

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON ZONING AND FRANCHISES

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June 2, 2009
Start: 9:58 am
Recess: 12:43 pm

HELD AT: Council Chambers
City Hall

B E F O R E:
TONY AVELLA
Chairperson

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

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

Eric Palatnik
Columbia Street Commercial Enterprises

David Woloch
Deputy Commissioner for External Affairs
New York City Department of Transportation

Franco Esposito
Associate Counsel
NYC DOT

Len Garcia-Duran
Staten Island City Planning Director

Tom Wargo
Zoning Director
Department of City Planning

James Miraglia
Deputy Director
Department of City Planning

Adam Wolff
Deputy Director of Manhattan Office
Department of City Planning

Melissa Cerezo

Steve Wygoat
Pietra Santa

Jean-Daniel Noland
Manhattan Community Board Four

John Young
Director for the Queens Office
Department of City Planning

Mandy Ikert
Department of City Planning

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

Mark Silverman
General Counsel
Landmarks Commission

Sarah Carroll
Director of the Preservation Department
Landmarks

Catherine O'Flaherty

Herbert Reynolds
Sunnyside Gardens Preservation Alliance

Sherrie Gamlin

Selvin Gutar

Ira Greenberg

Deepmar Debearing

Lou Venich

Judith Sloan

Elizabeth Reynolds

Lauren Belfer

Christabel Gough

Jeffrey Cressler

Margarite Bessant

Abraham Marcus

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2 CHAIRPERSON AVELLA: Good morning
3 everyone, I'd like to call this meeting of the
4 Subcommittee of Zoning and Franchises to order.

5 Joining me are Council Member
6 Simcha Felder, Melinda Katz in the back, Robert
7 Jackson, and Al Vann, and I'm the Chair, Tony
8 Avella.

9 We have a number of items on the
10 agenda. First, let me state for the record that
11 Dock Street, the Dock Street proposal will not be
12 voted on today, we are laying that over to June
13 4th, immediately before the Land Use meeting. We
14 will also be laying over the vote on Fordham
15 University to June 4th. So if you're here for
16 those items, if you'd like to stay around for the
17 rest of the hearing, that's fine, but the vote
18 will not be held on those two items.

19 The first item I'd like to call up
20 is 111 Union Street rezoning. Is Eric Palatnik
21 outside? Eric? Let's go. C070504ZMK.

22 Application submitted by Columbia Street
23 Commercial Enterprises for an amendment of the
24 zoning map establishing within an R6 district a
25 C2-3 district, bounded by a line 100 feet

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2 northeasterly of Union Street. This lies within
3 Council Member de Blasio's district.

4 Eric, you're on.

5 MR. ERIC PALATNIK: Good morning.
6 Good morning, I know you have a busy agenda, so
7 I'll be as brief as possible.

8 This is essentially a privately
9 sponsored follow-up corrective action to a 1996
10 rezoning of a property at the corner of Elite and
11 Columbia Street in Brooklyn, it's just off of the
12 BQE as it cuts under over to Red Hook, if you were
13 coming from City Hall here.

14 The property was rezoned in 1996
15 from M1 to R6, with a C2-3 overlay. When they did
16 the rezoning, they only extended it 100 feet deep
17 off of the main avenue instead of 150 feet, as was
18 the intention with HPD and pursuant to the site
19 development agreement by which the developer was
20 building affordable housing on the property.

21 It was picked up about three years
22 ago at the Board of Standards and Appeals by
23 Meenakshi Srinivasan when we made an application
24 for a special permit to legalize a gym that's in
25 the space that you see in the photo right there.

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2 And Meenakshi looked at the zoning map and said
3 you're not zoned properly, and we called City
4 Planning, we talked to HPD and everybody realized
5 a mistake was made. We made the application, it's
6 gone before Councilman Bill de Blasio in meetings,
7 he supported the application. We met with the
8 Community Board, they overwhelmingly supported the
9 application, as well as the borough president who
10 has overwhelmingly supported the application.

11 When we're done here, we'll go back
12 to the Board of Standards and Appeals to complete
13 the special permit for the gym that's in the space
14 right now.

15 That's our application: to extend
16 the commercial overlay 50 feet from where it
17 currently is and shown right there.

18 CHAIRPERSON AVELLA: So just to
19 reemphasize, this is to correct an
20 oversight/mistake that was made when the area was
21 last rezoned.

22 MR. PALATNIK: Yes, correct.

23 CHAIRPERSON AVELLA: And everybody
24 is in favor of it, including Council Member de
25 Blasio.

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MR. PALATNIK: Correct.

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CHAIRPERSON AVELLA: Any questions from committee members?

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Is there anyone signed up to speak on this item? Seeing none, I'll close the public hearing.

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MR. PALATNIK: Thank you all for your--

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CHAIRPERSON AVELLA: Thank you, Eric.

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MR. PALATNIK: --thank you all for your time.

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CHAIRPERSON AVELLA: Next item I'd like to call up is Intro 979, a Local Law to amend the New York City Charter in relation to authorizing the Department of Transportation to extend the expiration date of the operating authority of certain unsubsidized private bus services, and we go through this every year.

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And I see we've also been joined by Council Member Eric Gioia, member of the committee.

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Let's go.

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DEPUTY COMMISSIONER DAVID WOLOCH:

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2 Okay. Good morning, Chairman Avella and members
3 of the Zoning and Franchises Subcommittee. My
4 name is David Woloch, Deputy Commissioner for
5 External Affairs at the New York City Department
6 of Transportation and with me here today is Franco
7 Esposito--

8 CHAIRPERSON AVELLA: [Interposing]
9 Could I have some quiet in the room? Go ahead,
10 I'm sorry.

11 DEPUTY COMMISSIONER WOLOCH: --
12 Franco Esposito, Associate Counsel at DOT. Thank
13 you for the opportunity to be here today to
14 discuss Intro 979, a charter amendment authorizing
15 DOT to extend the date of the operating authority
16 for two unsubsidized private bus services.

17 In 2006, the Committee approved
18 Authorizing Resolution number 838-A, which allows
19 DOT to award competitive franchises for two
20 unsubsidized bus services, one which transports
21 approximately 800,000 passengers annually from
22 Manhattan to LaGuardia and Kennedy Airports and
23 between these airports, currently run by Private
24 One of New York, New York Airport Service, and one
25 which transports approximately 570,000 passengers

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2 annually between Williamsburg and Borough Park in
3 Brooklyn, currently run by Private Transportation
4 Corp. Competitive solicitation will offer the
5 opportunity for companies with the best overall
6 proposal to operate these services.

7 DOT is in the process of finalizing
8 the RFPs to solicit proposals for these
9 franchises. Given the time period needed to
10 evaluate RFPs and negotiate a final contract, we
11 are seeking an extension to the existing
12 franchises to ensure that the New Yorkers who
13 depend on these buses will not experience a
14 disruption in service.

15 In accordance with Local Law 30 of
16 2008, the operating authority of these
17 unsubsidized bus services will expire at the end
18 of the month, and therefore we urge the Council to
19 support Intro 979, which will allow DOT to proceed
20 to the Franchise and Concession Review Committee
21 to extend the expiration date of these franchises
22 until June 30th, 2010.

23 Thank you for your consideration of
24 this bill, and we'd be happy to answer any
25 questions that you have.

CHAIRPERSON AVELLA: Thank you.

I've lost track of how many times we've done this extension. We wish we would resolve this once and for all, but any questions from committee members? Seeing none, thank you.

I see no one signed up to speak on this item, is that correct? Seeing none, I'll close the public hearing on this item.

And I'll ask City Planning to come up and talk about two of the items that have citywide implications. First one is cross access text amendment 9090185ZRR and then immediately after that, we'll have you do the presentation on the privately owned public plazas text amendment 9090317ZRY.

MR. LEN GARCIA-DURAN: Right here. Good morning, Council Members, Chair Avella. My name is Len Garcia-Duran, I'm the Staten Island City Planning Director. I'm joined by Tom Wargo, Zoning Director for the Department of City Planning and James Miraglia, our Deputy Director.

Our Cross Access Text Amendment is a recommendation of the Mayor's Growth Management test--Staten Island Growth Management Task Force.

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2 The task force was established as a forum for
3 Staten Island electeds, civics, and city agencies
4 to tackle issues related to overdevelopment and
5 identify actions to protect the character of the
6 borough's neighborhoods.

7 This proposed text amendment was
8 referred out by the City Planning Commission for
9 public review on January 20th, 2009. The proposed
10 text received favorable comment, but several
11 recommendations were suggested to allow
12 flexibility for property owners. Three
13 modifications have been made to the proposed text.

14 The borough president and all three
15 Community Boards recommended the proposed text
16 amendment be adopted.

17 And with that, I'll throw it to
18 James Miraglia to actually walk you through the
19 text.

20 MR. JAMES MIRAGLIA: Well as Len
21 said, it was a recommendation of the Mayors to
22 Staten Island Transportation Task Force. The idea
23 of the proposal is to reduce traffic on main
24 arterial roads by allowing traffic to move between
25 retail developments. Most developments are not

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2 required to have access between parking lots and
3 this would solve that.

4 The cross access would have to be a
5 continuation of a travel lane, it would have to be
6 22 feet wide, it would have to be at least 23 feet
7 away from a street. Any landscaping where the
8 cross access is provided between parking lots
9 could be waived and it couldn't be at a 15% grade
10 or greater because it would not be a safe
11 condition.

12 It's applicability would be C4-1,
13 C8 and M districts in Staten Island. It would
14 apply to parking lots as referred, it would apply
15 to parking lots of 18 spaces or 6,000 square feet
16 of parking area, it would also apply to
17 enlargements that achieve that threshold. It
18 would be provided at all zoning lot lines where
19 they are coincident with at least 60 feet with
20 another zoning lot.

21 The process by which this would
22 happen is through a City Planning certification, a
23 chair certification that would certify that all
24 six of those criteria are met--that they're 22
25 feet wide, that they're an extension of a travel

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2 lane, etc.

3 So basically it's a two-step
4 process, the first lot, say there's two vacant
5 lots next to each other, the first lot develops,
6 it records an easement where the cross access will
7 be and builds it out, this is how this text was
8 referred. The second zoning lot next door, when
9 it develops or enlarges, it could be years later,
10 it would have to connect through to that.

11 As Len said, we did have some
12 modifications at the City Planning Commission
13 because of public comments from the borough
14 president's office and various groups, and one of
15 the changes is that the access, instead of being
16 recorded--

17 CHAIRPERSON AVELLA: Speak into the
18 mic, please.

19 MR. MIRAGLIA: The access, instead
20 of being recorded only at one travel lane, would
21 have to be recorded at all three travel lanes, but
22 not be built out. Therefore, when zoning lot B
23 develops, they would have the option of locating
24 their building anywhere on the zoning lot by
25 picking one of the travel lanes, it gives the

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2 second developer much more flexibility where to
3 develop. As referred, the first zoning lot in,
4 kinds of locks the second developer into a
5 situation that may not work for that site.

6 The second modification was to
7 increase the threshold of applicability. Right
8 now, it applies to 18 spaces or 6,000 square foot
9 of open parking area. We want to increase that
10 to--the Commission increased that to 36 spaces or
11 12,000 square foot of open area because we felt
12 that the smaller parking lots would lose too much
13 parking because of cross access.

14 And the final modification was to
15 allow this whole process to apply to two existing
16 developers who would like to take advantage of the
17 certification.

18 Thank you.

19 CHAIRPERSON AVELLA: This is
20 obviously a good proposal that one point that I
21 made when you gave me the briefing on this issue,
22 which I'll make on the record here today is, why
23 is it only for Staten Island? This is an issue
24 that has come up in other parts of the city and it
25 should be, I think, citywide text. For example,

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2 in my own council district where we have a number
3 of large shopping centers, it took myself and the
4 Community Board 15 years, 15 years to get an
5 access between the two shopping center parking
6 lots. I think you'll find that in other council
7 districts this is an issue too and it makes sense
8 for people to be able to drive from one parking
9 lot to the next when they're right next to each
10 other, rather than clogging up local streets.

11 So I ask you, officially as the
12 Chair of this Committee, to look at this issue
13 citywide.

14 Any questions from committee
15 members? Council Member Jackson.

16 COUNCIL MEMBER JACKSON: Well thank
17 you. And I was listening to the presentation and
18 I was listening to your comment about taking 15
19 years and I guess the question is, why isn't this
20 citywide? It seems as though that you're doing it
21 just on this project or project by project, if in
22 fact the goals and objectives is to reduce the
23 number of vehicles using curb cuts and reducing
24 the potential conflicts between pedestrians and
25 vehicles and all of the goals and objectives that

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2 are outlined here are very good, I don't think
3 anyone disagrees with that, but why isn't it
4 citywide?

5 MR. TOM WARGO: Well, Councilman,
6 I'm Tom Wargo, I'm the Director of the Zoning
7 Division. We were asked to look at this issue
8 from the Staten Island borough president's task
9 force. We looked at it for Staten Island because
10 Staten Island has large tracts of undeveloped
11 property, more so than any other borough in the
12 city, so we felt that it was something that could
13 work for Staten Island, given the fact that
14 there's a lot of large tracts that are not yet
15 developed and this regulation would only kick in
16 at the time of development.

17 But we hear your comments about
18 that there may be applicability in other areas of
19 the city and we will go back--we did a quick look
20 at the other boroughs before we referred this out
21 and found that, at a quick look, there was not
22 very much opportunity for two new shopping centers
23 to be built side by side that could take advantage
24 of this cross access, but we will go back and take
25 a closer look at it.

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2 COUNCIL MEMBER JACKSON: But even
3 if there were two shopping centers that were not
4 being developed but that are in place, but it
5 still has the same problem, couldn't the community
6 board or the owners of the properties, anyone else
7 put forward some changes in order to make that
8 accessible as per what Tony talked about?

9 MR. WARGO: Well the regulations
10 only apply at the time of development or
11 enlargement, they're not retroactive.

12 COUNCIL MEMBER JACKSON: Do we need
13 to change the regulations, change the law then? I
14 mean, if the goals and objectives are easy access
15 and safety, if that's the goals and objectives,
16 should we just change the law then to make it
17 easier that way?

18 MR. WARGO: Well zoning typically
19 does not apply retroactively to properties, it
20 only applies going forward.

21 COUNCIL MEMBER JACKSON: I'm sorry-

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23 [Off mic]

24 MR. WARGO: Yeah, as part of the
25 commission changes, there was a modification made

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2 to allow to developers who are not enlarging or
3 constructing new to do it voluntarily. And so the
4 ability to do it voluntarily exists, you know, as
5 part of this application. In reality there's no
6 reason why two property owners in the Bronx, for
7 instance, couldn't do it voluntarily either.

8 COUNCIL MEMBER JACKSON: If they
9 were developing, if they're developing.

10 MR. WARGO: Well even if they're
11 not, if they're just existing and they want to
12 connect, they can connect so long as they don't
13 lose any required parking spaces.

14 COUNCIL MEMBER JACKSON: Okay.
15 Okay, all right. Well thank you, I appreciate it.
16 Thank you.

17 CHAIRPERSON AVELLA: Well. Thank
18 you for those follow-up questions, Council Member
19 Jackson.

20 Again, I ask you to go back and
21 take a look at this because the impact that it has
22 is tremendous when you take all these cars off the
23 street. And I can tell you the situation in my
24 Council district and I worked on it before I was
25 elected to the Council and I worked on it

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2 afterward with the Community Board and 15 years,
3 and it has made a dramatic impact. So even if
4 there is one or two shopping centers throughout
5 the entire city, outside of Staten Island, why not
6 do it? Okay, thank you.

7 Any other questions?

8 Thank you.

9 On this item, I see no one signed
10 up to speak on this specific item, is that
11 correct? Seeing none, I will close the hearing,
12 and we'll move on to the public, privately owned
13 public plazas.

14 [Off mic]

15 CHAIRPERSON AVELLA: Yeah, okay.

16 [Pause]

17 MR. ADAM WOLFF: Thank you. Good
18 morning, Council Members, Chair Avella. My name
19 is Adam Wolff, I am the Deputy Director of
20 Manhattan office, Department of City Planning. I
21 am joined today by Melissa Cerezo [phonetic], who
22 is the planner and project manager for the
23 proposed text amendment for the privately-owned
24 public spaces, which in essence is a fairly
25 targeted zoning text amendment to the more major

1
2 overhaul of the design regulations for privately
3 owned public spaces that was approved in 2007.

4 I'm going to turn it over to Melissa Cerezo, who
5 will walk you through the presentation. Thank
6 you.

7 MS. MELISSA CERESO: Good morning,
8 Council members I have a PowerPoint presentation
9 that we can flip through together and I'll take
10 you through the proposal.

11 So, as Adam was saying, this is a
12 very targeted minor text amendment that focuses on
13 the 2007 text amendment regarding privately owned
14 public spaces that was approved by the City
15 Council in October 2007. We're going back to this
16 text in order to tighten it up to make some
17 clarifications and improvements, all toward
18 improving the quality and utility of public
19 spaces. This will facilitate designs of public
20 spaces that are open, inviting, accessible, and
21 safe. So again, this is very much targeted to
22 very specific proportions of those design
23 regulations.

24 Before I move on, I'm just going to
25 comment on the public review after the City

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2 Planning Commission referred this application on
3 February 17th to the applicable Manhattan
4 Community Boards and also in Brooklyn and Bronx.
5 Manhattan Community Boards 1 through 8 and 10 and
6 12 all recommended approval of this text, as well
7 as Brooklyn Community Board 2.

8 So the next slide, which is slide
9 two, just focuses on the portions of the text that
10 we are amending, sidewalk frontages, seating,
11 planting, signage, compliance and we'll go through
12 each of these items briefly.

13 Slide three shows the applicability
14 of the plaza bonus. As you can see in the red,
15 plaza bonus is available in the most highest
16 density districts in the city to provide light and
17 air.

18 Moving on to slide four, the
19 treatment of the area right next to the sidewalk--

20 CHAIRPERSON AVELLA: [Interposing]
21 Can you just go a little slower--

22 MS. CEREZO: Okay.

23 CHAIRPERSON AVELLA: --because
24 maybe you know this, but we don't.

25 MS. CEREZO: Sure, no problem.

CHAIRPERSON AVELLA: Okay.

MS. CERESO: So at slide four, it's the sidewalk frontage. This is the portion of the text that focuses on the design regulations within the plaza that's right at the sidewalk. This area is very important for the success of the public plaza to ensure that it's open, inviting, and accessible. Elements in that area within the first 15 feet of sidewalk are required to be low, however, attractive elements such as these green walls, you can see on the right-hand picture are disallowed and the proposed text would allow elements that are above two feet, so long as they are against a plaza wall.

Moving to slide five, planting is a very important amenity in public plazas, not only does it have environmental and aesthetic benefits, but it also softens up the hardscape of the city and so we want to ensure that plazas contain adequate amount of planting. and that doesn't just include trees, that includes planters.

Following slide shows our existing regulations and how our planting regulations play out. As you can see on the right-hand side, a

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2 plaza with all trees. Essentially, we have a
3 minimum amounts of trees in each plaza, which is
4 four, after which you can choose one landscaping
5 option--either additional trees or planting. So
6 as you can see on the right-hand side, you could
7 choose all trees, which shows that no planting is
8 required.

9 In the following slide, slide
10 seven, the left-hand slide shows, a plaza that
11 could potentially happen with no planting and all
12 trees. On the right-hand side shows our
13 requirement of 20% ground-level planting, which
14 you can see really breaks up the hard services of
15 plaza and that is our proposal for planting.

16 Slide eight is regarding signage
17 within the plaza. The proposed text would
18 clarify some of the signage regulations which are
19 a little bit unclear. We allow typically signage
20 that's on a building related to retail that fronts
21 on a plaza. Right now there's maximum of three
22 signs required, we would propose one sign per
23 establishment, such as in the case of a plaza that
24 may have four establishments fronting on a plaza,
25 then one sign per established would be able to fit

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2 that.

3 Moving on to signage, slide nine.
4 When signage is provided on a signpost in the
5 plaza and it's related to the building itself,
6 it's an accessory signage post. We would ensure
7 that this sign is short and skinny in order to
8 have direct visibility and accessibility into the
9 plaza to ensure openness, and so we would have a
10 height and width requirement for that sign.

11 The following slide, slide 10, with
12 regard to the pop [phonetic] signage, which is
13 that tree design that you see on that freestanding
14 sign. The pop sign is a required sign in a plaza
15 to ensure that right at the sidewalk, you can see
16 that this is a public space open to the public
17 with the branding of the tree symbol in all of our
18 pop spaces. Now there's no height limit on that
19 sign and there's no width limit today, we would
20 require a maximum height of 6 feet and a maximum
21 width of 16 inches in order to, again, preserve
22 openness and visibility right into the plaza.

23 Moving on to approval, slide 10,
24 today, for 2007 plazas--

25 [Off mic]

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2 MS. CEREZO: Slide 11, that's
3 right, sorry about that.

4 2007 plazas moving forward are
5 required to, at the time of their approval, record
6 their plans with the Department of Finance so that
7 on aggress, you could, as a number of the public,
8 pull up the plans and see what are the required
9 amenities, and it would encourage public
10 enforcement of these spaces.

11 And then a second requirement would
12 be every three years after receiving your approval
13 for the public plaza, you would be required to
14 provide to the Department of City Planning,
15 Director City of Planning, and also the affected
16 Community Board a report stating that you are in
17 compliance and that's supported by photographs and
18 also an inventory of required amenities.

19 So the proposed text would require
20 that plazas, existing plazas that are redesigned
21 follow these same two requirements, so that not
22 only new plazas moving forward would have to abide
23 by these compliance requirements, but that
24 existing plazas when they come in for a
25 significant design change would do the same.

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2 CHAIRPERSON AVELLA: What happens
3 in the scenario that they don't comply? What's
4 the enforcement action?

5 I guess in the very beginning, it's
6 easier, but let's say that they get permission,
7 they do the right thing, but then after the first
8 two years, they just let it lax, they close it
9 off, or they don't follow the regulations, what's
10 the enforcement action?

11 MR. WOLFF: Well it's essentially a
12 zoning noncompliance action, so it'd go to the
13 environmental control board as well as
14 noncompliance, and usually a fine, I think would
15 be administered there, but I can...

16 CHAIRPERSON AVELLA: The reason I
17 asked the question is because if it follows the
18 normal ECB, Department of Buildings enforcement
19 action, the violation could be nothing as compared
20 to the value of closing off a public piazza. So
21 that you know, maybe we need to take a look at
22 increasing the fines because they get \$1,000 fine,
23 they could obviously just eat it forever and the
24 public would be lost to have anything to do about
25 it.

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2 MR. WOLFF: No, we'll take that
3 into consideration, I think it's a fair point,
4 thank you.

5 CHAIRPERSON AVELLA: Questions from
6 my colleagues.

7 Council Member Jackson.

8 COUNCIL MEMBER JACKSON: Thank you.
9 Thank you, Mr. Chair. I'm looking at slide number
10 three, and I see all of the areas where plaza
11 bonuses are applicable.

12 MS. CEREZO: Yes.

13 COUNCIL MEMBER JACKSON: And you
14 had indicated in your presentation or your
15 colleague did that Community Boards 10 and 12,
16 which are part of my Councilmatic district in
17 northern Manhattan, and I was looking up in the
18 northern part of Manhattan on slide number three
19 in the area of 112 and there's one red area, do
20 you know what area that is? Specifically?

21 MR. WOLFF: In Community District
22 12.

23 MS. CEREZO: I'm not aware of the
24 address itself, but it's a high density commercial
25 district--

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COUNCIL MEMBER JACKSON: Okay.

MS. CEREZO: --that would allow for an 10 FAR, which is the highest density allowed and it's, I think, only applicable on two or three blocks within that district, in district 12. But I could verify definitely which--

COUNCIL MEMBER JACKSON:

[Interposing] Now you would have a list of privately-owned public plazas that are referred to in this text amendment, is that correct?

MR. WOLFF: Yes, well, we do have a list of all the existing public plazas that have already been built. This, of course, text, I think it would again apply to plazas that are developed from this point forward, and then the one provision would be that if there are existing plazas that come in for design changes, basically complete overhauls of--

COUNCIL MEMBER JACKSON:

[Interposing] Then they must adhere to this.

MR. WOLFF: --then this would also apply to them as well so--

MS. CEREZO: Compliance--

MR. WOLFF: --compliance reporting,

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2 not--sometimes you have existing plazas where it's
3 difficult to, because of existing conditions, to
4 meet every single design criteria and guideline in
5 the proposed text, so just the reporting
6 requirement would apply to the existing plazas
7 that go through design changes. But we do have a
8 list of, yes, of existing ones and we also have
9 ones that have been approved since 2007, which was
10 the major overhaul of the design revisions and
11 then, again, this is the more targeted follow-up
12 to that action.

13 COUNCIL MEMBER JACKSON: Okay. And
14 you say that this was approved by all of the
15 boards that you cited, more specifically, I think
16 boards 10 and 12 and that approval happened this
17 calendar year, I assume?

18 MR. WOLFF: Yes.

19 MS. CEREZO: Yes.

20 COUNCIL MEMBER JACKSON: Okay. Is
21 it possible that later that you can e-mail me a
22 list of the private public plazas and Community
23 Boards 9, 10, and 12?

24 MR. WOLFF: Sure.

25 COUNCIL MEMBER JACKSON: Okay,

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thank you.

MS. CEREZO: There are no--

COUNCIL MEMBER JACKSON: Go ahead,
no, go ahead, I'm sorry, what?

MS. CEREZO: --there are no public
plazas that are in Boards 9, 10, and 12 currently.
However, they could be developed as per the zoning
districts that are available in those districts.

COUNCIL MEMBER JACKSON: Okay.
Well I mean go back and see what you have, if
there's--

MR. WOLFF: Okay.

COUNCIL MEMBER JACKSON: --none,
there's none; if there are, there are.

MS. CEREZO: Okay.

COUNCIL MEMBER JACKSON: Just give
me a list of whatever exists, if any at all.
Thank you. Thank you, Mr. Chair.

CHAIRPERSON AVELLA: Now I think
Council Member Jackson brings up an important
point, could this Committee get a list of all the
public plazas citywide? I think that would be
helpful to attach to this item, so if issues come
up in the future, we'd have that list.

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2 MR. WOLFF: Of course.

3 CHAIRPERSON AVELLA: Any other
4 questions from committee members? Council Member
5 Felder.

6 COUNCIL MEMBER FELDER: Good
7 morning. This is a wonderful plan. I was just
8 wondering in your planning whether security
9 concerns were taken into consideration. And with
10 who.

11 MR. WOLFF: Essentially, I mean
12 actually many of the design goals and the
13 requirements for the way seating where is seating
14 is located and the orientation of plazas are
15 designed so that they ensure better safety and
16 actually visibility into the plaza, which is a
17 major kind of deterrent for criminal activity or
18 what have you.

19 So that's something that's
20 definitely taken into consideration and I think
21 all of the rules basically are there to try to
22 encourage more use of the plaza by the public,
23 which also is another deterrent. So I think
24 without actually--I would say yes, we've thought
25 about safety as an issue and mostly through the

1
2 design regulations and design guidelines that
3 we've put into the zoning text.

4 COUNCIL MEMBER FELDER: Right, so I
5 just want to know when you went through that
6 process, did you consult with somebody who's an
7 expert on this area?

8 MR. WOLFF: I mean, to answer your
9 question, I didn't personally, I don't believe the
10 Manhattan office has, I could ask if others in the
11 division who worked on this or in the department--

12 [Crosstalk]

13 COUNCIL MEMBER FELDER:
14 [Interposing] No, I'm not questioning--

15 MR. WOLFF: --but--

16 COUNCIL MEMBER FELDER: --the
17 purpose of my questioning wasn't to make an issue
18 about your proposal, but sometimes, as a result of
19 discussions, something enters your mind and I'm
20 just wondering prospectively in just to complicate
21 applications further, whether there is any
22 constructive purpose, especially in large
23 proposals, to have a security expert, somebody,
24 whether it's from the police department, certainly
25 with issues of terrorism, be a part of a larger

1
2 type of proposal. I could have asked the same
3 question to the Staten Island people, but they
4 asked me to ask you instead. Thank you.

5 MR. WOLFF: Thank you.

6 CHAIRPERSON AVELLA: Seeing no
7 other questions, thank you.

8 MR. WOLFF: Thank you.

9 CHAIRPERSON AVELLA: I see no one
10 signed up to speak on this item, is that correct?

11 Seeing none, next item I'd like to
12 call up is the Corner 47 Restaurant application.
13 Application by Corner 47 Restaurant Corporation
14 for a permit to operate an unenclosed sidewalk
15 café located at 683 9th Avenue in Manhattan.
16 20075505TCM. I know the applicant is here.

17 [Pause] Yeah, yeah, let's, where is he? Okay.

18 [Off mic]

19 CHAIRPERSON AVELLA: Yeah, where's
20 Steve? I thought he signed up.

21 MALE VOICE: He did.

22 [Pause]

23 CHAIRPERSON AVELLA: After this
24 item, we will be going to the Sunnyside Gardens
25 application which will be the last application.

MALE VOICE: That's the one that I gave you.

CHAIRPERSON AVELLA: Yeah, this one.

MALE VOICE: Well this is the one before.

[Pause]

MR. STEVE WYGOAT: Is it on? Okay. Good morning, my name is Steve Wygoat [phonetic], I'm an architect and I represent Pietra Santa, Corner 47th Restaurant Corp. Next to me, who will speak, Patrick Lima [phonetic], one of the owners of the restaurant.

Thank you for having given us this opportunity to be in front of you. We had made an application in February of 2007 for an enclosed café, it's on the corner of 47th Street and 9th Avenue. It's actually the enclosure is on 47th Street only, it is not on 9th Avenue. Since February 2007, we've been asked several times--we were approved by City Planning for the configuration that we had, which was seven tables and 20 seats. Department of Consumer Affairs asked that the design be revised due to

1
2 regulations that they interpreted as being
3 required. Although, even though the City Planning
4 approved it, we reduced the design of the café to-
5 -the enclosure to five tables and 11 seats, it
6 went back to City Planning and it was approved
7 again by City Planning with the smaller reduced
8 design, and that was two years later.

9 This process is taking quite some
10 time to develop. We have been talking to--this is
11 in Speaker Quinn's district, we've been talking to
12 them about a further reduction, we have a letter
13 that I prepared to submit to the Speaker's office
14 and it reads as follows: Dear Carmen, In regards
15 to Pietra Santa enclosed sidewalk café, we are
16 hereby authorized by the owner to modify the
17 design to reduce the seats to four tables and nine
18 chairs and provide the required 10 foot clearance
19 from the fire hydrant. Revised drawings will be
20 filed with the Department of Consumer Affairs as
21 required.

22 Although as you know, we've done
23 quite a lot of sidewalk cafés, we've always been
24 led to believe that the clearance for the fire
25 hydrants was 8 feet, there was some kind of a

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2 verbal understanding on that, but the laws clearly
3 state 10 feet, so we are obliging--we're not
4 obliging, we're conforming to the requirement.

5 So it's been a bit of confusion,
6 but we're willing to--not willing but we will
7 conform to the requirements.

8 We know that there's been
9 opposition from the Community Board, Community
10 Board I think is here to speak. Mr. Lima and his
11 partner, *Ciro* [phonetic], own--how many
12 restaurants do you own there?

13 MALE VOICE: Ten.

14 MR. WYGOAT: They own 10
15 restaurants in this community and they employ
16 about 80 people, and they've been in this
17 community for quite a long time.

18 This particular restaurant has a
19 seating capacity of 60?

20 MALE VOICE: Sixty people.

21 MALE VOICE: Sixty people, nine
22 people would add a 15% increase in their capacity,
23 which is important these days.

24 They've been in the community for
25 years and years and years. They've helped the

1
2 community in many different ways by keeping
3 active, legitimate restaurant businesses and
4 employing local people.

5 One of the things that Mr. Lima and
6 his partner Ciro are considering is an agreement
7 to withdraw the application for the enclosed café,
8 in return for an agreement to allow an unenclosed
9 café, which actually would take the same amount of
10 space on the sidewalk, but there would be no
11 enclosure and no permanency or a quote unquote
12 permanency. Being that this was filed over two
13 years ago, February of '07, Mr. Lima is willing to
14 withdraw if there was a way to get active on the
15 unenclosed café immediately, we're in the season
16 right now. So that would be something that could
17 work, if it could be worked out, we don't know. I
18 mean we have no idea on whether that could be
19 worked out.

20 Otherwise, you know he's here to
21 just kind of keep his business going. I don't
22 know of any other things to talk about and say,
23 but we would like to continue with the application
24 otherwise.

25 CHAIRPERSON AVELLA: I understand

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you only have one copy of that letter--

MR. WYGOAT: I do.

CHAIRPERSON AVELLA: --to Quinn?

MR. WYGOAT: I do, I have one copy-

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CHAIRPERSON AVELLA: [Interposing]

Well we'd like to have a copy.

MR. WYGOAT: Sure.

CHAIRPERSON AVELLA: If we can make

some copies before you leave--

MR. WYGOAT: Sure.

CHAIRPERSON AVELLA: --that would

be helpful.

MR. WYGOAT: Okay. No problem.

CHAIRPERSON AVELLA: Any questions

from committee members? We do have one speaker

from the Community Board signed up to speak on

this item. Council Member Jackson.

COUNCIL MEMBER JACKSON: Concerning

the applicant's request in order to possibly move

from an enclosed seating area outside of his

establishment to an enclosed, overall, I just

think that an unenclosed would be better overall

from a space point of view, and I was wondering

1
2 whether and not his request is a possibility to
3 happen, that's one question that I have.

4 And also the second question I have
5 is who's Councilmatic district is this in and what
6 is the Council Member's position on this
7 particular matter?

8 CHAIRPERSON AVELLA: Well in answer
9 to your first question, there's no way for us to
10 predict, I mean that's a decision that the
11 applicant has to make themselves whether or not to
12 go for the unenclosed.

13 COUNCIL MEMBER JACKSON: Well I
14 mean that's what they've said just now.

15 CHAIRPERSON AVELLA: Then they have
16 to--we are going to be voting on their application
17 now. It's up to them, if they want to withdraw
18 the application and proceed on the other, for an
19 unenclosed, that's up to them. But I can't tell
20 them what to do, and they have to make that
21 decision, I'm actually quite surprised that they
22 raised the issue during the public hearing here.

23 The second part of your question
24 is, it's in Speaker Quinn's district and she does
25 support the application based upon four tables and

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nine chairs.

COUNCIL MEMBER JACKSON: I think he said five tables.

CHAIRPERSON AVELLA: No, the new agreement is four tables and nine chairs.

MR. WYGOAT: Yeah, we would reduce it because of the requirement of the clearance from the hydrant that's--

COUNCIL MEMBER JACKSON: Ten feet.

MR. WYGOAT: --10 feet, which has always been understood to be eight feet, and that's why we designed it at eight feet, but we are absolutely going to conform to the 10 feet, and then it would be reduced to four and nine.

And, Mr. Chair and Mr. Jackson, Councilman Jackson, if we withdrew and we filed new, we would not have it for this season. It takes 110 days or more to get an approval for unenclosed and so, with that in mind, we're probably not going to withdraw.

COUNCIL MEMBER JACKSON: Okay.

CHAIRPERSON AVELLA: Any other questions from committee members? Thank you.

We have one person signed up to

1
2 speak, Jean-Daniel Noland from Manhattan Community
3 Board Four.

4 [Pause]

5 MR. JEAN-DANIEL NOLAND: Thank you,
6 Mr. Chairman and members of the Committee.

7 I do apologize in advance, I
8 learned about this last night and I will do my
9 best not to waste your time.

10 My name is J.D. Noland. I am the
11 chair of Community Board Four this application is
12 in our district, and we are quite concerned about
13 it. We want the business to thrive, but we have
14 no enclosed sidewalk cafés in the Clinton Special
15 district, so this would be the first.

16 And the virtues of 9th Avenue
17 between 43rd and 57th is that it is a thriving
18 restaurant and sidewalk café avenue and the
19 special, I think, value of our community is that
20 it is an open community, it is not enclosed,
21 people are on the sidewalk sitting at the café,
22 people are walking by, enclosed cafés are
23 excellent, I suppose in other areas, but this
24 would be devastating if a precedent is set to have
25 these enclosed cafes up and down the avenue and on

1
2 the residential streets. It is not in the
3 character of the neighborhood.

4 We understand that the concerns
5 about the fire hydrant were met and that our
6 Council Member understood the difficulties and
7 since the findings were met, approve this. We
8 also are--and, again, I would ask you all to try
9 to figure this out--apparently the applicant was--
10 I don't want to misspeak, but might have been
11 happy to have an unenclosed sidewalk café.

12 However, because of the DCA process, they would
13 have to start all over again. This is a concern,
14 because the community Pietra Santa's been in the
15 community for many, many years under different
16 owners and we certainly want them to succeed and
17 thrive, so we're concerned about that mishigas,
18 what is that all about.

19 Secondly, we are a special
20 district, I think many other special districts do
21 not allow enclosed sidewalk cafés. It's a
22 complicated process, we were made a special
23 district 30 years ago and then other regulations
24 came in later about other special districts. So
25 we feel we have been excluded from the protections

1
2 that other special districts have.

3 So the community is very concerned
4 about this, but understands the right that they
5 have and the difficulty you all face. So thank
6 you, Mr. Chair.

7 CHAIRPERSON AVELLA: No, thank you
8 for coming down and testifying and sort of helping
9 us to understand this issue. And I think you
10 mentioned it in your testimony that they meet all
11 the findings, so legally there is no way--

12 [Crosstalk]

13 CHAIRPERSON AVELLA: --for us to
14 turn down this application once they've done
15 everything they're supposed to.

16 However, after discussing it with
17 staff, I think you make a legitimate point about
18 why, if they've gone through this entire process,
19 can we not just switch from an enclosed to an
20 unenclosed. We will make that request of DCA--

21 MR. NOLAND: Okay.

22 CHAIRPERSON AVELLA: --that doesn't
23 mean that they're going to listen to us. But
24 let's see if we can make that request--

25 MR. NOLAND: Okay.

CHAIRPERSON AVELLA: --and get DCA maybe to acknowledge that the procedure can be expedited.

MR. NOLAND: Thank you very much, Mr. Chairman.

CHAIRPERSON AVELLA: Thank you. I have some other question, Council Member Jackson and then Council Member Gioia.

COUNCIL MEMBER JACKSON: Thank you, thank you, Mr. Chair. Mr. Chair of CB 4--

[Crosstalk]

MR. NOLAND: Yes, sir.

COUNCIL MEMBER JACKSON: --you were saying that that's a special district and, to your knowledge, there are no enclosed cafés in that special district, is that correct?

MR. NOLAND: Yes sir.

COUNCIL MEMBER JACKSON: And this would be the first and you're concerned about the precedent that's being set.

MR. NOLAND: Yes sir.

COUNCIL MEMBER JACKSON: And I can visualize 9th Avenue, I've driven down 9th Avenue and [pause] was this approved by the Community

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Board?

MR. NOLAND: No, the Community Board did not approve this for various reasons stated in our letter.

COUNCIL MEMBER JACKSON: Did the Board actually vote on it?

MR. NOLAND: Yes, sir.

COUNCIL MEMBER JACKSON: And so the Board disapprove their requests--

MR. NOLAND: We--

COUNCIL MEMBER JACKSON: --for an enclosed café?

MR. NOLAND: Yes, sir, we recommended disapproval of the application for an enclosed café.

COUNCIL MEMBER JACKSON: And what was the vote on that?

MR. NOLAND: And the vote was unanimous.

COUNCIL MEMBER JACKSON: Unanimous.

MR. NOLAND: Yes, sir.

COUNCIL MEMBER JACKSON: And so I would assume then that the committee, what committee was it in?

MR. NOLAND: It was the Clinton--

COUNCIL MEMBER JACKSON:

[Interposing] I'm talking about subcommittee or committee of the board?

MR. NOLAND: It was the Clinton Land Use and Zoning Committee and I Chair.

COUNCIL MEMBER JACKSON: And they voted to deny the request also?

MR. NOLAND: Yes, sir, and then it went before the full board and they also--

[Crosstalk]

COUNCIL MEMBER JACKSON:

[Interposing] And did it subsequently go to the borough president's office or City Planning or anything like that from a process point of view?

MR. NOLAND: Yes, sir, it went to the City Council, Land Use, all our elected officials, the normal--I have the letter here if you need it.

COUNCIL MEMBER JACKSON: The letter to whom?

MR. NOLAND: To the Beverly Gotay, the Assistant Director of Licensing. This was a letter sent November 8th, 2007.

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2 COUNCIL MEMBER JACKSON: Mr. Chair,
3 is this a Consumer Affairs issue as far as when
4 you said DCA? [Off mic] And do we know whether
5 or not, because quite frankly, just listening to
6 the testimony of the owner and the owner's
7 representative and also listening to the testimony
8 of the Chair of Community Board Four in front of
9 us, I would not want to, as a member of this
10 committee, especially when the owner is saying,
11 listen, I would rather now, even though I put in
12 this application, I would rather have an
13 unenclosed café, I mean unenclosed seating area
14 and especially now in the spring time and the time
15 to do it is now. And I would like to find a way
16 in order to have a win-win situation here and so
17 I'm concerned about voting on this today. And I
18 want to hopefully find a situation where Community
19 Board Four would be pleased with an unenclosed
20 seating area where the owner would like to have
21 that also, especially if it can be done now
22 because this is the season and I support small
23 businesses and we know how tough running small
24 business are in New York City. So I would love to
25 find a way we can have a win-win situation here,

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2 if at all possible and so I am not, at this point
3 in time, I'm hesitant about voting on this
4 particular matter today.

5 MR. NOLAND: Thank you, Council
6 Member.

7 CHAIRPERSON AVELLA: Well, Council
8 Member, what we can do, since there is this issue
9 and we'd like to go back to DCA, I'm not
10 necessarily optimistic, but we are already laying
11 over at least one item, if not more, to the Stated
12 meeting next week, so we could lay this item over.
13 We obviously have to communicate to the Speaker
14 that we are doing this because it is her district,
15 but I think you know, you raise a legitimate point
16 and so does the chair--

17 MR. NOLAND: Thank you.

18 CHAIRPERSON AVELLA: --and I think
19 the chair of the Community Board recognizes the
20 fact that we actually had a similar situation
21 where the Community Board voted against an
22 application, Despite the fact that the sidewalk
23 café applicant met all of the findings, we voted
24 with the Community Board and the Council Member
25 against the application and if the Council Member

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2 will remember, the applicant went to court and the
3 court overturned the action of the Community
4 Board--I mean of the Council, and that was us.

5 So I think we have to be very
6 careful on this issue that if an applicant meets
7 the findings and is not withdrawing application,
8 then we have an obligation to move ahead however--

9 MR. NOLAND: We understand.

10 CHAIRPERSON AVELLA: --I think the
11 points that have all been made on all sides are
12 very legitimate so I'll step out on a limb here
13 and hopefully not incur the wrath of the Speaker
14 and lay this item over 'til June 10 to give us a
15 little more time to decide.

16 MR. NOLAND: Thank you very much.

17 CHAIRPERSON AVELLA: Council Member
18 Gioia, then Council Member Vann.

19 COUNCIL MEMBER GIOIA: Thank you,
20 Mr. Chair. I concur with your judgment on this.
21 And thank you, Mr. Chair--

22 MR. NOLAND: You're welcome.

23 COUNCIL MEMBER GIOIA: --for coming
24 down and testifying.

25 MR. NOLAND: You're welcome.

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2 COUNCIL MEMBER GIOIA: It seems to
3 me--well first, you raised some very valid points,
4 but it seems to me that the business owner is
5 actually in agreement, he'd prefer this outside
6 café, it would be more in context with the
7 surrounding neighborhood--

8 MR. NOLAND: Yes.

9 COUNCIL MEMBER GIOIA: --and less
10 of a cost to him to erect.

11 MR. NOLAND: Yes.

12 COUNCIL MEMBER GIOIA: It seems
13 we're in this situation because, for whatever
14 reason, he I mean just checked the wrong box on
15 the application it sounds like, as opposed to
16 unenclosed as opposed to--well my point is that it
17 seems that this is the business owner wants, this
18 is what the community wants, and the only reason
19 we're here right now in this conundrum is DCA.
20 And so I mean, I really do think the best outcome
21 here would be for DCA to figure out a way to not
22 let their regulation trump what both the community
23 wants, the business owner wants, and--

24 MR. NOLAND: Yes.

25 COUNCIL MEMBER GIOIA: --what logic

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2 demands, because I do think it would be--I'm
3 concerned about the precedent about enclosed cafés
4 on 9th Avenue, I'm thinking of 2nd Avenue as
5 compared to--

6 MR. NOLAND: You're right.

7 COUNCIL MEMBER GIOIA: --9th
8 Avenue--

9 MR. NOLAND: Right.

10 COUNCIL MEMBER GIOIA: --and
11 they're very different boulevards--

12 MR. NOLAND: Exactly.

13 COUNCIL MEMBER GIOIA: --and it
14 should remain that way. Not 9th Avenue?

15 MR. NOLAND: Yes, it is.

16 COUNCIL MEMBER GIOIA: What's that?

17 [Off mic]

18 MR. NOLAND: It's right off 9th,
19 it's a side street right off 9th.

20 COUNCIL MEMBER GIOIA: Yes.

21 [Off mic]

22 COUNCIL MEMBER GIOIA: Pardon me,
23 47th and 9th, yes indeed.

24 MR. NOLAND: I think you--

25 COUNCIL MEMBER GIOIA: But thank

1
2 you, so I agree with you and, Mr. Chair, I concur
3 on your judgment.

4 MR. NOLAND: Thank you, Council
5 Member.

6 CHAIRPERSON AVELLA: Council Member
7 Vann.

8 COUNCIL MEMBER VANN: Yeah [off
9 mic] I'm just unclear as to what would be achieved
10 by laying it over. If we're going to DCA to ask
11 them to expedite if they can, it makes a
12 difference whether we vote it now or vote it next
13 week? I just--

14 [Crosstalk]

15 CHAIRPERSON AVELLA: [Interposing]
16 Well I think if we had the--well I think asking
17 DCA for their opinion might allow us the
18 opportunity to vote to say we vote for an
19 unenclosed sidewalk café. There's no harm in
20 laying it over because we're already having that
21 additional meeting and it might actually give us a
22 little more power to go to DCA to say the process
23 stinks, and that's in effect. The applicant
24 should be able to switch over without having to go
25 through the entire process again. Of course from

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2 DCA's point of view--and correct me if I'm wrong,
3 Steve, you could just shake your head yes or no--
4 DCA is interested in getting that check for the
5 application and that's probably why this procedure
6 is the way it is because he would withdraw this
7 application and you'd have to submit another check
8 for the unenclosed. And I don't know how much
9 money it is, but I'm sure it's a substantial
10 amount--it's a lot of money, so it is a lot of
11 money.

12 So whether or not DCA goes along
13 with us in this issue, but I think it's an
14 important point to be raised.

15 I would like to move on, because we
16 do have an important hearing right after this. I
17 do want to thank you for attending--

18 [Crosstalk]

19 MR. NOLAND: You're welcome.

20 CHAIRPERSON AVELLA: --I think that
21 was very helpful.

22 MR. NOLAND: Thank you for
23 listening.

24 CHAIRPERSON AVELLA: Okay. Is
25 there anyone else signed up to speak on this item?

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Seeing none, I'll close the public hearing.

And we move on to Sunnyside
Gardens.

[Pause]

CHAIRPERSON AVELLA: What I'd like
to do now, while City Planning is setting up for
the Sunnyside, I'd like to call the vote on those
items we're going to be voting on today.

So we will be voting affirmatively
on the 111 Union Street rezoning, Intro 979, which
is the bus extension cross access text amendment
and the privately owned public plaza text
amendments. Chair recommends approval on those
items.

I'll ask Counsel to call the vote.

MR. CHRISTIAN HYLTON: Christian
Hylton, Counsel to the Committee. Chair Avella?

CHAIRPERSON AVELLA: Aye.

MR. HYLTON: Council Member Felder.

COUNCIL MEMBER FELDER: Yes.

MR. HYLTON: Council Member Gioia.

COUNCIL MEMBER GIOIA: Yes.

MR. HYLTON: Council Member
Jackson.

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2 COUNCIL MEMBER JACKSON: Aye on
3 all.

4 MR. HYLTON: Council Member
5 Seabrook.

6 COUNCIL MEMBER SEABROOK: Aye on
7 all.

8 MR. HYLTON: Council Member Sears.

9 COUNCIL MEMBER SEARS: Aye.

10 MR. HYLTON: Council Member Vann.

11 COUNCIL MEMBER VANN: Aye.

12 MR. HYLTON: By a vote of seven in
13 the affirmative, none in the negative, no
14 abstentions, LU1106 Intro 979, LU1107, and LU1108
15 are approved and referred to the full Land Use
16 Committee.

17 CHAIRPERSON AVELLA: And we will
18 hold the vote open for a couple of other committee
19 members that are at meetings in other parts of the
20 building.

21 Now we'll go to the Sunnyside
22 Gardens application, N080253ZRQ.

23 MR. JOHN YOUNG: Good morning,
24 Chair Avella, Council members, ladies and
25 gentlemen. I'm John Young and I am Director for

1
2 the Queens office for the Department of City
3 Planning.

4 On behalf of City Planning Director
5 Amanda Burden, I am pleased to be here this
6 morning to present the department's efforts to
7 provide an updated zoning framework that will
8 fully complement the June 26, 2007, city historic
9 district designation for 16 blocks in the
10 Sunnyside Gardens neighborhood in Western Queens.

11 I am joined by Mandy Ikert, who
12 will present the details of the text amendment
13 proposal.

14 The Sunnyside Gardens zoning
15 proposal that is before you today culminates a
16 lengthy and engaging effort to create and
17 implement appropriate and effective mechanisms for
18 the city to protect the character of this uniquely
19 planned and developed community.

20 City elected officials, including
21 Council Member Eric Gioia, and the Landmarks
22 Preservation Commission, Community Board Two,
23 local residents have all worked closely with City
24 Planning to develop the proposed zoning changes
25 that would downzone a reduce maximum floor area

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2 ratio and density limits for development in the
3 Gardens while accommodating the transfer of
4 responsibility from the Planning Commission to
5 Landmarks for city oversight to protect the
6 community's notable character embodied in its
7 nearly 2-year-old historic district designation.

8 It is important that Landmarks
9 staff is expected to participate in today's
10 discussion to answer questions about their
11 processing to date of changes to the site plan and
12 the built fabric of Sunnyside Gardens.

13 As Mandy will explain, currently,
14 portions of Sunnyside Gardens are located in four
15 different zoning districts and it is one of four
16 well-planned communities in the city that were
17 given special district status in 1974, whereby
18 City Planning Commission special permit is
19 required to demolish, construct, or enlarge a
20 building and make substantial changes to
21 landscaping and yard topography.

22 Seeking a special permit for these
23 activities requires the submission of a land use
24 application with supporting plans and attachments,
25 as well as an environmental assessment statement

1
2 to the Department of City Planning and the process
3 for obtaining a special permit includes up to a
4 seven-month time frame for completing the formal
5 land use review procedure, in addition to time
6 needed to review and possibly revise the
7 application to ensure its completeness and
8 accuracy.

9 No special permit, however, is
10 needed to undertake interior or exterior
11 alterations to buildings or to change the use of
12 buildings as allowed by the applicable zoning. And
13 with the special permit, development could still
14 occur under broad range of bulk and density based
15 upon the various maximum levels allowed by the
16 different zones that cover the neighborhood.

17 The department's proposed zoning
18 text amendment will retain the special district
19 status of Sunnyside Gardens in order to replace
20 the disparate zoning regulations governing
21 portions of the neighborhood with uniformly
22 restrictive floor area ratio and density controls,
23 and to clarify that curb cuts, normally allowed in
24 the underlying zones, would be restricted to a
25 specific location on the east side of 50th Street,

1
2 near intersection with 39th Avenue.

3 Under the proposed text amendment,
4 a City Planning Commission special permit would no
5 longer be needed to demolish, construct, or
6 enlarge a building and make substantial changes to
7 landscaping or yard topography, thereby avoiding
8 duplicative reviews with the Landmarks Commission
9 and prevent unduly burdensome and onerous
10 requirements for homeowners seeking to make modest
11 improvements to their property.

12 The Sunnyside Gardens zoning text
13 amendment has been informed by input from numerous
14 participants during its development, notably the
15 area's passionate residents and civic advocates,
16 as well as members of Community Board Two and
17 Council Member Eric Gioia's leadership has been
18 invaluable to increasing awareness about an
19 understanding of this complex regulatory reform
20 process.

21 I want to thank everyone for the
22 time they have taken to review and provide input
23 into this important zoning initiative. Given the
24 cherished legacy of Sunnyside Gardens is one of
25 the nation's premier examples of humanely planned

1 residential development. We know how important it
2 is that we effectively manage transferring primary
3 city oversight of changes to the neighborhood from
4 City Planning to Landmarks. We hope that you will
5 support this well-considered initiative to
6 complement historic district protections with
7 appropriate zoning mechanisms in order to preserve
8 the distinct character unique site plan of
9 Sunnyside Gardens.
10

11 And now Mandy will review the
12 current zoning framework and present the proposed
13 text amendment.

14 MS. MANDY IKERT: Good morning,
15 Chair Avella and members of the committee. My
16 name is Mandy Ikert, I work with John Young at the
17 Department of City Planning and I'm here to
18 present to you, the department's text amendment
19 proposal to modify the provisions of the special
20 Planned Community Preservation District, John
21 referred to as the PC district, as they pertain
22 specifically to Sunnyside Gardens.

23 Sunnyside Gardens is a unique
24 community in the Sunnyside neighborhood of Queens
25 Community District 2. It's one of four similarly

1
2 unique neighborhoods in the city that carry the
3 special PC district designation and are recognized
4 as superior examples of town planning or large-
5 scale development. The other three PC districts
6 throughout the city include Fresh Meadows, also in
7 Queens; and Harlem River Houses in Manhattan; and
8 Parkchester in the Bronx.

9 As you can see on the map here or
10 in your handouts, you also have the same map, the
11 gray shading area indicates the PC district as
12 designated by the City Planning Commission and the
13 red outline indicates the more recently Landmarks
14 designation of the historic district. Sunnyside
15 Gardens is comprised of generally about 16 city
16 blocks within Queens Community District 2. It's
17 generally bounded by Queens Boulevard here to the
18 South, Barnett Avenue to the north, as well as the
19 Sunnyside railyards, and it's located between 43rd
20 Street and 52nd Street to the east and west.

21 The planned community was developed
22 in the 1920s based on the English Garden City
23 model and is comprised of roughly 600 two-story
24 rowhouses with a mix of pitched and flat roofs, as
25 you can see in the images here. They're grouped

1
2 in clusters of 10 to 12 around a series of courts.
3 Additionally there are about 18 four to six-story
4 apartment buildings in Sunnyside Gardens, some
5 with ground floor retail, and a community park.

6 With the city's comprehensive
7 rezoning in 1961, Sunnyside Gardens was divided
8 between four zoning districts, which you can also
9 see on the map and your handouts. A majority of
10 the neighborhood here between Skillman and 39th
11 was zoned R4, R4 permits a maximum floor area
12 ratio of .75 with a 20% attic allowance permitting
13 a maximum FAR of .9; however, on a predominantly
14 built-up block, predominately developed block,
15 such as is characteristic of Sunnyside Gardens,
16 the maximum floor area ratio permitted in the R4
17 may be 1.35 as per infill provisions.

18 The southern portion of Sunnyside
19 Gardens south of Skillman stretching to Queens
20 Boulevard is split by two higher density zoning
21 districts, an R7-1 and a C4-2, here you can see
22 the R7-1 and the C4-2 closest to Queens Boulevard.
23 The R7-1 permits a maximum FAR of four and the C4-
24 2, which straddles Queens Boulevard at this
25 location, permits up to 3.4 FAR for commercial

1
2 uses and 2.43 for residential uses.

3 Additionally, there is one small
4 block front to the north of the Gardens that's
5 zoned M11, a manufacturing district, which does
6 not allow residential and where the houses
7 currently in this district are nonconforming and,
8 thus, cannot be enlarged.

9 When the Sunnyside Gardens was
10 designated PC district in 1974, however, the
11 underlying zoning remained unchanged. A primary
12 goal of the text amendment that we're proposing
13 today, therefore, is to unify the bulk regulations
14 throughout the residential and commercial
15 districts that divides Sunnyside Gardens. To that
16 end, the proposal would establish a common maximum
17 bulk throughout these various districts and in
18 order to reinforce the low density character of
19 the area, the original application allowed for a
20 maximum FAR of .9 throughout, without the
21 allowance for the extra infill bulk. This was
22 then revised in response to concerns regarding
23 possible enlargements on the smaller footprints of
24 some of the typical rowhouses and the application
25 was refiled to clarify a maximum floor area ratio

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2 of .75 with a 20% attic allowance, only under such
3 pitched roof structures as are indicated here in
4 photo three.

5 We believe that these R4 provisions
6 as modified are very close in bulk and scale to
7 the rowhouses in Sunnyside Gardens.

8 A second component of the text
9 amendment, as John mentioned, is to restrict new
10 curb cuts in the district, with one exception that
11 the location he mentioned on 50th Street, on the
12 east side of 50th Street, just south of 39th
13 Avenue, it's currently a vacant site and it would
14 likely be developed with appropriately scaled
15 attached rowhouses and we would like to thus
16 encourage offstreet rear parking on this site.
17 For the rest of the district, however, we feel
18 that the restriction on curb cuts is important
19 towards retaining the important pedestrian
20 circulation system and the significant yard areas.

21 The final component of the text
22 amendment pertains to the regulatory oversight of
23 the district. At the inception of Sunnyside
24 Gardens in the 1920s features such as the common
25 yards and pathways were protected by covenants or

1
2 deeds managed block by block by court associations
3 comprised of the residents in that block.

4 However, these easements expired in the 1960s,
5 leaving an absence of regulatory oversight of
6 these features until the PC designation in 1974.

7 Since the PC designation, any new
8 development, enlargement, demolition, or
9 substantial alteration of landscaping or
10 topography in Sunnyside Gardens has required a
11 special permit granted by the City Planning
12 Commission. In the 35 years since the
13 designation, only two applications have gone
14 through the full special permit process. The
15 process which involves a full ULURP review, as
16 John mentioned, was cumbersome for many homeowners
17 seeking minor modifications to their homes or
18 Gardens. And the enforcement of the special
19 permit has been problematic, particularly
20 regarding such features as patios, decks, or sheds
21 which may constitute a substantial alteration to
22 landscaping or topography, which would require a
23 City Planning Commission special permit, but does
24 not require a buildings permit.

25 That concludes my overview of the

1
2 text amendment and I'd be happy to answer any
3 questions.

4 COUNCIL MEMBER FELDER: Are there
5 any questions from [off mic]?

6 COUNCIL MEMBER JACKSON: Well I
7 wanted to know what was the Council Member's
8 position on this? I mean I know it's in Eric
9 Gioia's district, I wanted to know what your
10 comments were on this particular text amendment.

11 COUNCIL MEMBER GIOIA: It's a
12 question for me.

13 COUNCIL MEMBER JACKSON: I need to
14 know.

15 MALE VOICE: I'm sorry, you have to
16 come through the Chair.

17 COUNCIL MEMBER JACKSON: All right.
18 Well, Mr. Chair, I want to know what the Council
19 Member's position is on this.

20 COUNCIL MEMBER GIOIA: I was going
21 to wait for Landmark and can come up and ask
22 questions. I think--

23 [Off mic]

24 COUNCIL MEMBER FELDER: Do you wish
25 to respond to this question?

1
2 COUNCIL MEMBER GIOIA: Thank you,
3 Mr. Chair. I was in favor of Landmark and,
4 Councilman, there's a question right now as to--
5 and you'll hear my questions in a moment, it's not
6 for City Planning, it's more for Landmarking.

7 As landmarking passes the baton to-
8 -pardon me as City Planning passes the baton to
9 landmarking, the main question is, is the intent
10 of landmarking going to be fulfilled? In other
11 words, you have a lot of people who worked very
12 hard in this room to make sure that, not only
13 historical character of Sunnyside Gardens be
14 preserved, but that overdevelopment and other
15 things, curb cuts and the like, be prevented. The
16 big question right now is will landmarks be able
17 to fulfill that mandate and I'm waiting to hear
18 their testimony.

19 [Off mic]

20 COUNCIL MEMBER GIOIA: Questions
21 for them. I'm waiting for landmarking and I'm
22 going to ask them questions.

23 COUNCIL MEMBER FELDER: Are you
24 interested in what their opinion is about? I'm
25 just [off mic].

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COUNCIL MEMBER GIOIA: Okay.

Summer recess around here.

COUNCIL MEMBER FELDER: Any other questions? There being none--

[Off mic]

COUNCIL MEMBER FELDER: Beg pardon?

[Off mic]

COUNCIL MEMBER GIOIA: I would just ask that they stick around and be prepared to answer questions. Thank you.

MR. YOUNG: We will, we'll be here.

COUNCIL MEMBER FELDER: Thank you very much, appreciate it.

[Crosstalk]

MALE VOICE: Mr. Chairman, I wanted to thank this Committee, I understand they took up the issue of cross access, one which is important to particularly my borough and wanted to thank the Chairman in absentia and this Committee for seeing to that cross access can and will be adopted.

COUNCIL MEMBER JACKSON: But that was denied.

MALE VOICE: Oh well, Mr. Chairman, I remove my comments--

1
2 COUNCIL MEMBER JACKSON: I'm
3 joking, of course.

4 MALE VOICE: I know, I know. Thank
5 you very much.

6 COUNCIL MEMBER FELDER: Thank you,
7 I'll pass that on to the real Chair.

8 FEMALE VOICE: They are here for
9 questions, if that's what you'd like. [Pause]
10 Questions and answers [off mic] is what Eric [off
11 mic].

12 COUNCIL MEMBER FELDER: Okay.
13 There are two persons, Mark Silverman from
14 Landmarks and also Sarah Carroll from Landmarks
15 who don't have testimony, but they're willing to
16 respond to questions, I understand, is that
17 correct? Council Member, they're yours.

18 COUNCIL MEMBER GIOIA: I didn't
19 realize they didn't have testimony. Thank you
20 very much for being here.

21 As I alluded to, there's a lot of
22 people in this room and I want to thank all the
23 advocates from the, the neighborhood
24 preservationists who worked so hard to get
25 Landmark in this neighborhood. It would not have

1
2 happened without just an incredible grassroots
3 effort for many, many years preceding me to get
4 this done, and I want to thank them and they've
5 taken off from work to be here today.

6 And the big concern, I think people
7 have is that they've come so far, they've worked
8 so hard to actually get this neighborhood
9 landmarked and I have to say, I just look at the
10 pictures and I love the neighborhood so much it's
11 rare that I look at renderings at a City Council
12 hearing and get nostalgic, but it really is such a
13 beautiful unique neighborhood. The big concern is
14 that there'll be less regulation, that the exact
15 goal of landmarking, to protect the character of
16 the neighborhood, will be diminished by switching
17 hands from City Planning to Landmarking can you
18 address that?

19 MR. MARK SILVERMAN: I'll try to.
20 My name is Mark Silverman, Councilman, I'm General
21 Counsel to Landmarks Commission and Sarah Carroll
22 is the Director of the Preservation Department,
23 and we're here to answer your questions.

24 The short answer to your question
25 is landmark designation of Sunnyside has resulted

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2 in a vast increase in regulation over the lives of
3 the people who live in Sunnyside. As John Young
4 mentioned, currently the existing zoning requires
5 special permits for lots of types of alterations--
6 expansions of buildings, any significant land,
7 alterations of landscapes, patios, decks, fences,
8 all that stuff--we also regulate all those things.
9 In addition, as Mr. Young said, the City Planning
10 doesn't regulate the materials of the buildings,
11 the windows, the facades--we regulate all of that.
12 So the short answer is the Landmarks Commission
13 regulates, I think, practically everything that
14 the City Planning Commission regulated, regulates
15 now, in addition to a lot more things.

16 And the process is similar to the
17 process of what the City Planning zoning text
18 requires now. So right now, certain things can be
19 done at staff level pursuant to rules that we
20 have. And I should say parenthetically the
21 Commission, in designating Sunnyside, drafted and
22 approved a 390-page report that talks about all of
23 the significant characteristics of the district.
24 That is the guiding regulatory document that the
25 commission and staff look to in regulating the

1
2 Landmarks Sunnyside Gardens. So in addition, what
3 was significant there is we identified the site
4 plan, the rear yards, common gardens, rear
5 façades--a significant features, unlike in all the
6 other districts that we regulate. Therefore, our
7 rules, staff level rules and commission decisions,
8 will look at those features as significant.

9 So as a practical matter what that
10 means is all additions, whether visible from the
11 public's thoroughfare or not go to the full
12 Landmarks Commission for review--that's unlike any
13 other district that we regulate. We will regulate
14 sheds--

15 COUNCIL MEMBER GIOIA: Will you say
16 that again?

17 MR. SILVERMAN: Yeah, so every
18 addition--rear yard or rooftop addition--will be
19 reviewed at a public hearing by the full
20 commission whether or not it's visible from a
21 public thoroughfare and that makes it far more
22 restrictive than any other historic district that
23 we regulate because, under our current rules in a
24 rowhouse district in Brooklyn, for example, if a
25 rear yard addition meets certain criteria, that

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2 means it's not visible from a public thoroughfare,
3 it doesn't rise to the full height or full width,
4 it can be approved at the staff level--none of
5 that will happen in Sunnyside. All that type of
6 work will go to the full commission at a public
7 hearing. So it's very similar in some ways to
8 what the existing PC requires.

9 Under the PC district now, if you
10 wanted to extend your house you would--leaving
11 aside Landmarks approval--you could apply to the
12 City Planning Commission, go through their
13 process, which was described to you, and the City
14 Planning Commission would have to decide whether
15 that was approvable. Now the Landmarks Commission
16 will look at that same work, we'll decide whether
17 it's appropriate under our standards and, if
18 existing zoning stays in place, it'll go through
19 an additional ULURP process as described by City
20 Planning.

21 So, the short answer to your
22 question, and we can go into more detail if you
23 want, is the Landmarks Commission has and will be
24 fully regulating all the changes that are
25 happening in Sunnyside, some by staff rules,

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2 existing staff rules, some by commission approval
3 and, if need be, and we've expressed this from the
4 very beginning, in addition to the changes we've
5 already made to the existing rules, which I
6 referred to about all rear yard additions going to
7 the full commission, we will do specific district
8 rules, if we determine that they're needed.

9 COUNCIL MEMBER GIOIA: Thank you
10 for that answer. I have a number of questions.
11 Thank you.

12 The goal here is not to create such
13 expensive and burdensome regulation that, A,
14 people can't do anything to their homes, or, B, it
15 becomes so burdensome that they just go around the
16 process. I think City Planning testified that two
17 people went through the full ULURP process, I can
18 only recall one in my time in the Council, if
19 there's another, I don't remember which it was.
20 But there was substantial work done to people's
21 homes outside the regulations just in my time in
22 the Council, and it really created a terrible
23 climate in the neighborhood and I'm sure everyone
24 in this room would agree with that, pitting
25 neighbor against neighbor. So, in my view, when

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2 we talk about landmarking, it's to protect the
3 character of the neighborhood, it's not to create
4 a regulatory environment that people either evade
5 or have to deal with holes in their roof, that
6 sort of thing and I believe you agree with that
7 sentiment.

8 MR. SILVERMAN: Yes, the Commission
9 has always believed that some change can happen in
10 historic districts and one of the goals we have is
11 to try to be an efficient regulatory body to allow
12 that change to occur--appropriate change. So
13 that's why we have a whole bunch of staff-level
14 approvals that can happen, which means that if you
15 meet the standards set forth in the rules of city
16 of New York you can get a staff-level permit; in
17 other cases, you have to go to the full
18 commission. And in furtherance of that, at the
19 Council Member's suggestion, we have created a
20 draft homeowners guide, which puts is a plain sort
21 of language version of those rules so that
22 homeowners can have them in front of them, it's
23 not such legalese but they can understand
24 generally speaking what kinds of things could be
25 approved at staff level, because we also want

1 things to be run in a smooth and efficient way.

2
3 COUNCIL MEMBER GIOIA: Well thank
4 you for that, Counsel, because we don't have a
5 rich neighborhood, it is a middle-class
6 neighborhood, it is a working-class neighborhood
7 in some parts and we shouldn't have a system where
8 folks have to go out and get lawyers and spend
9 tens of thousands of dollars in order to interface
10 with their government. And so to me the
11 homeowner's guide is very important, it's
12 important it be in plain English and it's
13 important that it set forth--I mean, it's getting
14 too expensive to live in New York City, between
15 the water rates, the property taxes, and the Con
16 Ed rates going up, the last thing you should have
17 to have when you're trying to just fix up your
18 house once you bought a house is have to go out
19 and pay a lawyer to figure how to deal with
20 landmarking. That's why I think the homeowner's
21 guide is really vitally important, that it give
22 clear instruction of the sort of renovations that
23 will be approved at the staff level, the sort of
24 renovations that will need to go to the full
25 commission, and my hope is that as that it become

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2 a living process. In other words, as applicants
3 go before you and things are approved or
4 disapproved, that there be some type of guidance
5 then put forth forward. In other words, if you
6 look down your block and you understand someone
7 went through this and was disapproved, that you
8 put that forth and say this is the sort of thing
9 that will not be approved.

10 And on that regard, I'd like to ask
11 you a few questions about--I mean can you talk
12 about sheds in the backyard?

13 MR. SILVERMAN: I'd be happy to. I
14 just also want to express, because there's been
15 some I think confusion about process and I think
16 it's really important that everyone understand
17 process because we believe very strongly in
18 process, and sometimes there is a belief that
19 certain things should be prohibited--an
20 application should never be entertained. And the
21 Landmarks Commission law has provisions for the
22 full commission to deal with things that are not
23 clearly appropriate--they're not restoration
24 they're not simple repair--so there's a process.

25 And everyone you know, the

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2 landmarks law anticipates and I think no one here
3 would really object to the notion that everyone is
4 entitled to come to the commission and ask for
5 something, whether or not, the commission has
6 previously thought that it was inappropriate and
7 whether or not other members of the community
8 think that it's inappropriate. There's a process
9 here and that's a public process and people come
10 down and are very free to express their opinions
11 and the commission listens to the community and
12 listens to people's concerns.

13 But there's a sense that we have
14 gotten certainly that some people are looking--and
15 I don't think this is a general view, but some
16 people are looking for rules that say this will
17 never, ever, ever, ever be allowed and don't ask.
18 And the Landmarks Commission, and we hear it
19 sometimes, how could you have allowed this
20 application to go forward? Well we live in a
21 democracy, it's a process, that's what the full
22 commission is for is to consider those difficult
23 situations--and it is guided by what it does in
24 the past, it doesn't look at what has approved in
25 the past. So it's not like it's going jumping

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2 from one position to another, if it is then I'm
3 not doing my job as General Counsel. It needs to
4 be consistent, it needs to provide clear signals
5 and guidance to homeowners as to what's likely to
6 be approved or disapproved.

7 So, with respect to sheds--oh I'm
8 sorry to cut you off.

9 COUNCIL MEMBER GIOIA: Well let's
10 get to sheds in a second --

11 MR. SILVERMAN: Okay.

12 COUNCIL MEMBER GIOIA: --because
13 that's an important point you're making, I just
14 want to talk about it for a second. So, you know,
15 in law, it's the concept of stare decisis, right?
16 You know, we have this decision, this is not
17 allowed and so the next six applicants though who
18 wanted the same thing that has been disallowed
19 should know that, right? In other words--

20 MR. SILVERMAN: That's correct.

21 COUNCIL MEMBER GIOIA: --you don't
22 want to create a system, you don't have the staff
23 to deal with the same application over and over
24 again once you have denied a similar application.

25 So what I'm hearing you say is that

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2 we're not going to have a prohibition outright,
3 we're not going to put it in the homeowners
4 manual--thou shall not do X, but you very well,
5 right off the bat can create precedent and deny
6 it, deny and then set forth--and I'm not sure
7 what's your mechanism for doing these advisory
8 type opinions are to say these sort of things are
9 denied.

10 MR. SILVERMAN: Yeah, it's not
11 advisory, we issue binding decisions, certificates
12 of appropriateness denying something or approving
13 something and so those will set forth the
14 reasoning as to why the commission thinks it's
15 appropriate.

16 And so I think it's important to
17 talk about process again. So let's say someone
18 has applied to put on a rear yard addition that
19 the commission has said is too big and denies it.
20 Three weeks later or a year later, someone comes
21 forward with the same application. The staff's
22 job, Sara's department's job is to tell them this
23 was denied in the past, we believe it's
24 inappropriate, we think it will not be approved by
25 the commission for the following six reasons,

1
2 okay? But, because we are public servants, our
3 job is to help that applicant put the best
4 application forward for consideration, because
5 maybe there's something in this application that
6 makes it different, there's some reason that the
7 commission should know about.

8 But ultimately we are there to give
9 frank, honest guidance to applicants based on past
10 decisions of the commission so that they're not
11 wasting their time. As you said, we don't have
12 the time, but we also don't want to--there is an
13 expense associated, maybe not as much as the ULURP
14 process, but there is an expense associated with
15 going through our process and no one benefits with
16 an application that's sort of DOA going through
17 the process. But again, ultimately these are
18 peoples and their homes and they're entitled to
19 come forward and ask.

20 CHAIRPERSON AVELLA: Council
21 Member, if I can interrupt I know this is your
22 district and I know this is a very important
23 issue, but I know that people that have signed up
24 to speak are starting to leave because they've
25 been here since 9:30 this morning. Now, with your

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2 cooperation, I'd like to proceed to the public
3 hearing and I'm sure they're going to hang around,
4 you can follow up your questions.

5 COUNCIL MEMBER GIOIA: Can I just
6 ask two questions? 'Cause he was about to--

7 [Crosstalk]

8 CHAIRPERSON AVELLA: [Interposing]
9 Well I mean they're your constituents and I know
10 they're leaving, so I mean, I think it would be
11 helpful to hear from the public.

12 COUNCIL MEMBER GIOIA: I certainly
13 want to hear from them and these are important
14 questions for Landmarks, though. Two quick
15 points--

16 [Off mic]

17 MR. SILVERMAN: We will be here.
18 We do have a public hearing--

19 [Crosstalk]

20 COUNCIL MEMBER GIOIA: If you can
21 briefly can answer historic trees and sheds.

22 MR. SILVERMAN: Historic trees, the
23 commission will be regulating the removal of large
24 diameter historic trees like we have in other
25 districts. So the commission has yet to decide

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2 whether that should be a 12-inch or 18-inch should
3 circumference, but there will be regulation of
4 trees, of large mature trees. The removal of
5 them, we're not going to regulate the planting of
6 new trees or the removal of smaller trees.

7 And with respect to sheds, those
8 would require a public hearing at the Landmarks
9 Commission, okay? The CENTRAL GARDEN core,
10 whether in existing, intact, or partially intact,
11 common gardens or gardens that are completely
12 privatized, which as you know, there are some, I
13 believe that since the designation report
14 identifies the central core as a garden-like area
15 and historically important, I believe it is highly
16 unlikely that the commission would ever approve a
17 shed in any area that was once part of the common
18 garden. Now we have not had an application for
19 such a structure, so I can't say here now with
20 absolute certainty or with any degree of historic
21 decision-making behind me what the commission
22 would do, but it's my belief in talking with the
23 Director of Preservation Sarah Carroll, we believe
24 it is extremely unlikely that they would approve
25 it because this is a very significant part of what

1
2 this district is about.

3 MS. SARAH CARROLL: That holds true
4 for fences in the common gardens. That is true
5 for fences in the common gardens as well.

6 CHAIRPERSON AVELLA: Thank you and
7 I know you'll hang around if we have some
8 questions after the public testimony and I know
9 City Planning, I just asked them, they'll be
10 staying here. Thanks for the thumbs up, John.

11 First we'll call alternating
12 panels, first we'll deal with a panel in
13 opposition, then we'll deal with a panel in favor,
14 etc. I ask everybody to keep to the three-minute
15 limit, obviously to ensure that everybody gets a
16 chance to speak. If you can do it under three
17 minutes, that's great, I generally don't cut
18 somebody off in the middle of a sentence, but
19 please try and keep to three minutes.

20 Catherine O'Flaherty, Herbert
21 Reynolds, Selvin Gutar [phonetic]--did I pronounce
22 it right? And Sherrie Gamlin [phonetic] will be
23 the first panel.

24 [Pause]

25 Are those four people all here?

MALE VOICE: Yes.

[Pause]

CHAIRPERSON AVELLA: Press the button.

MS. CATHERINE O'FLAHERTY: Good morning, my name is Catherine O'Flaherty, I've been a resident of Sunnyside Gardens for 20 years. I am requesting the City Council to vote no to the proposal--

CHAIRPERSON AVELLA: [Interposing] Could you move the mic closer too?

MS. O'FLAHERTY: Yes.

CHAIRPERSON AVELLA: Okay.

MS. O'FLAHERTY: I am requesting the City Council to vote no to the proposed zoning revision for Sunnyside Gardens. Sunnyside Gardens is a unique area of beauty with 70% open space and small simple working-class homes. It's about approximately 20 minutes from Manhattan.

It is a very attractive area to several species of wildlife, but unfortunately, it is also attractive to developers who would prefer to see a concrete jungle instead of our beautiful planned community. All for the sake of the mighty

1
2 dollar.

3 Under the new proposal, proposed
4 zoning, the city would allow extensions to the
5 homes, paving of green areas, removing of trees,
6 and erection of fences, and it would destroy our
7 open gardens that are the hallmark of Sunnyside.

8 Councilman Gioia knows the majority
9 of homeowners in Sunnyside favor preservation and
10 quality of life, as we have voted for Landmark
11 status. Now Councilman Gioia, you can ensure that
12 our neighborhood, which is a nationally recognized
13 treasure and a unique neighborhood, is preserved
14 for us and for future generations by voting no and
15 directing your colleagues to vote no to this
16 proposal. Thank you.

17 CHAIRPERSON AVELLA: Thank you.

18 Next speaker.

19 MR. HERBERT REYNOLDS: Mr. Chair,
20 may I share some pamphlets with members of the
21 committee?

22 [Off mic]

23 [Pause]

24 MR. REYNOLDS: My name is Herbert
25 Reynolds, I'm here speaking for myself and also

1
2 for our neighborhood Sunnyside Gardens
3 Preservation Alliance, which led the campaign for
4 landmarks designation.

5 What I'm sharing with you today is
6 the helpful pamphlet that the Department of City
7 Planning has issued five or six times since our
8 current zoning went into effect in 1974.

9 Sunnyside Gardens, the fact sheet has, in essence,
10 become the neighborhood bible for preserving this
11 fragile community. It's a great introduction and
12 it shows with simple illustrations the kinds of
13 prohibitions that the current zoning law provides
14 for the neighborhood.

15 Now Sunnyside Gardens was built to
16 occupy a very small portion of the lot space, that
17 was so the houses would remain small and be as
18 affordable as possible to working people. That
19 has more or less continued to be the case, despite
20 rising house values and we know that one way to
21 keep the neighborhood as egalitarian as possible
22 is to restrict house sizes, which also means of
23 course preserving the historic landscaped gardens
24 that were designed by two of the 20th century's
25 most prominent landscape architects: Henry Wright

1
2 and Marjorie Sewell Cautley.

3 If you look at this fact sheet that
4 City Planning has provided, you'll notice page by
5 page the items that are in the current zoning law,
6 which are omitted from the language of City
7 Planning's current proposal. Page four, City
8 Planning is offering to abolish curb cuts for the
9 most part, and we applaud them for that. However,
10 they say nothing about the paving of any portion
11 of existing yards quote unquote.

12 On page five of the fact sheet,
13 City Planning is saying nothing at all about
14 prohibiting the erection of fences or barriers of
15 any kind that obstruct common walks or the Central
16 Garden areas. This is of crucial concern because
17 is the Landmarks Commission really prepared to
18 regulate a person who plants a hedge to repossess
19 and privatize the central open garden area?

20 Page 6 of the fact sheet. The
21 proposal by City Planning says absolutely nothing
22 about building additions or enlargements or the
23 constructions of garages, carports, sheds, and so
24 forth.

25 And on page seven of the fact

1
2 sheet, the proposal before you today says nothing
3 about the cutting down of trees.

4 So there's no question in our minds
5 that we're losing a lot of precautions in City
6 Planning's current proposal. Of course we can
7 hope that the Landmarks Commission will regulate
8 wisely, but we are supporters of the Landmarks
9 Commission, we don't want them to be seeing
10 applications and spending staff time on
11 applications for items that are clearly not in the
12 spirit of the neighborhood. City Planning is
13 saying to Landmarks, you'll never have to see an
14 application for a curb cut. Why don't they also
15 say you'll never have to see an application for
16 all these other potential infractions?

17 I spoke to the woman at Landmarks
18 Commission just last week who said that in the two
19 years Sunnyside Gardens has been designated, they
20 have seen more applications than for any other
21 historic district in the entire history of the
22 commission. Why is that necessary? Landmarks is
23 strapped for time and resources, let's save them
24 the time and resources. Thank you very much.

25 MS. SHERRIE GAMLIN: Thank you.

1
2 Good morning, my name is Sherrie Gamlin and I've
3 lived in Sunnyside and Sunnyside Gardens for 35
4 years plus.

5 I am vehemently against the
6 changes, the amendments that are being put on the
7 table. I've lived in this neighborhood, in and
8 out actually, I've moved to LA, I've moved to
9 Manhattan, but I always come back to Sunnyside
10 because it's like a haven, it really is. I can't
11 wait to leave Manhattan and get back home to
12 Sunnyside--I exhale.

13 And when I walk through the Gardens
14 now and I see carports being put up, I want to
15 throw up, if you'll excuse the expression, but
16 that's literally the way I feel, I think it's
17 disgusting. And these amendments are tantamount
18 to me saying let's take these curtains down and
19 let's put up vertical blinds, it wouldn't go and
20 it doesn't go now with what's being done or
21 proposed to be done in Sunnyside Gardens.

22 And I also produce the Sunnyside
23 Film Festival and let me tell you people come to
24 the neighborhood, not only to see the Film
25 Festival, but to see the neighborhood and I don't

1
2 want that to change. Thank you.

3 SELVIN GUTAR: Chair Avella,
4 members of City Council, good afternoon. My name
5 is Selvin Gutar and I live in Sunnyside Gardens
6 and I would like to say that I look forward to the
7 hand-off from City Planning to the LPC, I look
8 forward to that day because that's what many of
9 the people in the neighborhood hoped would occur.

10 At this time, I would just urge the
11 City Council to vote no on the voting revision
12 that City Planning has proposed for Sunnyside
13 Gardens. The reason: I believe it strips away
14 some of the protections that were originally put
15 in place, that's the reason. We need protections,
16 such as installing driveways, paving over front
17 yards, installing carports, etc. I'm very happy
18 that curb cuts were left intact.

19 However, I also believe that recent
20 development that conforms to Department of
21 Buildings code and the eventual approval of the
22 LPC should be allowed, I look forward to that.
23 But this zoning revision goes a bit too far. I
24 would hope that City Planning can work with the
25 residents of Sunnyside Gardens to restore some of

1
2 the protections of our neighborhood with the
3 eventual hand-off to the LPC.

4 Thank you very much.

5 CHAIRPERSON AVELLA: I just have
6 one quick question and any one of you can respond.
7 Are you, in effect, saying that this is so bad
8 that it has to be rejected and it has to be sent
9 back to the drawing board, or are you suggesting
10 with all of these changes, you would then support
11 it?

12 MR. REYNOLDS: I think it's
13 problematic even if we made a number of
14 amendments. The crucial problem is that we don't
15 yet have district-specific regulations, not a
16 homeowner's guide, but real regulations with the
17 force of law from the LPC. Until we see what
18 really would be the law, we can't know and rest
19 assured that we can give up the present zoning
20 protections, it's as simple as that.

21 MS. O'FLAHERTY: I agree.

22 CHAIRPERSON AVELLA: Thank you.
23 The first panel in favor is John Ward, Deepmar
24 Debearing [phonetic], Lou Venich [phonetic], Ira
25 Greenberg.

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[Off mic]

MALE VOICE: You're missing somebody?

CHAIRPERSON AVELLA: I seem to be missing somebody, so Judith Sloan?

[Off mic]

CHAIRPERSON AVELLA: Judith, is Judith here?

MS. JUDITH SLOAN: Yeah.

MALE VOICE 1: I go first?

MALE VOICE 2: Okay.

MR. IRA GREENBERG: Yes, it's still morning. Good morning, Council Members, Chairman Avella, my Councilman Gioia, and I'm sad to see Councilman Vann left, I was going to say one thing I want to say is history is very important and right now there's a big debate about Mayoral control of the schools, but it has to do with parental involvement and really Al Vann started parental involvement many years ago when I was a child in the public schools and how important it was and that's what community school boards were about, whether you liked them or not or whatever, that's what it was about.

1
2 I just think you have to be mindful
3 of history here. And over two years ago, this
4 effort to landmark Sunnyside Gardens was started
5 and there was a big discussion about the PC
6 district and its effectiveness. There was a lot
7 of discussion about how ineffective it was, it
8 didn't work, it didn't do this, it didn't regulate
9 the place properly because of the Buildings
10 Department and the Buildings Department enforces
11 the zoning code and the Buildings Department was
12 loathe or whatever to come out and enforce some of
13 these special rules that we had, so the idea was
14 let it be landmarked and Landmarks would do this,
15 as well as the Counsel Landmark said, other things
16 that may be, including myself, don't particularly
17 think need to be regulated.

18 That went ahead, in all the
19 discussions it was always said that these
20 restrictive rules that PC [off mic] would be
21 removed and Landmarks would enforce that type of
22 thing, that the open courts would be protected.
23 Constantly at every meeting: Open courts, open
24 courts, open courts, this was open, this was
25 public, this was well discussed and City Planning,

1
2 to their credit, said well we plan to remove the
3 rules of the PC district and put R4 zoning in
4 place, that's what they said.

5 So if you're for landmarking, if
6 you went around saying that, I think you had to be
7 for the removal of the PC district. I didn't say
8 I was, I said we needed special rules, but it's
9 too late now, landmarking was approved and this is
10 where we are now.

11 I am not, you know, I guess, if the
12 Council's not going to approve this zoning change
13 and leave us with two commissions, you can't do
14 that. What you have to do is turn the clock back,
15 go back in the timeline, get rid of landmarking
16 and we can start all over again, ala some Star
17 Trek episode, we can go back in time and we could
18 redo the timeline.

19 But I'm very disturbed about this
20 'cause I think it's, especially in a historic
21 district council part, I've seen some stuff from
22 them, it's completely wrong, this thing does not
23 allow for curb cuts, we know that. It also does
24 not allow for the paving of front yards 'cause R4,
25 as you know, Chairman Avella, you fought for this,

1
2 I remember a couple of years ago, no paving of
3 front yards.

4 So I'm really having a hard time
5 with this is all I can say. I support this
6 wholeheartedly because I think it's time to move
7 on, it's time to really focus on landmarks and if
8 you want them to have rules, get them to have
9 rules. I say we should have seen the rules
10 beforehand, I said it publicly, Landmarks said no,
11 City Planning approved landmarking and this is
12 where we are now. I don't think we should go
13 back, you know? To me, that's the two
14 alternatives: Is get rid of landmarking and go
15 back just to the PC district and start all over
16 again or move ahead.

17 Thank you.

18 MR. DEEPMAR DEBEARING: Council
19 Members, Chair, thank you for hearing us. My name
20 is Deepmar Debearing, my wife and I bought a house
21 in 2005 in the Gardens on 47th Street and we love
22 the neighborhood, just as everybody else here in
23 the room I guess, and we welcome regulation.

24 We were in favor of the landmarking
25 process and are glad it came through, but, as any

1
2 regulation, it has to be realistic, it cannot be
3 overburden the homeowners who have to eat up the
4 soup [phonetic].

5 About 3 1/2 years ago, we embarked
6 on a mission to get an attic addition on our
7 house, the attic addition would not be visible
8 from the street, it would not--

9 MALE VOICE: What kind of an
10 addition?

11 MR. DEBEARING: An attic addition
12 or an attic extension. The case with our house is
13 that we have a sloped roof towards the street,
14 it's a rowhouse so you can't see behind the roof,
15 but on the garden side of our roof, we have a flat
16 roof and on that flat roof we would like to put an
17 addition, so we wouldn't even increase the
18 footprint of our house. However, because it was
19 an increase of square footage, we would have to
20 get a special permit. I met once with Neal
21 Gagliardi, back then in charge of Sunnyside
22 Gardens, and he advised against going through the
23 process, he said, why don't you just wait until
24 landmarking comes through, it will happen in a
25 year or so, and so we decided well let's see

1
2 first. So landmarking took a while, we tried to
3 get an architect to go forward with the ULURP
4 process, we were willing to overburden the system
5 as well because in the end even City Council would
6 have to vote on our little attic addition, I
7 thought that was completely out of proportion, but
8 that's your process, we were willing to comply.
9 Even shelling out the \$1,300 application fee and
10 paying our architect, maybe even a lawyer to go
11 forward, we couldn't even find an architect.

12 So that's where we are right now,
13 we want the regulation that works for the
14 neighborhood to protect it, but that doesn't
15 overburden the citizens.

16 I have another minute. I want to
17 pick up the point that Ira made about the
18 misrepresentations about what is going on, in
19 particular about the historic district council. A
20 lot of our neighbors are very concerned about this
21 change because I think they have been misinformed.

22 There are a few things that the
23 Historic District Council published just the other
24 day. It relates to how much space we can add to
25 our homes, complete misrepresentation. Probably

1
2 the most generous layout that we have in the
3 Gardens is the single-family house, it's two-
4 stories. Let's assume the plot is 100 feet deep,
5 I think that's about the size, and the houses are
6 built to a maximum of 28 foot deep, that is about
7 .56 of the FAR value--easy math, two times 28 out
8 of 100, .56. So we could do a remaining .19 FAR
9 value, .19 out of 100 feet, that would give us on
10 17 1/2 feet width--you help me. It's not much.

11 FEMALE VOICE: It's a little.

12 MR. DEBEARING: Yeah, it's a
13 little, so there are some additions that we could
14 do in the rear, but we still would have to go
15 through a process and we could be turned down by a
16 commission that actually can hear us and that
17 would not overburden us.

18 Thank you.

19 [Pause]

20 MR. LOU VENICH: Right, good
21 morning, Chairman Avella, Committee members.
22 Thanks for the opportunity to speak.

23 My name's Lou Venich, I'm also
24 speaking on behalf of my wife, Christine Hunter.

25 Twenty-one years ago we bought a

1
2 house at 3933 49th Street and have lived there
3 ever since. Christine is an architect with
4 experience on projects in other districts
5 regulated by the Landmarks Preservation
6 Commission, unfortunately, she couldn't be here
7 today.

8 I'm a past president of the
9 association that manages Sunnyside Gardens park,
10 my wife and I were both active supporters of the
11 Historic District designation and I'm just
12 speaking for my own family today, to make that
13 clear.

14 No one has the perfect prescription
15 for protecting what's most important about the way
16 Sunnyside Gardens looks and functions. No one
17 person or group speaks for the whole community and
18 I think it's important to understand that today.

19 The zoning amendment before you
20 isn't perfect and LPC's decisions to-date and
21 staff statements so far aren't perfect either,
22 overall, they go in the right direction.

23 Throughout the debate on
24 designation, almost everyone agreed that the PC
25 zoning and application process had failed to

1
2 protect key features of Sunnyside Gardens and that
3 LPC was better equipped both to protect the
4 Gardens and, just as important, to develop a
5 process that can help homeowners understand the
6 requirements and encourage compliance. Advocates
7 in city agencies made this one of the major
8 arguments in favor of proceeding with the
9 designation.

10 There is a concern that the
11 amendment before you, plus the early evidence of
12 LPC's intentions fall short of everything that
13 people are looking for and protecting the key
14 features of the Gardens. I think what the
15 commission staff has said today is helpful in that
16 connection and that your questions and comments,
17 Councilman, are very much to the point about
18 clarity and also some flexibility for considering
19 individual situations, that's an important part of
20 keeping the neighborhood affordable too. It's
21 hard to strike the right balance.

22 I hope the committee will encourage
23 City Planning and LPC staff to clarify, if
24 possible, through LPC guidelines, how the
25 Commission will protect what experts would call

1
2 the character-defining features of Sunnyside
3 Gardens. Guidelines will help to minimize
4 conflicts and skirmishes before the Commission
5 when individual homeowners come forward and want
6 to make changes, so guidelines based on precedents
7 are a good idea.

8 The key point is that you keep
9 moving towards approval to shift jurisdiction to
10 the LPC and end the cumbersome PC ULURP
11 application process. Failure to make this change
12 would break faith with well-intentioned residents
13 on both sides of this issue in our community. It
14 would continue the confusing and ineffective
15 oversight that we've had on the books, right now
16 have on the books and it would make it
17 duplicative. The status quo really discourages
18 compliance.

19 A final point, what's most special
20 about Sunnyside Gardens and every other
21 neighborhood I know in the five boroughs is not
22 the way it looks, but the kind of community
23 atmosphere that's created by caring residents.
24 The landmarking debate created unfortunate levels
25 of ill-will among residents in the community and

1
2 as long as there's still confusion about how this
3 compliance is going to be managed, that ill-will
4 will linger. Please help us to clear up that
5 situation and avoid it. Thank you.

6 MS. JUDITH SLOAN: Good morning,
7 wait, Councilman Avella and Gioia and Felder and
8 Jackson and anybody who isn't here, I'm hoping
9 that their staff are taking notes.

10 I'm here to just say that we're
11 encouraging you to vote yes on this text change
12 amendment and also that I was against landmarking
13 and here I am listening to the Landmarks
14 Commission, I'm not going to read what I had
15 prepared because I heard what they were just
16 saying 20 minutes ago and what I heard Mark
17 Silverman and Sarah Carroll say was that they were
18 going to prevent building inside the common
19 gardens and I'm pretty sure that you said that
20 clearly and so, to me, that makes that issue of
21 the distinction between somebody's direct back
22 yard, right outside their door or what's in the
23 common gardens. And, as you know, some of the
24 common gardens have already been fenced off, so
25 that's probably something that's going to happen

1
2 over time in some other weird way 'cause people
3 own that property.

4 And what I heard them say was that,
5 in fact, they were going to prevent some of the
6 things that people have just said to you they were
7 afraid were going to happen, like curb cuts.

8 And so I'm encouraging you to just
9 vote yes and I'm also, quite frankly, exhausted of
10 this process and, not to make a joke, but
11 seriously exhausted, and in August 2007 City
12 Planning started these text change amendments, it
13 is now June 2009 and I agree with everybody else
14 that spoke that it's time to move forward, nothing
15 was perfect before, nothing is perfect now. I
16 don't see anything perfect in the entire country,
17 however, this seems to be a good way to move
18 forward right now and if you vote yes, it will
19 allow people to at least function as human beings
20 and to do minor changes that they need to do.
21 Right now, you've got two regulatory commissions
22 and it's completely overbearing and a burden and
23 that's really all I have to say.

24 And I have spoken to about 300
25 other people in the neighborhood and I'm sure some

1
2 of you have gotten e-mails from some of them and
3 if you would like us to, but I don't think it's
4 necessary, we'll be happy to go out and get those
5 signatures again.

6 CHAIRPERSON AVELLA: Thank you. Do
7 you have a question? No?

8 COUNCIL MEMBER GIOIA: Well, I just
9 want to thank everyone. And I should have done it
10 when the first panel came up, I want to thank
11 everyone for coming down to City Hall, it's always
12 nice to see my neighbors at City Hall.

13 And I really want to second Lou's
14 comments because I think they were really
15 important. The most important about this
16 neighborhood is that people are good people who
17 get along and when you actually hear people
18 testifying, and I said this two years ago,
19 although I didn't realize it was two years ago,
20 was a really two years ago that we did landmark?
21 Two years ago was that if you really listen to
22 both opponents and proponents and there is
23 certainly disagreement, but when you hear about
24 paving over green areas, fencing, big extensions,
25 carports, driveways, there's actually a lot of

1
2 agreement, and I'll ask landmarking to get up
3 after the public is done testifying to clarify
4 some of the things that I began asking about
5 because there really does seem to be agreement on
6 what we want to see in the neighborhood and what
7 we want to see preserved and protected in terms of
8 the essential character of the neighborhood. I do
9 think we need to hear more from Landmarks because
10 clarity I think is what can allow this
11 neighborhood to heal and move on.

12 CHAIRPERSON AVELLA: Thank you.
13 Next panel is a panel in opposition Elizabeth
14 Reynolds, John Dermuny [phonetic], Eric Myers,
15 Lauren Belfer, are they all here?

16 FEMALE VOICE: No, one person had--

17 [Pause]

18 CHAIRPERSON AVELLA: Okay.
19 Christabel, you're next.

20 And while they're being seated, I'd
21 like to call on Council to call for a Council
22 Member Katz's vote.

23 MS. CAROL SHINE: Carol Shine,
24 Counsel. Council Member Katz.

25 COUNCIL MEMBER KATZ: Aye on all.

MS. SHINE: The vote stands at eight in the affirmative, none in the negative, and no abstentions on Intro 979 and LUs 1106, 1107, and 1108.

[Pause]

FEMALE VOICE: Oh okay.

MS. ELIZABETH REYNOLDS: Chairman-- is that on?

[Off mic]

MS. REYNOLDS: Chairman Avella, Members of the Zoning Subcommittee and Councilman Gioia. My name is Elizabeth Reynolds, I'm a resident for the past 24 years of Sunnyside Gardens and am president of my homeowner's association, one of the two largest in the neighborhood.

A large majority of my association of our neighbors were advocates for landmarking, we worked hard to establish the historical importance of this unique New York neighborhood, which we achieved when we became a New York City historic district.

I and my board have an obligation to stand up for the strengthening of the

1
2 protections of the neighborhood--sorry, the
3 protections that have been in place in the PC
4 district which was established in 1974. The
5 current City Planning proposal, quite alarmingly,
6 weakens those protections, they move what is
7 there, could be a law to possibly a guideline.
8 These proposed zoning changes are inappropriate
9 and counterintuitive for a historic planned
10 community whose chief distinction was of its--I'm
11 sorry, whose chief distinction was intentionally
12 small buildings, back gardens, and common spaces.

13 The City Planning fact sheet which
14 has been around since 1974, it clearly illustrates
15 the kind of zoning protection and the force of law
16 that this planned environment needs. Effective
17 zoning will allow the PC or the--I'm sorry,
18 effective zoning will allow the LPC, the Landmarks
19 Commission, to spend their precious time and
20 resources on deciding matters of appropriateness,
21 not on regulations or laws that could be clearly
22 well defined as a starting point and that's what
23 was present, is present currently in the fact
24 sheet.

25 I strongly urge the Zoning

1
2 Subcommittee to recommend a no vote to the City
3 Council on these proposed changes and I would also
4 say that we actually have hundreds of signed
5 petitions for these specific--we'll we're asking
6 for these specific regulations that were not well
7 written, I grant you, but were well-illustrated in
8 the fact sheet and that they be part of, as a
9 starting point, the law and let the LPC do what
10 they're best at and that's approve or disapprove
11 according to appropriateness. Thank you.

12 MS. LAUREN BELFER: Good morning,
13 my name is Lauren Belfer and I am here
14 representing the Historic Districts Council, we're
15 the citywide advocate for New York City's historic
16 neighborhoods.

17 Since 2003, we have been working
18 with the community members in Sunnyside Gardens to
19 create better and more efficient protections for
20 the neighborhood's unique and carefully crafted
21 character. To that end, we have worked closely
22 with Sunnyside residents to petition for local
23 designation as a New York City historic district,
24 a campaign which proved successful when City
25 Council affirmed its designation in October 2007.

1
2 During the road to landmark
3 designation, the one thing that everyone agreed
4 upon was that Sunnyside Gardens' innovative
5 zoning, adopted in 1974 to protect the character
6 of the neighborhood, while well intentioned, was
7 inefficient and difficult to enforce. Part of the
8 desire for landmark status was that the LPC had
9 the power to enforce its own regulations, as
10 opposed to the Department of City Planning, which
11 had to rely upon the Department of Buildings to
12 enforce its regulations. The restrictions of the
13 PC District were not the problem, enforcing it
14 was. The Landmarks Commission and City Planning
15 seemed to be of like mind about this issue and
16 there were discussions of how to better coordinate
17 regulatory efforts between the three agencies in
18 order to continue to better protect the character
19 of Sunnyside Gardens as it has been protected
20 since its inception, first by covenants, then by
21 zoning, and, finally, by landmark designation.
22 All of the advocates were very surprised by City
23 Planning's proposal to emasculate the Planned
24 Community District and essentially open the door
25 to rampant development within the new historic

1
2 district.

3 Please make no mistake, this action
4 is a de facto up-zoning of the neighborhood. As
5 part of HDC's regular activities, we monitor and
6 comment upon applications that go before the
7 Landmarks Preservation Commission every week. We
8 have been doing this for almost 20 years and we
9 have heard countless times that Landmarks
10 Preservation Commission does not regulate zoning
11 and can only respond to applications that are
12 brought before it. Therefore, it is our
13 contention that a zoning change that would allow
14 applicants to add significant additional square
15 footage to the majority of buildings within a
16 historic district is an up-zoning, plain and
17 simple. If the underlying zoning permits a
18 certain kind of development, then the LPC will be
19 faced with applications for that kind of
20 development. We see it happen almost every single
21 week at the LPC, where small older buildings which
22 fall into higher-density zones are asked to take
23 on more and more bulk because that's what they're
24 zoned for.

25 Every year, low buildings within

1
2 the Tribeca Historic District are proposed to be
3 demolished for larger developments and federal
4 rowhouses in Greenwich Village and Cobble Hill are
5 proposed to be dwarfed by extreme rooftop
6 additions and rear yard additions. This is why
7 Community Board One in Manhattan petitioned to
8 have the South Street Seaport Historic District
9 rezoned to encourage more contextually-scaled
10 development on the vacant lots within the district
11 and why Community Board Two in Brooklyn
12 established one of the few truly limited-height
13 zones in New York City in both the Brooklyn
14 Heights and Cobble Hill Historic Districts.
15 Landmark designation is not enough, the underlying
16 zoning must also be compatible with the built
17 environment in order for preservation to be
18 successful.

19 MS. CHRISTABEL GOUGH: I'm
20 Christabel Gough with the Society for the
21 Architecture of the City. We also monitor the
22 Landmarks Commission, we're there every Tuesday.

23 We are concerned about the
24 situation because the Landmarks Commission is
25 confronted with a very unusual situation here,

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2 Sunnyside is a unique district, all historic
3 districts are unique to a sense, but Sunnyside
4 being a planned community, is very different and
5 the most important feature of Sunnyside as a
6 planned community is its gardens.

7 Now we are delighted that the
8 Landmarks Commission included the site plan in the
9 designation report which will help the Commission
10 to and force garden protection. However, this is
11 a first time for the Commission to be doing this
12 and we are extremely disturbed that this city
13 planning protection is being withdrawn before the
14 Landmarks Commission adopts rules special for
15 Sunnyside.

16 The rules for all historic
17 districts, if they use them, would be very
18 destructive of the central garden courts because
19 they would allow extensions and the Landmarks
20 Commission has not been aggressive in regulating
21 landscaping, in fact it's been quite controversial
22 to do that at all. In Douglaston, they protect
23 some trees but not trees that are behind houses,
24 although this is a situation where you can see
25 from angles into the yards.

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2 We would be very uncomfortable, we
3 think the timing is wrong. The time to remove the
4 city planning restrictions is when the Landmarks
5 Commission has made clear that they will continue
6 to do the same things, which has not really
7 happened in a definite legally enforceable way.
8 We are very nervous about this because of a policy
9 of the Landmarks Commission, which goes back a
10 long ways, there is a question, there is a legal
11 question to what extent the Landmarks Commission
12 can protect areas that are not visible from the
13 public way, from the public streets, that people
14 can see. Their mandate is not the environment,
15 not light and air, not quality-of-life.

16 It may be that site plans will now
17 come into it since they put down the designation
18 report, however, this is new ground for them, and
19 we fear that there will be arguments that areas
20 that cannot be seen in the central courts cannot
21 be aggressively regulated and you should know that
22 the paths through the courts are private streets,
23 so that standing in a path through the court does
24 not mean that it's being seen from the public way.
25 That's my point.

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2 MALE VOICE: Chairman Avella,
3 thanks for the opportunity. Unfortunately, I
4 won't be as eloquent as the previous speakers,
5 I'll be very brief. And, to Mr. Gioia, I believe
6 that you have been instrumental in postponing a
7 vote and if that's true, I'd like to thank you for
8 your efforts in supporting us in the landmarking
9 issue.

10 And I'm a small business owner and
11 I just refer to something Mr. Jackson said
12 earlier, he referred to the fact that it's tough
13 for small businesses to survive right now and I
14 echo that. And so under some of the proposed text
15 revisions, some of the stuff that may be allowed,
16 such as large extensions, I think that it's going
17 to provoke considerable division in the
18 neighborhood and we're going to be coming down
19 here fighting each other on a consistent basis.
20 Now, as he says, it's hard enough for us to
21 survive so I really don't want to be coming down
22 here again, folks.

23 And I'm sure that you will ensure
24 that when you review the text again that you will
25 perhaps ensure that better protections will be

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2 available in the text when you look at again, I
3 would urge you to look at it again.

4 I think under the R4, which we have
5 proposed right now, I am actually entitled to a
6 substantial extension to my house, which I think
7 is great. Unfortunately, my neighbors would
8 probably not be of the same opinion if I go and
9 apply for that or try to do it and, likewise, if
10 they try to do it, I might not be too happy. And
11 so on down the line.

12 I am president of Lincoln Court and
13 we have a beautiful open court at the moment and
14 been pristine I think since 1926. Nobody has
15 taken it back, we really want to see that
16 preserved. The landmarks have been great so far,
17 they've been very vigilant and we would urge you
18 to review the text please.

19 I unfortunately have to ask you to
20 [off mic] to the text as it is, it needs to be
21 reviewed so that we have really good protections
22 in the back as the previous speaker said. The
23 gardens are lovely, but the birdsong is
24 unbelievable and we need to maintain that and
25 please ensure that we keep the Historic District

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2 historic, etc. Thank you for the opportunity to
3 speak.

4 MALE VOICE: Thank you.

5 CHAIRPERSON AVELLA: Next panel
6 Jeff, you're on, Jesse Nober [phonetic], , Abraham
7 Marcus, and Margarite Bessant [phonetic]. I also
8 see Doreen Gala signed up, but I think Doreen
9 left, correct?

10 COUNCIL MEMBER JACKSON: This panel
11 is what, in favor of--

12 [Pause]

13 CHAIRPERSON AVELLA: This panel is
14 in opposition.

15 That's all we have left.

16 FEMALE VOICE: How are you?

17 CHAIRPERSON AVELLA: Jeff, you want
18 to start?

19 MR. JEFFREY CRESSLER: Hi, how are
20 you? Good afternoon, my name is Jeffrey Cressler
21 [phonetic], I am a homeowner in Sunnyside Gardens,
22 I was a strong proponent for designation and I am
23 also a historian of the city of New York.

24 I would like to think that City
25 Planning and Landmarks have engaged us in this

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2 process, but the fact is they have not. We have
3 met several times with both Landmarks and City
4 Planning and expressed the concerns that you see
5 in the fact sheet that I faxed to you, and the
6 concerns residents have expressed today, and none
7 of those have been addressed.

8 The issues, I have a couple of
9 issues, one the homeowner's guide that Landmarks
10 is proposing is simply a generic homeowner's guide
11 for owners of properties in historic districts,
12 not something specific to Sunnyside Gardens, we
13 need something that outlines you can and can't do
14 this.

15 The chief difference is that the
16 City Planning regulations--which I don't think
17 were a failure, I don't know where this is coming
18 from, it succeeded for 35 years--city planning
19 regulations outline what is allowable and what is
20 prohibited in our district.

21 Landmarks works with owners to
22 regulate work, so you can apply for anything. Our
23 problem is that if you can apply for a shed or a
24 fence or a rooftop addition or a rear yard
25 extension, Landmarks has an obligation to hear

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2 that obligation application and they might say
3 yes. They have in fact approved one enlargement
4 of a porch, they have approved one rooftop
5 addition, both those projects are currently being
6 held up at Buildings because they don't conform to
7 the current zoning.

8 I wonder why if they can change the
9 number of allowable work in our neighborhood from
10 this to that, .9, .75, why not make it something
11 that protects the 28% floor area lot coverage that
12 we have which would be something in the
13 neighborhood of .6. They've done this in Carroll
14 Gardens were they protect the wide street blocks
15 in Carroll Gardens, those were specifically
16 protected a year ago, and I'm wondering why our
17 open space is not getting this kind of guarantee.

18 The other problem with removing
19 this is that all of the illegal work that has been
20 done over the years--the shed's, the fences, the
21 carports, not the carports--all of that will
22 suddenly become grandfathered and legal. So if
23 you have a rooftop addition that doesn't conform
24 to the existing zoning, it will suddenly be okay.
25 And that is not okay. The problem is not neighbor

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2 v. neighbor, the problem has been neighbor v. the
3 law, whereas most neighbors embraced the law, a
4 few do not, that's where the conflict comes in.

5 I have a letter from the president
6 of the AIA Queens, just so you know, the
7 Preservation Committee of the Queens Chapter of
8 the American Institute of Architects is writing to
9 express our view that the text change of the
10 Sunnyside Gardens special Planned Community
11 Preservation District should not be modified as
12 presently proposed. The text change will allow as
13 of right fences, sheds, and additions which the
14 neighbors of Sunnyside Gardens worked tirelessly
15 to protect in our quest for designations.

16 So a better version would protect
17 our 28% lot coverage and expressly state that, in
18 addition to no curb cuts, that there be no sheds
19 and no fences in the rear yards. These
20 restrictions would also not render the current
21 illegal sheds and fences legal once the text
22 change.

23 I'll hand you this letter also the
24 AIA has prepared--

25 CHAIRPERSON AVELLA: [Interposing]

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Jeff, you're way over now.

MR. CRESSLER: I know, but--

CHAIRPERSON AVELLA: I'm cutting you off.

MR. CRESSLER: --the AIA has prepared drawings of what would be--

CHAIRPERSON AVELLA: Jeff.

MR. CRESSLER: --allowable under the current zoning, so if I could distribute these, that would be okay.

CHAIRPERSON AVELLA: Next speaker.

Ms. MARGARITE BESSANT: My name is Margarite Bessant, I live at 39 JS 66 46th Street, I'm 78 years old. I came to Sunnyside in 1960 and I bought the house that I live in, in 1980, so I'm a strong believer in Sunnyside Gardens.

I'm not a public speaker and so I really can't express myself very well, but I would like to say please oppose this proposal. We want to keep the current zoning protection. Thank you very much.

CHAIRPERSON AVELLA: I don't think anybody has said it better. You did very well.

MR. ABRAHAM MARCUS: Good morning,

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2 my name is Abraham Marcus and I'm here today to
3 ask you to vote no on the proposal by City
4 Planning to change the provisions.

5 When I was a boy, there was an
6 expression that I never understood, you can't have
7 your cake and eat it too, and I didn't understand
8 it, I didn't get it, why would you want cake if
9 you couldn't eat it. Well I understand that now.
10 You can't have a landmark district and have a law
11 that removes all the provisions that protects that
12 district and make it special.

13 A couple wants to live in New York
14 City, they discover Sunnyside Gardens, they have a
15 eureka moment because they want to live in the
16 city, but they want to have trees and birds and
17 open spaces--they move to Sunnyside Gardens. The
18 houses are small, I live in one of them, it's a
19 very small house, 17 1/2 feet wide. You want to
20 enlarge it, the neighborhood would still be nice
21 and my house would be larger. You want light, the
22 trees are beautiful, I'll just cut down my tree.
23 But the thing is--and for all the other provisions
24 for fencing and curb cuts and particularly paving
25 over front gardens, it hurts me when I pass by the

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2 garden that was just a year ago paved over,
3 because I suppose it's nicer to have concrete for
4 some people than to have a garden.

5 The thing is we're interconnected,
6 so when you cut down your tree or you enlarge your
7 roof or you change the slope of these beautiful
8 mansard roofs, you make your life better, but you
9 make it worse for everybody else.

10 So I'm asking you to vote no to
11 honor the history of Sunnyside Gardens and what
12 some people did, which was a bold experiment that
13 posed the question: can people give up a little
14 bit of their own rights, live cooperatively for
15 the greater good of everybody? That's a tough
16 proposition because I guess we're one of only two
17 communities in the United States like that, but
18 it's one that's worthy to be out there, so I ask
19 you to take that into consideration. Thank you.

20 CHAIRPERSON AVELLA: That was a
21 very nice comment. Thank you. I see no one else
22 signed up to speak at this item, so I'll close the
23 public hearing, but I will ask Landmarks and City
24 Planning to come back. Council Member Gioia has
25 some follow-up questions.

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2 And while they're being seated, let
3 me just for the record, the next meeting of the
4 Zoning Committee will be on Thursday at 10:45 and
5 then we will also have the next meeting on the day
6 of the stated meeting, which is June 10th at 9:30.

7 COUNCIL MEMBER GIOIA: Thank you,
8 Mr. Chair, and thank you both City Planning and
9 Landmarks for sticking around.

10 I think the testimony was really
11 eloquent at times and I just want to raise, I
12 think it was Elizabeth Reynolds who said that it
13 seems counterintuitive to go through this whole
14 process, to landmark a neighborhood, and then to
15 remove the restrictions on the development, the
16 curb cuts and I know the fences, the extensions,
17 etc.

18 Your position obviously is that
19 this is not counterintuitive. Can you explain,
20 can you close the gap, can you connect this why in
21 your view it's better protected than it was
22 before?

23 MR. SILVERMAN: Well, I think maybe
24 we should also ask City Planning to talk about
25 this because I'm going to be characterizing a

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2 little bit their process in this, but, again, I
3 think you heard it just now numerous times, a real
4 misconception about what people, what the
5 regulatory regime is right now. Even before
6 landmarking and I've joked many times with John
7 Young that I only wish the Landmark Commission
8 could come up with a little graph with an X
9 through it that said, can't do it, and he would
10 laugh because he knows that's the problem, those
11 little Xs that people show, okay. There is no X--
12 -

13 COUNCIL MEMBER GIOIA: This here.

14 MR. SILVERMAN: That's right, there
15 is no X under the current process. The current
16 process says you need to go to City Planning and
17 get and seek a special permit, seek approval for
18 whatever is there. It doesn't say City Planning
19 will not approve it, it says you need a special
20 permit.

21 So right now, we regulate almost
22 everything, the Landmarks Commission, I believe
23 almost everything that the City Planning
24 Commission regulates, all the things that are Xd
25 there will have to come to us, we will have to use

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2 our standards and our statutory mandates to review
3 it and then and it will then go to City Planning.

4 COUNCIL MEMBER GIOIA: I'm sorry to
5 interrupt you, but I mean, this is a really
6 important point, and actually Elizabeth Reynolds
7 touched on this in her testimony, she said it may
8 not have been well-written, but it was well
9 illustrated. I don't know if you heard her
10 testimony, that's what she said--

11 MR. SILVERMAN: Yeah, I did.

12 COUNCIL MEMBER GIOIA: --and she
13 said, LPC is best at approving or disproving
14 according to appropriateness. And so I mean you
15 just said, assume you're right, I mean when you
16 look at this, it says alterations not, underlined,
17 permitted without special permit approval, and
18 then you've got these diagrams with the Xs through
19 it, but it's pretty clear, you know you get a
20 pretty good idea, you say, well gosh, I can't do
21 this unless I get a special permit.

22 So I mean why won't you, as LPC do
23 a homeowner's manual that says this is no
24 permitted without full board approval? It would
25 be this--in other words, why don't you do the same

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2 thing?

3 MR. SILVERMAN: Well I suppose we
4 could, but it does a little disservice. As you've
5 heard, all of the misinformation that people have
6 viewed, yes, we could say something, this is not
7 permitted by the rules, of course, there's many
8 things that are not permitted by the rules and
9 that the commission would review, okay? But that
10 doesn't give homeowners okay--and let's remember
11 who we're talking about people who own homes and
12 they should be entitled to understand what is
13 likely to be approved, what is not likely, to give
14 them something that says can't be approved, it's
15 got X, to the extent that that results in the kind
16 of views that you've heard today, okay? I think
17 that's a disservice because until the Landmarks
18 Commission opines on some of these proposed
19 changes, we don't know what they would do and I
20 think and, again, I would encourage you to ask the
21 City Planning representatives. We can't sit here
22 today and say with any certainty because there's
23 only been one or two applications for special
24 permits, what the City Planning Commission would
25 or wouldn't do. The fact that the City Planning

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2 Commission has decided--and this is an issue that
3 I think is a fair enough issue--what's the
4 appropriate zoning under the current new proposal?
5 City Planning has their proposal is not to, in the
6 terms of land use, shrinkwrap the district, they
7 are proposing to allow a very small additional, a
8 potential for very small increases in the size of
9 buildings. Now when people talk and say this
10 allows as of right development, okay, as many of
11 the speakers know, there is no such thing as of
12 right development under a Landmarks Historic
13 District regulation. Even if it's permitted by
14 Zoning, the Landmarks Commission reviews it for
15 purposes of appropriateness.

16 And so I think that that we can't
17 say what the City Planning Commission would or
18 wouldn't have approved given applications before
19 them which the process, for whatever--and I don't
20 want to characterize why there were or weren't
21 applications, but I think maybe you should address
22 some of that to City Planning.

23 COUNCIL MEMBER GIOIA: Sorry, I
24 thought the Chief of Staff had a question, it
25 would have been the first time ever. He lives in

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2 the neighborhood a little bit further closer to
3 the water though.

4 I could see how your testimony
5 could really give concern to the opponents of this
6 because you're saying, look, we don't know what's
7 going to be approved or not approved, but I think
8 two things: one, the concerns are very clear and
9 the mandate is very clear. I mean people are
10 concerned about the paving over green areas,
11 they're concerned about fencing off of back yards,
12 they're concerned about extensions that are out of
13 character, they're concerned about carports,
14 they're concerned about curb cuts and driveways.
15 And so while I understand I think the point you're
16 trying to make which is a lawyerly point, of we
17 don't really know, well maybe someone will have a
18 really good reason, some historic reason to do
19 this and it will be in context, which is also, I
20 think, part of what--when I look at these
21 illustrations and I'm not--I could see a big X
22 saying, you know we're not going to approve the
23 cutting down of historic trees and you drop a
24 footnote and you say, the idea of landmarking
25 Sunnyside Gardens was to do X,Y, and Z, and there

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2 are certain things we don't want to--there are
3 certain things that would not be in context there--
4 -the paving over of green spaces.

5 What this neighborhood needs is
6 assurance that what they've worked so hard for to
7 preserve will in fact be preserved by LPC. That's
8 what the neighborhood needs to hear, that this is
9 not going to be--I think the first person who
10 testified said, look, this is a beautiful
11 neighborhood, we don't want to see the concrete
12 jungle, we don't want to see the paving over of
13 driveways. So what assurances--I mean you see the
14 point clearly, right?

15 MR. SILVERMAN: I do see the point.
16 I want to make two points, one, is that I think,
17 and I attribute it solely to the enthusiasm of the
18 moment, but for HDC to characterize landmark
19 regulation as permitting rampant development in
20 Historic District I think would be news to just
21 about every single Council person and every single
22 owner in a landmark area. Okay, so I think
23 there's a certain--but I think that right now I
24 can say with confidence, not certainty,
25 confidence, that that list of things you just went

through--paving over the front yards, fences--

MS. CARROLL: Sheds.

MR. SILVERMAN: --sheds, that the
commission is it would be highly unlikely the
Commission would ever approve those. Just as,
just so everyone's clear, just as my colleagues in
the City Planning Commission would say the same
thing. They can't say, so in other words, we
could keep this in effect, and what would happen
is that we might approve something that some
people disapprove and it would go to City Planning
and they would have to decide whether, in their
view, it's appropriate, and they might. So--

[Crosstalk]

COUNCIL MEMBER GIOIA:

[Interposing] I'm sorry, you just confused-- you
mean to say previously, not under proposed.

MR. SILVERMAN: Under existing--

COUNCIL MEMBER GIOIA: Right.

MR. SILVERMAN: --under existing,
right, right. So I think that I would and I do
believe--I mean, we work very closely with many of
the advocates in this room. I think we all share
the same goal, which is preserving Sunnyside

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2 Gardens, all the special features, all the
3 significant features, but I think that I'm
4 constrained to say that here and now that
5 something would never be allowed, I can only give
6 you my best judgment as I think the Department of
7 City Planning people could do.

8 To use the word prohibited without
9 that caveat, which none of them included in their
10 testimony, I think is the problem.

11 COUNCIL MEMBER GIOIA: But I hear
12 you on that, and one of the rules of legislation
13 is you don't legislate for the exception, right?
14 Because that's how you get bad laws, when you try
15 to legislate for exceptions. And this isn't the
16 law by the way, what City Planning put out, is not
17 the law.

18 I was looking at something the
19 Campaign and Finance Board put out the other day
20 for candidates. Now we've run for a number of
21 offices, I haven't looked at the Campaign Finance
22 Board booklet for candidates in seven years, I
23 don't need to, I'm running a big campaign, I've
24 got a lawyer, we know the law, but I looked at it
25 the other day and I thought it was kind of funny,

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2 it was so simplistic and I thought, boy oh boy, if
3 this is all you have, you probably should go and
4 get a lawyer before you get in trouble. But I
5 thought at the same time, pretty good for the
6 person who wakes up one morning and decides, you
7 know, I may want to run for office, what are
8 rudimentary rules, how does a bill become a law
9 sort of thing.

10 And so I think it's a good start,
11 and nowhere does it say--I mean I think City
12 Planning doesn't say, you can never do this. And
13 I can see your point that this X actually may be
14 misleading and give somebody who has an impression
15 that he never may be able to do this, and in fact
16 you can go through a special permit processing and
17 get it done.

18 At the same time, I think the X
19 does characterize exactly what we're trying to
20 say, which is we actually don't want you to do
21 this. And, while there may be some exceptions
22 that are out there, we really don't want to see
23 this sort of behavior in Sunnyside Gardens. And I
24 think the impetus behind landmarking was that
25 there were too many curb cuts, greenways being

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2 paved over, extensions that were out of character,
3 and, because of the growth in Queens and the
4 development in Queens, there was a real fear that
5 our neighborhood would be over run, that what made
6 it so special and so unique would not be there in
7 10 years or 20 years.

8 I think you share those goals, and
9 I think Landmark shares those goals, but I think
10 to get from here to there, we need to have is that
11 people who have worked so hard to protect the
12 historic nature of the community need further
13 assurance that this is going to be okay, that
14 these sort of things will not be happening, and
15 I'm not talking about the--and I'm not asking for
16 an ironclad. I mean, certainly there will be
17 exceptions that--I mean, I can't think of them,
18 but maybe there are out there.

19 But I think that the Landmarks
20 Commission needs to take a step further to give
21 some clarity that to people who would want to do
22 different things, because even someone buying a
23 house in the neighborhood should have a pretty
24 good idea of what the community concern is, what
25 the character of the neighborhood is, and I think

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2 that's very important.

3 And I'd like you to address
4 specifically, I think it was the Council on
5 Architects who mentioned the regulation of green
6 space. Now that's a big deal here, I mean, this
7 is what makes Sunnyside Gardens so unique are
8 these common gardens, you will have the ability to
9 regulate this green space.

10 MS. CARROLL: Okay. The
11 Commission, when we designate properties, the
12 Commission regulates entire properties and that
13 includes front façades, rear facades, and rear
14 yards, and that's in every district. In many
15 districts, the Commission has traditionally been
16 more flexible on rear façades because it can be a
17 kind of a burden to own a landmark and so we try
18 to be a little more flexible on those areas that
19 aren't visible. However, even in a brownstone
20 district, we're very careful about the impact of
21 proposed work on the central green space on the
22 rear facades. In Sunnyside Gardens, as Mark said
23 earlier, when we designated the district, we
24 identified the entire site plan and the gardens as
25 significant features and therefore any proposed

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2 alterations that would have an impact on those
3 significant features are going to be carefully
4 considered by the full Commission after a public
5 process.

6 So we do regulate what happens in
7 the rear yards, we will be regulating fences in
8 the common green space, we will be regulating
9 sheds any sheds that are proposed in the rear
10 yards or common rear yards, we will be reviewing
11 additions--all of those things are things that the
12 staff will be prohibited for writing a permit for.

13 So, in other words, we have
14 currently we have existing rules, which when we
15 say rules, it's about process, it's about what you
16 can do. We don't have rules that say what you
17 can't do because those are always subject to a
18 public hearing. So, even though it seems crazy,
19 we don't have a rule that says you cannot demolish
20 an individual landmark, even though it seems like
21 a no-brainer and the staff would tell an applicant
22 this is never going to be approved, they still
23 have the right to go through the process.

24 So rules for us allow the staff to
25 write permits. So rules are currently in place

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2 for restoration, replacing in-kind windows and
3 doors to match the historic condition, roof
4 replacement, a non-visible AC unit that doesn't
5 obstruct the views in other green space--all of
6 those kinds of things that are deemed to always
7 have no effect on significant features can be done
8 at staff level.

9 And we also have rules that allow
10 some rooftop additions and rear yard additions to
11 be approved at staff level in other districts.
12 We've amended our rules so that staff is
13 prohibited from writing any permits for those
14 kinds of changes that would impact a significant
15 green space. So those will always have to be
16 considered at full commission review, again, a
17 public process. The similar and process similar
18 to the ULURP process that is currently that it
19 would currently require.

20 And to date, of the 106
21 applications that we've received, 90% of those
22 have been for restoration work, and we've issued
23 staff permits for those types of changes that have
24 no effect on the significant changes. So we
25 haven't even received that many applications for

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2 some of these things that people have described.

3 We have received an application for a fence in the
4 front yard, the commission denied the entire
5 proposal and required a smaller fence that was
6 limited to the side of the yard.

7 We've received an application for a
8 four foot extension to an existing rear yard
9 addition, the proposed addition did not increase
10 the footprint of the existing--or did not project
11 further than the existing rear yard addition, and
12 it also did not result in the addition being the
13 full width of the building, so it was a sort of a
14 little bump out, and it's a slightly bigger bump
15 out that does not project further into the green
16 space. That was an application that the staff
17 could not approve, it went to a public hearing,
18 the Commission carefully considered it and decided
19 that it was modest enough that it did not impact
20 the central green space. Had the proposal been
21 for larger addition, they very well could have
22 determined that it would have an impact and we
23 don't know if that same four foot extension went
24 through the ULURP process whether or not the City
25 Planning Commission would currently have approved

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2 it with the same sort of criteria.

3 The other applications we've
4 received are actually two applications for rooftop
5 additions on a half-pitched roof where the back of
6 it was flat. The additions were set back from the
7 masonry rear façade to distinguish them from the
8 rear wall, preserving the silhouette of the
9 original building and again did not increase the
10 footprint into the green space.

11 And we've also received
12 applications that we've reviewed at public hearing
13 for altering steps and entrances. So the fence
14 proposed was to delineate a private front yard, it
15 wasn't even for the common garden, we reduced the
16 amount of fencing that was proposed.

17 The additions that we saw, we found
18 to have no impact on the green space. However, it
19 was a tough decision and was handled by the full
20 Commission, again, with public testimony as part
21 of a public process, and to-date we have not
22 received any applications for sheds, fences in the
23 common gardens or paving driveways and, as Mark
24 said, we can say with confidence because the
25 district was designated specifically for the

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2 unique site plan, it's highly unlikely the
3 Commission would ever prove those changes.

4 COUNCIL MEMBER GIOIA: Let me say
5 is that I think it's important that renovations
6 and historic preservation that some changes of
7 course need to be approved. I mean, if they
8 weren't, then we would lose the ability to
9 landmark any neighborhood in New York City.

10 One of the criticisms about
11 landmarking this neighborhood or landmarking in
12 Queens was that, well, you know, we have
13 homeowners who want to make changes and it was
14 your testimony, we quite a lot of discussions
15 about this, saying no, no, we will protect the
16 historic nature of the neighborhood, but we will
17 still allow people to renovate their homes and put
18 in new windows and that sort of thing, and I think
19 that is very important and I want to be clear, I'm
20 not criticizing at all on that.

21 I don't remember who testified
22 about this, but someone said--and understand how
23 hard people have worked in this neighborhood to
24 get this landmarked, I mean really very hard, and
25 they deserve a lot of credit for getting it done.

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2 And the idea is to move it from
3 City Planning to the Landmarks Commission, which
4 is designed to preserve the historic nature of
5 this neighborhood and this green space, but we
6 need more than hope that this will happen. And so
7 when I look at this, this fact sheet, and I hear
8 your testimony and you say there are certain
9 things that are prohibited period by staff, that
10 sounds a lot like alterations not permitted
11 without special permit.

12 MR. SILVERMAN: I think though
13 that, if I can just say one thing and then John
14 wants to speak, this document, it serves a
15 different purpose, okay? This document is to tell
16 homeowners under the existing zoning, leaving
17 aside landmarks for a moment, pre-landmarking,
18 under the existing zoning, you could do all these
19 things, as of right. The PC says sorry, we want
20 to tell you, you can't do them as of right, you
21 have to go here.

22 Our regulation is different, we
23 regulate all of it. So our process is not to say
24 what you can't do, our process, our purpose is to
25 say, okay, here's the process you will need to go

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2 through, because there is no as of right. So when
3 you heard the testimony earlier that somehow the
4 lifting of the PC was going to allow rampant as of
5 right development, there is no such thing in a
6 landmark area, it's all regulated. And so our
7 rules are different, they're there to tell
8 homeowners how to navigate the process--you need
9 to get, this is what you can get a staff permit
10 for, the other ones.

11 So I just think that fundamentally
12 they're different things and, as you said, I don't
13 think it would do a--it would do a disservice to
14 landmarking, in my opinion and I'm speaking for
15 myself now for the moment, to have a document that
16 says prohibited, big Xs through it, I don't think
17 that advances landmarking in the five boroughs. I
18 think people need to understand it's a process,
19 that the Commission is very strict, as everybody
20 knows. And we highly regulate all of these areas
21 and our goal is to help people navigate that
22 highly regulated environment.

23 And, John, I think you wanted to
24 say something?

25 MR. YOUNG: If I could, I just want

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2 to take a couple of minutes to quickly just point
3 out that the document that has been distributed
4 to, I think actually has misguided the hard-
5 working residents there about the exact law,
6 because law was mentioned, about the planned
7 community district rules.

8 The rules themselves are just two
9 pages, the handbook is eight pages, sometimes you
10 try to explain things and it takes more words.
11 Most of that is taken up with pictures, which is,
12 again, maybe why the words on even the handbook
13 haven't been well heeded, which is that there's
14 no, anywhere within these two pages and I'd be
15 happy if anyone wants to look at it to have it
16 distribute, is there a prohibition on any action.
17 In fact, all it says is that there's a process
18 that you have to go through for obtaining the
19 special permit to do certain work--enlarge,
20 demolish, construct new.

21 And in fact, what the actual
22 provisions are that, once we set up these
23 restrictions on setting of a process, you actually
24 can waive or modify your basic zoning requirements
25 if you want a special permit and go through this

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2 process, you can actually seek a variation in the
3 minimum yard requirement, in the heightened
4 setback, you can actually get permission by
5 getting the special permit to do more than what
6 the current zoning allows. And this process dates
7 to the point of time when these four areas of the
8 city were not given any other special process of
9 oversight by any city agency about how they were
10 to grow and evolve, and the whole idea here was
11 some flexibility, but a process.

12 And I think that that's consistent
13 in a way, although I think what's good that I
14 heard about the testimony is that an underlying
15 zoning change needs to be made that's contextual
16 and that's what's happening as part of this
17 process. The .75 FAR limit that's being applied
18 now doesn't exist today, again, as Mandy pointed
19 out in even the lowest zone, the R4 district, one
20 could apply for a special permit and seek
21 development and even go beyond the minimum yard
22 requirements at 1.35 FAR.

23 Just the fact that nobody hasn't
24 done it, doesn't mean that the law doesn't provide
25 for it, and that's why I think there's a big

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2 difference between guidelines and trying to be
3 helpful and explain things and actually clearly
4 understanding that the law today only sets up a
5 process and actually gives people permission to do
6 more than what the zoning allows. Under our
7 proposal the special district permit doesn't exist
8 in Sunnyside Gardens, no one could request through
9 a special permit, going beyond the law of the
10 zoning. And, in fact, we're setting a very
11 restrictive zoning limit for floor area ratio and
12 density, there's some apartment houses that will
13 be applied under this [off mic] that will probably
14 already exceed this low limit that we're setting.
15 Most of the other rowhouses come very close to it,
16 we've heard that as part of the testimony.

17 So I think we actually are
18 achieving clarity in terms of what the law is
19 through this provision. No more will people have
20 the ambiguity of seeking a special permit and
21 possibly getting that through the process even
22 beyond what the zoning limits are.

23 COUNCIL MEMBER GIOIA: Yeah, and I
24 think, John, the issue is, is that--so your
25 testimony is that this is, in fact, a down-zoning,

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2 that it would be more restrictive than previous
3 because someone testified that this is in fact an
4 up-zoning, which, from your testimony, you don't
5 agree with.

6 MR. YOUNG: We do not. In all
7 cases it lowers the actual maximum floor area
8 ratio and sets a higher density than any of the
9 underlying zoning.

10 COUNCIL MEMBER GIOIA: Because you
11 said that people with a special permit could do
12 more, and it really is--I think, you know, the
13 issue is that, it's a semantic difference, but a
14 significant difference in that, what we're hearing
15 from Landmarks is our job is not to say no, but to
16 say, here are things you can do and here's ways--
17 what's approved at the staff level, what's
18 approved by the full board. In the eight-page
19 fact sheet, with illustrations says this is not
20 permitted. In other words, you could've said this
21 in a different way, you could have said this is
22 permitted with a special permit and drew pictures
23 of cars and paving over and things like that, but
24 it was said in the negative--I'm a pretty positive
25 guy, I don't normally say things negative, but

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2 there is real merit to saying in this case, my
3 view, saying things in the negative. In other
4 words, these are not permitted at the staff level,
5 you'd have to go through a full process
6 because...and go through why, and essentially it's
7 re-articulating the whole point of landmarking in
8 the first place. And I think that may be
9 important moving forward because in 10 years when,
10 well I'll be living there in 10 years, but in 50
11 years, there needs to be a consistency and a
12 rationale that people understand why of what's
13 happening there, both for the Board, the
14 Commission, and for homeowners.

15 And I think that's all I have to
16 say, and I will be talking over the next few days
17 I hope talking about how we can improve this
18 homeowner's manual to give some clarity about what
19 we do not want to see. I mean I think there's
20 wide agreement that we do not want to see paving
21 over green areas; we don't want to see the cutting
22 down of historic trees; we don't want to see
23 fencing, whether it be an actual fence or six foot
24 shrubs that actually you cut off the common areas;
25 we don't want to see extensions that are out of

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2 character for the neighborhood; we do not want to
3 see carports or driveways. And I think that's--
4 and maybe there's others I'm leaving out, but I
5 think those are the number one complaints I get
6 and if someone, when you're walking around, drive
7 around a neighborhoods, that's the sort of things
8 I see that raise my ire. And I hope we're in
9 agreement that it is not what we want to see, but
10 for at a special circumstance that I have not
11 thought of in the neighborhood.

12 Thank you.

13 COUNCIL MEMBER JACKSON: Thank you,
14 Council Member Gioia. Obviously this is a very
15 serious matter and clearly your questions that
16 you've raised to both Landmark and City Planning
17 are appropriate. And in listening to the panels
18 in favor and against, as a member of the zoning
19 committee, I'm, along with Simcha Felder, we have
20 sat through all of it, so we've heard what
21 everyone had to say on this and obviously it is an
22 issue for the community and I'm glad that I had
23 the opportunity to listen to all sides on this
24 particular matter and I will obviously be
25 listening to you as a Council Member, whose

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2 district it's in for advice on how we should
3 proceed with this but I appreciate everything.

4 But let me seek clarification and
5 this is to the agencies involved, my understanding
6 this is a follow-up from like two years ago or
7 three years ago when this area was landmarked, is
8 that correct? So this is not a surprise anyone
9 that this is moving in this direction.

10 MR. SILVERMAN: This should not be
11 a surprise to anyone. During the whole
12 discussion, both the landmarking of Sunnyside
13 Gardens was a whole discussion about not having a
14 duplicative process for doing the exact type of
15 work that would be governed, currently by Zoning,
16 and in the future, by Landmarks.

17 COUNCIL MEMBER JACKSON: And so
18 this is moving forward and eliminating the two
19 agencies being involved where one agency may say
20 yes, you have a right to do it, but you may have a
21 right, but everything has to go through Landmarks,
22 is that correct for approval or almost everything?

23 MR. YOUNG: Well, it's actually
24 just the opposite, it's that not only would it
25 have to go through landmarks, but most things

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2 would in fact have to go through City Planning
3 under the current zoning.

4 COUNCIL MEMBER JACKSON: Well okay,
5 well I appreciate the dialogue and, Council Member
6 Gioia, obviously this is an issue for you and the
7 community that you represent, and for us also, and
8 so I look forward to hearing more on this
9 particular matter.

10 This is not going to be voted out
11 today and, in fact, I think we're going to
12 reconvene on Thursday, if I'm not mistaken, which
13 is June 4th and so we want to thank the panel.

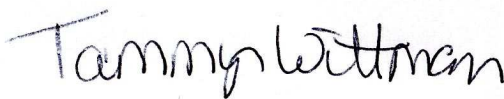
14 Is there any other people that wish
15 to speak? No, this is it.

16 So this meeting is going to be
17 recessed until this Thursday, June 4th at 10:45
18 a.m. Thank you.

19 MR. SILVERMAN: Thank you.
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C E R T I F I C A T E

I, Tammy Wittman, 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 June 24, 2009_____