

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

SUB-COMMITTEE ON ZONING AND FRANCHISES

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July 21, 2008
Start: 10:30am
Recess: N/A

HELD AT: Council Chambers
City Hall

B E F O R E:
TONY AVELLA
Chairperson

COUNCIL MEMBERS:
Maria del Carmen Arroyo
Gale A. Brewer
Simcha Felder
Eric N. Gioia
Robert Jackson
Melinda R. Katz
Annabel Palma
Larry B. Seabrook

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

Nicole Duscan
New York City Economic Development Corporation

Keith O'Connor
Department of City Planning

Jennifer Hong
Urban Planner
Manhattan Borough President's Office

Michael Levine
Director of Planning
Manhattan Community Board 1

2 MALE VOICE: Testing, one, two.
3 Testing, one, two. This is a test of the sub-
4 committee of Zoning and Franchises. Today's date
5 is July 21, 2008. The meeting is being recorded
6 by Yvette Molina.

7 CHAIRPERSON TONY AVELLA: Good
8 morning, everyone. I'd like to call this meeting
9 of the Zoning and Franchises sub-committee to
10 order. I think it's appropriate for me as
11 Chairman to make a comment. It was supposed to
12 start at 9:30, it is now 10:30. From my
13 colleagues, I think this is unacceptable. As you
14 can see, we have a full room of people here
15 waiting. Everybody must make a better effort to
16 show up on time.

17 As you know, the Land Use
18 committees must have quorum to start. It is not
19 like any other regular committee where just the
20 Chairman can start and people can come and go
21 later on. This is simply not acceptable. I got
22 to tell you, at 10:30 I was going to call the
23 meeting and that would have been the first time in
24 seven years. Some of the other sub-committees
25 have actually not met because they haven't been

2 able to get quorum. We have never had that happen
3 on this committee and I don't ever want to have
4 that situation. So I please ask for everybody's
5 cooperation.

6 Call. There were several members
7 we didn't find out until 10:00 weren't coming at
8 all. We just can not have this. So I know
9 everybody's got a busy schedule but this can not
10 happen. I apologize to everybody that was here
11 well before 9:30. It is not acceptable and we
12 realize we have to do better.

13 With that, joining me this morning
14 are our Council Members Simcha Felder, Eric Gioia,
15 Robert Jackson, Melinda Katz, Larry Seabrook.

16 The first item on the agenda is the
17 East River Waterfront, Land Use number 826 and N
18 080358 ZRM, an application by the Department of
19 Small Business Services for an amendment of the
20 zoning map relating to the East River Waterfront
21 Esplanade and Piers Project. I would also say
22 that Council Member Arroyo and Brewer are joining
23 us here today because they have items on the
24 agenda.

25 NICOLE DUSCAN: Good morning and

1
2 thank you Chairman Avella and members of the
3 Committee. My name is Nicole Duscan [phonetic]
4 from the Economic Development Corporation. EDC is
5 the applicant for the zoning text amendment on
6 behalf of the Department of Small Business
7 Services, the property owner. I will be providing
8 project background and my colleague Keith O'Connor
9 from the Department of City Planning will be
10 discussing the actual amendment that you'd be
11 voting on today.

12 This zoning text amendment will
13 allow for the timely certification and
14 construction of the East River Waterfront
15 Esplanade and Piers Project as shown on the maps.
16 The project encompasses a two-mile stretch along
17 the lower Manhattan East River waterfront. It was
18 designed to improve connections between the
19 waterfront and adjacent neighborhoods, namely
20 China Town, the lower East Side and the financial
21 district, to provide amenities for public use and
22 to create a key link in the Manhattan greenway.

23 The design has been carefully
24 developed in response to the unique conditions
25 along the East River. It has many signature

1 amenities such as lighting, planting and a variety
2 of seating. Other improvements include the
3 redevelopment of two piers, a continuous class one
4 bikeway, located along South Street, and a new
5 curb line that will narrow South Street and make
6 it safer to cross. Funding for this project comes
7 from federal funds administered by the Lower
8 Manhattan Development Corporation and the
9 Department of Transportation.
10

11 The design for the East River
12 Waterfront Project is based on the East River
13 Waterfront Esplanade Master Plan. This plan was
14 issued in 2005 by Mayor Bloomberg, City Planning
15 Commissioner Burden and the Department of City
16 Planning. This Master Plan was a result of a two
17 year planning process including numerous outreach
18 meetings with stakeholder groups, elected
19 officials, residents and Community Boards 1 and 3.
20 To date we've held over 100 meetings to ensure
21 that the design best meets the future users of the
22 East River waterfront.

23 This project issued the final EIS
24 in 2007 and completed the previous ULURP process
25 for site selection and disposition in July of

1
2 2007. The purpose of the text amendment you're
3 considering today is to facilitate timely
4 implementation of the project. It provides relief
5 from strict compliance with the provisions of
6 waterfront zoning. This is needed because of the
7 unique site conditions of our site. Namely the
8 presence of the elevated FDR Highway along nearly
9 the entire length of the project and the narrow
10 site conditions surrounding Pier 6 just north of
11 the Battery Maritime building on the southern edge
12 of the project.

13 Current waterfront zoning that
14 applies to this project requires two specific
15 landscaping elements that are not possible to
16 provide because of these site conditions. It
17 requires an 8-foot planted buffer between the
18 bikeway and the walkway and it requires the zoning
19 lots have a 25% planted area. As mentioned, the
20 FDR Highway shades the bulk of this project,
21 blocking sunlight from reaching much of the
22 esplanade, preventing us from providing these
23 planted areas. The project, however, is being
24 designed to maximize planting in locations that do
25 receive sunlight. This is a request of the

1
2 community and we're doing our best to meet it.

3 Waterfront zoning also requires
4 that the entire walkway be built landward of the
5 bulkhead. While for the majority of the project
6 we can comply with this provision, along the very
7 southern edge of the project just north of the
8 Battery Maritime Building, the site itself is just
9 too narrow. Instead we propose to build the
10 pedestrian walkway out over the water, seaward of
11 the bulkhead line. Adjacent to that would be the
12 bikeway with a buffer in between the two.

13 The proposed zoning text amendment
14 in front of you provides relief from strict
15 compliance with public access and design standards
16 so that the construction may begin on the City's
17 newest waterfront esplanade. Provided that this
18 text amendment is approved by the Committee and
19 the Council EDC is prepared to begin construction
20 on the first set of the project this fall.

21 We're excited about the prospect of
22 this important project coming to fruition and
23 request that you support the proposed text
24 amendment. My colleague Keith O'Connor will
25 explain the details of the proposed text

1
2 amendment. And we'll be both happy to answer any
3 questions you might have.

4 KEITH O'CONNOR: Good morning Chair
5 Avella and Council Members. My name is Keith
6 O'Connor from the Department of City Planning.
7 The text amendment before you is to facilitate
8 implementation of East River Waterfront Project
9 through a zoning text amendment of Section 62-416
10 Special Regulations for Zoning Lots That Include
11 Parks. Text amendment is necessary because the
12 area that will be developed is neither a mapped
13 park nor under the jurisdiction of the
14 Commissioner of the Department of Parks and
15 Recreation and therefore city waterfront zoning
16 would apply.

17 The text amendment will facilitate
18 implementation of the project by allowing relief
19 from strict adherence to provisions of Section 62-
20 40 Public Access and Section 62-60 Design
21 Standards that would otherwise be required under
22 waterfront zoning but can not be met because of
23 several unique site specific constraints as just
24 described by colleague Nicole.

25 The proposed amendment will allow

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2 the applicant, in this case, EDC on behalf of SBS,
3 to continue to seek public input and to implement
4 the plan that's been developed based on extensive
5 input received at 100 plus public meetings that
6 have been held since the project was initiated in
7 2003. It would also allow for phased
8 implementation of the project.

9 The text amendment would be
10 applicable only in community districts 1 and 3 in
11 Manhattan. It would apply only to zoning
12 districts C46, C64, C28 and M14, which are
13 essentially coterminous with the East River
14 Waterfront Project and that's shown on the map
15 that you have in front of you.

16 The amendment would also apply only
17 to zoning lots that are developed predominantly as
18 publicly accessible open space. The specific
19 provisions of the text amendment would allow for
20 the Chair of the City Planning Commission to
21 certify that the requirements of 62-40, Public
22 Access and Visual Corridors and Section 62-60
23 Design Standards for Waterfront Area have been
24 satisfied, provided that the applicant for
25 certification under 62-711 submits a report to the

1
2 Chair of City Planning Commission. That report
3 must demonstrate that a site plan for the design
4 of this publicly accessible open space has been
5 shown to the affected Community Board and Council
6 Member. The Council Member and Community Board
7 have been given at least 45 days to review such
8 plan. They would submit comments. Any of those
9 comments and recommendations that come in from the
10 Council Member and the Community Board would be
11 considered by the applicant and the report must
12 include a response to any comments and
13 recommendations received.

14 The text amendment also provides
15 that the publicly accessible open space must be
16 open and accessible to the public at a minimum
17 from dawn to dusk except where hazardous
18 conditions would affect public safety. In order
19 to be certified, the site plan must also be
20 determined by the Chair of City Planning to be in
21 substantial compliance with the East River
22 Waterfront Project, as described in the final
23 environmental impact statement that was issued by
24 Lower Manhattan Development Corporation, LMDC, in
25 May of 2007 and the record of decision also issued

2 by LMDC in November of 2007.

3 Finally, the text amendment notes
4 that no excavation or building permits shall be
5 issued until all applicable federal, state and
6 local permits and approvals have been received.
7 The proposed text amendment was modified by the
8 City Planning Commission to include Council Member
9 review in response to recommendations from both
10 Community Board 1 and Community Board 3. It was
11 approved by the Planning Commission in July 2 of
12 2008, following support of Resolutions from
13 Community Board 1, Community Board 3 and the
14 Borough President, which you have in the packet in
15 front of you. Also supportive testimony at the
16 CPC public hearing, which was held on June 18;
17 there were five speakers that favor the
18 application, no speakers in opposition. And
19 Nicole and I would happy to answer any questions
20 you might have.

21 CHAIRPERSON AVELLA: For the
22 record, could you read into the record the answers
23 to the two questions I brought up to you: the
24 amount of money that this project will entail,
25 where the funding is coming from and the actual

2 additional applications that you'll need from
3 other levels of government.

4 MS. DUSCAN: Sure. The total
5 project budget is approximately \$147 million.
6 \$137 million of that will be coming from the
7 Department of Housing and Urban Development
8 through their Community Development Block Grants
9 Program, that's a federal department. And then
10 it's being administered by the LMDC. \$8 million
11 is coming from the Federal Highway Administration
12 that's dedicated to improvements to South Street.
13 \$1.7 million is coming from the Federal
14 Transportation Enhancement Program, also dedicated
15 to South Street.

16 In addition to city approvals that
17 we need, the other state and federal approvals
18 needed for this project are U.S. Army Corps of
19 Engineers, New York State Department Environmental
20 Conservation, New York State Historic Preservation
21 Office for portions of the project within the
22 historic district, and the New York State
23 Department of Transportation for project elements
24 that interface with the FDR Highway.

25 CHAIRPERSON AVELLA: Before I take

2 questions from my Committee members on the
3 application, I do want to read a statement from
4 the Council Member Allen Gerson. He couldn't be
5 with us this morning.

6 "I fully support the East River
7 Waterfront text amendments Land Use number 826.
8 The East River Waterfront is an important project
9 for the rebuilding of lower Manhattan. My
10 constituents have been waiting too long for this
11 waterfront park to happen and I'd like to see the
12 project move forward as soon as possible."

13 His statement will be entered into
14 the record. Any questions from Committee members?
15 Council Member Jackson.

16 COUNCIL MEMBER ROBERT JACKSON:

17 Good morning. I was curious, I see the Community
18 Board and the CPC and everyone agrees that this
19 should move forward. But was there any opposition
20 or concerns that were raised and what, if any,
21 where they?

22 MS. DUSCAN: At the City Planning
23 Commission hearing we did hear concerns about the
24 percent planted area or the amount of planted area
25 that was in the project. And we have committed to

2 maximizing that planting wherever it's feasible.
3 As I said, unfortunately the FDR shades the bulk
4 of the project. I think that was main concern
5 we've heard about just the project in general and
6 not this text amendment.

7 MR. JACKSON: And with that to
8 consider, was that the same concern or different
9 concerns made at the Community Board level?

10 MS. DUSCAN: It's just a consistent
11 recommendation that they would like to see the
12 maximum amount of planted area throughout the
13 project site.

14 MR. JACKSON: I see that at the
15 Community Board level that 39 voted in favor, one
16 against. Do you know why? I don't know why
17 anybody would oppose this and I'm just curious to
18 know why there was a no vote.

19 MR. O'CONNOR: The one no vote that
20 was against it was relative to the proposed
21 planting area.

22 MR. JACKSON: Okay.

23 MR. O'CONNOR: We had explained and
24 talked through the details and made a commitment.
25 There was one community member that was still

2 concerned and was concerned enough to vote against
3 the amendment while everyone else was in favor.

4 MR. JACKSON: Thank you.

5 CHAIRPERSON AVELLA: Council Member
6 Brewer.

7 COUNCIL MEMBER GALE A. BREWER: I
8 don't know anything about this project so I'm sure
9 it's fine but I just have a question. Every
10 single school in my district and in Manhattan is
11 dying for ball fields. Let's not get into what
12 kind of ball fields, but are there any places to
13 have ball fields in this proposal? We have no
14 place to play.

15 MS. DUSCAN: Unfortunately the
16 actual width of the project is very narrow, right?
17 There's not a single element within the project
18 area that has the area large enough to support a
19 ball field. It doesn't even go as wide as
20 Riverside Park, where you could have ball fields.
21 The entire site is much more narrow than that.

22 MS. BREWER: Okay. Thank you.

23 CHAIRPERSON AVELLA: Seeing no
24 other questions, thank you. I have three people
25 just signed up to speak on this item. I'll call

2 them all in one panel since they're all in favor.
3 Jennifer Hong from the Manhattan Borough
4 President's Office, Michael Levine from Community
5 Board 1 and Paul Shugart [phonetic] is actually a
6 Rockaway Park resident and wants to speak in favor
7 of the project.

8 In the interest of time and
9 expediting the rest of the public hearings, I
10 remind everybody that it's three minutes public
11 testimony. If you can keep it shorter than that,
12 obviously we'd all be very, very happy.

13 JENNIFER HONG: My name is Jennifer
14 Hong. I'm an urban planner for the office of
15 Manhattan Borough President, Scott Stringer.
16 First the Office recognizes that these river
17 waterfront esplanade project is an important
18 opportunity for the City to reconnect lower
19 Manhattan neighborhoods to the East River as well
20 as providing a significant amount of public, open
21 access to the waterfront.

22 The borough president recognizes
23 that the project strict adherence to existing
24 waterfront zoning is difficult due to the unique
25 physical conditions of the shore line as well as

1
2 programmatic and design goals of the project
3 itself. Therefore the borough president supports
4 the text amendment as needed for the successful
5 and efficient development of the East River
6 Waterfront.

7 The borough president commends SBS
8 and EDC for amending their application to provide
9 more time for Community Board and City Council
10 member review. Also the borough president urges
11 SBS and EDC to maximize the percent of planting
12 where feasible and as much as possible, as
13 recommended by both Community Boards 1 and 3.

14 Also SBS and EDC should continue to
15 maximize public input during the projects
16 implementation by including all relevant community
17 stakeholders. Thank you.

18 MICHEAL LEVINE: My name is Michael
19 Levine. I am the Director of Planning for
20 Manhattan Community Board 1. I am pleased to
21 present the statement of the Community Board 1's
22 Waterfront Committee and the full board on the
23 East River Waterfront text amendment. Our
24 Community Board is very pleased that New York City
25 Economic Development Corporation's East River

2 Waterfront plan seeks to improve access to the
3 waterfront, enhance pedestrian connectivity and
4 create waterfront amenities for public and
5 community use.

6 We fully support creating
7 additional open space amenities for lower
8 Manhattan communities and basic infrastructure
9 improvements to support new waterfront and
10 community activities. New public uses on the
11 piers and the use of space under the FDR Drive for
12 community, cultural and limited commercial
13 development are a welcome addition to the area.
14 As is the addition of public access to and around
15 the Battery Maritime building, likewise Community
16 Board 1 strongly supports the creation of a
17 continuous bikeway and pedestrian walkway along
18 the East River waterfront.

19 We have reviewed the proposed
20 zoning text amendment in our Waterfront Committee
21 and by the full Community Board. We understand
22 that it seeks to revise Section 62-416 of the
23 Zoning Resolution, which addresses Special
24 Regulations for Lots that Include Parks. We
25 understand the proposed text amendment is

1
2 necessary to release this esplanade project from
3 strict adherence to several of the requirements of
4 Section 62-416.

5 We also understand that the
6 proposed text amendment will enable phased
7 implementation of the project, which is rather
8 complicated due to the number of jurisdictions
9 controlling this area of lower Manhattan. We are
10 particularly pleased with the provision in this
11 text amendment, which provides a review function
12 for the affected Manhattan Community Boards 1 and
13 3. This will give the Community Boards the
14 opportunity to determine whether the requirements
15 of Section 62-416 are in fact met by any of the
16 proposed--

17
18 [END AUDIO FILE]

C E R T I F I C A T E

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

Signature _____ Amber Gibson _____

Date _____ 08/18/2008 _____