

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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April 20, 2010
Start: 09:53 am
Recess: 10:25 am

HELD AT: Hearing Room
 250 Broadway, 16th Floor

B E F O R E:

MARK S. WEPRIN
Chairperson

COUNCIL MEMBERS:

Mark S. Weprin
Leroy G. Comrie, Jr.
Daniel R. Garodnick
Robert Jackson
Jessica S. Lappin
Diana Reyna
Larry B. Seabrook
Albert Vann
Vincent M. Ignizio

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

Shlomo Steve Wygoda
Architect
Sombbrero

Patrick Lima
Owner
Sombbrero

Michael Kelly
El Greco

Jennifer Dickson
Herrick, Feinstein LLP

Joel Mandel
Applicant
Forest Hills Property Group

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2 CHAIRPERSON WEPRIN: Good morning
3 everybody. It's good to see everyone here today.
4 My name is Mark Weprin. I'm the chair of the
5 Zoning and Franchises Subcommittee. I'm joined by
6 my colleagues on the committee. At my far left,
7 Al Vann. Next to him, Larry Seabrook. To my far
8 right, Dan Garodnick, Vincent Ignizio and Diana
9 Reyna. And we may be joined by others later.

10 We are going to start with our
11 cafes first and then do the zoning issue later.
12 We're going to start with Land Use 0064, Sombrero.
13 I don't know if it's Sombrero Café or Sombrero
14 Restaurant, which is number 20095372 TCM.

15 If you could please figure out how
16 to use those microphones because they're
17 counterintuitive sometimes. Just state your name
18 and the details of your application.

19 SHLOMO STEVE WYGODA: Good morning,
20 my name is Shlomo Steve Wygoda. I'm the architect
21 for this enclosed sidewalk café. This is my first
22 meeting here with the new chair. I'm used to
23 seeing Mr. Avella here, so welcome.

24 CHAIRPERSON WEPRIN: I won't
25 comment at that.

SHLOMO STEVE WYGODA: No. We represent Sombrero Restaurant and 303 West 48th Street. We have a letter written to Council Member Quinn. This in her district, the 3rd District. May I read the letter?

CHAIRPERSON WEPRIN: Yes, you may.

SHLOMO STEVE WYGODA: After having meetings with staff of Council Member Quinn, we wrote this letter. Pursuant to our meeting of April 15, 2010, we wish to stipulate the following items as agreed to by the owner at the same meeting.

Number one, the current architectural plans will be revised to reflect the following change. The entrance doors into the restaurant shall be made handicap accessible during the construction of the enclosed café and shall be in compliance with the rules and regulations of the appropriate city agencies.

Number two, at such time as the owners sell the business, they agree to remove the enclosed sidewalk café. Number three, the pavers at the tree shall be installed flush with the sidewalk and to allow proper drainage for the tree during

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2 the construction of the enclosed café and shall be
3 in compliance with the rules and regulations of
4 the appropriate city agencies. Number four, we
5 have contacted the times Square Alliance to
6 relocate the trash cans and street furniture from
7 the front of the restaurant. Please see attached
8 for reference and attached is a separate letter
9 addressed to the Times Square Alliance. Number
10 five, the other restaurants that the owners of
11 Sombrero Partners are affiliated with are as
12 follows: Rachel's at 608 Ninth Avenue, Pietrasanta
13 at 683 Ninth Avenue, Bossa Nova Brazil at 772
14 Ninth Avenue, Brazil Grill at 787 Eighth Avenue,
15 Brazil Brazil at 330 West 46th. Revised drawings
16 will be filed with the Department of Consumer
17 Affairs as required. Thank you.

18 CHAIRPERSON WEPRIN: Thank you very
19 much. Just a question. I saw at the community
20 board there were issues and there were
21 disapprovals. Are these a lot of the issues that
22 were raised at the community board?

23 SHLOMO STEVE WYGODA: Yeah, these
24 are specifically in response to the community
25 board issues and the Council Member's additional

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2 issues. But these respond specifically to their
3 requirements.

4 CHAIRPERSON WEPRIN: Great. I
5 think Council Member Garodnick has a question.

6 COUNCIL MEMBER GARODNICK: I do.
7 Thank you, Mr. Chairman. I just want to
8 understand exactly how you're going to accomplish
9 the enclosed portion. It looks like you have,
10 from the photograph, you have windows in the area
11 abutting your existing open air café. You are
12 going to enclose it and then what are you going to
13 do? Are you going to take out the windows and
14 walls so that you can connect it to the rest of
15 your restaurant?

16 SHLOMO STEVE WYGODA: Yeah. The
17 windows will become operable doors instead of
18 windows. The laws require that you keep the
19 exterior fabric of the building that could be
20 closed in at any time. So we're going to switch
21 the windows out to be doors.

22 COUNCIL MEMBER GARODNICK: Thank
23 you.

24 CHAIRPERSON WEPRIN: Does anyone
25 else have a question? Thank you very much. Do

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you have something you'd like to add?

SHLOMO STEVE WYGODA: This is the owner.

CHAIRPERSON WEPRIN: Do you want to add something? Just please state your name for the record.

PATRICK LIMA: My name is Patrick Lima. I'm the owner of the restaurant. We have a meeting with the community board. When we had the meeting with them everything was approved. Just those issues have to be completed and that will be it. Thank you.

CHAIRPERSON WEPRIN: Thank you very much.

SHLOMO STEVE WYGODA: Thank you.

CHAIRPERSON WEPRIN: Next, we are going to move on to Land Use 0065, 20105281 TCQ and Michael Kelly for El Greco. How are you, sir?

MICHAEL KELLY: Good. Good morning, Chairman and members of the Council. My name is Michael Kelly. I'm representing 36-19 30 Avenue, Inc doing business as El Greco. We have come to an agreement with Councilman Vallone's office and I'd like to read it into the record.

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2 This letter should serve as an agreement with your
3 district office that we will commit to the
4 following. We will modify our sidewalk café
5 license, lowering the number of tables to 13 and
6 seats to 28.

7 CHAIRPERSON WEPRIN: So Councilman
8 Vallone likes this now?

9 MICHAEL KELLY: Yes.

10 CHAIRPERSON WEPRIN: Well that
11 might be a problem for some of the members on the
12 committee, I don't know. Does anyone have any
13 questions? Thank you very much.

14 MICHAEL KELLY: Thank you.

15 CHAIRPERSON WEPRIN: Is someone
16 here from Hell's Kitchen? Not the neighborhood,
17 the restaurant? Not yet? We're going to move
18 ahead then. We're going to move to Land Use 0082,
19 C 060550 ZMQ, Queens Boulevard rezoning. Jennifer
20 Dickson from Herrick Feinstein is here, along with
21 another gentleman who she'll tell us who it is as
22 she sits down. We are joined by Council Member
23 Leroy Comrie, the chair of the Land Use Committee.

24 JENNIFER DICKSON: Hi, I'm Jennifer
25 Dickson, I'm from Herrick Feinstein. I'm here on

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2 behalf of the applicant Kew Point Associates and
3 I'm joined by Joel Mandel, who is the applicant.
4 He's going to help me with the boards.

5 This is a rezoning that we've
6 applied for. It's a rezoning of the entirety of
7 the block which you can see right here. I'm just
8 going to describe it briefly. It's bounded by
9 Queens Boulevard. Queens Borough Hall is right
10 over here. That's the blue thing in the corner.
11 Union Turnpike, Kew Forest Lane and then 78th
12 Avenue. The applicant's property is this one that
13 you can see in red over here. It's currently a
14 one-story commercial building. It has a FedEx, a
15 Kinko's and a Super Cuts in it.

16 Although we are rezoning the entire
17 block, currently the block is split by three
18 zoning districts. It's an R-6 district, a C4-2
19 and a C4-4. We're rezoning the entire thing to a
20 C4-4D. The remainder of the block has a few two
21 and three-story buildings that are mixed use on
22 Queens Boulevard. There's an 11-story mixed use
23 building right here and then a 4-story residential
24 building to the rear. The applicant proposes to
25 build a 12-story residential building with

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2 approximately 90,000 square feet.

3 Just to give a recap of the process
4 so far, we were approved unanimously by the
5 community board. We were approved also by the
6 borough president. She raised two conditions.
7 One was the sides of the building and the rear.
8 As I said, we're proposing a 12-story building.
9 There is slightly less density to the rear and
10 farther back in terms of the context of the
11 surrounding area.

12 So she requested that we put an
13 eight-story setback in the rear of the building,
14 which we did. She also asked questions about
15 whether or not there would be affordable housing
16 incorporated into the building. We stated at that
17 time and also at the City Planning Commission
18 hearing that the applicant doesn't plan to
19 construct immediately. But when they do plan to
20 construct, they certainly will look into
21 affordable housing programs available for this
22 site.

23 They do have existing retail
24 leases. The economy has changed somewhat since we
25 began this process, so that's why they don't plan

2 to construct right away. I'd be happy to answer
3 any questions that you may have.

4 CHAIRPERSON WEPRIN: Council Member
5 Koslowitz called to say she supports this change.
6 The leases that are in the commercial spaces now,
7 what kind of leases do they have?

8 JOEL MANDEL: Hello, good morning.
9 There are three tenants there. They all have
10 leases that expire January 31, 2015. The
11 intention is if this plan is approved, then
12 somewhere in the next year or two, and hoping the
13 economy will improve, actual Building Department
14 plans will be drawn up to develop this project.

15 CHAIRPERSON WEPRIN: Just state
16 your name again for the record.

17 JOEL MANDEL: I'm sorry. I'm Joel
18 Mandel. I'm part of a family that's the developer
19 here. We've been in the Forest Hills area for 50
20 years. We're known in the community. We're
21 active members in the community. I'm a director
22 of the chamber of commerce. I'm friends with
23 Karen Koslowitz.

24 CHAIRPERSON WEPRIN: All right,
25 don't name drop now.

2 JOEL MANDEL: Just I've been active
3 in the community a long time.

4 CHAIRPERSON WEPRIN: I'm kidding.

5 JOEL MANDEL: I've supported all
6 the organizations. We're the ones that brought
7 the Doe Fund to Forest Hills, if you're familiar
8 with the Doe Fund.

9 CHAIRPERSON WEPRIN: Sure.

10 JOEL MANDEL: We support them. We
11 pay about a third of their budget. We're members
12 of this community for a long time.

13 CHAIRPERSON WEPRIN: Thank you, Mr.
14 Mandel. We don't really care if you're a good
15 person or not, truthfully. But thank you very
16 much. You are indeed a good person.

17 JOEL MANDEL: That's for me to have
18 to live with.

19 CHAIRPERSON WEPRIN: What about
20 parking? Is there any parking on the site?

21 JOEL MANDEL: There's a parking
22 garage entering at the end, down to the lower
23 level.

24 JENNIFER DICKSON: It's proposed
25 for 45 cars right now.

2 JOEL MANDEL: That is five above
3 the zoning requirement in this particular zone,
4 just because the space is there.

5 CHAIRPERSON WEPRIN: Thank you, Mr.
6 Mandel. I'm sorry, who had a question? Council
7 Member Reyna followed by Council Member Garodnick.

8 COUNCIL MEMBER REYNA: Thank you
9 very much, Mr. Chair. I just wanted to
10 understand, the leases that expire in 2015, are
11 those commercial tenants going to be remaining
12 thereafter?

13 JOEL MANDEL: We hope so, but
14 that's up to them really. They've been our
15 tenants there for ten years already. We're hoping
16 they'll stay there.

17 COUNCIL MEMBER REYNA: What type of
18 accommodations would they receive during
19 construction if their leases expire?

20 JOEL MANDEL: They'd probably have
21 to close up or relocate to an adjacent nearby
22 building for maybe up to a year.

23 COUNCIL MEMBER REYNA: Which is
24 part of the properties that is owned by the
25 associates?

2 JOEL MANDEL: No, ma'am.

3 COUNCIL MEMBER REYNA: So the
4 relocation costs would be incurred by the
5 commercial tenant.

6 JOEL MANDEL: If they even want to
7 stay. We don't know for a fact if they even want
8 to stay. They may want more space. We may be
9 able to accommodate them by making it two levels
10 of commercial. This is something we have to
11 negotiate out with them when the time comes?

12 COUNCIL MEMBER REYNA: You haven't
13 done so yet.

14 JOEL MANDEL: That's correct, yes.

15 JENNIFER DICKSON: We are
16 definitely planning on putting retail, some sort
17 of retail. To accommodate them would be great,
18 but there is going to be retail on the ground
19 floor.

20 COUNCIL MEMBER REYNA: Who's the
21 commercial tenant now?

22 JOEL MANDEL: The two big ones are
23 FedEx Kinko's which seems to go through changes
24 every couple of years, especially in the current
25 economy with the shipping issues. There is also

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2 CVS which we put there. We love them and they're
3 a great tenant.

4 COUNCIL MEMBER REYNA: So we're not
5 talking about a mom and pop shop.

6 JENNIFER DICKSON: Currently right
7 now, no.

8 JOEL MANDEL: But we have plenty of
9 those in Forest Hills. And it's not impossible if
10 one of them doesn't come we can even replace them
11 with a mom and pop shop.

12 COUNCIL MEMBER REYNA: How much is
13 the square footage on the existing commercial
14 tenants?

15 JOEL MANDEL: 12,500 square feet.
16 It will be a little less when we done.

17 JENNIFER DICKSON: To accommodate
18 the lobby.

19 JOEL MANDEL: Maybe we'll end up
20 with 10,000.

21 COUNCIL MEMBER REYNA: I understand
22 that there is a community facility being proposed?

23 JENNIFER DICKSON: No.

24 JOEL MANDEL: No, ma'am.

25 JENNIFER DICKSON: It's just retail

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2 on the ground floor and then residential above is
3 what's proposed.

4 COUNCIL MEMBER REYNA: Are you 118-
5 02 Queens Boulevard?

6 JENNIFER DICKSON: Yes.

7 COUNCIL MEMBER REYNA: I have in
8 front of me proposed zoning and development, the
9 C4-4D district permits 6.02 for residential
10 buildings, 3.4 for commercial and 6.5 for
11 community facilities.

12 JENNIFER DICKSON: That's what's
13 permitted although we're not considering a
14 community facility yet.

15 COUNCIL MEMBER REYNA: You're not
16 considering a community facility?

17 JENNIFER DICKSON: We're just
18 stating what was permitted.

19 COUNCIL MEMBER REYNA: And you're
20 not trying to apply community facility for an
21 exchange of height?

22 JENNIFER DICKSON: No. This is
23 actually a contextual district so you can't do
24 that. There is a height limit of 120 feet
25 regardless of the use. So the proposal is

1 residential with retail on the ground floor.

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3 COUNCIL MEMBER REYNA: If you can
4 just explain to me, as far as the affordable
5 housing provisions that you may or may not
6 consider, how are you codifying that?

7 JENNIFER DICKSON: We're not
8 codifying it. We did write a letter of intention
9 to the City Planning Commission saying that this
10 is what we intend to look into. As I said,
11 because of the timing of this, it's just not
12 something that we can commit to at this point or
13 speak about really in any more detail than what we
14 have already.

15 JOEL MANDEL: Nor do we know what
16 programs will be available to us at that time.
17 That's the big problem. Four years from now is
18 another world. The programs change frequently.
19 The incentives change frequently. Without
20 incentives it's unlikely, but there are incentives
21 now. Will they be here in four years, who knows?

22 COUNCIL MEMBER REYNA: As far as
23 the 421A provisions, you're not applying to this
24 particular project?

25 JOEL MANDEL: No, ma'am.

2 JENNIFER DICKSON: Not at this
3 point. If it's available, that's also something
4 we'll certainly look into. As you know the 421A
5 does have the--

6 COUNCIL MEMBER REYNA:
7 [interposing] At the moment that's not part of the
8 cost analysis.

9 JOEL MANDEL: Correct.

10 COUNCIL MEMBER REYNA: Thank you.

11 CHAIRPERSON WEPRIN: Council Member
12 Garodnick.

13 COUNCIL MEMBER GARODNICK: Thank
14 you, Mr. Chairman. Just so I understand, this
15 project does not involve the acquisition of
16 additional lots does it?

17 JENNIFER DICKSON: Right. No, this
18 is a lot that they have a long-term lease on and
19 that they plan to develop.

20 JOEL MANDEL: No is the answer to
21 your question.

22 COUNCIL MEMBER GARODNICK: I just
23 was thinking back to the first demonstrative that
24 you put up and it looked like you all owned just a
25 smidge of the block. Is that the same area that

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we're seeing the building on?

JENNIFER DICKSON: Right. The proposed building is on that red piece and then all of the rest of the block is being rezoned. We don't own any of that.

JOEL MANDEL: This is the only section that could theoretically be developed because this is an 11-story building and this is an apartment house, four or five stories. There are three or four little two-story buildings there that could theoretically be developed with it, but we have no intention and candidly have been trying to buy the building next door for 15 years and I don't have a prayer. Maybe I'll get lucky in the end, but it's not part of the plan now.

COUNCIL MEMBER GARODNICK: You propose C4-4D here as opposed to any of the existing surrounding zones like C4-2, C4-4, R-6. I see the distinctions between what is allowed for those zones. Why is C4-4D the right zone here as opposed to any of the others which you could have proposed?

JENNIFER DICKSON: We spent a good amount of time with City Planning talking about

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2 this and going over districts. The C4-4D does
3 have a height limit to it, which none of the other
4 zones do. But also, honestly, it does have an
5 increase in residential density. Because of this
6 location, it's right on top of the subway, there
7 are tall buildings across the street to either
8 side, they felt it was appropriate. This is what
9 we wanted to do to have the slight increase in the
10 residential density at this particular location.

11 JOEL MANDEL: They recommended it,
12 in a nutshell.

13 COUNCIL MEMBER GARODNICK: City
14 Planning?

15 JOEL MANDEL: Yes.

16 COUNCIL MEMBER GARODNICK: Just a
17 follow-up on behalf of Council Member Reyna who
18 asked me to inquire what type of housing it will
19 be, whether it will be rentals or for-sale units.

20 JOEL MANDEL: Right now we have a
21 long-term lease hold on the property. We don't
22 own the deed. We have about a 90-year lease, so
23 that eliminates condominiums. The primary thought
24 is rental apartments. That's what I think the
25 area really needs is rental housing. But there

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2 are co-ops that have been develop under this kind
3 of scenario also. Likely right now we're thinking
4 rental units.

5 COUNCIL MEMBER GARODNICK: The C4-
6 4D would not impact the existing buildings that
7 are there in a negative way. It adds development
8 rights, but they would not have to make any
9 changes as a result of the zone.

10 JENNIFER DICKSON: No, they would
11 all be in conformance and compliance with the new
12 zoning district.

13 COUNCIL MEMBER GARODNICK: Thank
14 you very much.

15 CHAIRPERSON WEPRIN: Any other
16 questions? Mr. Comrie has a question.

17 COUNCIL MEMBER COMRIE: Good
18 morning. How many units are you talking about and
19 what types?

20 JENNIFER DICKSON: We're looking at
21 approximately 65 units in the building. I don't
22 know if you've really gotten to the point where
23 you've thought about the type.

24 JOEL MANDEL: We did. We have
25 about two-thirds two bedroom apartments and one-

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2 third one bedroom apartments.

3 COUNCIL MEMBER COMRIE: Those would
4 be distributed throughout all of the floors. Is
5 there going to be a community room or exercise
6 room or are you doing one of those?

7 JOEL MANDEL: Not at this point,
8 but candidly we haven't gotten quite that far. I
9 mean, if you build a building like that it
10 probably makes sense to put some little kind of
11 gym in it or something for the residents. But if
12 it's a rental, there's no real need for a
13 community room as you call it. If it turns out to
14 be a co-op, probably there is a need. So we
15 haven't settled that 100%.

16 COUNCIL MEMBER COMRIE: So you're
17 still trying to purchase the land from the lease?

18 JOEL MANDEL: No, we have a 90-year
19 lease and we're going to build on it as a lease
20 hold. There are actually certain detriments to
21 purchasing the land like increasing your real
22 estate taxes for example. At the end of the day,
23 we'd always love to buy it but the family is a
24 long-term holder and I don't think they'll be
25 selling it. So it's likely rental units on a

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long-term lease hold.

COUNCIL MEMBER COMRIE: How much commercial space are you going to have on the bottom?

JOEL MANDEL: The first floor is going to have 10,000 feet. The zoning allows for the second floor also to be commercial, so that could be another 12,500 feet approximately.

COUNCIL MEMBER COMRIE: How much commercial do you have now?

JOEL MANDEL: We have 12,500 retail now. We're going to be 10,000 because of the building entrance and the garage entrance. But then we'll also have the ability to have about 12,500 on the second floor.

COUNCIL MEMBER COMRIE: Thank you. Thank you, Mr. Chair. Somebody dropped their Metro card.

CHAIRPERSON WEPRIN: It's up for auction later. Are there any other questions? We've been joined by Council Member Jessica Lappin. I appreciate your time. Thank you very much, Mr. Mandel. I was being facetious. We do appreciate all the great work you're doing in the

community. Thank you.

JENNIFER DICKSON: Thank you.

JOEL MANDEL: Thank you.

CHAIRPERSON WEPRIN: We're going to close the hearing on that item. The last item on our agenda is Land Use 0079, 20105340 TCM, Hell's Kitchen Café. This application is being withdrawn pursuant to this letter that I have received, which I'm going to read into the record. Dear Speaker Quinn, this letter should serve as an agreement with your district office and Community Board 4 that we will commit to the following: 523 9th Avenue Inc doing business as Hell's Kitchen Café will be withdrawing its unenclosed sidewalk café license. Sincerely, Peter Meskouris. So we are going to withdraw that item. That was dated 4/19/10. So that item will be withdrawn and we don't have to consider it. Does anybody else have any business or comments they want to make? I am now going to move to couple all of these items and will recommend an aye vote on all. The counsel will call the roll.

CHRISTIAN HYLTON: Christian Hylton, Counsel to the committee. Chair Weprin?

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CHAIRPERSON WEPRIN: Aye.

CHRISTIAN HYLTON: Council Member
Reyna?

COUNCIL MEMBER REYNA: Aye on all.
Thank you.

CHRISTIAN HYLTON: Council Member
Comrie?

COUNCIL MEMBER COMRIE: Aye on all.

CHRISTIAN HYLTON: Council Member
Seabrook?

COUNCIL MEMBER SEABROOK: Aye on
all.

CHRISTIAN HYLTON: Council Member
Vann?

COUNCIL MEMBER VANN: Aye.

CHRISTIAN HYLTON: Council Member
Garodnick?

COUNCIL MEMBER GARODNICK: Aye.

CHRISTIAN HYLTON: Council Member
Lappin?

COUNCIL MEMBER LAPPIN: Aye.

CHRISTIAN HYLTON: Council Member
Ignizio?

COUNCIL MEMBER IGNIZIO: Yes.

2 CHRISTIAN HYLTON: By a vote of
3 eight in the affirmative, none in the negative and
4 no abstentions, LU 0064, LU 0065 and LU 0082 are
5 approved and referred to the full Land Use
6 Committee, and LU 0079 motion filed pursuant to
7 withdraw is approved.

8 CHAIRPERSON WEPRIN: Thank you very
9 much. The meeting will be adjourned, but we will
10 leave the rolls open for ten minutes. Thank you.

11 CHRISTIAN HYLTON: Council Member
12 Jackson?


13 COUNCIL MEMBER JACKSON: I vote aye
14 on all.

15 CHRISTIAN HYLTON: Vote now stands
16 at nine in the affirmative, none in the negative
17 and no abstentions.

18 CHAIRPERSON WEPRIN: Land Use
19 meeting for today April 20, 2010, the Subcommittee
20 on Zoning and Franchises is hereby concluded.

C E R T I F I C A T E

I, Donna Hintze 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 _____

Date April 30, 2010 _____