just the basics

13 with placeholders for entries and detail and form. We

14 would not literally build this. This is a diagram of

15 massing. So I hope everybody understands that this

16 is --

17 **MR. FONTECCHIO:** I think we do. Yeah.

18 **MS. LUND:** Yeah.

19 **MS. WEST:** Okay.

20 **VICE CHAIR SANDERSON:** And I think

21 you're getting the -- I hope you're getting the sense of

22 -- what I think is the sense of the Board's view that

23 this is developable property. And we're reluctant on

24 the basis of this presentation to -- I'm reluctant.

1 **MS. WEST:** Yeah. I mean, obviously

2 where the property that was purchased was two lots, but

3 making it three it seemed to fit. So we're exploring

4 three. In my opinion, this is perfectly compatible with

5 the surrounding density and the neighborhood pattern.

6 **MS. DOTSON:** Yeah. I don't think the

7 question from us is density but more scale.

8 **MS. WEST:** Okay. And so I'll share that

9 some of the studies that we did have revolved very

10 carefully around the roof form, because as it's been

11 pointed out, a front gable approach with two-and-a-half

12 stories looks much, much taller than one with a dormer

13 where it's basically concealed behind that roof form and

14 has the dormer. So we've intentionally -- and I know

15 we've been focusing on the plan here, but if you want to

16 put up the sketch that we had. We've intentionally done

17 everything we could to sort of depress and push down

18 those roof forms on the sides to do that. And my fear

19 is that the Victorian styles have this exaggerated sense

20 of verticality, which didn't seem appropriate either.

21 You know, if we look at that tower on the corner, if we

22 look at some of those vertical elements, I think we will

23 actually probably see houses that appear much taller.

24 So I just want to put that fair warning out on the

1 Maybe them. I'm retired. To go to the concept approval

2 because there seemed to be many unanswered questions

3 about how, when you've progressed to the next phase,

4 it's actually going to work out.

5 But your client -- I hope you will share with your

6 client that there's not a question as to whether it's

7 the developable property, but there is a question at

8 least in my mind about whether it will turn out to be

9 developable with the mass scale and siting that you're

10 showing tonight.

11 **MS. WEST:** Good. We appreciate that.

12 **MS. DOTSON:** Yup. All set.

13 **VICE CHAIR SANDERSON:** I like meetings

14 that end earlier rather than later. But I sense that

15 everybody has said what they think and soon we'll start

16 repeating ourselves.

17 Are there more comments that members of the

18 Commission want to share at this point?

19 **MS. LUND:** My comment is motion to

20 continue.

21 **VICE CHAIR SANDERSON:** Right.

22 **MR. MARTIN:** But just -- so motion to

23 continue with the applicant to return with additional

24 massing information, specifically, ideally, a digital

1 model, a digital 3D model, to show the directly abutting
 2 properties in relation to the proposed three houses.
 3 **VICE CHAIR SANDERSON:** Perfect.
 4 **MR. FONTECCHIO:** And I would add that
 5 because there is really not a lot directly to the side
 6 because there's space on one side, they have a, you
 7 know, garden.
 8 **MR. MARTIN:** Yeah.
 9 **MR. FONTECCHIO:** Maybe just something
 10 that represents what the opposing side of the street
 11 rhythm is. So then we should kind of --
 12 **VICE CHAIR SANDERSON:** Yeah. So, was
 13 that a motion?
 14 **MR. FONTECCHIO:** Yes. Amended. And
 15 I'll second it.
 16 **VICE CHAIR SANDERSON:** Okay. All in
 17 favor?
 18 **MR. KAPLAN:** Aye.
 19 **MS. LUND:** Aye.
 20 **VICE CHAIR SANDERSON:** Aye.
 21 **MR. FONTECCHIO:** Aye.
 22 **MS. DOTSON:** Aye.
 23 **VICE CHAIR SANDERSON:** Any opposed?
 24 (NO RESPONSE)

1 **VICE CHAIR SANDERSON:** Thank you. I
 2 think we are complete, adjourned.
 3 **MS. WEST:** Yeah. Thank you, all.
 4 **VICE CHAIR SANDERSON:** Very good. Thank
 5 you.
 6 **MS. LUND:** Thank you.
 7 (HEARING CONCLUDED AT 7:28 P.M.)
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 2 C E R T I F I C A T E
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 4
 5 I, Kaylee St. Pierre, hereby certify that the
 6 foregoing pages are a true and accurate record of my
 7 transcription from a tape-recorded proceeding.
 8 In witness whereof, I hereby set my hand this
 9 23rd day of October, 2024.
 10
 11 s: Kaylee A. St. Pierre
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KAYLEE A. ST. PIERRE

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EXHIBIT 2

In The Matter Of:
118-126 Benevolent Street v.
Vacan Lot (Power-Cooke) Application

Providence Historic District Commission
September 4, 2024

Rebecca J. Forte
Certified Professional Court Reporters
33 Rollingwood Drive
Johnston, RI 02919
(401)474-8441

STATE OF RHODE ISLAND
PROVIDENCE HISTORIC DISTRICT COMMISSION

* * * * *
PROCEEDINGS AT HEARING IN RE:

CASE NO. 24.079
118-126 BENEVOLENT STREET,
VACANT LOT (POWER-COOKE) APPLICATION

* * * * *

SEPTEMBER 4, 2024
4:15 P.M.

PROVIDENCE HISTORIC DISTRICT COMMISSION
444 WESTMINSTER STREET
1ST FLOOR, CONFERENCE ROOM
PROVIDENCE, RI 02903

REBECCA J. FORTE COURT REPORTING
33 Rollingwood Drive
Johnston, Rhode Island 02919
(401) 474-8441

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BOARD MEMBERS PRESENT:

- Ryan Haggerty, Chairman
- Edward Sanderson, Vice Chair
- Rachael Dotson
- Neal Kaplan
- Glen Fontecchio

STAFF PRESENT:

- Sharon Garner, Legal Counsel
- Jason Martin
- Lev Simon

1 MONDAY, JULY 22, 2024
2 (Commencing at 4:15 P.M.)
3 **MR. SANDERSON:** Okay. Good afternoon,
4 everybody. It is 4:15 on Wednesday, September 4th,
5 2024. This is the City of Providence's Historic
6 District Commission. We'll begin with a roll call
7 before we get into things. My name is Ryan Haggerty.
8 **MR. KAPLAN:** Neal Kaplan.
9 **MS. DOTSON:** Rachael Dotson.
10 **MR. FONTECCHIO:** Glen Fontecchio.
11 **MR. SANDERSON:** Ted Sanderson.
12 **MR. MARTIN:** Jason Martin, staff.
13 **MS. GARNER:** Sharon Garner, legal
14 counsel.
15 **CHAIRMAN HAGGERTY:** Thanks everybody.
16 There are no meeting minutes to approve. Sharon has a
17 brief statement she would like to make. I'll give an
18 intro, and then we will get going.
19 **MS. GARNER:** Okay. Quickly,
20 Commissioners, could we just go around, and could you
21 confirm for me on the record that you have reviewed all
22 the prior material on this matter that has been
23 submitted to date?
24 **CHAIRMAN HAGGERTY:** Sure. I'll start.

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1 Confirmed.
 2 **MS. GARNER:** Thank you.
 3 **MR. KAPLAN:** Yes, I have.
 4 **MS. DOTSON:** I have.
 5 **MR. FONTECCHIO:** Yes.
 6 **MR. SANDERSON:** Yes.
 7 **MS. GARNER:** Thank you. Thanks, Ryan.
 8 **CHAIRMAN HAGGERTY:** Okay. So thank you,
 9 everybody, for joining us. I realize this is earlier
 10 than we usually meet. It is a different day than we
 11 usually meet. So thanks, members of the Commission and
 12 members of the public, as well as the applicants for
 13 taking time out of your personal lives and business days
 14 to join us today. This is the second time we have heard
 15 this application. There was a good discussion at the
 16 last meeting. My apologies for not having been there,
 17 but as Sharon just mentioned, I did review all of the
 18 materials thoroughly before this meeting.
 19 I would ask that we do have a hard stop for a
 20 member on the Commission. And we barely have a quorum
 21 by the exact number of people. So we will be limiting
 22 folks' testimony to not more than five minutes. I will
 23 ask that you all please respect that time limit and do
 24 your best to be as efficient with your testimony as

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1 possible and non-repetitive. If somebody gets up before
 2 you and says functionally what you are going to say, I
 3 would ask you please do not repeat that. You may simply
 4 say that you concur with the prior testimony or you
 5 would echo the prior testimony. So again, please,
 6 please be considerate of that as you get up and speak.
 7 With that, we will get right into things. Jay is
 8 going to give us a brief intro, and then we will hear
 9 from the applicant for Case Number 24.079, 118-126
 10 Benevolent Street, a vacant lot in the Power-Cooke
 11 District.
 12 **MR. MARTIN:** Thank you, Mr. Chair. As
 13 stated, this is a returning item. The applicant is
 14 applying to the Commission for a construction of three
 15 buildings on an existing vacant parcel in the
 16 Power-Cooke Street District. And as this item was
 17 continued from the August meeting, the applicant has
 18 submitted some revised documentation. And with that,
 19 I'm going to turn it over to the applicant and let them
 20 walk you through that documentation.
 21 **CHAIRMAN HAGGERTY:** Thanks, Jay. Yeah,
 22 a little change from the last meeting. We'll have you
 23 guys up there similar to one of the CPC meetings.
 24 Thanks very much. The same will go for anybody who is

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1 offering testimony in person as well. We will have you
 2 come up to the front of the room. One last thing for
 3 any new folks, both online and in the room, when you
 4 come up to speak, we will ask you to state your name for
 5 the record and swear to tell the truth. I realize it is
 6 very formal, but it's also very important and part of
 7 our process. So just don't be surprised when we ask you
 8 to do that for the speaker.
 9 **MS. WEST:** Hey.
 10 **CHAIRMAN HAGGERTY:** So yeah. Enunciate
 11 and speak directly into the mic at that table so that we
 12 can get you on record, please as well.
 13 **MR. SANDERSON:** Mr. Chair, a question.
 14 We've just been handed a document. It looks like a
 15 legal document. Can you tell us what we are supposed to
 16 do with this or how this relates to the hearing?
 17 **CHAIRMAN HAGGERTY:** (Inaudible) but I
 18 would ask our legal counsel, if she may.
 19 **MS. GARNER:** Well, let's have the
 20 applicant present first, and then I can address that
 21 question.
 22 **CHAIRMAN HAGGERTY:** Okay. Thank you.
 23 So would you state your name for the record and swear to
 24 tell the truth, please.

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1 **MS. WEST:** Sure. Christine West,
 2 architect and principal at KITE Architects. I swear to
 3 tell the truth.
 4 **MR. DOYLE:** Andrew Doyle, architect at
 5 KITE Architects. I swear to tell the truth.
 6 **CHAIRMAN HAGGERTY:** All right. Thank
 7 you very much.
 8 **MS. WEST:** Okay. Thank you so much for
 9 being here at this time. I know it's off cycle and out
 10 of your usual time. The documents we just handed you,
 11 we would like to submit officially for the record.
 12 We've been aware of several issues from the community
 13 about our proposal and we wanted to make sure that we
 14 presented all documents. So you'll find a couple of
 15 things in there that we're going to refer to. The first
 16 document is a release that is signed by the Rhode Island
 17 Historical Society. The second is the actual deed that
 18 our client made for the purchase of this property. The
 19 third is an opinion by our attorney on the title. And
 20 then the last is a document from the Providence City
 21 Tree List.
 22 So without further ado, before we get into it,
 23 Jason, if you could start the presentation.
 24 **MR. MARTIN:** Just one moment. Mr.

1 Chair, I'm just going to introduce this as Exhibit 2,
2 actually because your previous exhibit is Exhibit 1 for
3 the revised documentation.

4 **CHAIRMAN HAGGERTY:** Gotcha. Noted.
5 **MS. WEST:** Okay. Thanks. So, Jason, if
6 we could start the visuals. Okay. And as that comes
7 up, if we could go right to the second page after the
8 title page. I'll dig in. So, in order to kind of
9 address those issues right away, then we will get into
10 the architectural design updates and the documentation
11 on context that you asked for last time.

12 First, we just wanted to bring you specifically to
13 two issues. First is the covenants that Rhode Island
14 Historical Society placed on the property almost 50
15 years ago. The covenants established by the RIHS in
16 1974 are not relevant to our application this afternoon
17 for HDC conceptual approval. The release of restriction
18 and termination of right of refusal signed by the
19 Chairman of the Board in October 2023 very clearly and
20 specifically states that, "Rhode Island Historical
21 Society does hereby release and forever terminate its
22 right of refusal and restriction as to subdivision, if
23 any," and specifically names the 1974 covenants. The
24 deed, which you have, is executed for purchase in June

1 of this year. Also conspicuously does not reference
2 these covenants. We understand these covenants expire
3 on December 24th, 2024. Regardless of whether any
4 additional restrictions on development on the parcels is
5 retained by RIHC, despite the release of restriction,
6 these covenants are a private matter at a private
7 agreement between parties.

8 It is not the City's responsibility to track,
9 regulate or enforce private covenants. We're entitled
10 to a full and fair consideration of our proposal by the
11 HDC, using its own rules, its standards, and for the
12 purposes established by laws. The process, goals,
13 standards that have been used by the Rhode Island
14 Historical Society are substantially different from
15 those of the HDC as described in their memo dated August
16 7th, 2024. The RIHS's private review process has no
17 public oversight, has goals that exceed the City's
18 interest, and references standards that are well beyond
19 the City's guidelines for historic districts. To our
20 knowledge, no evaluation of our specific proposal has
21 been formally undertaken by the RIHC. Neither has a
22 request for such a review been made of this. It may be
23 worth noting that these covenants were written well
24 before even the first historic district established

1 here, and the reviews that apparently have been
2 conducted over the years certainly predate the
3 establishment of the Cooke-Power District in 2023. The
4 public interest in the historic nature of this
5 neighborhood is well-protected by the HDC. We
6 respectfully request consideration by the HDC under its
7 own rules and based on the detailed evidence that we are
8 presenting tonight.

9 The second issue relates to trees, and we are in
10 the receipt of some memos from the City Forester. I
11 want to point out that we intend to fully comply with
12 the tree compliance, and we have taken measures already
13 to comply with concerns that have been noticed on
14 adjacent properties. So first, the significant tree to
15 the north on the property line. And at this point, I
16 know we're kind of still getting the presentation.

17 **CHAIRMAN HAGGERTY:** Yeah. You want to
18 hang on one second just while we get through some
19 technical issues here. Oh, there you go.

20 **MR. MARTIN:** Yeah, no, we got it. I
21 think we're good now. I'm sorry.

22 **MS. WEST:** Okay. If you could go to the
23 second page, please. Okay. I also just wanted to put
24 up on screen here. These are the regulations from the

1 HDC's own guidelines in terms of what we are looking at
2 with new construction. And these are the standards to
3 which we look. It specifically deals with new
4 construction. I'm sure you're very familiar with it.
5 You could probably recite it back, but we did want to
6 make sure we were on record as having the correct
7 standards. Yeah.

8 So back to the trees. When we go over the site
9 plan, what you will see is that there is a significant
10 tree that we, at a very late hour, and (inaudible) for
11 the continuation, but we were able to locate with some
12 specificity. It's a sycamore maple on the neighbor's
13 property. And we've established zone, the critical root
14 zone, on our plans that you will see. We have no
15 structures inside this critical root zone. We will
16 comply with the protections. The proposed grading does
17 follow natural grade, and a tree protection plan will be
18 part of our landscape plan and specs at the appropriate
19 time. I also want to point out that this sycamore maple
20 that we're being asked to preserve is noted as an
21 unauthorized tree. It's listed as both exotic and
22 invasive on the official City Tree List. So, while we
23 will comply with the laws that said this is significant,
24 it's -- we raise some questions on the lengths that we

1 have to go to. We also are aware that there has been an
2 analysis of the western trees. These are Atlas cedars.
3 Right, they're lovely. The memo that you see
4 establishes a critical root zone at 12 feet. As you
5 will see from our site plan, we do not have any
6 structures within this CRZ. We, in fact, are reusing
7 the existing curb cut from the building that was there
8 previously. Historically, there was a driveway along
9 the western boundary. So there'll be no structure.
10 We're more than 12 feet away from these trees. Our
11 proposed grading follows the natural grade, and we're
12 very fortunate in that account. And a tree protection
13 plan will be part of our final landscape plan and specs.
14 On our specific site, we have had a survey
15 completed. It was recently enough where we don't have
16 it for you, but we have, we have determined that there
17 are no significant trees as meets the legal distinction.
18 As neighbors have pointed out, there are some diseased
19 trees, there are some invasive trees, and we are
20 replanting in order to comply with canopy locations. In
21 fact, we have positioned the building so that we
22 maintain a green, very dense green buffer on the eastern
23 zone where there exists a series of smaller trees. We
24 hope to keep as many of those as possible, and we feel

1 it's a design priority to keep that vegetative buffer.
2 So even though we are not presenting a detailed
3 landscape plan tonight, we did want to show you our
4 conceptual site plan that we will get to. Our total
5 canopy, as calculated by the city guidelines, is going
6 to result in 10,900, at a minimum, of additional canopy.
7 This is over double of the minimum that's required. So,
8 again, happy to go over that at the appropriate time.
9 But I do want to be on record that we are intending to
10 comply with spirit and law with these tree regulations.
11 We ask you not to base your decision on speculation that
12 we might damage trees. Please base your review on our
13 actual design and specifications and the established
14 process. Please allow us to develop a landscape plan,
15 allow us to develop a pre-protection plan, allow us to
16 calculate the full final added canopy coverage. And
17 please allow us to review it in the proper sequence with
18 the City Forester as part of the zoning compliance and
19 building permit process.
20 So now, let's continue. You will see in our
21 presentation that we have several photographs overheads
22 of the neighborhood, which we won't belabor. We can
23 move right ahead to the adjusted plans. And actually,
24 you can see there, we have included for your benefit

1 photos of the houses both directly across the street, as
2 well as to the sides. This is our adjusted site plan,
3 and we will go to a more illustrated version here. But
4 you will see that we have adjusted the location of the
5 garage forward away from that critical tree zone. In
6 fact, we're several feet away from that.
7 Let's go to the next slide. So for those of you
8 who weren't at the hearing, just to reiterate the
9 overall design concept, this is an unusual place in the
10 neighborhood. It's right on the borderline between
11 houses that are similarly scaled and similar-sized lots
12 and much larger houses to the north and to the west. So
13 one of the techniques that we've chosen to pursue here
14 is to have three houses that are related to each other,
15 and very clearly built at the same time, almost to give
16 the illusion of perhaps a grander residence. But then
17 still at the same time, fitting the scale of the
18 immediate neighborhood.
19 We can go to the next slide. So we've included
20 some floor plans. We're not required to a conceptual
21 massing, but we did want to give you a sense of where
22 this was headed and how those interior spaces relate to
23 the outside. And then next is the typical floor plan of
24 the detached garages. Again, as we stated in the last

1 application, these are not intended to be accessory
2 dwelling units. The only glazing is towards the, the
3 new houses lot. There are no windows facing any of the
4 abutters' property.
5 Next slide. Okay. So this is where we get to the
6 more contextual analysis that you requested. As you can
7 see, we've noted the relative heights of the structures.
8 These grade slopes down, as I've noted, about eight feet
9 from the very, very maximum down to the southeast
10 corner. We've adjusted the roofline since the first
11 application. The top of each gable is below the 40-foot
12 zoning requirement. And the eaves are each at about 24
13 feet, as measured for state regulations from existing
14 grade. You can see that there are houses both smaller
15 and wider, as well as taller on either side and across
16 the street.
17 You can go to the next slide. So this is the 3D
18 model that you asked for of the more immediate context.
19 You can, again, see to the west, to the north, we have
20 much larger structures. To the south and east, we have
21 structures the same size, density, massing, as well as
22 one or two smaller structures.
23 You can go to the next slide. Okay. So this I
24 think is maybe one of the most important documents we're

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1 showing here. This shows the -- the green number is the
2 lot size. So first to address the lot size. It is very
3 much in the same scale, size, as most of the neighbors.
4 Again, there are some larger lots, there are some
5 smaller lots. We fit handily in the middle. The lower
6 number is the total footprint. Now, that footprint also
7 includes our detached garage. So you can see it's right
8 in line with most of the neighbors. Again, some bigger,
9 some smaller. But as we analyze that neighborhood
10 pattern, nothing out of this tells us that what we're
11 proposing is out of scale or even out of the ordinary.
12 Okay. Let's go to the next slide. So as
13 requested, we've developed this three model because
14 ultimately we don't see these structures from the air.
15 We don't see them from a plan. We don't see them as
16 numbers. We see them as structures. This point of view
17 is taken in front of the Aldrich House at 110 Benevolent
18 Street, looking towards the east. And you can see how
19 with the different kinds of roof shapes, the dormers,
20 you know, our structures are really almost
21 indistinguishable from the neighborhood context.
22 Let's go to the next slide. This is a closer view
23 of that same perspective basically from the corner of
24 Cooke and Benevolent looking eastward. And the next

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1 one. And then this is from the bottom of Governor
2 Street and looking back up at Benevolent Street, showing
3 how these houses are really trying to emulate this
4 pattern. We don't have a row house situation. We don't
5 have a situation like we might have downtown. We have
6 different volumes at different, slightly different
7 positions to the street. And this is where it's most
8 evident. One of the techniques that we're using to
9 distinguish this ABA architecture, or you position that
10 center house forward so that as you are looking up the
11 street, that the other two actually recede. So we get
12 that capture of the interest of the street front.
13 And let's go to the next slide. And again, we're
14 not here for final, obviously. We're here for massing,
15 but we did want to show you what we're looking to for
16 inspiration. These are houses in the immediate
17 neighborhood, and we've indicated that on that site map
18 with the orange dot. But just quickly, the Aldrich
19 House, of course, 26 Cooke Street, which is right across
20 the way as inspiration for -- let's focus on four basic
21 elements. So roof form and dormers, the portico and
22 overall symmetric volume with aligned windows, and then
23 an approach to stairs that comes right out to the street
24 but with terracing. So, and those are kind of key

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1 elements that our design is attempting to not only give
2 a nod to but express in a more contemporary way. Okay.
3 And the -- sorry. On that last slide you can see where
4 we're drawing some inspiration for some of the rounded
5 forms in the dormer. You can see that curvature to the
6 top, as well as in the bay at 37 Cooke Street and at the
7 dormers.
8 Okay. Next. Okay. So this is the view with the
9 existing street trees. There's four immediately in
10 front of the property. As all of you architects know,
11 you can't see the building if you show all the trees.
12 So we've provided a slide that shows those trees missing
13 just to illustrate what you would actually see if you
14 could see the building, so you can evaluate the
15 architecture. So if we go to the next slide. Again, we
16 have no intention of removing those trees, but they were
17 kind of in the way of seeing the architecture. So this
18 is how those roof forms and how that slight projection
19 forward. We have a very limited ability to push or pull
20 these structures forward or back per zoning. We're
21 required to be at least 11.1 feet away from the street,
22 but no more than 16.1. So within those parameters, we
23 have a little bit to play with. We would love to have
24 more, but we're really kind of -- have our hands tied.

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1 You can see how we now have differentiated the center
2 house from the ones flanking it. The ones on the sides
3 have this rounded, perhaps more whimsical, kind of view
4 to the detailing. The center one has a projecting bay,
5 a portico, and then twin dormers that have double
6 windows at the top. You can see with all of them that
7 we've taken panes to have a strict alignment of the
8 windows that they have a very vertically proportioned
9 window. To the extent where panels, that's a very, you
10 know, time-tested techniques where we might have a stair
11 landing or a kitchen counter would be used to instill
12 that so we can maintain that masonry opening all the
13 way. And again, we don't have a landscape plan, but I
14 hope you can see that we intend to plant these with a
15 very lush, very green kind of approach.
16 Let's go to the next slide. And we're close to --
17 and again, this is with the street trees that are there.
18 We're showing them in the next slide removed so they can
19 actually see them. It can give a little clearer idea of
20 how those three kind of relate to each other. One other
21 adjustment that we've made since the last time you saw
22 it, is that we had hoped to put these on a straight line
23 to really emphasize that notion of being a single house.
24 With the grading, we have a couple of priorities,

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1 obviously, caring for the root zone of our neighbors,
 2 but also these are intended to be accessible. And so by
 3 using that slope from the back to the front, we can get
 4 at-grade entrances in from the driveway. We can have a
 5 very gentle grade up to the front of the house. We're
 6 still within our needs to lift off the floor slightly.
 7 But using that terracing really, really helps us in that
 8 regard. And so you can see here, we're starting to
 9 illustrate how those walls might help and create a
 10 platform for each of these houses and respond to the
 11 pretty dramatic drop in grade as we go left to right
 12 down the property.
 13 Okay. So that is our presentation. Happy to
 14 answer any questions, or we can return after the public
 15 comment.
 16 **CHAIRMAN HAGGERTY:** So a couple of
 17 things. I do think the members of the Commission want
 18 some slight explanation as to the contents of this, if
 19 we are able to.
 20 **MS. GARNER:** Sure. So the applicant has
 21 indicated that these covenants and deeds are not
 22 relevant to the Commission. I believe that's the
 23 Commission's determination. You may hear from other
 24 interested parties that they are relevant. It's up to

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1 you all to determine whether they're relevant. Whether
 2 they're currently active and enforceable, that's not
 3 something that the City takes a position on. That is a
 4 dispute between private parties. But I would say you
 5 can look at these covenants and deeds just as any other
 6 piece of evidence.
 7 **CHAIRMAN HAGGERTY:** Okay.
 8 **MS. GARNER:** You get to determine
 9 whether it's relevant, you get to determine how to view
 10 it, how to weigh it in making your determination,
 11 looking at the standards.
 12 **CHAIRMAN HAGGERTY:** Great. Thank you.
 13 I appreciate it. Okay. So you want to do public
 14 comment first?
 15 **MR. MARTIN:** Yeah, we have to.
 16 **CHAIRMAN HAGGERTY:** Okay. All right.
 17 You want to start with folks in the room, I suppose.
 18 **MR. MARTIN:** Now, so we have to start --
 19 we're going to start with statements submitted by any
 20 official commission or department of the city of
 21 Providence, any state agency or any local historical
 22 preservation or any neighborhood organization. I've got
 23 the councilman's on the board, and I know he's pressed
 24 for time. So, I -- If you don't mind --

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1 **CHAIRMAN HAGGERTY:** Yup.
 2 **MR. MARTIN:** -- we will hear from him
 3 first.
 4 **CHAIRMAN HAGGERTY:** Absolutely.
 5 Whatever works.
 6 **MR. MARTIN:** Councilman, if you want to
 7 unmute yourself.
 8 **COUNCILMAN GONCALVES:** Hi. Can everyone
 9 see me okay here?
 10 **MR. MARTIN:** We just got you on audio,
 11 Councilman.
 12 **COUNCILMAN GONCALVES:** Okay. Great.
 13 Thank you so much. John Goncalves, Councilman for the
 14 First Ward. I represent Fox Point, Wayland, College
 15 Hill, the Jewelry District and Downtown Providence.
 16 Evening, members of the Commission, Chairman Haggerty,
 17 Vice Chair Sanderson, the Commissioners. I appreciate
 18 your ongoing service to the City of Providence. And we
 19 thank you for your leadership.
 20 We sent a letter to the Chairwoman, or I should
 21 say Applicant West, about this. And I very much
 22 appreciate the applicant making some changes to their
 23 plans in compliance with their zoning laws and
 24 Comprehensive Plan. And I appreciate the thought that

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1 they put into this proposal. However, I'm here to
 2 respectfully request a continuance to a date certain,
 3 such as the next HDC meeting for the proposed
 4 development. And the reason why I'm suggesting this is
 5 because despite multiple attempts to reach out to the
 6 applicant via letters from our office, as well as phone
 7 calls, we have yet to receive a response, which left us
 8 without the opportunity to convene with our neighbors.
 9 We've heard over from over 40 (inaudible) in general
 10 proximity in this area. And we would love to sit down
 11 and meet with the applicant, as well as the developer to
 12 fully discuss some of the concerns that have been
 13 raised.
 14 This project involves, as you all know,
 15 constructing three single-family homes with detached
 16 garages on subdivided lots. And we recognize the
 17 investment and the intentions of the developer and the
 18 applicant to build something here by right and
 19 completely understand that. However, we would love to
 20 continue to review the scale and the mass and the
 21 setbacks of the proposed development given the
 22 substantial concerns raised among the neighbors. Again,
 23 we understand that there will be a development here, and
 24 this will not be green space and perpetuity. However,

1 this concern does center around the compatibility of the
2 project within the historic fabric of the Power-Cooke
3 Historic District, an area that I help lead the
4 expansion of in 2021. So I want to correct the record
5 on that. It wasn't 2023, but 2021, to preserve this
6 area's unique character. And my office worked
7 incredibly hard with the neighbors to expand the
8 Power-Cooke Historic District.

9 Residents, as you will probably hear today, and
10 you've seen in some of the testimony, have been deeply
11 concerned about the impact on some of the mature trees.
12 And I understand that the applicant has been in touch
13 with the City Forester and have worked very diligently
14 to address this issue. However, some of the plans
15 continue to be in direct conflict with the district's
16 character resembling more of a suburban subdivision
17 rather and a diverse historic architecture that defines
18 the area. So we would love to sit down with the
19 applicant, should they agree to discuss this more in
20 depth. Again, we understand that something will be
21 built here, but, you know, to be a good neighbor, we
22 have to be a good neighbor. And we would also love
23 clarity and transparency, particularly around the
24 potential use of the detached garages as an accessory

1 values, but also help avoid the risk of any lengthy
2 legal battles. And granting a continuance would be, in
3 my opinion, a prudent step in containing this issue and
4 ensuring that the project can move forward in a way that
5 aligns with the district's historic integrity.

6 So I kindly ask the Commission to consider
7 granting continuance to a date certain, so we can work
8 together to develop a project that reflects the values
9 of our community. And I appreciate you taking the time
10 to listen, and thank you for your consideration this
11 evening.

12 **CHAIRMAN HAGGERTY:** Thank you very much,
13 sir. Appreciate it.

14 **MR. MARTIN:** All right. So we're
15 running this for public comment next. I'm going to --
16 so what I'd like to say is that this meeting was
17 continued from the August 26th meeting. At that --
18 before that meeting, we received a considerable volume
19 of comments, all of which have been distributed to
20 members, all of which have also been posted up to our
21 website and are available for everyone to see and read.
22 The Commission -- I have copies of them here as well.
23 All of those are going to be submitted as exhibits. I
24 know that one of those things that were received was a

1 dwelling unit, should the pending regulations pass both
2 at the city level which could result in an exacerbation
3 of some of the quality of life issues that we've heard
4 about from some of our residents on Benevolent Street in
5 other areas.

6 So given these concerns, we believe a continuance
7 would be necessary to allow for more time for meaningful
8 dialogue between the architect, the developer, and some
9 members of the community. This will also give us the
10 opportunity to find solutions consistent with the law
11 that acknowledged the opinions and the historic
12 integrity of this district, while also addressing some
13 of the environmental and aesthetic concerns. And I
14 think it does behoove the applicant to meet with the
15 abutters as they do have the legal right to challenge
16 the project in court. And should the abutters choose to
17 file suit for whatever they decide, and I do believe the
18 deeds and covenants are relevant in this case, it would
19 substantially delay construction. No one wants to see
20 these projects tied up in the courts. And a continuance
21 would give all parties the opportunity to work toward a
22 mutually agreeable solution without significant delays.
23 So, you know, we believe that addressing these concerns
24 collaboratively would not only respect the community's

1 letter from the Rhode Island Historical Society. I know
2 the Executive Director is here, and whether she wants to
3 say anything further, it's welcome, or whether maybe the
4 Commission may have questions related to that matter.
5 That might be the appropriate time for that.

6 **CHAIRMAN HAGGERTY:** Does any member of
7 Commission have any questions for the Rhode Island
8 Historical Society relative to the contents of the
9 letter? I know we were all provided it in advance, and
10 we have all, I believe, read the materials.

11 **MR. SANDERSON:** I think it would be
12 helpful to me just to hear a brief summary from the
13 Executive Director about the situation. We have seen
14 the letters, we have heard some testimony, or rather
15 some public comment about it at the previous meeting. I
16 would like to be clear on what the status of it as we
17 heard some references to it in the presentation already
18 today.

19 **CHAIRMAN HAGGERTY:** Okay. Good
20 afternoon. State your name for the record, please, and
21 swear to tell the truth.

22 **MS. GREFE:** I'm Morgan Grefe, Executive
23 Director of the Rhode Island Historical Society. And I
24 swear to tell the truth.

1 **CHAIRMAN HAGGERTY:** Thank you.
 2 **MS. GREFE:** Thank you so much for
 3 hearing me and for taking the time to read the letter
 4 that I submitted prior to the last scheduled meeting.
 5 The letter generally summarizes the restrictions that we
 6 believe and hold are still in place. I know that
 7 previously it was mentioned, and you have received the
 8 release language. So I also want to address that while
 9 I'm here this afternoon.

10 In 1974, we received the Aldrich House as well as
 11 the related property from the Aldrich and Rockefeller
 12 families. They placed restrictions on it. The RIHS in
 13 1974 did not place restrictions. This is -- so this is
 14 a matter for us of donor intent. So this land was given
 15 in trust with these restrictions. Those restrictions
 16 sunset December 24th, 2024. So this year. However,
 17 when we sold the land and what is referenced in the
 18 release, is 1982 deed to Mr. Brodsky, in which case the
 19 RIHS added additional restrictions. Those restrictions
 20 had no end date, have been deemed not preservation
 21 easements, and therefore, had an expiration, and we
 22 believe have expired. When the property was sold last
 23 year by Whisper Investments, we were asked -- we
 24 submitted a letter that said we have done a -- gotten a

1 Sacketts, looking at what was then the vacant land,
 2 which includes what is now the Ragona property. So the
 3 land at that point stretched from George Street to
 4 Benevolent. So it was a large, much larger vacant lot.
 5 The owner, at that point, wanted to subdivide into four.
 6 We refused that, said it would be appropriate to
 7 subdivide, we would agree to three. That was after
 8 neighborhood conversations and meeting with experts in
 9 the field, looking at the massing of the area and deemed
 10 that one large lot where the Ragona property now is and
 11 two lots where facing the Benevolent Street would be
 12 appropriate. I then submitted in a letter the
 13 guidelines that we gave to Mr. Sackett at that time and
 14 how we would look at and judge those buildings from that
 15 period. For subsequent owners when the Ragonas
 16 purchased the property, they reached out to us with
 17 their architect. We sat down, looked at the plans. It
 18 was a relatively painless process to look at the plans,
 19 I believe. And so -- and we also had the pleasure of
 20 working with the family that owns Whisper Investment
 21 with Mark Masiello to develop last year's sale. So we
 22 have had the pleasure and honor of working with our
 23 neighbors on this, with these restrictions that we have
 24 now held for nearly 50 years.

1 legal opinion that these have expired, so go forth. The
 2 new buyers of the property insisted that we release the
 3 restrictions should another lawyer say that those
 4 restrictions still existed. They were informed via
 5 letter that this did not pertain to the 1974
 6 restrictions. This was only to the additional
 7 restrictions, the right of first refusal, as well as the
 8 right of needing our written permission for subdivision.
 9 We allowed the subdivision into two parcels in that
 10 release. So should these still exist, we stated that
 11 two parcels was appropriate. So that is the contents of
 12 that release. We believe the release was unnecessary
 13 because we believe those restrictions to be expired
 14 already. However, they are unrelated to the 1974
 15 restrictions. So that was all stated in a letter that
 16 went to the owners of Whisper Investments, as well as
 17 then passed along to the lawyers for the Stewarts, who
 18 then sold the property to the current owner. We were
 19 not part of that secondary sale, did not know it was
 20 happening, and in fact, did not know who purchased the
 21 property until August 16th. So that was not -- we were
 22 not part of any of those conversations.

23 So as I explained in the previous letter, we went
 24 through a process in 2013 with the previous owners, the

1 Just to give you context in terms of our
 2 relationship to these properties and the neighborhood.
 3 But I just wanted to clarify sort of where we stand and
 4 what those releases were actually about. And I would be
 5 happy to take any, any questions about 1974, 1982, 2013,
 6 whatever you want.

7 **CHAIRMAN HAGGERTY:** Thank you. Any
 8 questions from the members of the Commission? Okay.
 9 Thank you very much for your time.

10 **MR. MARTIN:** So, Mr. Chair, next -- so
 11 the only -- so at the -- again, for the -- it's getting
 12 a little confusing as far as relating to meetings.
 13 There was a meeting related to this matter that we
 14 heard. Then there was a meeting, it was scheduled and
 15 it was continued. Nothing was heard at that point.
 16 There was public comment received for that meeting.
 17 That's what we're discussing just for clarity. At that
 18 previous meeting, there was a letter submitted that
 19 was -- has again, been made public, but it is now
 20 entered from the City Forester. There has since been an
 21 additional letter from the City Forester that has been
 22 transmitted. And so I believe the City Forester is
 23 here. So I don't know if -- I'd like to -- first of
 24 all, we'd enter that into the record officially. And we

1 have all the copies.
 2 **CHAIRMAN HAGGERTY:** Yeah. So we've all
 3 seen the copies.
 4 **MR. MARTIN:** You all saw this letter
 5 because you've had it.
 6 **CHAIRMAN HAGGERTY:** Yes.
 7 **MR. MARTIN:** And so I don't know, again,
 8 if there are any additional questions or anything that
 9 you want to ask of that before we move down to more
 10 general public comment.
 11 **MS. DOTSON:** I have a question. So I
 12 know the type of tree is on the invasive list, but it's
 13 also been deemed significant. Which takes the
 14 precedence?
 15 **CHAIRMAN HAGGERTY:** Good afternoon. Not
 16 to be repetitive, but please state your name for the
 17 record and swear to tell the truth.
 18 **MR. DAGANHARDT:** I'm Sam Daganhardt.
 19 And I swear to tell the truth.
 20 **CHAIRMAN HAGGERTY:** Thanks.
 21 **MR. DAGANHARDT:** As regards to the
 22 invasive nature of the significant tree, although it
 23 might be considered invasive, the ordinance doesn't
 24 discriminate between invasive and non-invasive trees.

1 It leads to a larger argument of what is invasive. We
 2 have a lot of technically invasive trees throughout
 3 Providence, and they still provide benefits that all
 4 trees would provide if they get that mature. With some
 5 unintended consequences, however, the ordinance does to
 6 discriminate between invasive or a good tree.
 7 **CHAIRMAN HAGGERTY:** Okay. Duly noted.
 8 Any questions?
 9 **MS. DOTSON:** That's it.
 10 **CHAIRMAN HAGGERTY:** Okay. Thanks.
 11 **MR. DAGANHARDT:** Thank you.
 12 **CHAIRMAN HAGGERTY:** All right.
 13 **MR. MARTIN:** All right. Mr. Chair, so
 14 with that, I think, I think it would be -- I know that
 15 Ms. Ragona is a direct abutter as some (inaudible) would
 16 like to provide testimony. She's brought expert
 17 witnesses with her for you to recognize as well. So I
 18 think we should start there.
 19 **CHAIRMAN HAGGERTY:** Yup. Let's go ahead
 20 and do that. You want to come up and we will get you
 21 all sworn in, signed in. Right. Good afternoon.
 22 **MR. DESISTO:** Good afternoon. My name
 23 is Anthony DeSisto. I'm an attorney. I represent Ms.
 24 Ragona. My offices are at 450 Veterans Memorial Parkway

1 in East Providence. I'm going to make a brief
 2 introduction, make a few brief legal statements, and
 3 then I will turn it over to Cynthia and JP.
 4 **CHAIRMAN HAGGERTY:** Prior to doing so,
 5 can I just have everybody, again, just for the record
 6 formally, please state your name and swear to tell the
 7 truth before we get you going.
 8 **MS. RAGONA:** I'm Cynthia Ragona. I
 9 swear to tell the truth.
 10 **MR. COUTURE:** JP Couture, swear to tell
 11 the truth.
 12 **CHAIRMAN HAGGERTY:** Okay.
 13 **MR. DESISTO:** I want to briefly -- and I
 14 haven't seen this memo that you just, apparently, just
 15 received in regard to these restrictions on the
 16 property. But I will tell you this, and I know your
 17 solicitor will advise you on the same. Under Section
 18 8-2-14 of the Rhode Island General Laws, the Superior
 19 Court is the only forum that can determine interest in
 20 real estate, that includes these restrictions. The
 21 difficulty that the applicant has is they also have to
 22 prove site control for any application that's filed.
 23 That's a bit of a flaw in the application itself. It
 24 should have been addressed for purposes of this Board

1 early on, as a matter of fact, immediately, rather than
 2 right at this hearing phase. I'm not going to discuss
 3 it further. You've heard from the architect. You've
 4 heard from the Preservation Society on the matter.
 5 You're in a difficult position. It's not under your
 6 authority to determine whether or not a restriction is
 7 valid or not or whether or not it's expired, but that
 8 the Councilman Goncalves is correct. The issue is out
 9 there. I think it does need to be considered, although
 10 ultimately you can't decide whether or not it's still an
 11 effective restriction. That's number one.
 12 Number two, I just want to say one thing quickly.
 13 You know, historic area zoning and historic district
 14 commissions have their own chapter in the General Laws
 15 45-24.1. That means that what you do is separate and
 16 apart from zoning. Whether or not a proposed
 17 development project complies with zoning isn't really a
 18 consideration here. You have your own criteria with
 19 which you need to operate on. Particularly for this
 20 project, and unfortunately the panel isn't up there, I
 21 was going to take a look at it. What it comes down to
 22 is whether or not there are too many units for this
 23 parcel. And I think that's something that you need to
 24 decide. And I can tell you right now that is something

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1 that you can consider and determine when you go forward
 2 on this. And the question is, any time a certificate of
 3 appropriateness is denied, essentially, one of the
 4 things you have to make a determination on is that the
 5 development is incongruous with the surrounding
 6 neighborhood in the historic district. And that's
 7 something that will be addressed later on with the
 8 factual witnesses on it, but you have free standing to
 9 do that. The determination as to whether or not three
 10 houses with three detached garages are appropriate to
 11 this site.

12 And one final thing. What I haven't heard and
 13 what I haven't seen in what I've reviewed is why three
 14 structures need to be placed on this lot. That hasn't
 15 been explained why that is. Why isn't it two? It was
 16 supposed to be two lots. That's what the restriction
 17 said. That's apparently what the Aldrich/Rockefeller
 18 family wanted originally. And in reviewing the General
 19 Laws, reviewing your own regulations, I have yet to see
 20 anything where the economic impact on the developer is a
 21 consideration on this. And I submit to you that can be
 22 the only reason why three units are proposed here as
 23 opposed to two. The only time economic hardship comes
 24 in is in the preservation of a structure, but not the

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1 construction of a new structure on the property. And
 2 I'd ask you to consider that when you see whether or not
 3 this is appropriate, or as I would contend from a legal
 4 matter, it is inappropriate. There are too many units
 5 here. It creates too many problems.

6 If you have any questions for what I said, I'd be
 7 happy to answer them.

8 **CHAIRMAN HAGGERTY:** Thank you. I
 9 appreciate it.

10 **MS. RAGONA:** I own the home that abuts
 11 to the rear. And I just want to make it clear, I'm not
 12 against new construction in the district or on this
 13 parcel in particular. My own home is new construction.
 14 I've been anticipating new construction on this lot
 15 since I purchased my own parcel in 2016. At that time,
 16 the neighborhood was not a historic district. Yet, I
 17 made a point of hiring an architect who was known in the
 18 preservation community to create a home for me that
 19 would fit the character of the neighborhood. And
 20 because there were easements on the land, which Morgan
 21 spoke to, I did get approval from the Historical
 22 Society. I suppose I say we understand those apply to
 23 this land. And I had that home that I believe fit the
 24 neighborhood approved by the Historical Society.

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1 My issue with this proposal is that it utilizes
 2 the zoning laws to just cram too much stuff under the
 3 one plot of land. It uses minimum street frontage,
 4 minimum square footage, minimum setbacks. They've used
 5 detached garages for minimum rear setbacks, maximum
 6 heights for the garages and the houses. As a result,
 7 the mass, the density, and the scale do not fit with
 8 this historic fabric of our neighborhood, where most of
 9 the homes have a little bit of room to breathe. It's
 10 pushed to the edges of the lot in every direction. It
 11 will eliminate green space on that lot, as well as we
 12 will hear, kill a lot of trees on neighboring lot lines.

13 As Councilman Goncalves mentioned, he has reached
 14 out on behalf of some of the neighbors to try to have a
 15 conversation. And we did not hear back. And I don't
 16 think they've shown much willingness to deviate from
 17 their initial July 22nd proposal. At that meeting, the
 18 presentation proposal, they had all of their homes
 19 level. At that point, the concept was to look like one
 20 house. Today, it was related to each other. I think
 21 there was -- my understanding was there might have been
 22 an issue with leveling the land. And so now they're not
 23 level anymore, but otherwise it's the same design. We
 24 had a continuance from the last proposed meeting due to

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1 the significant tree on my lot. Rather than really
 2 reconsider and redesign, they just scooped that garage
 3 right outside the critical root zone. And I do note --
 4 please note in the City Forester's letter that although
 5 it does comply, there may still be detrimental effects
 6 on the significant tree from the placement of that
 7 garage and the building.

8 The current draft City Comprehensive Plan, which
 9 was approved by the City Plan Commission in June, as I'm
 10 sure you're all very familiar, calls primarily for
 11 growth in the city. And even then, it more or less
 12 exempts historic districts as areas for growth. It
 13 specifically says, historic districts should, quote,
 14 "Strictly regulate new construction to ensure
 15 compatibility of new construction with the existing
 16 historic fabric. The historic the Commission may
 17 regulate land and buildings more strictly than the
 18 underlying zoning in order to achieve this mission."
 19 I urge the Commission to consider its authority
 20 and responsibility in light of this and not grant this
 21 conceptual approval, because the mass, density, and
 22 scale are inconsistent with the current historic
 23 district. And I'd like to request that they, you know,
 24 agree to continue this and sit down with us and talk

1 about what may be a better fit.

2 **MR. COUTURE:** Hi, everyone. Cynthia has
3 stated most of the things I could say very well. As
4 most of you know, I was on the Commission myself long
5 ago. And I appreciate the position you're in and the
6 responsibility that the Commission has, and the power it
7 has to regulate development in the districts. For those
8 of us who live and practice in historic districts in
9 Providence, these are important projects. And in my
10 role at PPS as president and board member, I was also
11 involved in the creation of the district here.

12 Of course, I was also the one who convinced
13 Cynthia to sign the letter for the creation of that
14 district, because I believed that the Commission was the
15 best bet at ensuring that whatever happened to the land
16 in the future would be appropriate to the neighborhood.
17 I do not in my professional opinion believe that this
18 particular design is compatible with the neighborhood.
19 There's one exception in the district of row houses that
20 were built close together. But there's no example of
21 three houses being built at the same time of nearly
22 identical massing in a row with, you know, minor
23 staggering and with three identical garages that are
24 detached from the structure. Detached garages are, in

1 fact, unusual in the neighborhood.

2 I did submit some information I think to Jason. I
3 don't know if you have that. But I can tell you that of
4 the six blocks immediately around this, there are 54
5 lots and only 13 detached garages. None of them are
6 identical to each other or lined up in a row. I think
7 the idea of three identical houses and garages in the
8 historic district is incompatible, and therefore, should
9 not be approved conceptually. I do think there are lots
10 of designs that could be developed that would allow
11 beautiful development on the property. It was sold as
12 two lots. And I know there was discussion last time of
13 lots 253 and 260, across the street, being of similar
14 size to these three lots.

15 Have all of you had the chance to go out to the
16 site and actually look at these in person? Yeah. So
17 one of those two lots is actually a double house. The
18 property line runs right through it. So standing on the
19 street, rather than looking at it from the map, it looks
20 like a single house and has about 50 feet on one side
21 before the next building and probably at least 18 to the
22 west side. That was a creative way of taking a
23 60-foot-wide lot and putting two houses on it. That
24 also exists another historic districts, including my own

1 in Fox Point. So I do think there's a solution. I
2 don't think that this one is compatible with the
3 neighborhood. I appreciate the idea that, you know,
4 landscaping may be developed further, but landscaping is
5 not part of the purview of the Commission and will not
6 change the perception of the architecture. Trees come
7 and go as we know. Some of them will go as a result of
8 the project. So I think it's very important to keep in
9 mind that we should be looking at the buildings
10 themselves.

11 I know we heard last time that the design was very
12 carefully thought out based on local precedent. It
13 concerns me that after the amount of public concern was
14 put out there, that the solution was simply to move the
15 garage a few feet and the design is still as good as it
16 was before. And I don't say that to be negative. I
17 think that the designers are very capable and talented,
18 but I don't think this is the right solution.

19 I would also just like to suggest that the public
20 discussion component is important. I think in the past
21 when new construction has been proposed in historic
22 districts, it's been very helpful when design teams,
23 developers, owners have reached out to the community to
24 understand what the concerns are and to come up with a

1 design that is compatible with the district. Thank you.

2 **CHAIRMAN HAGGERTY:** Thank you.

3 **MR. SANDERSON:** Mr. Chair, may I ask a
4 question?

5 **CHAIRMAN HAGGERTY:** Yes.

6 **MR. SANDERSON:** It seems to me that JP
7 was introduced as an expert witness. And I did not hear
8 the qualifications that would make him an expert
9 witness.

10 **MR. MARTIN:** Mr. Chair --

11 **MR. FONTECCHIO:** Do we have a resume or?

12 **MR. MARTIN:** We do. We do. We've
13 received JP's resume. And thank you, Mr. Vice Chair.
14 We should officially recognize Mr. Couture as an expert
15 witness.

16 **MR. FONTECCHIO:** And could I just ask,
17 as an expert witness, do you have an educational
18 background in architecture, and have you practiced
19 architecture in your professional life?

20 **MR. COUTURE:** Yes, I am a -- I have a
21 Bachelor of Architecture degree and registered architect
22 in Rhode Island, Massachusetts and Florida. I served on
23 the Commission for seven or eight years, and I have
24 built projects in historic districts in four different

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1 states.

2 **MR. FONTECCHIO:** And so the testimony

3 that you've given is as an expert in urban design and

4 architecture in a historical context?

5 **MR. COUTURE:** Yes.

6 **MR. FONTECCHIO:** Thank you.

7 **MR. DESISTO:** I would ask that he be

8 accepted as an expert architecture witness by the Board

9 of the Commissioners.

10 **CHAIRMAN HAGGERTY:** Would anybody like

11 to make a motion?

12 **MR. SANDERSON:** I would certainly move

13 that.

14 **MR. FONTECCHIO:** Second.

15 **CHAIRMAN HAGGERTY:** All in favor?

16 **MR. KAPLAN:** Aye.

17 **MS. DOTSON:** Aye.

18 **CHAIRMAN HAGGERTY:** Aye.

19 **MR. FONTECCHIO:** Aye.

20 **MR. SANDERSON:** Aye.

21 **CHAIRMAN HAGGERTY:** Any opposed?

22 (NO RESPONSE)

23 **CHAIRMAN HAGGERTY:** Okay. So moved.

24 Any other questions from the Commissioners before we

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1 move along? Thank you, folks. Appreciate your time.

2 **MR. COUTURE:** Thank you.

3 **CHAIRMAN HAGGERTY:** So again, as we

4 approach -- we're already on an hour. I would, again,

5 request everybody, please be brief. I don't want to

6 have to get a timer out. But we do have an expiration

7 on the Commission members' attendance here.

8 **MR. KAPLAN:** What was it Chairman, 6:30?

9 **CHAIRMAN HAGGERTY:** Yeah. So we have a

10 stop at 6:30 I'm told. We're losing four, so.

11 Good afternoon, folks. Would you please introduce

12 yourselves, state your name for the record and swear to

13 tell the truth, please.

14 **MR. MASIELLO:** My name is Mark Masiello.

15 I swear to tell the truth.

16 **MRS. MASIELLO:** My name is Jennifer

17 Dirico Masiello. And I swear to tell the truth.

18 **MR. SCHWARTZ:** David Schwartz. I'm an

19 arborist. I swear to tell the truth.

20 **MR. MARTIN:** Mr. Chair, before we go

21 forward, I just want to say Mr. Schwartz's resume has

22 been submitted to us and distributed. And if I could,

23 have you recognize him as an expert witness.

24 **CHAIRMAN HAGGERTY:** Also by a motion of

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1 the Board, I haven't seen his resume. Who was it

2 distributed to? I haven't seen any resumes.

3 **MR. MARTIN:** It's part of the public --

4 it was in with the public correspondence.

5 **MR. SANDERSON:** Could he give us just a

6 one-minute summary?

7 **CHAIRMAN HAGGERTY:** Yeah.

8 **MR. MARTIN:** Sure.

9 **MR. SCHWARTZ:** I can get you, I can get

10 you a copy. I've got it with me.

11 **MR. MARTIN:** Oh, we have copies of it.

12 **MR. SANDERSON:** Just a one-minute

13 summary, educational background, professional

14 experience.

15 **CHAIRMAN HAGGERTY:** Yeah.

16 **MR. SCHWARTZ:** I've been a professional

17 arborist for 55 years. I'm a member of the American

18 Society of Consulting Arborists. I've been accepted as

19 an expert witness in several different states. I taught

20 the master gardeners for 14 years.

21 **MR. SANDERSON:** At the University of

22 Rhode Island?

23 **MR. SCHWARTZ:** Yeah. This is the Master

24 Gardener Program. This is separate from the university.

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1 **MR. SANDERSON:** Okay.

2 **MR. SCHWARTZ:** It's part of the

3 Cooperative Extension.

4 **MR. SANDERSON:** Okay.

5 **CHAIRMAN HAGGERTY:** Okay. Thank you

6 very much for that.

7 **MR. SANDERSON:** Do we have to vote on

8 this?

9 **CHAIRMAN HAGGERTY:** I think we probably

10 do.

11 **MR. SANDERSON:** I'll move it.

12 **CHAIRMAN HAGGERTY:** It's just a

13 transparency. Okay. Is there a second?

14 **MR. KAPLAN:** Second.

15 **CHAIRMAN HAGGERTY:** And everybody in

16 favor?

17 **MR. KAPLAN:** Aye.

18 **MR. SANDERSON:** Aye.

19 **MR. FONTECCHIO:** Aye.

20 **CHAIRMAN HAGGERTY:** Aye.

21 **MS. DOTSON:** Aye.

22 **CHAIRMAN HAGGERTY:** Opposed?

23 (NO RESPONSE)

24 **CHAIRMAN HAGGERTY:** Okay. Thank you

1 very much.

2 **MR. MASIELLO:** Thank you. My name is
3 Mark Masiello. I live at 26 Cooke Street. I also own
4 the garden. One of my companies is named Whisper
5 Investments, which actually sold the property that then
6 was sold to the developer who I believe is based in New
7 York. You know, I just observed this from the last
8 meeting on July 22nd in front of this Commission,
9 despite feedback from the Commission and the neighbors
10 that was substantial. And a lot of concerns were
11 raised. They have made no alterations to their plan.
12 It remains at 100 percent of each and every minimum and
13 each and every maximum. They are dead set on building
14 the biggest possible house on the smallest possible lot,
15 despite being in the heart of a historic district. Yes,
16 they have lowered one of the homes because -- to follow
17 the grade, because it turns out that there's a 10-foot
18 differential between the -- at street level between from
19 the Western to the Eastern side of the property.

20 Yes, they've added a lot more trees and greenery,
21 although as you will hear from the expert, those trees
22 and canopy is likely to die from this project. The
23 Historic Commission's mission we know Standard Number 8,
24 which is -- it talks about new construction shall not

1 destroy historic features. New work shall be compatible
2 with the massing, size, and scale of the surrounding
3 neighborhood. That's -- this project is inconsistent
4 with that. And when Jason brings up the presentation,
5 I'll walk you through that. Another Standard, Number 7,
6 says that when historic site features contribute to the
7 historic character of the property or the district,
8 alterations affecting such features shall be judged
9 stringently by this Commission.

10 **CHAIRMAN HAGGERTY:** Bear with me one
11 second. It appears your file may be corrupted.

12 **MR. MARTIN:** I have trouble opening it,
13 Mark. It gives me a "File Corrupted." Do you have it
14 on a drive or something I could --

15 **MR. MASIELLO:** We do have it on a drive.
16 I also can go into Zoom if you'd like to bring it up.

17 **MR. MARTIN:** Let's try this. And if
18 not, we can try that.

19 **MR. MASIELLO:** While we're working on
20 this, a few more words. But, you know, the plat that
21 they proposed will destroy features that characterize
22 the property. Great. This is it. Have you seen this
23 before, the Commission? Because this --

24 **MR. MARTIN:** They have not seen this

1 because we had trouble with the file. So this is --

2 **MR. MASIELLO:** Okay. I distributed this
3 a week ago so you would see it in advance. And I
4 apologize that you didn't have it. But the proposed
5 development would destroy features that characterize the
6 property. Its massing, size, and scale is not
7 compatible with the surrounding neighborhood. If you
8 would please just cycle through a couple of slides in
9 the next one. Oh that's -- okay. Backup one, please.
10 Okay. There we go. So these -- the Block A is the
11 block in question. And what you see in pink is the
12 proposed development. And so you're going to hear from
13 me about scale and numbers because I'm a math person,
14 and then my wife is a tree person. So you will hear
15 from that as well. But the numbers are very clearcut.
16 When we look at the Block A and the five surrounding
17 contiguous blocks that are all within the historic
18 district, the average dwelling size relative to the
19 property for each block on average is 25 percent. And
20 you can see it ranges from a low of 19 to a high of 30
21 -- 32, rather, on these six blocks.

22 If you go to the next slide please. Each of these
23 three proposed houses would be at 40 percent of the lot
24 size. If you go to the next slide, please. So you have

1 three houses at 40 percent, and the neighborhood is 25
2 percent. So therefore, what they're proposing is 160
3 percent of the average of this historic neighborhood. I
4 would say that that is materially different than the
5 massing that we experience. Our neighborhood is known
6 by having homes with healthy gardens and green space
7 surrounding them.

8 Can you go to the next slide, please? They --
9 it's a fundamental element of the Cooke-Power Street
10 Historic District of their sizable gardens. The green
11 space is conspicuous. The houses are not on top of one
12 another. They're not shoehorned onto the property.
13 Next slide, please. This is a visualization. So, you
14 know, if you think of this, this is what the
15 neighborhood average is in blue, and that's
16 representative of the average size lot. And if you go
17 to the next slide, that's what they're proposing.
18 That's 160 percent of the average for the neighborhood.
19 So the math just shows us that they're trying to create
20 high-density housing inside of this historic
21 neighborhood. Next slide. And I would just submit to
22 you that the massing, size, and scale of the proposed
23 development is clearly not compatible with the
24 surrounding neighborhood.

1 The second point is that the mature trees and the
 2 canopy that they create are a second fundamental feature
 3 of the historic district, and they must not be
 4 destroyed. The plat development that's proposed will
 5 jeopardize or kill several trees that are 50 to 75 feet
 6 tall, mature trees. And I want to point out that just
 7 as the City's zoning rules are not your guiding light,
 8 your guiding light is the historic nature, according to
 9 Standards 7 and 8. The significant tree, the definition
 10 by the City is not your guiding light. Your guiding
 11 light is, is it a historic feature of the neighborhood.
 12 And these trees which are, we estimate 50 to 60 years
 13 old, and you will hear from the expert, will be
 14 destroyed. They're goners if this project goes through,
 15 and nothing will ever grow to replace them. It's just
 16 not -- it's not possible that a tree will grow that
 17 mature after a development like this. And you will hear
 18 that from the expert. And all you have to do is go to
 19 Rochambeau or Slater Avenue where developers have built
 20 high-density housing inside the neighborhood. And in
 21 those cases, seven to eight 100-foot beach trees were
 22 killed in Balton Road off of Rochambeau. And
 23 unfortunately, these neighborhoods were not protected by
 24 the HDC, but ours is. And so we're relying on you to

1 there pictures submitted with my report?
 2 **MR. MARTIN:** Is that right?
 3 **MR. SCHWARTZ:** Yes. The first picture
 4 is from Balton Road. Now, this development was done in
 5 2018. So six years into this process, that's the result
 6 that they got with their plant material. I'm looking at
 7 Exhibit 9H, and this suggests a vastly different outcome
 8 that I have never experienced.
 9 Could we see the next slide, please. So this also
 10 is Balton Road. And you will notice the mass of -- how
 11 the space is allocated with the mature trees. And on
 12 the right side is the new use of space, which is really
 13 inconsistent with mature plant material. It's just
 14 turning the properties into something else completely.
 15 Next slide, please. This is the east border of
 16 the lot in question. In order to put in this
 17 development, they're going to have to take down 60
 18 trees. The canopy loss would be 16,000 square feet,
 19 never to be recovered by this neighborhood. So we're in
 20 global warming, 95-degree day, this neighborhood is an
 21 oasis. Without these trees, a huge heat island is going
 22 to be created, which is going to affect all of the
 23 surrounding neighborhoods.
 24 Next slide, please. This -- these are the seven

1 protect this important historic feature.
 2 In conclusion, the proposed plat has caused an
 3 outcry of concern by all those living in the historic
 4 district. Fortunately, our historic neighborhood is a
 5 historic district and is protected by this Commission
 6 from excessive new and unreasonable development. The
 7 plat they propose is fundamentally out of sync with the
 8 nature of this district, a district comprised of
 9 low-density housing with relatively large gardens and
 10 vibrant mature trees. Six separate structures on three
 11 small lots in the heart of this newly created historic
 12 district is too much. It's too much massing, out of
 13 scale with the neighborhood. Two homes on two lots is
 14 much more in keeping with the neighborhood. If they --
 15 if this proposed development is not substantially
 16 altered, the Commission should deny its approval. With
 17 that, I'm happy to answer any questions. Otherwise, I'd
 18 ask Dave Schwartz to speak for a moment.
 19 **CHAIRMAN HAGGERTY:** Any questions,
 20 anyone?
 21 **MR. MASIELLO:** Okay.
 22 **MR. SCHWARTZ:** So in terms of rules, I
 23 really don't know a lot about rules. I'm an arborist.
 24 I know about trees. Did you get the pictures? Were

1 Atlas cedars. Fifty percent of the root systems are in
 2 the development area. There is no way to develop this
 3 and keep these alive. And they're a unit, they're a
 4 unit. They start at one point and they end at another
 5 point. So any kind of damage is going to start taking
 6 out pieces of the puzzle. I think they're going to die
 7 very, very quickly. I think they're going to die
 8 immediately after construction.
 9 Construction damage happens in three different
 10 ways. If you ride construction equipment over the
 11 ground, it compresses pore space, so the roots can't
 12 work anymore. The excavation will tear out the roots
 13 that these trees need. And then the process of
 14 development, ultimately, soil is put on top of them,
 15 which is completely going to change the way that the
 16 roots work. The air is going to be processed
 17 differently, the water is going to be processed
 18 differently. And so with these trees gone, that corner
 19 is going to resemble an industrial site with a
 20 greenhouse.
 21 Next slide, please. This is the street view.
 22 Next slide, please. And this is the back corner facing
 23 George Street. So I see so many of these developments,
 24 you know, Balton Road, Slater Avenue, where the trees

1 will struggle for a year or two, and then they will die.
2 Construction damage started in 1975. Before that, you
3 had Governor Francis Farms, you had Glen Hills. And the
4 current developers don't know how to treat trees, they
5 don't know how to treat soil. So there is a constant
6 degradation of these neighborhoods. This is a quality
7 of life issue. So that's -- I think that basically
8 covers it.

9 **MR. MARTIN:** I do have one question for
10 you.

11 **MR. SCHWARTZ:** Yes.

12 **MR. MARTIN:** The Atlas cedar row.

13 **MR. SCHWARTZ:** Yeah.

14 **MR. MARTIN:** What is the root habit of
15 Atlas cedars?

16 **MR. SCHWARTZ:** Okay. These are mature
17 Atlas cedars. They are not going to adjust to anything.
18 If you're going to -- if I'm -- as an arborist, if I'm
19 going to deal with these, it's got to be as low impact
20 as possible so they don't know anything has happened to
21 them because they will not adjust. This would be a
22 horrendous assault on their root zone. They're going to
23 go down quick. I figure they're going to die
24 immediately. And Ms. Ragona, I figured the tree will

1 developer, they show that the branches of these Atlas
2 trees at 12 feet, because that's how wide their driveway
3 is. But the reality is the branches are 24 to 26 feet
4 from the trunk of the tree. And that's in both the City
5 Forester's report as well as Dave Schwartz's report.
6 And I think it's standard understanding of the -- by the
7 arborist that the root system is underneath the drip
8 line of the tree. So the roots will be destroyed if
9 that house is built on that side of the house.

10 **MR. FONTECCHIO:** Actually, you're more
11 clearly answering what I was trying to get at.

12 **MR. MASIELLO:** Okay. And, you know, the
13 developer moved the garage based on the first tree that
14 was analyzed by the Forester. They would need to move
15 the western house to save these six Atlas trees the way
16 that they're trying to save the one sycamore tree.

17 **CHAIRMAN HAGGERTY:** Okay. Any comments?

18 **MR. FONTECCHIO:** I guess I've got a
19 question based on that statement. Is it appropriate to
20 ask the City Forester to comment on the situation with
21 these trees? Because we hadn't really heard any
22 information treatment about these trees.

23 **CHAIRMAN HAGGERTY:** Would the City
24 Forester like to (inaudible)? He's already sworn in.

1 last about three and a half years. And this is
2 historically provable from the Balton Road development
3 and the Slater Ave. development. So the Slater Ave.
4 development, originally they left 60 to 70 foot white
5 pines and Norway spruce. Now, they're all bending out
6 towards the street. The developer cut the support roots
7 to within four feet to get the extra unit in. So, here,
8 you have a hazard situation that was created. You know,
9 it would be not a stretch to have one of these trees
10 fall onto Slater Avenue and kill somebody. I brought it
11 to the attention of the neighbors. I brought it to the
12 attention of the then City Forester who had them take
13 five of these down. But you can't -- we've got to
14 preserve the trees. We've got to preserve the soil.
15 We're not, we're not, we're not doing that. We're not
16 doing that.

17 This -- in order to put these three units in,
18 you've got to biologically kill the whole area, and I've
19 never seen it. I've never seen an area put back
20 correctly after that. That's my experience.

21 **CHAIRMAN HAGGERTY:** Thank you very much,
22 sir.

23 **MR. MASIELLO:** I just want to add a
24 point. But the -- in the materials supplied by the

1 So we just need to get him in front of a microphone,
2 right?

3 **MR. MARTIN:** Um-hum.

4 **CHAIRMAN HAGGERTY:** Do you want to have
5 a seat?

6 **MR. DAGANHARDT:** I'm still Sam
7 Daganhardt, City Forester.

8 **CHAIRMAN HAGGERTY:** Good to know.

9 **MR. DAGANHARDT:** I agree with what Mr.
10 Schwartz was saying about the root zone. The best
11 management practice when it comes to preserving roots
12 and mature trees is that the roots are either at the
13 drip line or they are at one foot per one-inch DBH of
14 the trunk, whichever one is greater. So, in this case,
15 the root zone would be considered greater due to the
16 fact that the limbs are extending past what the DBH
17 would dictate. The changing of the soil texture, I agree
18 with completely. And it's just going to create an
19 anaerobic environment, where although a lot of trees are
20 proposed and in theory would provide the 10,000, the
21 reality and the history would suggest otherwise.

22 **CHAIRMAN HAGGERTY:** And those trees are,
23 again, are not considered significant --

24 **MR. DAGANHARDT:** No.

1 **CHAIRMAN HAGGERTY:** -- (inaudible)
 2 criteria doesn't work, right?
 3 **MR. DAGANHARDT:** Significant only goes
 4 by DBH.
 5 **CHAIRMAN HAGGERTY:** If a property owner
 6 was to trim or otherwise maintain a tree that extends
 7 over to their property from another person's property,
 8 is that within their right to do so if it is not a
 9 significant tree?
 10 **MR. DAGANHARDT:** Yes. You are allowed
 11 to legally prune a tree that extends onto your property
 12 up to industry standards. And if any of the work that
 13 is done, at least the decline or death of a tree, then
 14 it would become a civil situation.
 15 **CHAIRMAN HAGGERTY:** Got it. Thank you.
 16 **MR. DAGANHARDT:** Yup. Okay. We have an
 17 hour. Jay?
 18 **MR. MARTIN:** All right. So what I would
 19 like this put forth, I know we've got people online who
 20 might like to speak, and we also have members of the
 21 audience. We have set up kind of this discussion to get
 22 as much information that we thought was pertinent to the
 23 Commission and discussion up forward and first. We are
 24 pressed for time. But if anyone either present or

1 given is entered into the record at that point and will
 2 be delineated out in the minutes at that point as well.
 3 **MR. SANDERSON:** So (inaudible) that
 4 we're prepared today, that could be submitted?
 5 **MR. MARTIN:** Correct.
 6 **MR. SANDERSON:** So I would encourage
 7 whoever has paper in the audience, even if you're not
 8 speaking, you can record the fact that you were here by
 9 signing up on such a list.
 10 **MR. MARTIN:** Thank you.
 11 **MR. FOULKES:** Hi. My name is Bill
 12 Foulkes.
 13 **CHAIRMAN HAGGERTY:** And do you swear to
 14 tell the truth, Bill?
 15 **MR. FOULKES:** I do swear to tell the
 16 truth. I concur -- and I don't want to take up much of
 17 your time. I concur on all the specifics. But if I
 18 could give a non-specific issue. I live at 20 Cooke. I
 19 live in the neighborhood. I've lived in the College
 20 Hill Historic District for 25 plus years. I'm new to
 21 this historic district. But the non-specific comment is
 22 one of the great beauties of this historical district is
 23 its quietness, is its tree-lined nature, is the shade
 24 and the beauty of the homes and the historic nature of

1 online feels the need to add anything additional to
 2 what's been spoken, Mr. Chair, I think, we will take
 3 that comment now.
 4 **CHAIRMAN HAGGERTY:** Yeah, that sounds
 5 good. And I think, I would like to impress upon
 6 everybody again, additional commentary that hasn't
 7 necessarily been spoken to, to some extent thus far. We
 8 have heard quite a bit of commentary relative to some
 9 deed restrictions, some significant or insignificant
 10 trees, among other things, as well as density of
 11 housing, percent lot coverage. So, again, if there's
 12 commentary that's very specific and hasn't yet been
 13 discussed, we would certainly welcome it.
 14 **MR. MARTIN:** So, if there's anyone in
 15 the audience, we will start here, since you're here.
 16 No, none seen. Okay. Thank you. If there's anyone
 17 online --
 18 **MR. SANDERSON:** Can I just ask, Jason,
 19 do we have a list of members of the audience who wish to
 20 register either their support for the proposal or their
 21 opposition to the proposal, even though they're not
 22 speaking?
 23 **MR. MARTIN:** No, we don't. We do have
 24 all of the previous correspondence that we have been

1 the homes. And it would be, I think detrimental to the
 2 feel of the neighborhood to have what really looks like
 3 Virginia suburban homes crammed together right next to
 4 all these historic homes. So again, I know a lot of
 5 that was said, but I do want to give you the perspective
 6 of someone who does not abut the property, knows very
 7 little about the trees, but has sort of a sense of what
 8 the feel of this historic district is. And I thank you
 9 for your consideration and protection of these types of
 10 neighborhoods, having lived in them for nearly 30 years.
 11 So thank you.
 12 **CHAIRMAN HAGGERTY:** Thank you.
 13 Appreciate it.
 14 **MR. MARTIN:** So --
 15 **CHAIRMAN HAGGERTY:** Are you online?
 16 **MR. MARTIN:** So online now with using
 17 the raise hand function, we will recognize you and allow
 18 you to speak. Going once. Oh, okay. Ms. Gleason, hold
 19 on. All right. We've got a couple, Mr. Chair. I'm
 20 going to start with Sarah Gleason.
 21 **CHAIRMAN HAGGERTY:** Sounds good.
 22 **MR. MARTIN:** Sarah?
 23 **CHAIRMAN HAGGERTY:** Sarah, can you hear
 24 us okay? Sarah, can you hear me?

1 **MS. GLEASON:** Can you hear me?
 2 **CHAIRMAN HAGGERTY:** Yes. We can. So
 3 again, we can see your name. But would you please state
 4 it and swear to tell the truth, please.
 5 **MS. GLEASON:** Okay. Providence is such
 6 a unique city and --
 7 **CHAIRMAN HAGGERTY:** Excuse me, Sarah.
 8 Sarah, before we get going, I just need you to state
 9 your name for the record, please, and then swear to tell
 10 the truth.
 11 **MS. GLEASON:** Sarah Gleason. And I
 12 swear to tell the truth.
 13 **CHAIRMAN HAGGERTY:** Thank you very much.
 14 **MS. GLEASON:** So Providence is
 15 architecturally unique -- a unique city in many, many
 16 ways. And I think preserving historic districts that we
 17 have (inaudible) and quality that they were when they
 18 were designated as historic districts is very important.
 19 And we don't have historic districts covering much of
 20 the city. So I think where we do have them, the
 21 character of the neighborhood should be maintained. And
 22 it's very important to do that. So I hope you will
 23 consider that in your decisions. Thank you.
 24 **CHAIRMAN HAGGERTY:** Thank you, Sarah.

1 Appreciate it.
 2 **MR. MARTIN:** All right. You can follow
 3 her if anyone else decides. We did receive some public
 4 comment today via email for people who weren't going to
 5 come. Before I get to that, Ms. Morrissey has raised
 6 her hand. She had her hand raised while (inaudible)
 7 talk.
 8 **CHAIRMAN HAGGERTY:** Marina, could you
 9 hear us okay?
 10 **MR. MORRISSEY:** You can set me up so
 11 that the Bluetooth is connected.
 12 **CHAIRMAN HAGGERTY:** Hello, Marina. Can
 13 you hear us all right? You're live here at 444.
 14 **MRS. MORRISSEY:** Hi. Can you hear us?
 15 This is Marina and Patrick Morrissey at 167 Power
 16 Street.
 17 **CHAIRMAN HAGGERTY:** Yup, we can hear you
 18 just fine. Would you both please swear to tell the
 19 truth before we get you going?
 20 **MRS. MORRISSEY:** We do. We swear to
 21 tell the truth.
 22 **MR. MORRISSEY:** We swear.
 23 **CHAIRMAN HAGGERTY:** Thank you very much.
 24 **MRS. MORRISSEY:** We just wanted to speak

1 up and echo what Bill Foulkes and the Masiellos have
 2 said about reserving the really important historic
 3 character of our neighborhood. It's just too many
 4 houses on too small a lot, and we need to come to a
 5 solution that honors the distinct and really special
 6 character that this neighborhood has. So I urge the
 7 good people, the developer and the architects to please
 8 listen thoughtfully to everything we've said and come up
 9 with a better solution. Thanks so much.
 10 **CHAIRMAN HAGGERTY:** Thank you.
 11 Appreciate it.
 12 **MR. MARTIN:** All right. So, Mr. Chair,
 13 again, I've received some comment this afternoon. Just
 14 briefly. I received comment from Claudia Elliott and
 15 Julio Ortega, they are residents of 130 Benevolent
 16 Street. They request a continuance of the review
 17 process for more time to review and discuss the plans
 18 and a more collaborative process involving the community
 19 and neighborhood, one in which all would benefit. They
 20 do welcome development of the property, but of the only
 21 residents abutting the proposed development on the east,
 22 they have several concerns, which include mass density
 23 and scale, the impact of the trees and green space, the
 24 lack of alignment of the architecture with the overall

1 aesthetic and environment of the neighborhood. They
 2 have included some photos. And I will enter this into
 3 the record officially.
 4 I also received a letter from Terry and Laurie
 5 Lee. They abut the proposed development at 118-126
 6 Benevolent Street on the south side, believe that the
 7 mass and density of this project is not in keeping with
 8 the character of the neighborhood. They don't believe
 9 the revisions that were made are sufficient as three
 10 houses each with a detached garage is simply too much,
 11 too many for that parcel of land. They have included an
 12 aerial showing some of the points that have been brought
 13 up previously by other applicants as well.
 14 I received an email from Ms. Mauran, who is a
 15 former resident of 151 Power Street. She also requests
 16 a continuance so that the proposed development can be
 17 allowed for further examination of the neighbors and has
 18 concerns about the lack of appropriate landscape design
 19 and impact of the trees.
 20 Also, I received a letter from Mr. Frank Faltus of
 21 124 Congdon Street. Again, expressing concerns
 22 regarding the project and hoping that the Commission
 23 will work very hard to maintain the character which
 24 makes the city so beautiful, believes there's too many

1 dwelling units and, you know, things will be crammed
2 into the site.

3 And that is all I have for those public comment,
4 all of which I will enter into the record. Last call
5 for any other public comments. Mr. Chair, you can --

6 **CHAIRMAN HAGGERTY:** *There's one hand up*
7 *in the back.*

8 **MR. MARTIN:** Oh, I'm sorry. Go ahead.
9 **MS. BROWN:** (Inaudible) one?

10 **MR. MARTIN:** Sure, come up. Yup.
11 **CHAIRMAN HAGGERTY:** Please.
12 **MS. BROWN:** Do you have anyone else on
13 Zoom?

14 **MR. MARTIN:** Nope.
15 **MS. BROWN:** Oh, okay.
16 **CHAIRMAN HAGGERTY:** *Okay. So that was*
17 *last fall for the internet, just so we're all on the*
18 *same page, correct?*

19 **MR. MARTIN:** Um-hum.
20 **CHAIRMAN HAGGERTY:** Okay. Good
21 afternoon, early evening.
22 **MS. BROWN:** Hi.
23 **CHAIRMAN HAGGERTY:** Please just state
24 your name for the record and swear to tell the truth.

1 **MS. BROWN:** Marisa Brown. I swear to
2 tell the truth. So I'm here as a resident who lives
3 about half a mile from the site in Fox Point. And also,
4 I'm the Executive Director of Providence Preservation
5 Society. So I'm here to make a statement about this
6 project.

7 I'll preface it by saying when Providence
8 Preservation Society considers intervening into a
9 development in the city, we ask ourselves some
10 questions. How many people are impacted by the
11 development? Is the site public or does it serve the
12 public in some way? Has the site been listed on our
13 most endangered properties list? Is demolition at
14 stake? Or is the site a national or local landmark? Or
15 is it a national or local historic district? I'm here
16 today because the construction that's contemplated is in
17 a local historic district, as we've heard, the
18 Cooke-Power Street District, which my predecessor Brent
19 Runyon and Councilman Goncalves who spoke at the start
20 of this meeting, helped to establish along with
21 community members, neighbors, community leaders. The
22 process took about 10 years, and it resulted in about 90
23 properties being designated in 2021.
24 PPS supports the establishment of local historic

1 districts as a means of protecting and preserving the
2 architecture and heritage of our city's many historic
3 neighborhoods. So as we know, the proposal does not
4 involve demolition or modification of a historic
5 structure or a public cultural landscape. On this
6 project, it was really instructive to hear some of the
7 testimony today about the trees. That was one thing I
8 think that PPS was considering. And I also want to
9 thank the City Forester for several critical
10 contributions to the process that I was able to read
11 before today. But we feel that the final design on this
12 site really must accommodate and preserve the trees that
13 have been presented today.

14 As we know, and many have pointed to, the specific
15 regulations at stake here, quote, "Shall be specified
16 that new work in a historic district shall be compatible
17 with the massing, size, scale, and architectural
18 features of the property and the surrounding
19 neighborhood to protect the historic integrity of the
20 property and the site." So I think for us this
21 generated questions and conversations about data and
22 metrics. And I think one question -- I think in the
23 design proposal there was a lot of data that was very
24 helpful about the height of the houses, the lot coverage

1 of these houses in relationship to its neighbors. JP
2 Couture made some really important, I think relevant,
3 comments about also the parking structures and sort of
4 thinking about those, what does it mean to put three on
5 a site. So I think that what I would really encourage
6 here and we are still assessing is metrics data. I
7 think it often in cases like this, a feeling of
8 something not being in scale, not sharing a mass, not
9 sharing a size is different from the data about what
10 that neighborhood and the proposal actually reflect. So
11 I would really encourage this group to be studying that
12 data. If you don't have it -- and I don't know the
13 answer to that. I don't know if you have access to that
14 data. I don't know if you have access to, you know,
15 looking at 500 to 700 feet around the house or draw the
16 radius where you may to really studying the data on
17 that. Because I think in these kinds of questions, it
18 is really important to make metric-based and data-based
19 decisions.

20 I will also share that this feels familiar, and
21 now as a neighbor, because I live on Williams Street.
22 And there was a very similar situation that unfolded on
23 Williams Street with a large lot with one small historic
24 home that ultimately was subdivided and two additional

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1 new homes were put up. Actually, the architect is here.
 2 It's a beautiful house. It's almost finished on John
 3 Street. The two new homes that were built were not only
 4 compatible with the massing, size, and scale of our
 5 historic neighborhood, but they also contribute a new
 6 vitality to the street and the neighborhood. So we at
 7 PPS will -- and I also want to say, I am sympathetic to
 8 the concerns of the neighbors about the project. You
 9 know, we take very seriously, as well, the preservation
 10 of the trees that do exist on the site and appreciate
 11 the City Forester and also the arborist who is here
 12 today to share more information about what might happen
 13 to those trees. And I would really urge that this
 14 conversation, which really comes down to these
 15 particular words and how you are going to define them,
 16 which is the massing, size and scale to be quite you
 17 know, sort of quite, quite a bit driven by data and data
 18 comparisons with what exists in the surrounding
 19 neighborhood. Thank you so much.
 20 **CHAIRMAN HAGGERTY:** Thank you.
 21 Appreciate it. All right. So with that, I believe
 22 we've wrapped the public comment. We have about 45
 23 minutes before one of our members needs to depart at
 24 6:30. Comments, questions and discussion amongst the

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1 Commission?
 2 **MR. FONTECCHIO:** I have got another
 3 question, actually. I think this would be for our legal
 4 counsel. This type of thing has come up in previous
 5 applications. Sometimes they're actually a historic
 6 landscape, sometimes they are not. They're just
 7 property that happens to have trees on it. I'm not
 8 completely sure. I understand the limits of our
 9 purview. Maybe you can kind of clarify for me at what
 10 point trees that, you know, for example, these Atlas
 11 cedars, they are not listed as significant trees by the
 12 City. They are, looking at the aerial photograph, a
 13 substantial mass, a significant element on this tree.
 14 Do our guidelines allow us to put precedents on those
 15 or?
 16 **MS. GARNER:** I think I might have Jason
 17 come in with this question.
 18 **MR. FONTECCHIO:** Sure.
 19 **MS. GARNER:** I think if you look at
 20 Standard 7, it might speak to your question.
 21 **CHAIRMAN HAGGERTY:** Jay looks like he's
 22 thoroughly prepared to answer this, so.
 23 **MR. FONTECCHIO:** Perfect.
 24 **MR. MARTIN:** So, I mean I would just --

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1 so I think Standard 7 does speak to -- could speak to
 2 this. So Standard 7 is when historical architectural or
 3 site features are determined by the Commission to
 4 contribute to the historic character of the property or
 5 district, proposed alterations or additions affecting
 6 such features shall be judged more stringently. And so
 7 I think that may apply in this situation.
 8 **CHAIRMAN HAGGERTY:** Okay.
 9 **MS. GARNER:** Also, you know, you're
 10 charged by statute is to preserve the historic
 11 structures, also foster civic duty, stabilize and
 12 improve property values, safeguard the heritage of the
 13 city or town, and preserving elements of its cultural
 14 social, economic, and political and architectural
 15 history. So those are very wide parameters. And
 16 then --
 17 **MR. MARTIN:** Yes, they are.
 18 **MS. GARNER:** -- narrow some criteria
 19 that you can look at specifically, which I listed out
 20 the three criteria. So you could also potentially look
 21 at all the evidence as it relates to that criteria.
 22 **CHAIRMAN HAGGERTY:** I actually have a
 23 comment while we're talking to Sharon and Jay -- or a
 24 question, more specifically. And first, thank you very

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1 much to the applicant for a secondary very detailed
 2 presentation. I understand this is for conceptual
 3 approval. It's a good amount of detail. And we
 4 understand that and appreciate it, as well as to
 5 everybody amongst the general public here and online.
 6 Thank you very much for your commentary and your expert
 7 witnesses. We all collectively, I think, have, you
 8 know, been educated to some extent on some of the
 9 parameters surrounding this potential development.
 10 My question to both of you actually is, has this
 11 application yet been deemed complete? And it's a
 12 leading question because the -- relative to the question
 13 of continuance. We have a timeline during which we are
 14 obligated to turn a decision around when an application
 15 once completed. And it's 45 days.
 16 **MR. MARTIN:** Um-hum. So it's a
 17 complicated answer.
 18 **MS. GARNER:** I think it's up to the
 19 Commission to determine whether or not an application is
 20 complete. If there are any further -- is there -- if
 21 there is further information that the Commission feels
 22 it needs to make its determination based on the
 23 criteria, you can specifically ask for that prior to
 24 determining an application is complete. So I don't

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1 believe that necessarily a staff person who reviews
 2 what's been submitted has the authority to determine
 3 whether everything is complete at that point for the
 4 Commission.
 5 **CHAIRMAN HAGGERTY:** Okay. So, and
 6 again, in the interest of being fair to everybody here,
 7 I am unable to make motions as Chair. But I will put it
 8 to the rest of the Board that generally speaking you
 9 consider the applications to be complete at this point
 10 in the interest of at least acknowledging all of the
 11 efforts amongst the applicants and all of the other
 12 information that's been presented to us at this point.
 13 We don't necessarily need to make that. I don't even
 14 know how we make that. But I think it's, it's important
 15 to consider that as people are talking about the
 16 potential contingencies of moving this thing along.
 17 **MR. MARTIN:** Right. So what else --
 18 what I can speak to that is when motions are typically
 19 made by the Commission, we start them off with the
 20 application is considered complete. I would leave it to
 21 Counsel to argue whether or not it is at that point that
 22 the clock actually starts ticking because that's when
 23 you decided it was complete.
 24 **CHAIRMAN HAGGERTY:** Yup.

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1 **MR. MARTIN:** The arguments never really
 2 come up in the past that much. So it's one of those --
 3 **CHAIRMAN HAGGERTY:** Yup. Again, I'm
 4 just trying to be --
 5 **MR. MARTIN:** Correct.
 6 **CHAIRMAN HAGGERTY:** -- expeditious to
 7 this.
 8 **MR. MARTIN:** No. Um-hum. Yup. I think
 9 in my staff report, I said that this application may be
 10 considered complete for conceptual review, because
 11 that's where we were at, at that point.
 12 **CHAIRMAN HAGGERTY:** Yup.
 13 **MR. MARTIN:** But that is how I would add
 14 onto what Counsel was saying.
 15 **CHAIRMAN HAGGERTY:** Okay. Okay. And
 16 then secondarily to that -- and I apologize if I'm
 17 hijacking anybody else's line of questions or
 18 commentary. Are we able to ask the applicant if they
 19 are interested in continuing their application or they
 20 would like the Commission to continue to discuss it and
 21 potentially make a ruling or a decision this evening?
 22 **MR. MARTIN:** Sure.
 23 **MS. GARNER:** Of course.
 24 **CHAIRMAN HAGGERTY:** Would the applicant

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1 care to comment on that?
 2 **MS. WEST:** Here or?
 3 **CHAIRMAN HAGGERTY:** Yeah. Wherever
 4 there's a mic. Just go to this one.
 5 **MS. WEST:** Okay. Thank you. Now,
 6 respectfully, we would not make a motion to continue.
 7 We believe we've submitted a complete application and
 8 provide ample evidence for you to consider at the
 9 conceptual level.
 10 **CHAIRMAN HAGGERTY:** Thank you.
 11 Appreciate it. Okay.
 12 **MR. FONTECCHIO:** Okay. And now I'm
 13 going to throw another fly in the ointment here. In the
 14 case of the trees in this property -- and I have to
 15 apologize, some of this is my being now more aware of
 16 some of the situations that are out there. The trees --
 17 get my orientation here. To the east seem to be much
 18 more an evolution of trees that have grown in, they are
 19 a mixture of varieties.
 20 **CHAIRMAN HAGGERTY:** Yeah. I don't think
 21 anybody's yet identified what they are.
 22 **MR. FONTECCHIO:** Right. And I think it
 23 might be --
 24 **MR. MARTIN:** Mr. Schwartz. Yes, yes.

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1 **MS. GARNER:** Yes.
 2 **MR. MARTIN:** Mr. Schwartz has identified
 3 them, and so has the applicant.
 4 **CHAIRMAN HAGGERTY:** The ones to the east
 5 side?
 6 **MR. MARTIN:** Yes.
 7 **CHAIRMAN HAGGERTY:** I thought we were
 8 talking about the cedars.
 9 **MR. FONTECCHIO:** Well, again, I'm
 10 looking at --
 11 **MR. MARTIN:** You're talking closest to
 12 Governor Street?
 13 **MR. FONTECCHIO:** Correct. Yes. The
 14 cedars, on the other hand, are a clear, you know,
 15 arguably historic intervention by somebody that was
 16 making a specific decision when those were planted. So,
 17 to me, those trees have a very different meaning than
 18 the series of large-scale trees that have grown up over
 19 time. And the fact that they extend, as was presented
 20 here, maybe this could be verified, an additional 12
 21 feet into the footprint of the house, I think is a
 22 significant issue. Yeah. This is awkward because I
 23 understand this from both sides. I'm an architect. I
 24 appear before boards. I go through this process all the

1 time. But at the same time that impact of sharing
2 roughly 12 feet off the side of those trees over much of
3 the property's life is concerning to me. Because you
4 also don't want to share those off to six inches from
5 the face of the building. I mean, there's windows on
6 that side of the face. There's the viability of the
7 structure itself. If you have an entire hedgerow of
8 trees against a structure, it's not a positive thing for
9 the tree or the structure because light is no longer
10 going to get in there, air movement is not going to get
11 around the tree, which is bad for the tree. It's also
12 not great for the building. So I would be looking for
13 some more clarity as to what's actually happening.

14 **CHAIRMAN HAGGERTY:** So this is more of a
15 comment than a question than anything else. So I
16 occasionally check out the Rhode Island Historic Aerial
17 Mapper. I'm sure everybody's marginally familiar with
18 it if you're looking to chart the course of development
19 over time. In that very same row, there is a very large
20 tree that disappears, the one closest to the residence
21 actually between somewhere in the mid-2000s to the
22 mid-20-teens that was very much part of whatever that
23 row of trees was that appears to have been taken down
24 and replaced with some combination of hardscape, maybe

1 an addition or something to that effect. And I'm just
2 saying, it was probably not necessarily a problem or a
3 consideration at that point. But when taken in mass at
4 the remainder of the trees, we are -- have more heavily
5 considered with angles. And it just it clearly
6 disappeared. And I wasn't on the Commission at the
7 time. It, you know, again wouldn't have come before the
8 Commission at the time anyways. But it's just one of
9 those points of comments that we're looking at
10 historically speaking, development of that site,
11 specifically that parcel.

12 **MR. FONTECCHIO:** I guess another related
13 question, maybe the Forester could answer is, where are
14 these Atlas cedars relative to life expectancy? Are
15 these trees that are going to endure, given good
16 conditions, well into the future? Are they at a point
17 of decline?

18 **MR. DAGANHARDT:** It's hard to predict
19 the point of decline over what a life expectancy would
20 be typically, just with so many factors given and where
21 the root zone is. There's just too many site factors to
22 confidently say it. That being said, there's no
23 evidence of decline. There's no evidence of stress to
24 the trees. There is hardscape right up to them next to

1 the greenhouse. And typically, I would suspect to see
2 some sort of stress markers, whether it be chlorosis or
3 something of that nature or needle drop. And I don't
4 see anything. So I would -- my best guess, my
5 professional opinion, these are very healthy, very
6 mature trees that have a long life left.

7 **MR. FONTECCHIO:** All right. Thank you.

8 **CHAIRMAN HAGGERTY:** So I had been taking
9 notes during some of the other commentary, too. There
10 was a point made about the garages. And again, I know
11 I'm new, and one of the newer members of the Board. But
12 garages don't necessarily bother me in the fact that
13 they exist especially when they're realistically not
14 going to be seen from the street. I can't see in any
15 way, shape or form where these structures behind these
16 homes have the massing that they are proposed right now,
17 are going to be visible. I just can't -- I'll buy that
18 there a discussion point into percent lot coverage,
19 which I also have, you know, some commentary about given
20 that there's a density very similar to the proposed
21 development quite literally attached to it on the
22 adjacent street, which is Governor. But the garage
23 comment about, you know, kind of moving them around, I
24 mean, the garages are accessory structures. They're,

1 they're never going to be seen except by the residents
2 of the home. And I think, you know, it's probably not
3 the fairest commentary. So to use that as an argument,
4 when again, they will be set very, very, very far back
5 on the lots or the parcels.

6 **MR. KAPLAN:** On the other hand, you
7 know, we've heard a lot about these three structures
8 today. And my interpretation is there were actually six
9 structures when you include the garages. So, you know,
10 I feel like it's -- it should be considered and does
11 have an impact, the garages do. I feel like it's quite
12 crowded, this lot. And, you know, if we go back to the
13 original covenant and we look at the history where they
14 were -- again, I'm not quite clear what our conclusion
15 was there, but I think getting back to the two
16 structures is what this land deserves. And the size,
17 scale, and mass right now is, I think, way overstated.
18 It looks to me like a group of row houses and very
19 cookie cutter, also.

20 **MR. SANDERSON:** I guess I would join
21 Neal in that sense of the primary houses. I think the
22 garages is a hard case because they are not highly
23 visible from the public right of way. On the other
24 hand, I keep coming back to the, to the realization that

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1 this is not a proposal for one house. We might look at
 2 a proposal for one house, and we would look at its
 3 design, and we would look at its site features. This is
 4 a three-lot, three-house development. And so I think
 5 it's the impact of the development as a whole that
 6 concerns me rather than the specifics of an individual
 7 building.

8 And in thinking about conceptual approval based on
 9 mass, scale, and design, I think we were all struck at
 10 the first meeting. I continue to be struck at this
 11 meeting at how much those three buildings as a unit are
 12 inconsistent with the architectural character of the
 13 district as a whole. This is a district that's
 14 characterized by an eclectic architecture with buildings
 15 of varying sizes. And I -- in looking at the particular
 16 block that it's on, there is one small -- existing,
 17 there's one small house. We've heard that there's a
 18 double house. Actually, there are -- I think there are
 19 two double houses. And then there are a couple of
 20 really big houses at the end of the street. There's not
 21 a consistent pattern of either large or small houses.

22 And so, part of what makes this development stand
 23 apart from the character of the district as a whole is
 24 the very symmetrical, very rigid uniformity of three

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1 buildings in a line. And as was pointed out in
 2 testimony that we heard just a few minutes ago, that is
 3 not duplicated anywhere in this district. In fact, if
 4 you look at the block where this parcel is located,
 5 there aren't any buildings with gable roofs that are
 6 flanked to the street. All of the buildings have a
 7 different form. And although the idea of having a gable
 8 flank to the street and a symmetrical facade appears in
 9 some historic districts as a, as a frequent building
 10 type, it does not appear in this district as a frequent
 11 building type at all, except on Power Street where
 12 buildings were built actually before the rest of the
 13 plat was platted out.

14 And so I don't think that this current proposal
 15 that's before us, relates very well either to nearby
 16 buildings on the street where it's located or within the
 17 district as a whole. And I think that while I'm
 18 thinking about questions about landscape, it doesn't
 19 appear that there are designated historic landscapes
 20 within the districts. There are gardens, there are
 21 trees, but there are not at least studied and documented
 22 formally designed historic landscapes. But that doesn't
 23 mean that the general character of vegetated yards and
 24 tree canopy cannot be considered as part of the context,

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1 part of the setting for these buildings. The National
 2 Register of Historic Places makes a distinction between
 3 designated landscapes and landscape settings for
 4 buildings. And altering the setting of a building can
 5 affect the character of the historic structure itself.

6 So it seems to me that the project as presented is
 7 not in keeping with the historic district. It meets the
 8 standard in our legislation as being incongruous with
 9 the historic architectural character of the district. I
 10 agree with others who have noted that the lot is
 11 certainly buildable. And I think appropriately designed
 12 buildings would be an improvement to the vacant lot.
 13 But I don't think this is that design. A redesign
 14 project for two buildings would have greater design
 15 flexibility and might be more compatible with the scale
 16 of the historic district. And I think architectural
 17 treatments for more individualized buildings might vary
 18 the roof design and the building floor plan. They might
 19 use a variety of building materials. They might select
 20 different window designs for different buildings. They
 21 might not duplicate design details. And I think changes
 22 such as those could help establish visual relationships
 23 between the new buildings and the historic buildings
 24 that characterize the district as a whole.

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1 **CHAIRMAN HAGGERTY:** Thanks, Ted. That
 2 was a quite well thought-out statement. Anybody else
 3 have any comments, questions, concerns?

4 **MS. DOTSON:** Oh, I would just echo much
 5 of what Ted had to offer. I'm going to agree with most
 6 of it. I think I don't have an issue building a garage.
 7 I think it would be foolhardy to invest in these
 8 buildings without them. I know at the last meeting
 9 there was some discussion about adding sewer and toilet
 10 to this space, but it's been described as not a
 11 potential ADU space.

12 **CHAIRMAN HAGGERTY:** Yeah.

13 **MS. DOTSON:** I think we need to be very
 14 clear on, is it a garage or is it a potential ADU in the
 15 future. And the ABA patterning was nice, but I agree, I
 16 just don't feel it goes too far. It doesn't go far
 17 enough. And overall, they feel very large for the lot
 18 size.

19 **CHAIRMAN HAGGERTY:** Okay. I don't get
 20 why (inaudible). I'm really not necessarily bothered by
 21 the size or the massing. I keep coming back to the fact
 22 that like, when you, when you look at, again, pulling
 23 the numbers, and I'm just -- I'm not a very good
 24 mathematician, but I am good at Excel. So we looked at

1 the lot coverage on the streets for the three homes that
2 are immediately adjacent around the corner from the
3 parcels. And it's within two-tenths of a percent. I
4 mean, almost verbatim in terms of the actual density and
5 built out physical form between garages and homes. The
6 lots are basically the same size. The density is the
7 same. I think the only thing to Ted's point is that
8 they were built gradually over time, not necessarily
9 simultaneously all at once.

10 So again, the fuzzy version of the sizing and the
11 overall massing of them doesn't really bother me that
12 much. And there is precedent for it literally next to
13 these parcels. And I think the thing that we need to
14 keep -- or keep in mind anyways, is that we are at the
15 very edge kind of above that district. And you dip into
16 an area of greater density the further, I guess it's
17 east, you go. And then when taken in totality, I think
18 those numbers can be a little bit tricky to understand
19 in the sense that it was 160 percent, I think was the
20 number that was thrown around for the typical lot
21 coverage in this area. There are parcels that are very,
22 very similar in size and scale to this right there.

23 **MS. DOTSON:** For me, it's not
24 necessarily the footprint, but just vertical height.

1 versus the character of the other buildings, these feel
2 for narrow houses, which are what we're kind of
3 comparing them to, those houses tend to have a
4 verticality to them. And these proposed structures do
5 not. There is often some modulation of the street
6 elevation instead of one big block where a portion of
7 the building steps a little bit forward, breaks the roof
8 lines, changes the feeling of it being just a monolithic
9 piece. And that's the part to me that doesn't feel in
10 keeping with the other structures. The fact that they
11 are three lots, and that there's three structures fairly
12 close together, doesn't bother me per se.

13 **MR. KAPLAN:** I think one thing to note,
14 there's so much public testimony here and public outcry,
15 and I think that should tell us something and really
16 have some serious significance in what happens with this
17 lot and this proposal. I think it's important we listen
18 to that many people that are concerned and certainly in
19 opposition.

20 **MR. SANDERSON:** Remind me of the rule --
21 this is before us for conceptual. If it's voted to
22 approve, obviously, they go forward, come in with final
23 design and deed plans. If it's not voted to approve,
24 what is their recourse?

1 Like I guess the question I had and I don't -- I haven't
2 seen this number is -- I know that the new proposal
3 falls under the height requirements. But how does it
4 line up with heights of buildings on similar-sized lots?
5 Like is it above buildings with similar footprint that
6 might be shorter?

7 **CHAIRMAN HAGGERTY:** Yeah. You can --
8 there were some of those in elevation in the applicant's
9 package. But I think it just kind of shows up in one of
10 them or in a cadence kind of (inaudible) --

11 **MS. DOTSON:** Yeah.

12 **CHAIRMAN HAGGERTY:** -- these guys.

13 **MS. DOTSON:** Right. Like I understand
14 there's buildings of similar stories and size, but it
15 seems like those tend to be on lots that are larger. Am
16 I wrong?

17 **MR. FONTECCHIO:** Well, I think at least
18 for me, again, just to quickly talk about the garage
19 thing. The two garages that are actually isolated from
20 the house, I don't see a problem with at all. The one
21 that is right against the house feels awkward being as
22 close as it is but not touching. So that's one issue.
23 But I think the issue I have -- I'm not even opposed to
24 the three lots per se, but the perception of these

1 **MR. MARTIN:** So their recourse if
2 it's -- so when the Commission grants an approval,
3 whether it be conceptual or final, I'm going to issue a
4 resolution as to whatever that is, whether there's an
5 approval or denial. In the case of a denial, say of a
6 conceptual approval the applicant would have the
7 opportunity to appeal that to the Zoning Board of
8 Review.

9 **MR. SANDERSON:** Actually, I was -- I
10 didn't phrase my question right.

11 **MR. MARTIN:** Okay.

12 **MR. SANDERSON:** We have a rule that you
13 can't come back in front of us after we turn you down
14 for some period of time.

15 **MR. MARTIN:** Um-hum.

16 **MR. SANDERSON:** Does that relate to
17 conceptual approvals?

18 **MR. MARTIN:** So we -- Counsel thinks
19 that they could, but they would have to -- so usually
20 that rule is they have to wait for a year. I've heard
21 some, some comment from, from different counsels that
22 once you deny something, it's denied. And they can't
23 come back. So that's an interesting thing I've heard
24 more recently. But typically what happens is if the

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1 Commission denies something, no one can come back for a
 2 year unless there is a material change to the
 3 application. It's a different application in essence.
 4 Or the Commission itself votes to hear it again in a --
 5 **MR. SANDERSON:** Right.
 6 **MR. MARTIN:** -- before that one year.
 7 **MR. SANDERSON:** Got it.
 8 **CHAIRMAN HAGGERTY:** So point of
 9 clarification. Would a material change be a different
 10 number of potential lots in a subdivision?
 11 **MR. MARTIN:** This was a material change.
 12 Just the changing of the application of the
 13 (inaudible) --
 14 **CHAIRMAN HAGGERTY:** Okay. So just
 15 moving the garage was considered enough of a material
 16 change?
 17 **MR. MARTIN:** Yes.
 18 **CHAIRMAN HAGGERTY:** Okay. Thank you.
 19 Well, folks, it's 6:11, and we have until 6:30.
 20 As I've mentioned before, I am unable to make a motion.
 21 If there is a motion trickling around in somebody's
 22 head.
 23 **MR. SANDERSON:** I'm sure that Jason in
 24 his usual efficient way will phrase what we have to say

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1 better than we will ourselves. But I would be willing
 2 to make a move on motion not to issue conceptual
 3 approval.
 4 **CHAIRMAN HAGGERTY:** So there's been a
 5 motion made. Is there a second?
 6 **MR. MARTIN:** I would just --
 7 **CHAIRMAN HAGGERTY:** Or do you need to --
 8 **MR. MARTIN:** I -- well, I --
 9 **CHAIRMAN HAGGERTY:** Can we read the
 10 motion up for consideration?
 11 **MR. MARTIN:** If you're going to make --
 12 whatever motion you make, I think you need to explain in
 13 the motion exactly the reasons for denial.
 14 **MS. GARNER:** Yes. If you (inaudible) --
 15 **MR. MARTIN:** So I don't want to speak
 16 for you, but I will guide you.
 17 **CHAIRMAN HAGGERTY:** Okay.
 18 **MR. MARTIN:** As I (inaudible) --
 19 **MR. SANDERSON:** And do we want, and do
 20 we want a wordsmith before we know if there's a second
 21 or not?
 22 **CHAIRMAN HAGGERTY:** Is there a second?
 23 **MR. FONTECCHIO:** Second.
 24 **MR. MARTIN:** Okay. Okay. So, again,

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1 with my staff report, kind of gave you as a matter of
 2 fact was the two standards that I at least thought could
 3 be applied to this application, and quite frankly, could
 4 be applied in an approval or a denial. So that was --
 5 that's Standard 7.
 6 **MS. GARNER:** Jason, if I could just --
 7 I'm sorry to jump back to that prior question.
 8 **MR. MARTIN:** No, absolutely.
 9 **MS. GARNER:** The law says, "In the
 10 absence of a change in the structure arising from
 11 casualty, no new application for the same or similar
 12 work shall be filed within one year after the
 13 rejection." The same or similar work.
 14 So, I would think a material change, a material
 15 alteration, they could submit a new application.
 16 **MR. SANDERSON:** I'm sorry. They could
 17 do what?
 18 **MS. GARNER:** They could submit a new
 19 application.
 20 **MR. SANDERSON:** Oh, they could submit a
 21 new application.
 22 **MS. GARNER:** Yes. I'm sorry.
 23 **MR. MARTIN:** No, it's no problem. So I
 24 was -- I at least kind of directed you to, to Standards

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1 7 and 8. I guess if you were making a motion to deny, I
 2 would say that the application is considered complete
 3 for conceptual review. That 118-126 Benevolent Street
 4 are currently vacant parcels with approximately 16,427
 5 square feet in the R-1 zone, within the Power-Cooke
 6 local Historic District, and the Power-Cooke Streets
 7 National Register Historic District.
 8 The Commission is denying conceptual approval of
 9 the new construction siting Standard 8, having
 10 determined that the proposed construction is
 11 architecturally, historically incompatible with the
 12 property district having an inappropriate size, scale
 13 and form that will have an adverse effect on a property
 14 district.
 15 **MR. SANDERSON:** And is incongruous with
 16 the surrounding historic structure.
 17 **MR. MARTIN:** Citing that these
 18 structures are incompatible in size, scale, and form,
 19 inappropriate with the adjoining area, as well as the
 20 historic district and neighborhood. Their general scale
 21 and form are familiar and repeated throughout the area
 22 in various line languages, from the Federal to the early
 23 20th century. However, in the Power-Cooke Street area,
 24 there are no buildings built of repetitive design of

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1 with little to no variation between them, making the
 2 proposed construction incongruous and inappropriate to
 3 the district producing an adverse effect. Additionally,
 4 Standard 7 states that where architectural -- I'm sorry.
 5 Where historical, architectural or site features are
 6 determined by the Commission to contribute to the
 7 historic character of the property or the district,
 8 proposed alterations or additions affecting such
 9 features shall be reviewed more stringently. We have
 10 --you have heard expert testimony from the City Arborist
 11 and a recognized expert witness who agreed that the
 12 adjoining trees, both significant trees and mature
 13 trees, would be, in their opinion, irreparably harmed
 14 with the current proposal, which would also produce an
 15 adverse effect on the district.
 16 **MR. SANDERSON:** And I think we should
 17 add to that last line, something to the Commission
 18 recognizes that the district is characterized by
 19 vegetated yards and tree canopy. And then the rest of
 20 your words.
 21 **MR. MARTIN:** Okay.
 22 **MR. SANDERSON:** Excellent motion.
 23 **CHAIRMAN HAGGERTY:** So that constitutes
 24 the motion. We will have the vote. All in favor,

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1 please say aye.
 2 **MR. SANDERSON:** Aye.
 3 **MR. FONTECCHIO:** Aye.
 4 **MR. KAPLAN:** Aye.
 5 **MS. DOTSON:** Aye.
 6 **CHAIRMAN HAGGERTY:** All opposed. I'm a
 7 nay.
 8 **MR. KAPLAN:** You're opposed?
 9 **MR. MARTIN:** You're sure, Neal?
 10 **MR. KAPLAN:** This is proposing
 11 conceptual approval?
 12 **CHAIRMAN HAGGERTY:** Correct.
 13 **MR. KAPLAN:** Okay.
 14 **MR. MARTIN:** So you're a --
 15 **MR. SANDERSON:** Well, let me --
 16 (inaudible) opposing the project, you're opposing the
 17 motion. The motion is to deny approval.
 18 **CHAIRMAN HAGGERTY:** That's right.
 19 **MR. KAPLAN:** (Inaudible) deny approval.
 20 **CHAIRMAN HAGGERTY:** Okay.
 21 **MR. MARTIN:** So you're a yes?
 22 **MR. KAPLAN:** Yes.
 23 **CHAIRMAN HAGGERTY:** Okay.
 24 **MR. MARTIN:** So, we have yes, yes, yes,

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1 yes, no.
 2 **CHAIRMAN HAGGERTY:** Correct.
 3 **MR. MARTIN:** For the record, that was
 4 Mr. Sanderson, Vice Chair made the motion.
 5 **MR. SANDERSON:** And Neal seconded it.
 6 **MR. MARTIN:** Neal seconded it.
 7 **CHAIRMAN HAGGERTY:** Neal seconded it.
 8 Right, right.
 9 **MR. MARTIN:** Neal seconded it. And
 10 Sanderson, Kaplan, Fontecchio, and Dotson voted yes.
 11 And Haggerty, Mr. Chair, voted no. Okay. Motion --
 12 **CHAIRMAN HAGGERTY:** Motion for the
 13 fails?
 14 **MR. MARTIN:** No.
 15 **CHAIRMAN HAGGERTY:** Motion has been
 16 voted down?
 17 **MR. MARTIN:** Well, the application has
 18 been denied.
 19 **CHAIRMAN HAGGERTY:** Okay. Denied.
 20 Okay. Understanding that was the sole matter before the
 21 Board this evening. Is there a motion to adjourn?
 22 **MR. KAPLAN:** So moved.
 23 **CHAIRMAN HAGGERTY:** Is there a second?
 24 **MR. FONTECCHIO:** Second.

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1 **CHAIRMAN HAGGERTY:** All in favor?
 2 **MR. KAPLAN:** Aye.
 3 **MR. FONTECCHIO:** Aye.
 4 **MR. SANDERSON:** Aye.
 5 **CHAIRMAN HAGGERTY:** Aye.
 6 **MS. DOTSON:** Aye.
 7 **CHAIRMAN HAGGERTY:** Thank you,
 8 everybody.
 9 **MR. SANDERSON:** Thank you.
 10 **CHAIRMAN HAGGERTY:** Appreciate your
 11 time.
 12 (HEARING CONCLUDED AT 6:17 P.M.)
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C E R T I F I C A T E

I, Kaylee St. Pierre, hereby certify that the foregoing pages are a true and accurate record of my transcription from a tape-recorded proceeding.

In witness whereof, I hereby set my hand this 23rd day of October, 2024.



KAYLEE A. ST. PIERRE

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	Y	2	3	8
	Z	2 (1)	4	9

EXHIBIT 3

Applicant/Architect: KITE Architects, One Central Street, Providence, RI 02907

Owner: Cooke Twenty-Five Realty, 42 W 39th Street, New York, NY 10018

Proposal: The scope of work proposed consists of New Construction and includes:

- The applicant is requesting the new construction of three single-family residences with detached garages.

Issues: The following issues are relevant to this application:

- The existing properties 118-126 Benevolent St. are to be subdivided into three equal lots, each with $\geq 50'$ wide street frontage. Upon each lot will be a new three-story single-family residence (each with 1490sf footprint, 40' height) over full basements with detached garages (each with 620sf footprint, 20' height). Private driveway access for each property will extend from Benevolent St. to the north end of each site. Some regrading of the lots will be required;
- The proposed building's form and siting are appropriate for the location; and,
- Plans and photos have been submitted, additional materials will be made available at the meeting.

Recommendations: The staff recommends the PHDC make the following findings of fact:

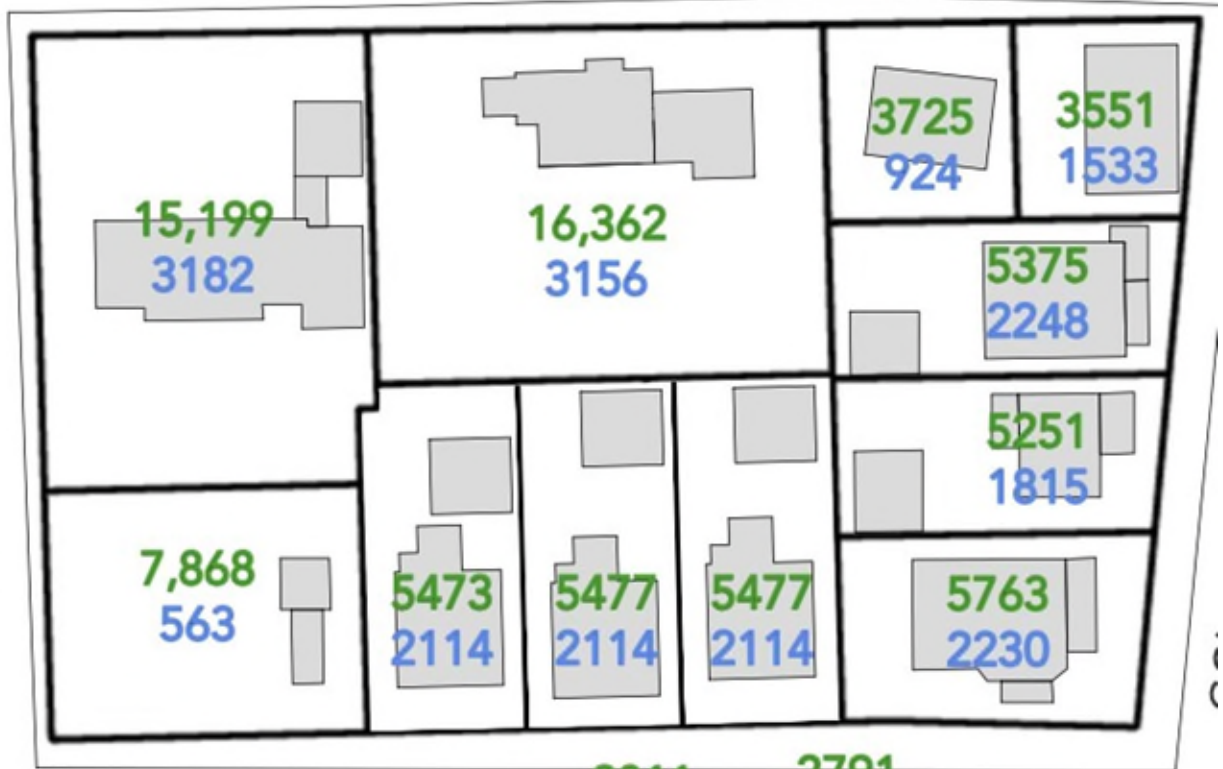
- a) 118-126 Benevolent Street are currently vacant parcels of approximately 16,427 sq. ft. in the R-1 zone within the Power-Cooke local historic district;
- b) The application for New Construction is considered complete for conceptual review; and,
- c) The work as proposed is in accord with PHDC Standard 8 as follows: as the proposed new construction is appropriate having determined that the proposed construction is architecturally and historically compatible with the property and district having an appropriate size, scale and form that will not have an adverse effect on the property or district.

Staff recommends a motion be made stating that: The application is considered complete. 118-126 Benevolent Street are currently vacant parcels of approximately 16,427 sq. ft. in the R-1 zone within the Power-Cooke local historic district. The Commission grants Conceptual Approval of the new construction, citing Standard 8, having determined that the proposed construction is architecturally and historically compatible with the property and district having an appropriate size, scale and form that will not have an adverse effect on the property or district, citing and agreeing to the recommendations in the staff report, with the applicant to reappear at a subsequent meeting for Final Approval.

EXHIBIT 4

T

COOKE STREET



BENEVOLENT STREET

2811
1222

2791
1163



EXHIBIT 5









EXHIBIT 6

EXHIBIT 3A - SITE PLAN



EXHIBIT 7



125 Governor St. - Governor Apartments



18 Cooke Street



154 Waterman St. - Charles Potter House



20 Cooke Street



PRECEDENT IMAGERY

BENEVOLENT ST. HOMES 118-126 BENEVOLENT ST, PROVIDENCE, RI 02906
kite architects one central street providence, rhode island 02907 401 272 0240 kitearchitects.com
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EXBT. 9A

PROJECT NO: 2425
DATE: 07/08/24
SCALE:

EXHIBIT 8

EXHIBIT 2D - SITE PHOTOS

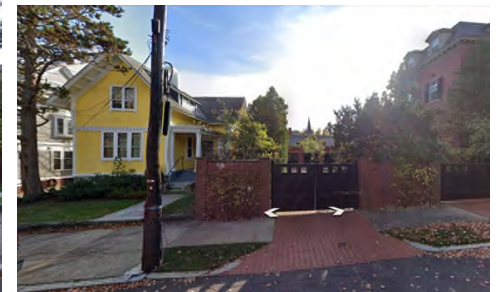
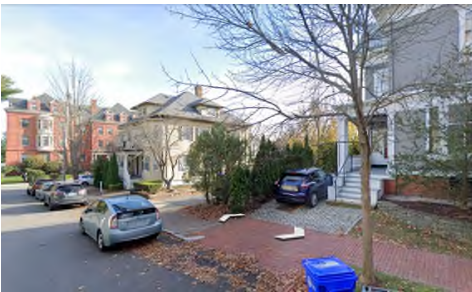


EXHIBIT 9

EXHIBIT 9A - MASSING PERSPECTIVES
NEIGHBORHOOD CONTEXT

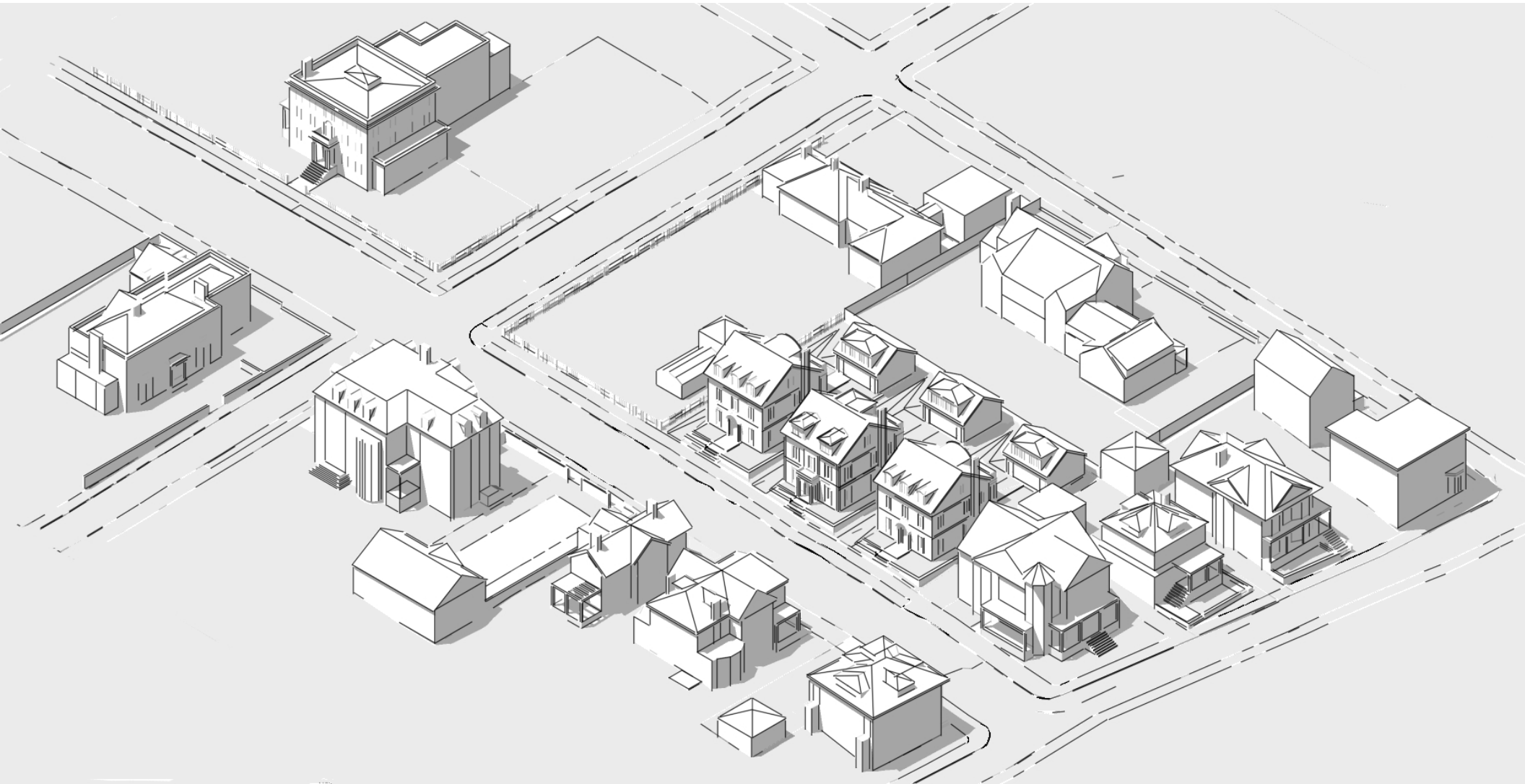




EXHIBIT 9C - MASSING PERSPECTIVES
STREET VIEW - BENEVOLENT ST AT ALDRICH FACING EAST



EXHIBIT 9D- MASSING PERSPECTIVES
STREET VIEW - BENEVOLENT ST LOOKING EAST



EXHIBIT 9E - MASSING PERSPECTIVES
STREET VIEW - BENEVOLENT & GOVERNOR LOOKING WEST

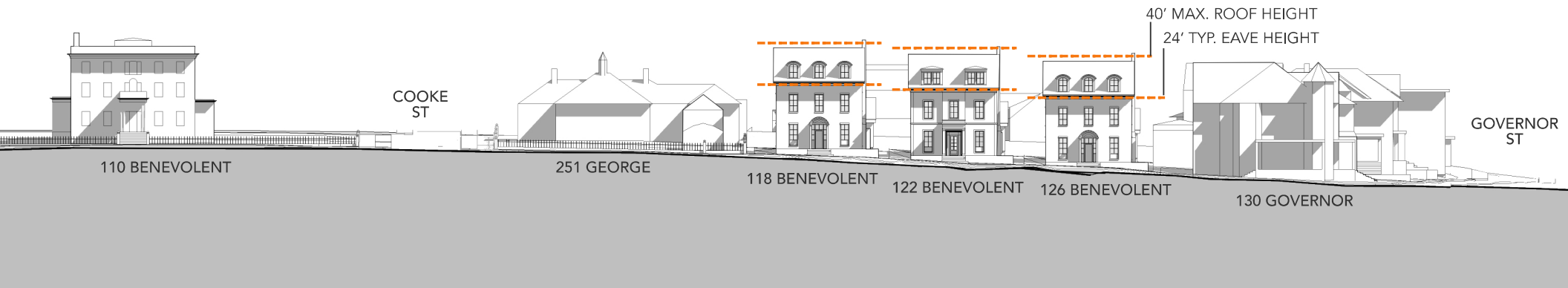


EXHIBIT 10

EXHIBIT 3D - STREET ELEVATIONS



BENEVOLENT STREET ELEVATION LOOKING SOUTH



BENEVOLENT STREET ELEVATION LOOKING NORTH



EXHIBIT 11

PROJECT REVIEW

CASE 24.079, 118-126 BENEVOLENT STREET, Vacant lot (POWER-COOKE)

Vacant lots within the Hope-Power-Cooke Streets NRHD.



Arrow indicates 118-126 Benevolent Street



Arrow indicates project location, looking north.

Applicant/Architect: KITE Architects, One Central Street, Providence, RI 02907

Owner: Cooke Twenty-Five Realty, 42 W 39th Street, New York, NY 10018

Proposal: The scope of work proposed consists of New Construction and includes:

- The applicant is requesting the new construction of three single-family residences with detached garages.

Issues: The following issues are relevant to this application:

- The existing properties 118-126 Benevolent St. are to be subdivided into three equal lots, each with $\geq 50'$ wide street frontage. Upon each lot will be a new three-story single-family residence (each with 1490sf footprint, 40' height) over full basements with detached garages (each with 620sf footprint, 20' height). Private driveway access for each property will extend from Benevolent St. to the north end of each site. Some regrading of the lots will be required.
- At the July 22nd meeting, the matter was continued by the Commission which had requested additional information be submitted showing massing studies of the proposed buildings in context with the immediate area, including streetscapes of the proposed construction for the north and south sides of Benevolent Street, between Cooke and Governor Streets.
- An Exhibit has been submitted from the applicant showing the requested information.
- Since the July 22nd meeting information has been submitted to the Commission in the form of a letter from the Rhode Island Historical Society (RIHS, dated 08/07/24, PC Exhibit 1) stating that they have a restrictive covenant on the property (dated December 1974, PC Exhibit 2). In the letter the RIHS states that in 2013, in conjunction with the RI Historical Preservation & Heritage Commission, the Providence Revolving Fund and neighbors, they undertook an extensive planning process before selling the land where it was determined that three parcels were the appropriate divisions of land for the parcel that included 253 George Street and 118-126 Benevolent Street. These parcels were one larger parcel to the north along George Street and two equal sized parcels on Benevolent Street. It is appropriate for the Commission to consider this information in the formulation of any decision regarding the property.
- Prior to the August 26th meeting, a letter was submitted from the City Forester regarding a significant tree abutting the property and the siting of the proposed buildings as well as overall canopy loss.
- At the August 26th meeting, the item was continued at the request of the applicant in order to allow for the submission of a revised Exhibit to the Commission addressing the City Forester's letter.
- The applicant subsequently submitted a revised application to the Commission with a change in the proposed siting of a garage.
- The Commission has received additional correspondence from the City Forester. In this letter the Forester states that the revised plan is compliant with the Ordinance, while stating concerns that the overall effect on the significant tree may still be detrimental. In his letter he also includes information related to the abutting parcel at 112 Benevolent Street, which does not contain "significant" trees, but does contain several mature trees whose root systems are also located on the subject parcel, and the proposed driveway abutting would have a detrimental effect on the trees to include the potential loss of 6,000 sq. ft. of canopy.
- It has been requested that the Board render a decision on the revised application presented, which is for the new construction of three single family residences with detached garages. It is appropriate for the Commission to consider both the official and the public correspondence it has received.

Recommendations: The staff recommends the PHDC make the following findings of fact:

- a) 118-126 Benevolent Street are currently vacant parcels of approximately 16,427 sq. ft. in the R-1 zone within the Power-Cooke local historic district, being also located in the Hope-Power-Cooke Streets National Register Historic District;
- b) The revised application for New Construction is considered complete for conceptual review; and,
- c) The following Standards may be relevant to the proposed new construction and its appropriateness -- Standard 7: "When historical architectural or site features are determined by the Commission to contribute to the historical character of the property or district, proposed alterations or additions affecting such features shall be judged more stringently," and Standard 8: "New additions, exterior alterations or new construction shall not destroy historic materials or general features that characterize the property. The new work may be differentiated from the old and shall be compatible with the massing, size, scale and architectural features of the property and the surrounding neighborhood, to protect the historic integrity of the property and the site."

EXHIBIT 12

CONTEXT ANALYSIS - Scale and Massing

118-126 Benevolent St

Directly abutting / same block / either side / opposite side

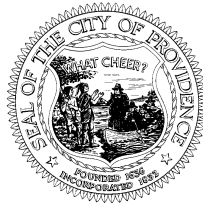
SORTED BY LOT SIZE

	AP/LOT	ADDRESS	LOT AREA / sf	BUILDING FOOTPRINT / sf	HEIGHT IN STORIES	DETACHED GARAGE (Y/N)	
SAME BLOCK	13/163	283 George St	3,551	1,533	3	N	
SAME BLOCK	13/195	279 George St	3,725	924	2	N	
SAME BLOCK	13/165	140 Governor St	5,251	1,851	3	Y	
SAME BLOCK	13/164	148 Governor St	5,375	2,248	3	Y	
	proposed lot	118 Benevolent	5,473	2,114	3	Y	
	proposed lot	122 Benevolent	5,478	2,114	3	Y	
	proposed lot	126 Benevolent	5,478	2,114	3	Y	
SAME STREET	13/253-260	121-123 Benevolent	5,602	2,385	3	N	
SAME STREET	13/10	130 Benevolent	5,763	2,230	3	N	
SAME STREET	13/152	117 Benevolent	6,049	1,669	2	N	
SAME STREET	13/306	112 Benevolent	7,868	563	1	N	greenhouse
SAME STREET	13/166-255	125-131 Benevolent	8,149	2,152	3	Y	single house -two lots combined
SAME STREET	13/284	26 Cooke - 115 Benevolent	14,933	4,378	3	Y	
SAME BLOCK	13/305	251 George St	15,199	3,182	1	N	carriage house
SAME BLOCK	13/311	253 George St	16,362	3,156	2	N	
	MEDIAN		5,602				
			2.21%	deviation			

SORTED BY BUILDING FOOTPRINT

	AP/LOT	ADDRESS	LOT AREA	BUILDING FOOTPRINT	HEIGHT IN STORIES	DETACHED GARAGE (Y/N)	
SAME STREET	13/306	112 Benevolent	7,868	563	1	N	greenhouse
SAME BLOCK	13/195	279 George St	3,725	924	2	N	
SAME BLOCK	13/163	283 George St	3,551	1,533	3	N	
SAME STREET	13/152	117 Benevolent	6,049	1,669	2	N	
SAME BLOCK	13/165	140 Governor St	5,251	1,851	3	Y	
	proposed lot	118 Benevolent	5,473	2,114	3	Y	
	proposed lot	122 Benevolent	5,478	2,114	3	Y	
	proposed lot	126 Benevolent	5,478	2,114	3	Y	
SAME STREET	13/166-255	125-131 Benevolent	8,149	2,152	3	Y	single house -two lots combined
SAME STREET	13/10	130 Benevolent	5,763	2,230	3	N	
SAME BLOCK	13/164	148 Governor St	5,375	2,248	3	Y	
SAME STREET	13/253-260	121-123 Benevolent	5,602	2,385	3	N	
SAME BLOCK	13/311	253 George St	16,362	3,156	2	N	
SAME BLOCK	13/305	251 George St	15,199	3,182	1	N	carriage house
SAME STREET	13/284	26 Cooke - 115 Benevolent	14,933	4,378	3	Y	
	MEDIAN			2,114			
				0.00%	deviation		

EXHIBIT 13



Providence Historic District Commission

Brett P. Smiley
Mayor

October 3, 2024

APPLICANT
KITE Architects
One Central Street
Providence, RI 02907

OWNERS
Cooke Twenty-Five Realty
42 W 39th Street
New York, NY 10018

RESOLUTION 24-35 Application 24.079

WHEREAS, the applicant, KITE Architects, applied to the Providence Historic District Commission for a Certificate of Appropriateness for New Construction at 118-126 Benevolent Street, Plat 13, Lots 318 & 319, and,

WHEREAS, the Commission held a properly noticed Special Meeting on September 4, 2024, with the following members present: Haggerty, Sanderson, Dotson, Fontecchio, and Kaplan; and

WHEREAS, Ms. Christine West, applicant/architect, and Mr. Andrew Doyle, architect, appeared before the Commission for the scheduled item; and

WHEREAS, the Commission members individually viewed the site which is the subject of the application; and,

WHEREAS, based upon the evidence presented and in the record, the Commission made the following findings of fact:

1. 118-126 Benevolent Street currently are vacant lots within the Power-Cooke local historic district.
2. The work as proposed consists of New Construction and includes the construction of three single-family residences with detached garages.
3. The application for New Construction is considered complete for conceptual review.
4. The application was initially reviewed at the July 22, 2024 Regular Meeting, where members expressed reservations regarding the appropriateness of the proposed three buildings, as opposed to two buildings. The response given by the applicant was that the requested approval is for three buildings, not two, emphasizing that the proposed plan is compliant with applicable zoning regulations.¹ After discussion, the item was continued by the Commission to its August 26, 2024 Regular Meeting in order to obtain additional information from the applicant related to scale, massing, and form of the proposed and existing buildings in the area. More specifically, the Commission requested massing studies of the proposed buildings in context with the immediate area, including streetscapes of the proposed construction for the north and south sides of Benevolent Street between Cooke and Governor Streets.

¹ Accepting for purposes of this resolution the applicant's representation that the project is compliant with current zoning regulations, the Commission's review as to the appropriateness of New Construction in a historic district is separate from compliance with the use and dimensional requirements in the zoning ordinance.

5. The Commission was notified by the City Forester by letter dated August 23, 2024 that the abutting property to the north, 253 George Street, contained a significant tree whose tree protection zone and critical root zone would be impacted by the location of the proposed construction in the application, specifically the detached garage for the western-most proposed residence. The applicant was made aware of this finding and requested a continuance to revise the application to relocate the subject garage outside of the critical root zone, which constitutes a material change to the original application. The Commission re-scheduled the matter from the August 26, 2024 Regular Meeting to a September 4, 2024 Special Meeting, allowing for the revised application to be disseminated and evaluated by the Commission.
6. On August 30, 2024, the Commission received further correspondence from the City Forester regarding the trees on the parcel abutting to the west of the proposed development (112 Benevolent Street). In his second letter the City Forester stated that while there are no significant trees on the parcel as defined by City Zoning Ordinance, there are six mature Atlas trees, that the trees are impactful features of the private property providing approximately 6,000 sf of canopy coverage, and that the tree protection zone and critical root zone of these trees extend into the property of 118-126 Benevolent Street. The revised plan for 118-126 Benevolent Street proposes a driveway within the critical root zone and a structure within the tree protection zone of the Atlas trees. The City Forester indicated that the application as proposed has the potential and likelihood of leading to the irreversible decline of the trees at 112 Benevolent Street and consequently removing a substantial portion of valuable canopy coverage. The City Forester also stated that regarding the significant tree located on the abutting property of 253 George Street, the revised plan for 118-126 Benevolent Street, consisting of moving the garage structure and driveway out of the critical root zone, was acceptable; however, the grade changes and soil compaction during construction within the significant tree's tree protection zone may have detrimental effects on this significant tree.
7. At the September 4, 2024 Special Meeting, the applicant provided testimony and presented the revised application. The application as revised was largely similar to what was presented on July 22, 2024 but for the material change mentioned above—the relocation and reorientation of the detached garage for the proposed residence located on the western-most side of the property to accommodate the critical root zone of the significant tree located at 253 George Street. Otherwise, despite the Commission's prior concerns related to three buildings, versus two, the applicant continued to request approval of three residential buildings with accompanying detached garages. The buildings' design did not change in any impactful way except for the relocation of the western most garage to accommodate the abutting significant tree. However, the relocation of this garage compromises proposed "A-B-A" design of the new construction (discussed in paragraph #11, below) in that the garages are no longer uniform in location and distance from their respective buildings.
8. At the September 4, 2024 Special Meeting, expert testimony and a written report regarding the trees at the subject property as well as abutting properties was provided to the Commission by Mr. David Schwartz, a licensed Rhode Island arborist retained by an abutting property owner in objection to the application. Schwartz agreed with and confirmed the City Forester's conclusions.
9. At the September 4, 2024 Special Meeting, the Commission heard expert testimony from Mr. Jon-Paul Couture, a licensed architect and former member of the Commission, who, in his professional opinion, opined that the proposed design is incompatible with the neighborhood. He stated that there is no example in the area of three houses being built at the same time, of nearly identical massing in a row with minor staggering, or with three identical garages that are detached from the structure. He stated that detached garages are unusual in the neighborhood and submitted an image showing lot sizes that was introduced into the record.
10. At the September 4, 2024 meeting, the applicant was given the opportunity to continue the meeting, to allow for further dialog with abutters. Multiple requests had been made through the public comment process from abutters, the Rhode Island Historical Society, and Councilman Gonzalves, Ward 1, to continue the application to allow for more discussion between the various parties. The applicant denied the request.

11. After robust and extensive discussion, the Commission determined that the proposed New Construction plans are incongruous with the surrounding historic district, including surrounding structures and their appurtenances. The design of the three proposed structures has been referred to as an “A-B-A” design, meaning the two flanking residences are identical and the middle residence is a close design variation of the other two. The concept of this design structure is that from certain angles the three properties potentially would appear to be one larger structure rather than three separate structures. During the September 4, 2024 Special Meeting, however, it was disclosed that there is a change in elevation of ten (10) feet east to west on the parcels. Based on this elevation change and well as the relocation of one of the garages, the Commission found that the architectural success of the “A-B-A” design was less apparent.
12. The Commission indicated that while the garages are not highly visible from the public right of way, they still have an impact on site features of the property and neighboring properties as six structures are included in the proposed development, not just three. The Commission recognized that this is not a proposal for one new house. The Commission might look at a proposal for one house and look at its individual design and site features. This, however, is a three-house development, and thus the impact of the development as a whole is of concern rather than the specifics of each individual building when thinking about conceptual approval based on mass, scale, and design.
13. Commissioners were struck at the June 22, 2024 Regular Meeting at the degree to which the three buildings as a unit are inconsistent with the architectural character of the district as a whole. This is a district that is characterized by an eclectic architectural language with buildings of varying sizes. In looking at the particular block where the property is situated, there is one small existing house and a few very large houses at the end of the street. There is not a consistent pattern of either large or small houses. Part of what makes this development stand apart from the character of the district as a whole is the very symmetrical, very rigid uniformity of three buildings in a line, and, as was pointed out in testimony, that is not duplicated anywhere in this district. In fact, on the block where this parcel is located, there are no buildings with gable roofs that are flanked to the street, which all three of the proposed buildings have. All of the buildings in the surrounding area have a different form. Although the idea of having a flat, gable flank to the street and a symmetrical facade appears in some historic districts as a frequent building type, it does not appear in this district as a frequent building type at all, except on Power Street. The Commission determined that the proposed construction does not relate well either to nearby buildings on the street where it is located or within the district as a whole.
14. With regard to questions about landscape, it does not appear that there are designated historic landscapes within the district; however, there are gardens and significant and mature trees that contribute to the general character and context of the area. The vegetated yards and tree canopy can and should be considered as part of the context when determining appropriateness for the area and the setting for the three proposed new buildings. There was concern that the Altas trees at 112 Benevolent Street are arguably a historic intervention by someone who made a specific decision when those trees were planted. The National Register of Historic places make a distinction between designated landscapes and landscape settings for buildings, and altering the setting of a building can affect the character of the historic structure itself. Thus, the project as presented is not in keeping with the historic district.
15. While the lot is certainly buildable, and an appropriately designed building(s) would be an improvement to the vacant lot, this application with these three proposed structures is incompatible. The Commission is of the opinion that a redesign project for two buildings would have greater design flexibility and might be more compatible with the scale of the historic district. Such redesign could include architectural treatments for more individualized buildings that might vary in roof design, window design, and building floor plan, that might use a variety of building materials, and that might not duplicate design details. A redesign with changes such as these could help establish visual relationships between the new buildings and the historic buildings that characterize the district as a whole.

16. The Commission finds that the new construction as proposed is not in accord with PHDC Standards 7 & 8 as follows: the proposed construction is architecturally, historically incompatible with the district having an inappropriate size, scale, and form that will have an adverse effect and is incongruous with the surrounding historic district being incompatible in size, scale, and form, inappropriate with the adjoining area, as well as the historic district and neighborhood. The general scale and form of structures and appurtenances in the district are familiar, repeated throughout the area in various architectural languages, from the Federal to the early 20th century. However, in the Power-Cooke Street area surrounding the subject property, there are no buildings built of repetitive design, with little to no variation between them, making the proposed new construction incongruous and inappropriate to the district, producing an adverse effect (Standard 8). Where historical, architectural, or site features are determined by the Commission to contribute to the historic character of the property or the district, proposed alterations or additions affecting such features shall be reviewed more stringently (Standard 7). The Commission recognizes that the district is characterized by vegetated yards and tree canopy and heard expert testimony from the City Forester and an arborist, recognized as an expert witness, who agree that the adjoining trees, both significant and mature trees, would be in their opinion, irreparably harmed by the current proposal, which would produce an adverse effect on the district.
17. In summary, for the reasons discussed at the meeting held on this application and herein, the proposed New Construction design fails to meet the considerations in R.I. General Laws § 45-24.1-4(d) as well as PHDC Standards and Guidelines for being congruent with the historic architectural character of the district.

WHEREAS, based upon the above findings of fact, the Commission determined that the New Construction as submitted by the applicant is inappropriate. Upon motion made by Mr. Sanderson, seconded by Mr. Kaplan, the Commission voted (4 to 1, Members Sanderson, Fontecchio, Dotson, and Kaplan in favor, Member Haggerty opposed) to deny conceptual approval of the proposal as submitted citing Standards 7 & 8, that the proposed construction is architecturally, historically incompatible with the district having an inappropriate size, scale, and form that will have an adverse effect, and is incongruous with the surrounding historic district being incompatible in size, scale, and form, inappropriate with the adjoining area, as well as the historic district and neighborhood.

NOW, THEREFORE, BE IT RESOLVED that the application for New Construction as described in the above findings of fact **IS DENIED**. Parties wishing to appeal a decision made by the Commission have 20 days from the date of the resolution to file an appeal with the Zoning Board of Review.



Ryan Haggerty
Chair