

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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October 6, 2008
Start: 10:40am
Recess: 10:58am

HELD AT: Committee Room
City Hall

B E F O R E: TONY AVELLA
Chairperson

COUNCIL MEMBERS:
Joel Rivera
Simcha Felder
Eric N. Gioia
Robert Jackson
Melinda R. Katz
Larry B. Seabrook
Helen Sears
Albert Vann

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2 CHAIRPERSON AVELLA: Good morning,
3 everyone. It is still morning at least. I'd like
4 to reconvene the meeting of the Subcommittee on
5 Zoning and Franchises. We had laid over two items
6 for votes. I will proceed with Dutch Kills first,
7 because the Council Member is here and I know
8 Jessica Lappin is downstairs. As soon as she
9 comes up, we will proceed with the second vote.
10 I'll call on Council Member Gioia to mention the
11 modifications that he has worked out with the
12 Department of City Planning.

13 COUNCIL MEMBER GIOIA: I'll speak
14 more generally about the rezoning, Mr. Chairman.
15 As anybody who was here last Thursday knows, I'm
16 gravely disappointed in the Department of City
17 Planning. I think they've done a disservice to
18 Queens and to this neighborhood. They fired a
19 starting gun years ago, sending a signal to hotel
20 developers that their time was almost up and they
21 should come to this neighborhood, and that is
22 exactly what has happened. We've watched now
23 dozens of hotels being built, destroying the
24 character of the neighborhood, literally
25 endangering people's safety. And City Planning,

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2 because there's a lack of a policy on hotels has
3 come into this neighborhood, acted far too slowly,
4 pitted block against block, homeowners against
5 business owners and created a contentious rezoning
6 in a place that has gotten along really incredibly
7 well, with multiple uses, for many years. We're
8 going to pass this rezoning today, with some
9 modifications, moving the M1-2 R6-A and the M1-2
10 areas from 3 to 4 FAR to allow the business owners
11 to expand and keep their jobs. But there will be
12 a prohibition on hotels and a height restriction.
13 Help me out here; make sure I'm saying this
14 correctly, please? The FAR will not move up for
15 hotels. It will not move up for commercial space,
16 and there will be a height restriction on those.
17 So in other words, it will allow the larger, floor
18 plates for the manufacturing, but not allow taller
19 buildings. Did I say that correctly?

20 [off mic]

21 COUNCIL MEMBER GIOIA: Okay. I
22 just want to say that correctly. What is not
23 going to happen is that the homeowners on 32nd
24 Street will not be treated fairly and equitably in
25 a way that I have requested, in a way the Civic

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2 Associated requested, in a way the Borough
3 President requested, and in a way the Community
4 Board requested. It's really quite sad the way
5 City Planning has treated these homeowners. And
6 to me it raises the question, City Planning's
7 ability not only to deal with this neighborhood,
8 but to deal with Queens as a whole and to deal
9 with outer borough neighborhoods. City Planning
10 seems to lack a sensitivity and a knowledge of the
11 neighborhood, and an inability to listen to
12 homeowners and long-term residents in a way that
13 reaches an equitable solution, which I will say,
14 I will vote for this, but because I think we need
15 to stop the spread of hotels in this neighborhood,
16 but it is far from a perfect plan, and it is
17 barely a good plan.

18 CHAIRPERSON AVELLA: Thank you
19 Council Member. I just want to clarify, because
20 it's not across the board for M 1-2 R 6-A areas.
21 There is an M 1-2 R6 area that's along 41st Avenue
22 that is not included in the increase from 3 to 4
23 FAR. Thank you. And before we vote on this item,
24 we'll now go to the Hospital for Special Surgery.
25 And if I can, Council Member Lappin, are you

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2 ready?

3 COUNCIL MEMBER LAPPIN: Thank you,
4 Mr. Chair. And I want to thank you for all of the
5 time you have spent on this individual item,
6 coming to my district, looking at the site,
7 talking to my constituents, meeting with them. I
8 appreciate the time and attention you placed on
9 this. I'm going to be brief. I am going to ask
10 my colleagues to support this item, which is the
11 Hospital for Special Surgery's application for a
12 proposed expansion of its campus. There is a
13 letter that we are submitting for the record from
14 the hospital to me, and I wanted to very briefly
15 touch on some of the items that are contained in
16 the letter. I think the Hospital for Special
17 Surgery is well known throughout this country and
18 the world as the preeminent hospital for what they
19 do. That said, the project is going to have
20 significant impacts on the neighborhood and it was
21 important for me for the Hospital to recognize
22 that and to do what it could to mitigate those
23 impacts, in terms of open space in particular,
24 because the Esplanade will be shut down; a portion
25 of the Esplanade will be closed during

1 construction, that they really take that into
2 account and find a way to give something back to
3 the neighborhood in terms of park space. So when
4 the project is completed, in terms of their
5 construction and the closure of the Esplanade,
6 they will be repaving or repairing the pedestrian
7 path. They will be installing a water fountain in
8 the vicinity of the 71st Street ramp, they will be
9 installing two ground hydrants per the Parks
10 Department's request, which will allow for
11 vegetation planting and trees, which they haven't
12 been able to put. And right now we have ugly,
13 empty tree pits. They'll be installing plantings
14 on the west side of the Esplanade and trees on the
15 east side of the Esplanade between 71st and 73rd,
16 painting the eastern sea rail and benches,
17 repairing or replacing fencing on the west side of
18 the Esplanade; and that will all take place in the
19 area between 70th and 78th Street, which is a
20 larger area than the immediate construction will
21 impact. So I think that's a very positive thing.
22 In terms of traffic, that was something we had a
23 lot of discussion about, in terms of this
24 application, and the hospital has agreed to both
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1 short term and longer term improvements, one of
2 which they've already done, which is hiring a
3 traffic security person on 71st Street, who is
4 there from 7:00 a.m. to 5:00 p.m. working to
5 maintain a positive traffic flow. They're also
6 going to shift 15% of their deliveries from 71st
7 Street to the loading docks on 70th Street.

8 They're going to build an area where they will be
9 able to take, off load, deliveries and then hold
10 them and distribute them throughout the hospital
11 later on throughout the day. They're going to be
12 removing the generator when the project is over,
13 and they will be-- well, that gives you a brief
14 sense of what they're going to be doing. I see
15 that one of the buildings that is impacted, the
16 Edgewater, has submitted this morning a letter to
17 the Chair of the Committee, Melinda Katz.

18 Unfortunately the Edgewater was not able to
19 negotiate design changes that they found adequate
20 with the Hospital, so that building and those
21 constituents are not going to be supporting this.
22 And while I am sympathetic and mindful of their
23 concerns, I think that overall the benefits of
24 this projects do outweigh those negative impacts.
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2 I think it's unfortunate that they weren't able to
3 negotiate a compromise, but I would ask for my
4 colleagues to support this application.

5 [Pause]

6 CHAIRPERSON AVELLA: Thank you,
7 Council Member. And I want to congratulate you on
8 the agreements that you worked on on this project.
9 I know you put a lot of time in it. And--

10 COUNCIL MEMBER LAPPIN:

11 [Interposing] Oh, and I forgot one more very
12 important thing, which wasn't in this, so we'll
13 make sure it's in the right letter-- \$20,000
14 contribution by the Hospital to an East River
15 Esplanade development fund, that will allow us to
16 do ongoing maintenance after they make their
17 improvements.

18 CHAIRPERSON AVELLA: And I
19 certainly share your concerns that we hope that
20 the Hospital continues to work with its neighbors
21 to resolve the outstanding issues. Council Member
22 Gioia has gotten a little more information from
23 City Planning while we were speaking, so I'll call
24 on him again.

25 COUNCIL MEMBER GIOIA: Thank you

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2 for your indulgence, Mr. Chair. I just wanted to-
3 - stay here so I can read your handwriting the
4 right way. So, it's essentially just to be clear,
5 because it's not up-zoning. The FAR is not
6 changing in the entire district. It's changing in
7 discreet parts of the district, 37th and 38th
8 Avenue and 41st Avenue, and also along 24th Street
9 is going from-- it's going from 3 to 4, with
10 height restrictions and use restrictions in order
11 to get the FAR. So you will not be able to do
12 commercial, you will not be able to do hotels and
13 in those, there will be a 70-foot height
14 restriction, because this is a-- I think the City
15 Planning term is an open plane area?

16 FEMALE VOICE: Sky exposure plane.

17 COUNCIL MEMBER GIOIA: Sky exposure
18 plane. It will not in fact be a 70-foot height
19 limit, but in essence the buildings will be
20 between 60 and 80 feet. Nevertheless the FAR will
21 not apply to commercial or hotels. The goal of
22 this is to allow the small business owners who
23 testified, people who have been in the
24 neighborhood for a long period of time to continue
25 to do their business, to have thriving businesses,

2 and to expand in the neighborhood without moving
3 out, but without bringing in new uses that I think
4 we all can agree have been incredibly detrimental
5 to the neighborhood.

6 CHAIRPERSON AVELLA: Thank you.
7 Before I ask Counsel to call the vote, I would
8 just make a comment about the Dutch Kills. I
9 think it's unfortunate that we didn't resolve
10 these issues earlier. And while I will recommend
11 approval of this, I'm not exactly happy with the
12 increase from 3 to 4 across the board the way it's
13 being done. But in the end, the community has
14 asked for something, the business community has
15 asked for something, and to get some protections
16 for their community we obviously have to pass this
17 today. So Chair recommends approval of Dutch
18 Kills with the modifications and the Hospital for
19 Special Surgery.

20 CLERK: Chairman Avella?

21 CHAIRPERSON AVELLA: Aye.

22 CLERK: Council Member Rivera.

23 COUNCIL MEMBER RIVERA: I vote aye.

24 CLERK: Council Member Felder.

25 COUNCIL MEMBER FELDER: Yes.

CLERK: Council Member Gioia.

COUNCIL MEMBER GIOIA: Can I have ten seconds, Mr. Chair; just beg your indulgence for a second? Thank you. This has really been a very difficult process. I want to thank the members of the community who took a tremendous amount of their time to not only go to Civic Association meetings but also go to City Planning, to come down to City Hall, to collect petitions. That is the best part of our democracy, standing up for your rights and for your neighborhood. The unfortunate part is when City Hall doesn't listen. And to the 32nd Street homeowners, the 30 homeowners who in my view have been mistreated during this process, I deeply apologize. I thank you for your efforts. I'll continue to stand with you as we move forward. And to City Planning, I will say clearly what this neighborhood has said loud and clear, is we need more housing, not more hotels. The City's lack of a policy on this issue and their, I think, desire to create mechanisms to prevent the building without just coming out for special permits or banning it, has really done this neighborhood a tremendous disservice. And I

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2 hope that the administration will learn from this
3 mistake moving forward. I vote yes.

4 CLERK: Council Member Jackson.

5 COUNCIL MEMBER JACKSON: May I be
6 excused to explain my vote, Mr. Chair?

7 CHAIRPERSON AVELLA: Yes, sir.

8 COUNCIL MEMBER JACKSON: Thank you.
9 First let me thank the community for both projects
10 that we're going to vote on today, coming out and
11 expressing their opinions and concerns about both
12 items. As I sat here and I listened to residents
13 and business owners and also residents in your
14 area, I got to understand what they were saying on
15 these particular projects, both of them, the one
16 in Queens and the one in Manhattan. And also,
17 listening to our colleagues, Eric Gioia and
18 Jessica Lappin about their specific opinions as
19 the Council Members who represent their particular
20 area. And obviously not being involved in the
21 negotiating process, as a Council Member who's not
22 directly involved but must vote on this particular
23 matter, I normally would take my lead from them as
24 to what their opinions and thoughts are. And
25 obviously they've been in constant communication

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2 with the parties involved and have expressed here
3 this morning agreements in order to move forward
4 all things considered. Based on their lead and
5 the Chair's recommendation, I vote aye on all.

6 CLERK: Council Member Katz.

7 COUNCIL MEMBER KATZ: I'd like to
8 explain my vote?

9 CHAIRPERSON AVELLA: Yes.

10 COUNCIL MEMBER KATZ: First off,
11 I'd like to congratulate and thank Council Member
12 Lappin for all the work that she did on the
13 Hospital for Special Surgery. It wasn't an easy
14 task and I think the project is the best that it
15 can be because of her and the negotiations that
16 she has accomplished. So, I look forward to
17 voting aye on that. The second thing is Dutch
18 Kills. I have to tell you, I have been Chair of
19 the Land Use Committee now for seven years. I am,
20 first of all I want to congratulate Council Member
21 Gioia, I think, for working on this rezoning. And
22 I think that as a whole, this rezoning is going to
23 be a great thing for the community at large. I am
24 surprised that we were not able to at least work
25 with City Planning to at least say that they will

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2 look in the future regarding 32nd Street. And I
3 wanted that to be on the record, because it is a
4 little bit surprising when we negotiate something
5 so large and such a good thing for a community and
6 at least not have that type of cooperation where
7 you come back and say, well, you know, you don't
8 know what the economy is going to be like in six
9 months, you don't know where we're going to be in
10 six months, you know, let's take a look at it
11 again. And we were told that that wasn't going to
12 happen. So in addition to not doing the fuca
13 [phonetic], I would preferred to have some sort of
14 an agreement to at least review the topic again.
15 And I know that the Council Member would have
16 preferred that as well. But as we always do in
17 these decisions on land, Mr. Chair, as you said,
18 you know, you need to look at the whole and what
19 it's going to accomplish for the community. And I
20 think as a whole, it is better to have this
21 rezoning than not. So I vote aye on the agenda
22 today.

23 CLERK: Council Member Seabrook.

24 COUNCIL MEMBER SEABROOK: I vote
25 aye.

CLERK: Council Member Sears.

COUNCIL MEMBER SEARS: If I may be excused to explain my vote? As so many of you were here for the hearing last week, at the end of it I had really proposed that they go back to the table and look at the various things that were very major issues. I have to thank Councilman Gioia, because although it is not my district, I have known it for many years, and I knew that he would be able to somehow bring the troops together. So I'm pleased that it has worked out to the-- you know, to the agreement to the residents as well as to the manufacturers. I have to say for the stubbornness of the City Planning Commission, its firmness in an issue like 32nd Street, where they are unmovable and unbendable is really a very unwanted position when the City and communities have to work together. And if Councilman Gioia couldn't do that, they're just not, not even-- look, and when we left last week I really asked them to take a look at that, because I knew somehow there had to be a compromise. Well there isn't for that street, and the residents on it are just not getting what they really wanted,

2 and I think we're all sorry about that. And
3 perhaps down the line all we can do is see if City
4 Planning will look at it and probably be a thorn
5 on their side. I vote aye.

6 CLERK: Council Member Vann on this
7 and previous item?

8 COUNCIL MEMBER VANN: I vote aye.

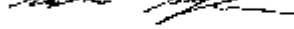
9 CLERK: By a vote of nine in the
10 affirmative, none in the negative, no abstentions,
11 LU 819, 841, 842, 843 are approved and referred to
12 the Land Use Committee. LU 882 and 883 are
13 approved and referred to City Planning.

14 CHAIRPERSON AVELLA: Thank you
15 everyone. This finally closes the meeting of
16 Zoning and Franchises.

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C E R T I F I C A T E

I, Erika Swyler 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 October 16, 2008 _____