

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON FINANCE and LAND USE

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MAY 14, 2009
Start: 11:13am
Recess: 1:02pm

HELD AT: Council Chambers
City Hall

B E F O R E:

DAVID I. WEPRIN
Chairperson

MELINDA R. KATZ
Chair, Land Use

COUNCIL MEMBERS:

Tony Avella
Maria Baez
Charles Barron
Gale Brewer
Leroy G. Comrie, Jr.
Elizabeth Crowley
Inez E. Dickens
Simcha Felder
Daniel R. Garodnick

A P P E A R A N C E S

COUNCIL MEMBERS:

Sara M. Gonzalez
Robert Jackson
Jessica S. Lappin
John Liu
Miguel Martinez
Rosie Mendez
Annabel Palma
Diana Reyna
Joel Rivera
Larry Seabrook
Helen Sears
Albert Vann

A P P E A R A N C E S (CONTINUED)

Amanda M. Burden

Chairperson, Director

New York City Planning Commission, Department of City
Planning

Richard Barth

Executive Director

Department of City Planning

CHAIRPERSON WEPRIN: Good morning and welcome to the Finance Committee hearing on the Mayor's executive budget for fiscal year 2010. My name is David Weprin. I chair the Finance Committee. Today we'll begin the executive budget hearings with the Land Use Committee, chaired by my distinguished colleague to the right, Council Member Melinda Katz to hear testimony by the Department of City Planning.

The Department of City Planning's fiscal 2010 executive budget is 67% less in city tax levy funds than the fiscal 2009 adopted budget due to the overall elimination of six funded vacancies and the payment of contractual obligations. DCP's fiscal 2010 executive budget includes a total headcount reduction of six positions from the fiscal 2009 adopted budget. The headcount reduction is comprised of the elimination of four existing vacancies in fiscal 2010 and the two vacancies eliminated as part of the November PEG program.

Most of the decrease in city tax levy funds between the fiscal 2009 adopted budget and the fiscal 2010 executive budget is primarily

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2 attributable to the one time infusion of \$7.1
3 million in city funds in fiscal 2009 to pay for
4 contracts that were developing Environmental
5 Impact Statements for rezoning projects throughout
6 the city. Including East Village, Lower East Side
7 rezoning, Dunbo rezoning and Bronx 161st Street
8 rezoning.

9 We will hear from the Department
10 Director, Amanda Burden, to hear how the executive
11 budget and recent PEG action has affected the
12 Department. After we hear from the Department of
13 City Planning, we will hear from the Department of
14 Information Technology and Telecommunications,
15 also known as DoITT, whose budget decreases in the
16 executive budget by approximately \$15.4 million or
17 4.1% as compared to adoption.

18 Headcount would be reduced by 78
19 positions. Following DoITT, we will be joined by
20 the Department of Youth and Community Development,
21 whose city funding is reduced approximately 4%
22 from the fiscal 2010 preliminary budget. Then
23 we'll hear from the Department of Small Business
24 Services and the Economic Development Corporation.

25 We have a number of colleagues that

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2 are here. I'll just acknowledge the ones that are
3 here, Council Member Miguel Martinez, Council
4 Member Leroy Comrie, Council Member Annabel Palma,
5 Council Member Inez Dickens, Council Member
6 Elizabeth Crowley, Council Member Joel Rivera,
7 Council Member Tony Avella, Council Member Charles
8 Barron, Counsel to the Committee, Tanisha Edwards,
9 Council Member Simcha Felder, Council Member
10 Albert Vann and I'm now going to turn it over to
11 Chair--we left out Council Member Helen Sears.
12 Council Member Helen Sears and I'm going to turn
13 it over to Chair Katz for a statement.

14 COUNCIL MEMBER KATZ: I just want
15 to welcome Chair Burden here, as we always do.
16 Our working relationship with your agency, I
17 believe, has been an example and I do appreciate
18 it. We work together very closely on a lot of
19 items; we negotiated a lot. I think projects come
20 out better after the negotiations phase with this
21 committee and with the Council so I appreciate all
22 the hard work that you've done.

23 We are extremely interested clearly
24 in hearing from you about the headcount and about
25 how that's going to affect the work that we've

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2 actually all done in this city. I think between
3 your office and our Committee and this Council,
4 we've managed to protect over 6,000 blocks in the
5 City of New York and I'm proud of that record with
6 you. But I am very concerned that as we move
7 forward now with a limited budget that the
8 protections that we have put in place or that we
9 look forward toward the future might be in
10 jeopardy. So if you could focus on that as well,
11 I would appreciate it.

12 Just from the prospective of Land
13 Use, we have this at 12:00. This at 11:00, 12:00
14 is DoITT and those are the two items on the Land
15 Use Committee agenda as well. So I just wanted to
16 make sure that was clear and I thank you. Chair
17 Burden you have the floor.

18 AMANDA BURDEN: Thank you. Good
19 morning, Chair Katz and Chair Weprin and Chair
20 Avella and distinguished members of the Land Use
21 and Finance Committee. It is a pleasure to
22 discuss with you the Mayor's fiscal year 2010
23 executive budget and four year financial plan as
24 it relates to the Department of City Planning. As
25 always, it is a privilege to work with you and to

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2 serve the City of New York as Commissioner of the
3 Department and Chair of the New York City Planning
4 Commission.

5 I'm pleased to note under your
6 critical leadership, five city planning
7 initiatives were adopted since I last appeared
8 before the Land Use Committee in March. These
9 include the Forest Hills Special District, the
10 North Corona Two and North Flushing rezonings and
11 the Bicycle Park and Waterfront Zoning text
12 amendments.

13 To date, 94 area wide rezonings
14 encompassing not 6,000 but now 7,300 blocks have
15 been adopted in partnership with the City Council.
16 Those rezonings encompass more than one-sixth of
17 the area of the city; we're approaching one-fifth
18 certainly. And I am so very proud of our
19 collective accomplishment.

20 In the last seven years we have
21 worked together to develop a sustainable blueprint
22 for the city's growth. This has meant protecting
23 our cherished low density neighborhoods from out
24 of character development while directing growth to
25 transit rich areas and harnessing the power of the

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2 market to produce affordable housing. Today, even
3 as our local and national economy suffers, we must
4 keep in mind that planning is a long term
5 enterprise. We will continue working to catalyze
6 economic investment in areas that are appropriate
7 for additional growth and ensure that our
8 neighborhoods are both strengthened and protected.

9 Despite more limited resources, the
10 Department continues to implement its ambitious
11 agenda, advancing over 15 major rezonings in
12 various stages of ULURP right now. These are the
13 highlights of the Department's upcoming work
14 program. In Queens, we have advanced rezoning for
15 32 blocks of Cordmire neighborhood in Forest Hills
16 to protect neighborhood character. In April, we
17 certified contextual rezoning for 300 blocks in
18 Middle Village, Glendale and Maspeth that will
19 curb over development in these primarily low
20 density communities.

21 We are underway with an ambitious
22 study of Oberdale, Oakland Gardens and Hollis
23 Hills where we are refining recommendations for
24 400 blocks to preserve the existing one and two
25 family context limited, out of scale development

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2 and reinforce modest multi family buildings on
3 certain wide corridors. And we are under way with
4 studies in Astoria and South Jamaica to respond to
5 concerns raised by the community and local Council
6 members. In Staten Island, we're reconvening the
7 growth management task force and transportation
8 task force this summer and continue to work with
9 EDC on the West Shore and North Shore studies.

10 The West Shore study will result in
11 a planning framework that will guide future land
12 use and transportation decisions, balancing open
13 space and wetlands protection with new job
14 opportunities and identifying where transportation
15 improvements will be necessary. Similarly, the
16 North Shore study will be coordinating with the
17 MTA study of the North Shore right of way to
18 ensure that as the North Shore grows it maintains
19 an appropriate balance that builds on its
20 strengths.

21 Updates on both of these studies
22 will be presented at the Staten Island
23 transportation task force meeting in June. A West
24 Shore public meeting is targeted for early summer
25 to review the study's recommendations. A public

open house meeting will be held this summer to solicit comments on the North Shore study with a goal of releasing recommendations this fall.

In Brooklyn, the Department is advancing a comprehensive plan for Coney Island that will establish a framework for the revitalization of the amusement area and the surrounding blocks. This plan will facilitate a 27 acre amusement and entertainment district that will re-establish Coney Island as a year round, open and accessible amusement destination. We are so pleased that the borough president of Brooklyn, Marty Markowitz, recently gave his support for the proposal. We will continue to refine the plan as it advances through the public process.

In addition, we have proposed rezonings to protect neighborhood character for 300 blocks of Canarsie, 175 blocks of Greenpoint Williamsburg and 180 blocks of Flatbush. We have proposed new mixed use zoning to encourage adaptive use in 12 blocks of Dunbo. Last month we certified a 128 block rezoning for Sunset Park that will protect the neighborhood's prevalent roadhouse character and foster new and affordable

housing on 4th and on 7th Avenues.

The Department expects to certify contextual rezoning for Carol Gardens to protect its roadhouse character next month. And we are very grateful for the Council's budgetary support for this particular initiative. I'm also very pleased that the Department will kick off its Bedford Stuyvesant North study this July.

In the Bronx we are advancing a plan to rezone 30 blocks of the lower concourse, capturing the waterfront for redevelopment and public use and introducing inclusionary housing for the first time in the borough. The Commission will vote on this rezoning next week and we look forward to its review and approval by the City Council.

In March, we certified a strategic rezoning for the 161st Street and River Avenue corridors to encourage investment in mixed used development including affordable housing. In Manhattan, the Department is working in partnership with Speaker Quinn and community board 4 for a rezoning of West Clinton to update the zoning along 11th Avenue corridor to encourage the

provision of affordable housing and institute predictable height limits among other goals.

We are also putting the finishing touches on a new special district that we believe will assist in the preservation of class B and C office space and target new development on under utilized sites. We hope to work with a private applicant to map this district in Midtown.

The Department is also pursuing a number of citywide initiatives and studies. In partnership with HPD, the Department has drafted a text amendment to the city's inclusionary housing program to introduce a home ownership component and to streamline the mechanics of this successful incentive program. This change to the city policy is meeting with strong support among housing advocates, providers and community organizations and we look forward to the Council's consideration later this summer.

We recently instituted the Bike Share Opportunities Report that discusses the potential for a New York City Bike Share program. We will assist DOT as they examine implementation options. This program, which has worked so

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2 successfully in Paris, Barcelona and China, is a
3 low cost and healthy transportation option and
4 could stimulate new jobs and revenue for New York.

5 And finally I'm thrilled that on
6 Monday, the Department will begin the official
7 public review for a package of zoning incentives
8 that will catalyze the development of neighborhood
9 grocery stores in areas of the city that have
10 shown to be most underserved. These zoning tools
11 coupled with other financial incentives to assist
12 existing and new stores will increase New Yorkers'
13 access to fresh food and improve the health of New
14 Yorkers most in need. I'm particularly proud of
15 this initiative and we wish to thank Speaker Quinn
16 for her leadership on this critical issue and her
17 essential partnership in making it happen.

18 I ask for your support on these
19 initiatives and I'm confident that they will make
20 the city's zoning more responsive to the needs of
21 your communities. The Department's work plan
22 continues to be ambitious and seeks to protect the
23 city's treasured neighborhoods and realize
24 opportunities for growth where our infrastructure
25 can accommodate it. I thank the City Council for

its leadership on these important initiatives.
Now let me turn to the budget.

The Department began fiscal year 2009 with an expense budget appropriation of \$30.2 million, which constituted \$16.8 million in city funds and \$13.4 million in federal funds. Thus, 56% of the budget was city dollars and 44% federal dollars. When the current budget was adopted in July 2008, the Department of City Planning authorized headcount was 283 staff positions of which, 147 were tax levy funded and the remaining 136 positions were funded with federal dollars.

Since adoption the Department has undergone three financial plan changes pursuant to the directions from OMB. As part of the November financial plan, the Department's adopted budget was increased by \$1.4 million with a prior year rollover of Environmental Impact Statement, EIS, contract funding and federal grant funding to cover programmatic needs. The January financial plan transferred \$833,000 of the Department's Environmental Impact Statement contract funding that would not be needed in fiscal year 2009 to fiscal year 2010.

The Department's fiscal year 2009 budget increased by \$214,000 due to collective bargaining increases and the Department's federal and state grant budget was updated to include the total budgeted staff of 44 positions and total funding of \$4 million.

For fiscal year 2010 the preliminary budget calls for the elimination of five tax levy positions, valued at \$488,000 plus the elimination of two positions valued at \$215,000 called for in the fiscal year 2009 executive budget. The preliminary budget for fiscal year 2010 and subsequent years reflects the elimination of seven positions, with an annual reduction of \$703,000. In addition, the January plan reflects an increase of \$833,000 in Environmental Impact Statement funding transferred from fiscal year 2009 and \$133,000 in collective bargaining.

The recently released executive budget makes the following changes to the Department's budget. For fiscal year 2010 the executive budget will increase by \$313,000, which includes technical adjustments from the fiscal

year 2010 preliminary budget and \$70,000 to fund one staff position dedicated to Hudson Yards development for two years.

As a result of these changes, the Department's fiscal year 2010 executive budget calls for a total allocation of \$24 million. Tax levy funds constitute \$9.9 million or 41.3% of the proposed budget, while federal funds constitute \$14.1 million or 58.7% of the proposed budget. This provides for 276 budgeted staff, 97 city funded positions and 179 federally funded positions.

On the revenue side the Department will fulfill OMB's targeted reductions for fiscal year 2010 to increase revenues. However, for fiscal year 2011 and subsequent years, OMB may call for personnel reductions if revenues do not reach projected levels. Based on recent and current activity, the Department is projecting over \$3 million in fiscal year 2009 revenue. Of this amount, collection of ULURP and Seeker application fees total approximately \$2.8 million with a balance generated through publication and subscription sales. For fiscal year 2010 and

subsequent years, the Department is projecting \$3.6 million in revenue based on a fee increase for Seeker and ULURP applications.

We seek your support of the proposed executive budget for fiscal year 2010. We are committed to find ways to meet the challenges and demands of our growing work program and we look forward to your active participation in the planning process. I'd be pleased to take any questions. Just let me reintroduce a very special person who you know, which is the Executive Director at the Department of City Planning, Richard Barth.

CHAIRPERSON WEPRIN: Thank you Chair Burden. We've been joined by some additional colleagues. We have Council Member Larry Seabrook, Council Member Maria Baez, Council Member Sara Gonzalez, I think I saw her somewhere and we also have a very special guest in the front row and that's Satu Barron who is the brother of our own Charles Barron. Is he a constituent? Oh, okay. And we've been joined by Councilman Jim Oddo of Staten Island and Brooklyn. Chair Burden.

MS. BURDEN: Yes.

CHAIRPERSON WEPRIN: You mentioned the elimination of the seven positions. What positions are they specifically?

MS. BURDEN: Richard Barth has tabulated these one by one. Let me hand it to him to go through that.

CHAIRPERSON WEPRIN: Sure.

RICHARD BARTH: The seven positions, when we testified at the March hearing three of those positions were in the Bronx, Brooklyn and Queens office. And the other four we haven't specifically targeted which ones but they will come from our headquarters at 22 Reed Street where we have four existing vacancies.

CHAIRPERSON WEPRIN: What type of positions, though?

MR. BARTH: The specific ones at Reed Street would be a counsel's position, one in our Housing and Economic Infrastructure Planning, one in our Technical Review which reviews application that come in from the public and private sectors and one in our Land Use division which works with the Commission in coordinating Commission's activities with the ULURP process.

CHAIRPERSON WEPRIN: These won't have any effect on delaying any of the timetables on any of the down zonings will they?

MS. BURDEN: With less staff things may go slower. I have to be perfectly candid. It's not good but we're going to do the best we can. We have actually accomplished quite an incredible amount with very few staff. This won't stop them but if things go slower, everybody will have to understand that they might go slower.

MR. BARTH: One of the things we've done over the past several years is incorporate, really in terms of how we do the rezonings, geographic information work and desktop applications that are computer programs that have allowed us to do the number of rezonings we have with the staff that we have. So we're increasingly looking at ways to do more with less but without being able to fill some of these positions obviously it does make it more difficult.

CHAIRPERSON WEPRIN: Okay, thank you. We've been joined by Council Member John Liu and Council Member Robert Jackson, I was told, I

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2 don't see him. I'm going to turn it over to Chair
3 Katz who I'm sure has a number of questions.

4 COUNCIL MEMBER KATZ: Thank you
5 very much. We've been doing a lot of rezonings
6 together and one of the things that we've noticed
7 is and I can't right now off the top of my head--
8 some of the rezonings we're looking at again and
9 some are new. I guess the question becomes in
10 reality January is coming up quickly, right?
11 There's going to be a new administration, new
12 Council Members. I don't know what's going on
13 with your department but basically it's a new
14 administration. Have you sort of set a plan for
15 yourself up until January as to which rezonings
16 are going to take priority, whether we're going to
17 look back at other rezonings that we promised to
18 continue and look at again or whether we're
19 actually starting new projects as we move forward?

20 MS. BURDEN: For the most part,
21 we'll be looking at completely new areas. The
22 rezonings that we might have done for a second
23 time, there are not too many but we certainly went
24 back and looked at North Corona. North Corona was
25 sort of set before this administration came on

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2 board and there has been a very, very intense
3 effort to protect neighborhoods. So we came back
4 and really tightened the screws on North Corona.
5 But for the most part we're looking at new areas
6 that really haven't been touched before.

7 In some areas, we're simply
8 extending the existing work we've done such as the
9 Middle Village, as you know. So they are mostly
10 new areas and we have actually set the agenda for
11 the rest of the year.

12 COUNCIL MEMBER KATZ: You have set
13 the agenda for the rest of the year?

14 MS. BURDEN: For the rest of the
15 year, yes.

16 COUNCIL MEMBER KATZ: And all of
17 that, mostly it's everything that's in the
18 testimony.

19 MS. BURDEN: Exactly.

20 COUNCIL MEMBER KATZ: You've gone
21 over all the things that are actually in the
22 pipeline coming down.

23 MS. BURDEN: They're in the
24 pipeline and what's not being certified, we don't
25 like to certify things in the summers as you know,

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2 will be certified in the fall, in September. So
3 pretty much everything I mentioned, that's the
4 extent of the work flow.

5 COUNCIL MEMBER KATZ: That's
6 helpful to know that it's relatively a finite
7 world we're looking at at this point, at least
8 until we continue with another administration or
9 another set of folks. You mentioned in your
10 testimony the fees going up?

11 MS. BURDEN: Yes.

12 COUNCIL MEMBER KATZ: Can you tell
13 us, number one, the timeline, number two, how much
14 you're thinking of raising, I think Seeker and the
15 ULURP applications is what you said, right?

16 MS. BURDEN: Yes.

17 COUNCIL MEMBER KATZ: The timeline,
18 how much they're going to be raised and also can
19 that possibly be used to offset some of the
20 funding for the folks that you're going to lose so
21 we can actually continue this work at the pace
22 that we all have become accustomed to?

23 MS. BURDEN: Richard will go
24 through the details but we have increased the fees
25 in two different categories. We're in the capital

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2 process now. We have increased Seeker fees and
3 now bringing ULURP fees up, more parallel with
4 Seeker fees and focusing on the very large
5 projects. Richard will actually give you an
6 example of where these will begin to cover the man
7 power and the work that City Planning has put into
8 these very large, private applications that we
9 have to dedicate a lot of staff too. Richard will
10 kindly explain both?

11 MR. BARTH: Sure. In terms of the
12 timeline, as Amanda said we started a capital
13 process and we expect that the new fees would go
14 into effect, if voted on, at the beginning of
15 August. In terms of the fee increases you had
16 asked would they substitute for positions. This
17 is how we met our PEG, both in the January plan
18 and the executive plan. So in the absence of
19 these fee increases we would be losing an
20 additional seven positions. So these preclude
21 additional losses.

22 The fees increase is covered two
23 parts. In the January plan it was across the
24 board, an 8% increase in ULURP and Seeker fees to
25 reflect an increase in labor costs over the last

two years. And that totals roughly \$250,000. The fee increase proposal in this executive budget is, as Amanda said, an increase for large projects over half a million square feet.

What we found when we looked at the fee structure was that if you zone a four acre area, whether it's a one or two family house or a development of five million square feet you end up paying the same fee. So we wanted to really better match the fees to the work that's extended.

As an example is the Western Railyards which has already been filed. They pay a fee of \$53,000, which would be similar to what anybody pays. But that project is so large and there's such a department effort in terms of the rezoning text and the massings and all the work that goes into developing a truly good large site plan. Under the proposal there would be a supplemental fee for these uniquely large projects which would bring the fee they pay up to about \$200,000. Now Western Railyards has already filed but this is intended to capture those extremely large projects.

COUNCIL MEMBER KATZ: What defines

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2 extremely large? There must be some sort of
3 mechanism by which you define that?

4 MR. BARTH: We did. It's similar,
5 as Amanda said, to the Seeker category so we
6 created new categories above 500,000 square feet.

7 COUNCIL MEMBER KATZ: So it's all
8 based on square footage?

9 MR. BARTH: Correct.

10 MS. BURDEN: Yes.

11 COUNCIL MEMBER KATZ: Okay. And
12 just to be clear for the record, I think I know
13 the answer but I'd like for everyone else also,
14 these are for private applications. And the fee
15 structure will not affect, because we don't pay,
16 down zonings or contextual zonings that we do as a
17 city to protect our communities.

18 MR. BARTH: Correct and it doesn't
19 affect community groups either who file
20 applications.

21 COUNCIL MEMBER KATZ: It doesn't
22 affect, for everyone's knowledge, 197A plans as
23 well, the ULURPs, the down zonings and the
24 contextual zonings that we do through that as
25 well.

MS. BURDEN: Right.

COUNCIL MEMBER KATZ: All right.

Thank you very much. Are there folks that which to ask questions?

CHAIRPERSON WEPRIN: Council Member Barron had a question and we've been joined by Council Member Robert Jackson.

COUNCIL MEMBER BARRON: Never one to want to spark any kind of controversy. I just don't do that kind of thing but I just need clarity from Chair Katz. When we said a new administration does that mean that Mayor Bloomberg will not be around in January?

COUNCIL MEMBER KATZ: I make no predictions. I only know that whoever is around in January will, I think by definition, be the new term, four years.

COUNCIL MEMBER BARRON: Thank you, thank you. I just needed some clarity.

COUNCIL MEMBER KATZ: I'm not that good.

COUNCIL MEMBER BARRON: I thought you knew something that we didn't know. I want to talk a bit about affordability and City Planning

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2 and the city and gentrification, particularly in
3 Harlem. There are a lot of cries of
4 gentrification, there are cries of the use of
5 eminent domain in certain projects and the
6 defining of affordability, in some cases, is even
7 an oxymoron. Those two words shouldn't even go
8 together.

9 But how are you defining
10 affordability on projects when you're dealing with
11 projects because by the time it comes to us--I
12 know rezoning and all of that is the major land
13 use issues but when it comes to our neighborhoods,
14 what's affordable to one may not be affordable to
15 others. So just some discussion on that.

16 MS. BURDEN: When we talk about
17 affordable housing, the question is affordable to
18 whom. You're absolutely correct. But in terms of
19 how it's restructured with HPD, the affordable
20 inclusionary housing, we had to set a standard
21 citywide. And that was set at 80% of AMI. We
22 know that sometimes it's not relevant because it's
23 the entire metropolitan district. So what HPD has
24 done and with their whole housing marketplace
25 program, that's \$3 billion fund and they

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2 supplement that for the first--this didn't happen
3 before this administration. That inclusionary
4 housing also allows you to have a subsidy from HPD
5 so they can add their programs.

6 So they try to bring it, in many
7 instances well below the 80% to get to 50% of AMI
8 and that's the target of particularly housing
9 that's on city owned sites. To bring that way
10 below the 80% to really approaching what is the
11 real median income of the locality, the actual
12 neighborhood rather than a metropolitan area--

13 COUNCIL MEMBER BARRON:

14 [interposing] Which is a major problem.

15 MS. BURDEN: Yes.

16 COUNCIL MEMBER BARRON: What is the
17 metropolitan area? I know I left it at \$72,000,
18 \$74,000. What is it now?

19 MS. BURDEN: What the area median
20 income is, for a family of four it's
21 approximately, it went up a little bit, it's about
22 \$58,000 for a family of four. It was \$56,000, now
23 it's \$58,000.

24 MR. BARTH: That would be the 80%,
25 though.

COUNCIL MEMBER BARRON: No, I'm not talking about the 80%.

MS. BURDEN: That's the 80% so what the total is? I don't know.

COUNCIL MEMBER BARRON: 72, 74

MR. BARTH: 78.

MS. BURDEN: It may be 78, okay.

MR. BARTH: I believe it's in the mid to high 70s.

COUNCIL MEMBER BARRON: Right. I left it at 72 but I heard it was 79, 78 now. And then 80% was like \$56,000, that's where I left it.

MS. BURDEN: Exactly.

COUNCIL MEMBER BARRON: Now it's up to 58.

MS. BURDEN: Correct.

COUNCIL MEMBER BARRON: But when we have a neighborhood of \$26,000 that proposes a real problem of affordability. So if you go in places like East New York where the AMI is \$26,000 or the South Bronx I believe it's even lower. How do we justify affordability in those areas when projects come in at 80% of the AMI?

MS. BURDEN: Because HPD needs to

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2 supplement those with their own programs to bring
3 in the Lamb program. You have two successive
4 commissioners who are totally passionate and
5 committed about this. Our new Housing Secretary,
6 Sean Donovan and Rafael Sistera, that's their
7 mission. And they are doing everything that they
8 can to bring that down. So clear recognition that
9 affordability is not in most of the city 80% of
10 AMI.

11 COUNCIL MEMBER BARRON: Which is
12 really not affordable. What about the whole
13 question around the developers using the threat of
14 eminent domain in many projects to negotiate with
15 either retailers or residents to move from land
16 that they want to develop. Say they're not using
17 it but the mere threat. When you come up to a
18 retailer or you come up to a resident and you say
19 I can get market value, exercise eminent domain
20 and get market value but let's talk. I'll give
21 you more than market and the person really doesn't
22 want to move at all but usually the threat of the
23 use of eminent domain. How can we curtail that so
24 that those who don't want to move are not
25 threatened with eminent domain?

MS. BURDEN: A couple of things, one, eminent domain is really in the purview of government and has to be used rarely and judiciously. Government generally might use it for public use for parks and open space and then for the rare instance for an overriding citywide economic development need or initiative. So it's very rare and has to be judiciously used. A private developer couldn't use it. But what I think it's also talking about is gentrification and right to--

COUNCIL MEMBER BARRON:

[interposing] Let me just go back to that. The private developer doesn't use it. I know government uses it for the private developed quite often. And because it has been redefined and for economic development it's not just for the public use in terms of parks anymore. If a project has economic viability to a city or a state and those revenues can go to the budget or the coffers of the city that can be considered now with the Supreme Court decision, the public use. So it goes beyond just parks and stuff, now.

Now you can justify just about any

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2 economic development project as good for the
3 public use because there is some tax that's going
4 to be paid and it's going to be a revenue that's
5 generated for the city budget. So I know the
6 developer can't use it but often times if City
7 Planning is with a developer or the state is with
8 a developer or whatever then the threat of the use
9 of eminent domain has been used I instances around
10 the city to displace people.

11 MS. BURDEN: Well it has to be a
12 blighted area. It really does have to be a
13 blighted area and it has to be an area that is
14 clearly, visually. It has to meet certain
15 standards to warrant eminent domain and that's
16 perfectly clear. There are some areas of the city
17 that that's been warranted but for the most part
18 this is used extraordinarily rarely and you won't
19 find the city doing it.

20 COUNCIL MEMBER BARRON: Well
21 there's some discussions on blight too.
22 Everything has to be defined.

23 MS. BURDEN: Yes.

24 COUNCIL MEMBER BARRON: A blighted
25 area has to be defined and it is in some

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2 instances. But we did have cases in Harlem and
3 some cases around the Atlantic Yards arena where
4 they were saying that that was a blighted area but
5 yet people were living there. And the threat of
6 eminent domain did exist in the Atlantic Yards
7 project.

8 MS. BURDEN: Atlantic Yards was a
9 state sponsored project.

10 COUNCIL MEMBER BARRON: I
11 understand. I'm just saying the principle of
12 using eminent domain and blight. So what the
13 state did, the city could do as well.

14 MS. BURDEN: I must say we were
15 under the leadership of Council Member Dickens,
16 the 125th Street initiative, we're very concerned
17 about store owners. In partnership with Small
18 Business Services and the Council Member and
19 Economic Development Corporation and the Upper
20 Manhattan Empowerment Zone developed a program for
21 small business owners, not only to enhance their
22 business, but if they felt like moving the
23 Avenues, to assist them with that. So it's a very
24 genuine and effective effort to help small
25 business owners. So we try to do that where we

can.

COUNCIL MEMBER BARRON: I'm just hoping we continue in that direction, those questions of gentrification which is happening in some neighborhoods, the question of the threat of the use of eminent domain is happening in some instances and the definition of affordability. We need to continue to work on this so that development comes from the bottom up and not the top down.

MS. BURDEN: Your points are well taken Council Member.

COUNCIL MEMBER BARRON: Thank you.

MS. BURDEN: Thank you.

CHAIRPERSON WEPRIN: We've been joined by Council Member Gale Brewer who is going to be co-chairing with Chair Katz and myself, the DoITT hearing shortly and Council Member Rosie Mendez and we've been joined by Council Member Sara Gonzalez. Any other questions? Council Member Palma.

COUNCIL MEMBER PALMA: Thank you Mr. Chair. Commissioner, I'm really glad that inclusionary zoning is going to be introduced in

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2 the Bronx. I look forward to working with City
3 Planning. I just want some clarity. Is the
4 inclusionary zoning going to be for every new
5 development or just for certain developments?

6 MS. BURDEN: Just certain
7 developments, we're actually increasing or either
8 changing the zoning to increase the FAR so that
9 you'd actually have a difference between what's
10 allowed as of right. We call it the base FAR and
11 then to incentivize within a height cap, the
12 inclusionary affordable housing. That's just in
13 areas where we're actually raising the height high
14 enough to incentivize that affordability because
15 you don't want to, in low scale areas, have
16 buildings that are over that height.

17 So in the lower concourse, for
18 instance, that's what we're doing. What will be
19 the lower part of the grand concourse, having
20 inclusionary housing there because that can take a
21 height of about 12 stories so you'll be able to
22 build about seven and a half stories as of right,
23 if this passes the Council. And then you'll only
24 be able to go up to 12 stories there if you
25 include affordability.

COUNCIL MEMBER PALMA: So as long as it fits into the character of a neighborhood.

MS. BURDEN: Exactly. That's what I'm trying to say.

COUNCIL MEMBER PALMA: Thank you.

MS. BURDEN: Not at all, thank you.

CHAIRPERSON WEPRIN: I believe Council Member Brewer had a question.

COUNCIL MEMBER BREWER: Yes, I do. I just want to thank Ellen Ryan, as we all do. My other question is I know that you do care and you've looked at some of the small stores, not just grocery stores but small stores. Maybe you discussed this earlier but I just was wondering if there are any suggestions for future retention of mom and pop stores.

MS. BURDEN: We are looking at this very seriously. There are very successful neighborhood shopping areas which have a real richness and a variety and brings character to the neighborhood and is part of the reason why people live in a neighborhood. And we can't regulate the kind of stores but we're looking at ways that we might be able to regulate maybe the number of

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stores and we're in the midst of studying that.

Now you also find neighborhoods that actually want the large stores.

COUNCIL MEMBER BREWER: They can have all of mine.

MS. BURDEN: Large chain stores so we have to modulate this but I think you've seen there are certain, in higher density areas, such as Jackson Heights and such as your district where there are some really rich and varied shopping streets that are a real asset to the city. So we're going to be focusing on that--

COUNCIL MEMBER BREWER:

[interposing] Can you give me a time frame? The reason I ask this is last night just as an example, I was at a meeting and that's all anybody talks about in my neighborhood is they are afraid that they will never see anything but a mall for the rest of their lives. Broadway has become a mall.

MS. BURDEN: You know I care about it really passionately. The same team has been working on the neighborhood grocery store study will now turn its attention as we introduce that

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2 into ULURP into the small store study. And we
3 look forwa4rd to working closely with you on it.

4 COUNCIL MEMBER BREWER: Thank you
5 very much.

6 MS. BURDEN: Not at all.

7 CHAIRPERSON WEPRIN: We've been
8 joined by Council Member Jessica Lappin who I
9 believe has a question.

10 COUNCIL MEMBER LAPPIN: Good
11 morning Chair Burden. I just wanted to echo
12 Council Member Brewer's comments and I've
13 discussed them with Ellen Ryan and others from
14 your staff before. Not just on 86th Street where
15 we do have a mall that is developed, which is
16 great and those do tend to be bigger stores, but
17 if we lost my butcher and my cheese shop I would
18 probably move out of my neighborhood because
19 that's a big part of why I love being there and
20 our fish store, too.

21 So finding a way to keep those
22 local smaller stores is very important. As
23 Council Member Brewer said, I hear it all the
24 time, constantly at community meetings. The
25 economy has tempered it a little bit because the

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2 banks and the drug stores are not moving in the
3 way they were and paying the rents that they were
4 willing to pay. But it's definitely on people's
5 minds and I hear it all the time. So I stand at
6 the ready when you come up with a proposal to help
7 work with you and the Council.

8 MS. BURDEN: We look forward to
9 brainstorming with you on it, too. It's really
10 important to the city and I'm glad to hear you're
11 eager about it, too. Thanks.

12 CHAIRPERSON WEPRIN: We've been
13 joined by Council Member Diana Reyna and I believe
14 Council Member Mendez has a question.

15 COUNCIL MEMBER MENDEZ: Chair
16 Burden, it's always a pleasure to see you and I
17 apologize. I was at another meeting. I wanted to
18 one, thank you for your hard work on one of the
19 largest rezonings in Manhattan, the lower East
20 Side, East Village rezoning and wanted to thank
21 you on the follow up that we're doing around the
22 Third Avenue corridor. I'm sure you've heard from
23 your staff about the meeting on the retail zoning.
24 And I'm hoping that if we're able to come up with
25 something that would address many of the concerns

of my colleagues here.

I look forward to reading your testimony and, as always, I know you're available so if I have a question I'll follow up with you directly.

MS. BURDEN: Absolutely. Look forward to it.

COUNCIL MEMBER MENDEZ: Thank you.

MS. BURDEN: Thank you.

CHAIRPERSON WEPRIN: Council Member Gonzalez.

COUNCIL MEMBER GONZALEZ: Yes, I guess it's almost afternoon but good morning Commissioner. I just want to say that my district is presently going through public hearing in respect to the community board and our rezoning in Sunset Park. I want to thank you because from zero time in respect to moving towards giving the community process, that's exactly what has happened. Your staff - - has met with so many folks in our districts and so many community based organizations.

So that I know as a representative of that district that you guys are putting us

1 through a real, incredible, democratic process. I
2 appreciate that and I want to say to you that I
3 know that last night there was a hearing, the
4 community board, the first one in which we'll have
5 several more I believe. I stayed away
6 intentionally because I want community to have
7 process. I will at some point when they have made
8 a decision, together with City Planning, move
9 forward towards doing the right thing and the
10 decision of a community. Not people who are not
11 vested or invested in that district. I just
12 wanted to say that and I thank you so much.
13

14 MS. BURDEN: Thank you Council
15 Member. Look forward to working with you on that
16 rezoning.

17 CHAIRPERSON WEPRIN: Council Member
18 Reyna.

19 COUNCIL MEMBER REYNA: Hi, how are
20 you?

21 MS. BURDEN: Great, good to see
22 you.

23 COUNCIL MEMBER REYNA: I'm sorry
24 that I wasn't here earlier, Madam Chair. I just
25 wanted to touch base as far as the rezonings that

1
2 you have. I apologize, I'm going to ask, as far
3 as your in house personnel headcount, is there
4 going to be a reduction in City Planning
5 concerning your headcount?

6 MS. BURDEN: Yes, there is. As I
7 said we're losing seven positions.

8 COUNCIL MEMBER REYNA: And four?

9 MS. BURDEN: Four in the main
10 office at 22 Reed Street and there's going to be
11 one in Brooklyn, Queens and the Bronx.

12 COUNCIL MEMBER REYNA: And as far
13 as your ability to continue with all the mentioned
14 rezonings or contextual zonings that you have in
15 your testimony, will that be hampered or will
16 there be a delay? How will you manage as far as
17 the workload considering what you've already
18 invested as far as the amount of people you need,
19 the expertise? Do you foresee problems with that
20 reduction?

21 MS. BURDEN: Well I just mentioned
22 before that it might take us a little bit longer
23 so I asked for the Council's understanding on
24 that. We are trying at the same time to initiate
25 some technical improvements in the Department so

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2 maybe things can go faster in terms of
3 applications and just paperwork and paper
4 management and other ways that we can help make up
5 the difference. But it might be difficult. I
6 hope not but as I said I just hope for your
7 understanding from the Council if things might
8 take a little longer. And I don't know yet but
9 we'll keep our fingers crossed.

10 COUNCIL MEMBER REYNA: I hope so as
11 well. I know that we are very grateful for all of
12 the follow up zonings that have taken place as far
13 as down zoning is concerned in Greenpoint
14 Williamsburg. It was a massive 175 blocks. We're
15 not over yet but the timeline will not change
16 because of this delay?

17 MS. BURDEN: No, the current
18 Greenpoint rezoning, it's in ULURP. It's not
19 going to change at all. We hope that comes
20 through the process very quickly.

21 COUNCIL MEMBER REYNA: Fantastic.
22 As far as the issues concerning industrial parks
23 and the elements of a viable community that--it's
24 like the 800 pound gorilla as far as illegal
25 conversions are concerned, the variances that have

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2 occurred. We have protected these industrial
3 parks throughout the City of New York. Is there
4 any discussion happening at your level with the
5 Mayor's Office of Industrial Business Zones to be
6 able to look at an assessment as to what is a
7 viable industrial park and what is not?

8 MS. BURDEN: The industrial sector
9 is critical to the city's economy in a whole
10 variety of ways. It's not only for job base but
11 it's really for our economy and keep it strong and
12 competitive. EDC is very high on the IBZs and we
13 have been actually meeting with the president
14 several times within the past month to talk about
15 strengthening IBZs. So he's very interested and
16 when he speaks with you, you'll hear that from
17 him. The city pledged not to rezone IBZs, that we
18 would not rezone them in any way and there are
19 several programs that are ongoing to strengthen
20 them. If you have particular ideas I know that
21 Seth Pinski would be more than happy to hear them
22 and find out what more can be done to make them
23 strong.

24 COUNCIL MEMBER REYNA: I'm
25 encouraged by your statement. It's always better

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2 to know that there is a working relationship with
3 both EDC as well as the City Planning Chair and
4 its commission because our industrial parks have
5 been ticked away. I know that just in ours alone
6 in Greenpoint Williamsburg we lost well over
7 100,000 square feet. In trying to protect the
8 current designated area I see every day a new
9 store opening. That's great because it's a new
10 business but there is a residential community that
11 is now in demand of services. So you have a
12 clothing store, you have a restaurant, you have a
13 supermarket and these are all things in the
14 industrial park. In your level of expertise, does
15 that seem to contribute to the vulnerability of
16 the industrial park?

17 MS. BURDEN: It's an interesting
18 question and Richard reminds me that IBZs are
19 under Rob Walsh as the Small Business Services.
20 But we've been meeting with both EDC and SBS to
21 talk about this. In a good industrial business
22 zone you should have also services so the people
23 that work in there can buy food and cash a check.
24 But if there seems to be uses that are eating away
25 at the zones, that's something that perhaps should

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2 be discussed that they're displacing some
3 businesses. But we still will brainstorm about
4 that as well. Thank you for bringing that to my
5 attention.

6 COUNCIL MEMBER REYNA: Absolutely.
7 And I look forward to working with you on other
8 matters that I won't mention right now. But I
9 look forward to just having a sit down so that we
10 can just discuss the areas of potential for other
11 interests of rezonings.

12 MS. BURDEN: Excellent. I look
13 forward to talking with you.

14 COUNCIL MEMBER REYNA: Thank you.

15 MS. BURDEN: Thanks.

16 CHAIRPERSON WEPRIN: We have some
17 special guests in the balcony. We have fifth
18 graders from P.S. 105 in Council Member Jimmy
19 Vacca's district in the Bronx. Welcome. Thank
20 you Madam Chair and we'll now hear from the
21 Commissioner Cosgrove from the Department of
22 Information Technology. I know I saw him in the
23 back.

24 MS. BURDEN: Cosgrave.

25 CHAIRPERSON WEPRIN: Cosgrave, I

stand corrected.

MS. BURDEN: Thank you Chairs and Chairs to all, I appreciate your support.

CHAIRPERSON WEPRIN: We have Majority Whip Inez Dickens would like to make a statement.

COUNCIL MEMBER DICKENS: I just want to acknowledge the presence of Chair Burden here and the hard work that she has done throughout the city and in particular for the 125th Street rezoning, for which we got an unprecedented 46% between affordable and income targeted housing that had never before been done in any rezoning. It was a very difficult process and it still is because when we don't understand that the old law.

Because that's what the issue is, that the existing law at that time offered no protection for my community as far as building heights, as far as buildings being built that are not contextual, as far as no affordable components, as far as no protection for my historic, indigenous, cultural institutions, as far as small business being protected, then it's

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2 necessary to change a bad law. And it takes so
3 long to change a zoning law and now the community
4 is beginning to understand it and other parts.
5 Because that was only for three blocks, 124th,
6 125th and 126th Streets and it only went from
7 Broadway to Second Avenue. But actually I'm now
8 having other parts of Harlem now beginning to
9 recognize that rezoning is the only method that
10 can be utilized for a community to protect
11 ourselves so that indeed we can stay there.

12 MS BURDEN: Well I want to thank
13 you again for your partnership, your leadership
14 and your vision for your community. It's
15 outstanding and I really appreciate everything you
16 did to help us create a vision for 125th Street.
17 Thanks.

18 CHAIRPERSON WEPRIN: We've been
19 joined by Council Member Dan Garodnick and I
20 believe Council Member Sears had a brief comment.

21 COUNCIL MEMBER SEARS: Just a brief
22 comment because it's very different. We're
23 talking about the rezoning and how much work that
24 you have done. But I'd like to make a comment
25 that in Jackson Heights there was no rezoning done

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2 because in spending a great deal of time looking
3 at the existing zoning, we came to realize that it
4 would be very difficult to do what the community
5 was very afraid would happen. And that is through
6 your monitoring and really watching that I go
7 around and say all that and they're very much
8 assured that that is not going to happen. And if
9 it does I know that you will be checking and
10 watching on that. So I, for the community, want
11 to thank you.

12 MS. BURDEN: We're definitely
13 monitoring. Sometimes it's citywide initiatives
14 like our Yards text which really makes a
15 difference in many communities in Jackson Heights.

16 COUNCIL MEMBER SEARS: That's true.
17 That's very, very true.

18 MS. BURDEN: But you're right we're
19 continuing to monitor.

20 COUNCIL MEMBER SEARS: And it works
21 well.

22 MS. BURDEN: Thank you Council
23 Member.

24 COUNCIL MEMBER SEARS: Thank you.

25 CHAIRPERSON WEPRIN: Thank you

2 again. Is Commissioner Cosgrave in the house?

3 Please come up.

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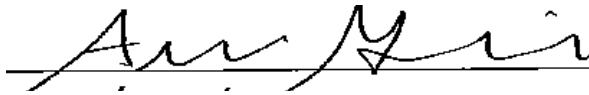
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C E R T I F I C A T E

I, Amber Gibson, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature

A handwritten signature in cursive script, appearing to read "Amber Gibson", written over a horizontal line.

Date June 11, 2009