

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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June 19, 2012
Start: 9:45 am
Recess: 12:42 pm

HELD AT: 250 Broadway
Committee Room, 16th Floor

B E F O R E:

MARK WEPRIN
Chairperson

COUNCIL MEMBERS:

Albert Vann
Joel Rivera
Diana Reyna
Leroy G. Comrie, Jr.
Daniel R. Garodnick
Robert Jackson
Gale A. Brewer
Melissa Mark-Viverito
Jessica S. Lappin
Vincent Ignizio

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

Carolyn Grossman
Government Affairs Director
City Planning

Barry Dinerstein
City Planning

Laura Smith
City Planning

David Karnovsky
City Planning

Susan Gwertzman

Michael Smith
President
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Tony Mannarino
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Attorney
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Extell Development Corporation

Mark Diller
Chair
Community Board 7

Mel Wymore
Former Chair
Community Board 7

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

Cynthia Doty
Democratic District Leader
69th Assembly District

Madge Rosenberg
Community Board 2

Elizabeth Kellner

Bob Botfeld

Roberta Semer
Member
Community Board 7

Judy Wood

John Davenport

Lynn Bender Max

Merle McEldowney

Phyllis Gunther
Member
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Debra Cooper
Democratic State Committee

John Young
Director
Queens Office of Department of City Planning

Brendan Pillar
Queens Office of Department of City Planning

Maria Thompson
Executive Director
Greater Woodhaven Development Corporation

CHAIRPERSON WEPRIN: Good morning, my name is Mark Weprin, I'm the Chair of the Subcommittee on Zoning and Franchises, and I am joined this morning by Council Member Al Vann, Council Member Joel Rivera, Council Member Diana Reyna, Council Member Leroy Comrie, Council Member Dan Garodnick, Council Member Robert Jackson from the Subcommittee, those members from the Subcommittee. We also have with us Gale Brewer and Melissa Mark-Viverito, who are here for the meeting as well.

What we're going to do, we're going to go right into it. Our first item on the agenda is Land Use number 611 and 612, this is the Upper West Side neighborhood retail streets rezoning, and I'd like to call up the following people from City Planning to make the presentation, David Karnovsky, Laura Smith, Barry Dinerstein, and Carolyn Grossman, welcome.

You guys should know the drill, state your name for the record when you speak, and the floor is yours. Just for the record, the audience, what we'll do is anyone who is in opposition to this plan, we'll then have a panel

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2 in opposition following this panel, then a panel
3 in favor, and back and forth until we run out of
4 people testifying.

5 [Long pause]

6 CAROLYN GROSSMAN: Good morning,
7 Council Members, apologies for the technical
8 delay. My name is Carolyn Grossman, I'm
9 Government Affairs Director for City Planning.
10 I'm joined by Barry Dinerstein, Laura Smith, and
11 David Karnovsky from City Planning as well. And
12 we are here to present to you the Upper West Side
13 neighborhood retail streets proposal.

14 Several years ago, about 2007, the
15 department was contacted by Council Member Brewer
16 and Community Board 7 about potential--concerns
17 that they had about potential erosion of the Upper
18 West Side's unique commercial character. Today,
19 we see the Upper West Side offers diverse services
20 to one of the most dense and vibrant residential
21 neighborhoods in the city. You have Columbus and
22 Amsterdam, which are traditionally the local--more
23 local in character typified by small
24 establishments which offer a counterpoint to the
25 bustling shopping corridor that we all know along

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2 Broadway, which is typified by a higher density
3 and wide range of goods and services. Those
4 successful corridors typify what we think of as
5 the healthy, they provide a range of services,
6 jobs, housing, all within a walkable area. But
7 what we heard from the community at that time, and
8 then have then verified through our own research,
9 is that the proliferation of large stores, and
10 particularly large frontages, along Amsterdam and
11 Columbus avenues and particularly of large banks
12 along Broadway, it was changing the overall makeup
13 and the overall successful active pedestrian-
14 oriented character of these commercial streets.

15 What you have in front of you today
16 is the result of a partnership with Community
17 Board 7 and the three local elected officials--
18 Council Member Brewer, as well as Council Member
19 Mark-Viverito and Council Member Dickens, and
20 extensive outreach with the BIDs, with local
21 property owners, and with many community
22 stakeholders to provide targeted zoning solutions
23 that address unique neighborhood problems by
24 limiting store frontages on Amsterdam and Columbus
25 to ensure the general neighborhood character over

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2 time, and on Broadway, Amsterdam, and Columbus to
3 limit oversized frontages of banks that deaden the
4 pedestrian experience.

5 We believe the proposed regulations
6 reflect the existing local retail dynamic while
7 still allowing ample flexibility for property
8 owners and retailers to invest and provide
9 necessary goods and services for the Upper West
10 Side so that over the long term, the streets
11 continue to serve the needs of the Upper West Side
12 residents and remain commercially vibrant and
13 walkable. As you'll hear, City Planning heard a
14 lot of testimony during our process from
15 stakeholders on all sides and the City Planning
16 Commission refined the proposal to make sure that
17 existing businesses are able to accommodate future
18 needs within the proposed regulations.

19 I just want to take a minute to
20 thank current CB 7 chair, Mark Diller, former
21 chair Mel Wymore, and of course, the three Council
22 Members who have worked very closely with us
23 throughout this whole process to make sure we have
24 a proposal that really responds to all of the
25 myriad different concerns we've heard through the

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2 process. And Laura is going to walk you through
3 the details of the proposal and Barry and David
4 and I will be here for questions.

5 LAURA SMITH: Thank you. Good
6 morning, I'm Laura Smith from the Department of
7 City Planning. Good morning, Council Members,
8 thank you for being here.

9 As Carolyn introduced, we have been
10 working on this Upper West Side proposal for
11 several years now. The proposal or concerns were
12 first brought to us by the Community Board,
13 Community Board 7, and Council Member Brewer, and
14 we sought to respond to concerns that we heard
15 about, as Carolyn mentioned, the proliferation of
16 uses such as banks that occupy excessive frontages
17 and this trend of newer stores occupying frontages
18 that were out of character with the existing
19 storefronts that we saw along Amsterdam and
20 Columbus, two blocks that are really typified by a
21 multi-store character with on the order of seven
22 to ten stores per block.

23 Now in order to substantiate the
24 concerns that we heard from the Upper West Side,
25 we wanted to look at what other healthy retail

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2 corridors looked like around the city. We set out
3 and surveyed ten other neighborhoods in all five
4 boroughs and we developed sort of a typology of
5 what a healthy, strong retail neighborhood looks
6 like. The Upper West Side is fundamentally
7 healthy, there's a low vacancy rate, there's a lot
8 of activity on the street, but we identified a
9 land use rationale that applies to both the Upper-
10 -or to the Upper West Side and to all local retail
11 corridors throughout the city that's based on land
12 use characteristics. The first to promote an
13 active streetscape and an attractive environment
14 for pedestrians, to encourage diverse retail
15 service opportunities for residents, and to
16 preserve a multi-store and active retail character
17 where it exists. With these sort of, basic tenets
18 in place, we looked more closely at the Upper West
19 Side to see if we had a land use rationale or if
20 there were zoning tools available to address some
21 of the concerns that we heard from the Upper West
22 Side and which we were actually able to observe
23 ourselves in the field.

24 A little bit generally on what the
25 Upper West Side looks like. We see primarily

2 ground floor commercial uses along Amsterdam and
3 Columbus and Broadway with residential above. We
4 see multiple buildings in stores per block,
5 particularly along Amsterdam and Columbus, larger
6 buildings with larger footprints along Broadway,
7 and a low vacancy rate throughout on the order of
8 about 6% along three avenues--Broadway, Amsterdam,
9 and Columbus.

10 However, there are unique
11 conditions that we found only on the Upper West
12 Side that didn't apply to other neighborhoods that
13 we looked at. The first is that only three
14 commercial corridors are serving an incredibly
15 dense residential neighborhood. We only have
16 avenues zoned for commercial uses, the side
17 streets are entirely residential, and this creates
18 an incredible demand for the limited amount of
19 commercial space in the district relative to the
20 total number of people, you know, shopping along
21 these corridors for their daily goods and
22 services. As a result, there's less commercial
23 square footage per person on the Upper West Side
24 within our project area than we see in other
25 neighborhoods, even when comparing the Upper West

2 Side to the Upper East Side. On the Upper East
3 Side, we see 50% more commercial square feet per
4 resident than we see on the Upper West Side. So
5 there really is a unique land use-based rationale
6 for why we might impose certain zoning
7 restrictions or zoning regulations along the three
8 avenues that we're proposing on the Upper West
9 Side that we didn't actually see a rationale for
10 in other neighborhoods.

11 We divided the proposal into an
12 approach for Amsterdam and Columbus and an
13 approach for Broadway. So the first, looking at
14 Amsterdam and Columbus, the existing character is
15 one with zoning that allows for local retail and
16 services, it's smaller in scale than we see on
17 Broadway, it's residentially oriented, it's
18 partially within a historic district. We see
19 multiple establishments per block, typical
20 frontages have an average width of only 22 feet,
21 but we see many stores with much smaller
22 frontages, eight to ten feet is not unusual.
23 There is a mix of local retail and services, it's
24 very active interspersed with residential lobbies
25 that are very narrow, it's really just, you know,

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2 seven feet or eight feet wide, you walk in, there
3 are some mailboxes and then you walk upstairs to
4 the residences. The concerns that we had heard
5 from the community related to a loss of character,
6 as Carolyn had opened up with, new stores that
7 tend to be larger and out of character with the
8 existing contact, and when I say larger, I mean
9 primarily larger in terms of frontage. So the
10 concern from the community is that where you once
11 had three or four small stores with multiple
12 frontages and multiple entries that facilitated a
13 very active sidewalk, a new store would come in
14 and subsume all three or four frontages, provide
15 only one entrance and reduce the availability of a
16 diverse array of goods and services to shoppers
17 and pedestrians.

18 There were concerns about vacancies
19 along certain blocks. Vacancy, you know, and
20 stores turn over all the time and that's a natural
21 process in a retail market, but the concerns that
22 we heard were primarily related to long-term
23 vacancies--stores that had been sitting vacant for
24 an extended period of time--and what we largely
25 saw happening was vacancies--landlords holding

2 properties vacant in order to assemble adjacent
3 storefronts to develop these larger frontages.

4 We also heard concerns over the
5 potential for banks with a significant ground
6 floor presence. When I get to Broadway, I'll
7 demonstrate what we saw on Broadway with regards
8 to banks, but there's a real concern in the
9 neighborhood that banks are occupying a
10 disproportionately high share of street frontage
11 and are really eroding the character of the
12 smaller stores or the smaller frontages that
13 provide a diverse array of goods and services, and
14 I'll get more to that when I get to the actual
15 proposal.

16 So just walking through a couple of
17 blocks here, you see frontages that are 10 to 17
18 feet wide, this is Amsterdam between 84th and 85th
19 Street. An example of a problem that we heard
20 from the community, here's a Chase bank with 94
21 feet of frontage on Columbus between 75th and
22 76th, and again, this is really out of character
23 with the existing framework. Broadway and
24 Amsterdam are typified by smaller buildings, as I
25 mentioned, with smaller footprints and narrower

2 frontages, and so there are examples where a bank
3 in particular will come in and occupy one frontage
4 that had previously been occupied by several
5 smaller stores.

6 Moving over to Broadway, it's a
7 wider avenue with direct transit access, there's
8 higher density commercial zoning so we have
9 developed a proposal that reflects the existing
10 conditions on Broadway and separates them from
11 what we see on Amsterdam and Columbus. There's
12 very strong retail continuity, there's a mix of
13 large and small stores and second story commercial
14 uses. You're far more likely to find commercial
15 uses on the second floor along Broadway than
16 you'll find on Amsterdam and Columbus, but you
17 will find them on Amsterdam and Columbus also in
18 newer buildings.

19 And again, we heard concerns over
20 the general loss of neighborhood character. I
21 mentioned the retail continuity, Broadway you can
22 walk up the length of Broadway from 72nd to 110th
23 and you see mostly commercial, active commercial,
24 and retail uses, but the concern is that these
25 banks with excessive frontages--50, 100 feet wide-

2 -are really breaking up that character of retail
3 continuity and disturbing the streetscape. We
4 also heard concerns over long-term vacancies like
5 we had heard on Amsterdam and Columbus, and as I
6 just mentioned, the proliferation of banks with
7 significant ground floor frontages.

8 Looking at some examples, here's a
9 Capital One bank on Broadway between 86 and 87th
10 with 62 feet of frontage along Broadway. However,
11 here's an example of a Chase bank that has 20 feet
12 of frontage on the ground floor, it's mid block,
13 and then they have their operations above. So in
14 this case, you walk in and there's--there should
15 be a model handed out with your packets--you walk
16 into the Chase bank, there's the ATM, there's sort
17 of the convenience services on the ground floor,
18 and, then if you're there to spend an extended
19 amount of time sort of viewing the bank as a
20 destination rather than just a stopping point on
21 your way to other errands, you go upstairs and you
22 have a full array of banking services upstairs.

23 So looking at the proposal, along
24 Amsterdam and Columbus, we have four major
25 components to the proposal. The first is a

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2 general store frontage limitation, we are
3 proposing to require two establishments for every
4 50 feet of zoning lot frontage with no
5 establishment exceeding 40 feet in frontage and
6 with a required depth of 30 feet for all new
7 establishments meeting this two per 50 feet of
8 frontage requirement. We exempt from this
9 regulation supermarkets, schools, and houses of
10 worship, and we also would exempt lots with a
11 commercial depth of less than 30 feet, and that's
12 really to ensure that the stores that are carved
13 out through this proposal are viable and workable
14 and have a depth or a frontage that facilitates a
15 functioning store.

16 We further propose to limit banks
17 to 25 feet of ground floor frontage, and this
18 really came about as a result of our finding that
19 banks are the only non-active use that has
20 demonstrated a proliferation along Broadway,
21 Amsterdam, and Columbus. For the most part, where
22 offices and, sort of, more passive services exist
23 along all three corridors, they're upstairs, or
24 they're downstairs, banks are the only non-active
25 use that have been occupying a high share of

2 ground floor street frontage. We recognize that
3 ATMs are convenience necessities for shoppers, for
4 residents, et cetera, and we're not proposing to
5 limit the overall number of banks or the amount of
6 services that are available, nor are we seeking to
7 inconvenience the pedestrian who wants to go and
8 take some money out and continue on their way.

9 Twenty-five feet is sufficient to allow for ATMs,
10 an escalator, an elevator, it's ADA compliant, and
11 then bring shoppers upstairs if they're seeking
12 the more office or passive services of the banks.

13 We are proposing a residential
14 lobby limitation of 25 feet on the ground floor,
15 this is consistent with lobby development that we
16 see along Broadway and Amsterdam today. Ground
17 floor of frontage is incredibly valuable and most
18 developers today are--well all developers that
19 we've seen in this district today have chosen to
20 provide lobbies with less than 25 feet along
21 Amsterdam and Columbus or else wider lobbies on
22 the side streets where the ground floor space is
23 less valuable for commercial uses.

24 We're also proposing a street wall
25 transparency requirement, and this is consistent

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2 with what we see in the neighborhood today,
3 requiring 50% transparency between 2 feet and 12
4 feet off the sidewalk, and that's really just to
5 ensure that windows allow pedestrians the ability
6 to see in and shoppers to see out. I realize I
7 didn't mention this before, the overall proposal
8 boundaries that we're talking about are Amsterdam
9 Avenue on the east side of the street from 72nd to
10 87th Street and then we cut it at the urban
11 renewal area and we skip the urban renewal area
12 where we don't see character that's consistent
13 with the goals of the proposal through NYCHA
14 development in Park West Village and then picking
15 up again at 105th Street to 109th Street in
16 Manhattan Valley. And then on the west side of
17 the street on Amsterdam, we go from 74th Street to
18 110th Street carving out to blocks where there is
19 current NYCHA housing with no commercial uses on
20 the ground floor today. Along Columbus, we go
21 from 72nd Street to 87th Street, stopping again at
22 87th Street where the urban renewal area begins.

23 Now for the regulations that I just
24 mentioned, the street frontage limitation and the
25 bank frontage limitation, residential, lobby

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2 limitation, and the street wall transparency, it's
3 important to, I guess, reiterate that existing
4 commercial uses that exceed the frontage
5 limitations today would be permitted to remain
6 unchanged in perpetuity. A space today that's
7 occupied that has 100 feet of frontage that's
8 occupied by a restaurant today can remain a
9 restaurant in the future, it can convert to
10 another retail use or commercial use in the future
11 with 100 feet of frontage. The space may be re-
12 tenanted by any other commercial use of the same
13 or lesser size. So we would not require existing
14 frontages today that exceed 40 feet, or 25 feet in
15 the case of banks, to subdivide in order to comply
16 with the proposal, they would be permitted to
17 remain in perpetuity at their existing frontages.

18 So just looking roughly at what
19 these frontage measurements that I mentioned look
20 like on a typical block, on Amsterdam and
21 Columbus, a block frontage in total is about 200
22 feet, so you see, sort of, what 4 feet, 10 feet,
23 25 feet look like on the block. These
24 measurements are obviously fluid, it doesn't have
25 to be 40 feet and 10 feet, you can have two stores

1 within 50 feet that are 25 and 25 or 30 and 20,
2 but this illustrates, sort of, the extremes of
3 what we would expect to see. And, again, it's
4 consistent with what we see along the corridors
5 today. Under the proposal, 93% of all commercial
6 storefronts on Amsterdam and Columbus comply with
7 the proposal. That means 93% of all stores on
8 Amsterdam and Columbus have less than 40 feet in
9 frontage. About half of the stores today along
10 Amsterdam and Columbus could double in size as of
11 right and still comply with the proposal. So what
12 we're proposing is really not all that extreme
13 when it comes to what the existing context looks
14 like, in fact, it's entirely consistent with the
15 existing neighborhood context and with the
16 components of character that the proposal seeks to
17 recognize and preserve for the future.

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19 Looking at the transparency
20 requirements which will apply to Broadway,
21 Amsterdam, and Columbus, really this just calls
22 for windows covering about half of the store
23 frontage, allowing pedestrians to see inside,
24 shoppers to see out, and we would require windows
25 to--the measurement to start no lower than two

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2 feet, we want the windows to be, sort of, at eye
3 level.

4 Now looking at an example of a new
5 building in Amsterdam and how it looks today
6 versus how it might look under the proposal, here
7 we see the Harrison on Amsterdam Avenue between 76
8 and 77th Streets. It actually largely complies
9 with what we're proposing, there are five ground-
10 floor commercial uses, all of them are less than
11 40 feet with the exception of Modell Sporting
12 Goods, which has 57 feet of ground-floor frontage.
13 They also utilize the opportunity for second-story
14 commercial uses, which is permitted in new
15 buildings with residential above along Amsterdam
16 and Columbus. Here, there's an Equinox Fitness
17 Club occupying the entirety of the second floor,
18 so they have, I believe, almost 200 feet of
19 frontage on the second floor, which is entirely
20 permitted. So under the proposal, they would
21 largely comply, however, the Modell's Sporting
22 Goods would exceed the permitted frontage by 17
23 feet--they have 57 and we would require them to go
24 down to 40 feet. Nevertheless, this demonstrates
25 that what we are proposing is entirely workable

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2 and allows for ample flexibility when we're talking
3 about new buildings. It's not unusual at all for
4 Modell's or for any other establishment in New
5 York City to utilize elevators, escalators, bring
6 shoppers upstairs, downstairs. We see Modell's,
7 for example, all over the city that have elevators
8 and escalators bringing shoppers up to four
9 flights is the most I've seen in a Modell's
10 Sporting Goods. But what this illustration is
11 really meant to demonstrate is that new buildings
12 are largely complying, but what we are proposing
13 through the frontage limitations is a modest
14 control to ensure that new establishments really
15 do fit the context in terms of frontage with
16 existing establishments that have been in place on
17 the Upper West Side for generations.

18 Moving over to Broadway, we are not
19 proposing any store frontage limitation. I
20 mentioned we have higher density commercial
21 zoning, a greater tendency for second-story uses,
22 larger building footprints, and limiting general
23 store frontages to 40 feet is not consistent with
24 the character. The proposal along Amsterdam and
25 Columbus is really about streetscape and

1 commercial character, and this doesn't fit the
2 character of Columbus. However, we are concerned
3 about a loss of retail continuity, and we have
4 seen a demonstrated proliferation of banks along
5 Broadway, so we are proposing to limit banks on
6 Broadway the same way we are on Amsterdam and
7 Columbus to 25 feet of frontage on the ground
8 floor. Of course, banks can extend back and
9 around other uses with unlimited square footage,
10 they can go upstairs, they can go downstairs, but
11 as far as their presence with regards to street
12 frontage, we would limit them to 25 feet.

13 Residential lobbies would also be limited to 25
14 feet in the way I mentioned on Amsterdam and
15 Columbus, this is consistent with what we see in
16 terms of residential development on Broadway
17 today. The ground-floor frontage is so valuable
18 that most developers and most residents prefer
19 large lobbies on the side streets and they would
20 continue to be permitted to do so. Street wall
21 transparency would be consistent with what we
22 would require on Amsterdam and Columbus with 50%
23 between 2 feet and 12 feet, and this district
24 would run from 72nd to 110th Street. And similar
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2 or the same as what we're proposing on Amsterdam
3 and Columbus, existing uses, in this case banks,
4 that exceed the frontage limitation could remain
5 unchanged. If you have a bank today with 100 feet
6 of frontage, it could be a bank in the future with
7 100 feet of frontage, they could change ownership
8 with regards to banks, it could be a Chase goes to
9 a Bank of America, that's fine, and we would not
10 require the subdivision of that space.

11 So looking at a typical block on
12 Broadway, you see how 25 feet lays out on a
13 roughly 200 foot block front, Broadway varies in
14 terms of overall block front because it's diagonal
15 in portions. You see a tendency toward second-
16 story uses and, again, no general frontage
17 restrictions except for the 25 foot restriction
18 for banks and for residential lobbies.

19 So we're also proposing two outs
20 for these frontage limitations recognizing that
21 existing businesses may wish to expand beyond 40
22 feet and recognizing that there may be commercial
23 uses that simply cannot fit within the 40 foot
24 frontage limitations that we're proposing along
25 Amsterdam and Columbus. The first is a City

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2 Planning Chair certification where the City
3 Planning Commission chair may certify a
4 modification to the regulations for frontages for
5 businesses that have been in place for at least a
6 year. So this would really be applicable only to
7 existing businesses and this would allow them to
8 expand up to--expand to a frontage of up to 60
9 feet upon demonstration of the following
10 conditions: The first is that physical
11 restrictions prevent onsite expansion in a way
12 that would prevent frontage from exceeding 40
13 feet. So if you have an existing business in
14 place that wishes to expand, they would have to
15 come in and demonstrate that there's really no way
16 for their business to expand without exceeding 40
17 feet--they can't wrap behind other uses, they
18 can't go upstairs, they can't go downstairs.
19 There are also land use based findings, and this
20 is really meant to ensure that the overall
21 character of Amsterdam and Columbus isn't
22 jeopardized by the expansion of existing
23 businesses.

24 So our finding here relates to the
25 number of other establishments with more than 40

1 feet fronting on, adjacent to, or across from the
2 block to which the applicant operates. So if
3 you're a store you would have to look on your
4 block, across the street, and at the two blocks
5 next to you, and you would be permitted to expand
6 if you meet the first finding, and as long as not
7 more than one other establishment on, across the
8 street, or next to you already exceeds 40 feet.
9 And, again, this is really a compromise to
10 recognize that small businesses should be allowed
11 to expand and we're not trying to limit them
12 excessively and force them into the authorization,
13 which I'll get to in a minute, but so recognize
14 that the goal of the proposal is to ensure that
15 the overall streetscape remains preserved with a
16 multi-store character.
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18 So the second out is an
19 authorization, we have a City Planning Commission
20 authorization where the Planning Commission may
21 authorize a modification in the maximum street
22 wall width of commercial establishments. This
23 would be applicable to any applicant--a bank could
24 apply, an existing business could apply, or a new
25 business could apply--so long as the Commission

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2 finds that such a proposed use cannot be
3 reasonably configured within the permitted street
4 wall width and such additional frontage space is
5 required for the operation of such use. So this
6 is less about the inability to expand up or down
7 or around because of the presence of other uses,
8 but the demonstration that the establishment who
9 is applying needs the additional frontage
10 specifically in order to operate.

11 And the second finding calls that a
12 high ground-floor vacancy rate exists within a
13 reasonable distance of the use and that such a
14 high vacancy is a consequence of adverse market
15 conditions. So an applicant may also come in and
16 demonstrate that they should be permitted street
17 wall in--or a frontage in excess of 40 feet or in
18 excess of 60 feet because there's a high ground-
19 floor vacancy rate in the neighborhood. We're not
20 trying to suppress street activity, so certainly
21 upon demonstration or upon a finding from the City
22 Planning Commission that there is a prevailing
23 neighborhood-wide high vacancy rate, we want the
24 proposal to allow for additional retail and
25 commercial uses under such conditions.

Another small component to the proposal is a mapping of a commercial overlay, C1-5 commercial overlay on an existing R-10A district at 77th Street and Columbus Avenue, this is the only corner that is zoned R-10A that doesn't have a commercial overlay. There's longtime commercial uses on the ground floor today and we're really just trying to clean up the zoning map and this was something that we found through the proposal crafting.

So moving into the public review process, we have approval from the Community Board 7 and from the borough president. We received two suggested modifications, primarily from the Community Board. The first relates to authorizations. They stated that the finding that such a proposed use cannot be reasonably configured is too broad and that the vacancy rate and reasonable distance measurement should be better defined. They also asked that the CPC require processing of the application within 90 days, after which, the waiver would automatically be reviewed, and this was really born out of concerns that the authorization process is time-

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2 consuming and costly for small businesses and so
3 we should try to expedite the process. As a
4 result of this, we modified the proposal to add
5 the certification, which is really intended for
6 small businesses, and to get them through the
7 process even faster and make the process less
8 onerous. They also asked that we subject the
9 authorizations to review and comment by the
10 Community Board, which we've done.

11 The second modification put forth
12 by Community Board 7 related to interface between
13 City Planning and the Landmarks Preservation
14 Commission. This referred to a certification that
15 we have since modified and removed from the
16 proposal. We had previously required landmarked
17 properties to--well we had allowed landmarked
18 properties to waive the frontage limitations upon
19 certification from LPC and City Planning, but
20 because we have now grandfathered in landmarked
21 buildings and all buildings with their existing
22 frontages in perpetuity, a conflict that we
23 thought might arise with landmarked buildings
24 after two years where they would be forced to
25 subdivide is no longer a possibility because

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2 frontages are grandfathered in perpetuity and a
3 landmarked building with frontage in excess of 40
4 feet would never be forced to subdivide. And so
5 we've removed the conflict that might potentially
6 arise that had called for the certification, which
7 is no longer in the proposal.

8 We also received borough president
9 approval with modifications that were largely
10 technical. The first asked that we increase
11 residential lobby restrictions on Amsterdam and
12 Columbus to 25 feet, which we've done, you saw
13 that in the proposal. That we clarify the
14 definition of establishment, which we have been
15 able to at least specify what the intent of the
16 definition of establishment is in the CPC report,
17 it's regulated by the Department of Buildings.
18 That we reduce the minimum depth of commercial
19 establishments to 15 feet, that's something that
20 we've been reluctant to do or unwilling to do.
21 We've met with business owners, we know that 30
22 feet is really, sort of, the minimum viable depth
23 to create an operable store that functions as a
24 successful and flexible business. There is still
25 ample opportunities for shallower establishments,

1
2 kiosks like we see on Broadway, Amsterdam, and
3 Columbus today, shoe shiners, et cetera, those
4 spaces remain in the supply of commercial square
5 footage today and we think they provide an ample
6 supply, we're not seeking to create more of those
7 small spaces.

8 They also asked that we simplify
9 the transparency requirement, also allow LPC to
10 modify the zoning requirements without the DCP
11 chair certification, which has been removed
12 anyway. They asked that the authorization include
13 land use based criteria, which is something that
14 we've built into the certification. And that we
15 include mandatory Community Board referral, which
16 we've done.

17 So looking more closely at what we
18 have done, the City Planning Commission approved
19 unanimously the proposal on May 9th with
20 modifications. The first in response to concerns
21 expressed by small businesses that the proposed
22 waiver rules would make it difficult for them to
23 expand. We've created the authorization--I'm
24 sorry, the certification to create a new faster
25 certification process that would allow existing

2 businesses to apply for expanded frontage up to 60
3 feet using more simple criteria, and this
4 eliminates the need for environmental review and
5 really facilitates an easier process for a small
6 successful business owner to expand up to 60 feet-
7 -to expand to ups to 60 feet in frontage.

8 We also heard concerns by property
9 owners who are concerned about the possibility of
10 having to subdivide after a period of extended
11 vacancy. By grandfathering in frontages at their
12 existing sizes in perpetuity, the City Planning
13 Commission thereby ensured that no business owner
14 or property owner would ever be forced to
15 subdivide after a period of vacancy.

16 Third, in response to concerns that
17 we heard from property owners who have projects
18 underway, the department modified the zoning text
19 to allow that projects that are currently in the
20 pipeline may be permitted to complete even if
21 their project results in frontages that exceed 25
22 feet for banks or 40 feet for general commercial
23 establishments along Amsterdam and Columbus so
24 long as their project is completed within six
25 months of the date of adoption of the proposal.

2 Furthermore, we heard the concerns
3 from the borough president and the department
4 modified the text to allow lobby frontages up to
5 25 feet along Columbus and Amsterdam.

6 Several other smaller modifications
7 were made by the Planning Commission that includes
8 Community Board referral for the authorization and
9 the certification; obviously, the removal of the
10 chair certification for landmarked buildings; and
11 then other smaller text clarifications.

12 We heard from a host of
13 stakeholders at the public hearing in front of the
14 City Planning Commission, it included the BIDs,
15 the banking industry, real estate interests,
16 property owners, small businesses. The majority
17 of testimony that we've heard has been extremely
18 positive and favorable towards the proposal.
19 Again, this was really born out of strong
20 community support for the proposal in the first
21 place. But one of the biggest concerns that we
22 had heard is the concern over precedent, that what
23 we're doing on the Upper West Side may spread to
24 other areas of the city. We put in a tremendous
25 amount of time making sure that we were crafting a

1
2 proposal that responds to the land use based
3 concerns that we found on the Upper West Side, and
4 we did survey ten other neighborhood throughout
5 this process. What we found and what our zoning
6 tools respond to are conditions that really are
7 unique to the Upper West Side. There's a very
8 definite character that we see on the Upper West
9 Side that is very clearly threatened by certain
10 trends, which we think we have a zoning power to
11 control. We're not proposing to severely limit
12 the ability of the market to operate and evolve as
13 conditions change, but what the proposal does do
14 is modestly limit frontages in order to preserve
15 the neighborhood character.

16 As far as precedent goes, I
17 mentioned that we have the unique conditions on
18 the Upper West Side related to constrained
19 commercial supply. The residential density is
20 largely unparalleled from what we see in other
21 neighborhoods around the city, even other similar
22 feeling neighborhoods. And the commercial square
23 footage is constrained, we see only three
24 commercial avenues providing square footage for
25 retail and commercial uses. So while we see a

2 clear zoning and land use based rationale for the
3 frontage limitations that we're proposing to apply
4 on the Upper West Side, at this point we haven't
5 heard from other communities a, sort of, viable
6 argument that these specific regulations would be
7 appropriate elsewhere. That being said, as City
8 Planning, we have specific zoning solutions for a
9 lot of neighborhoods throughout the city and we
10 certainly look to specific neighborhoods for their
11 unique conditions and develop tools as a result.
12 But the tools that we're proposing for the Upper
13 West Side here, as of today, we haven't seen, sort
14 of, evidence elsewhere that they would be
15 appropriate.

16 So that concludes the presentation
17 and I think we're open for--

18 CHAIRPERSON WEPRIN: Thank you.

19 LAURA SMITH: --questions.

20 CHAIRPERSON WEPRIN: Thank you very
21 much. I just want to mention that we've been
22 joined by Council Member Lappin and Council Member
23 Ignizio.

24 What I'd like to do first is,
25 because they're here, to allow Council Member

2 Brewer and Council Member Mark-Viverito to make a
3 quick statement if they'd like on this matter.

4 Gale?

5 COUNCIL MEMBER BREWER: Thank you
6 very much, Mr. Chair. I mean, I can think you can
7 see from the presentation of Laura Smith that it
8 is an awesome presentation, the best by any public
9 servant I can ever imagine and I want to thank--I
10 really mean that.

11 [Applause]

12 COUNCIL MEMBER BREWER: And I want
13 to thank Chair Burden and Carolyn Grossman and
14 Barry Dinerstein and David Karnovsky for all of
15 their efforts, this is huge. And I think actually
16 Laura's presentation at the Community Board blew
17 people away as it did here today and changed a lot
18 of minds.

19 And I want to thank the borough
20 president and his staff, my colleagues, Council
21 Member Melissa Mark-Viverito and Council Member
22 Dickens, and certainly, the chairs of today's
23 hearing, Community Board 7, Mark Diller, Mel
24 Wymore, Richard Asche, and Paige Cowley have been
25 amazing. And Melissa Mark-Viverito's district in

1
2 Manhattan Valley is off the charts also. Bob
3 Botfeld and Cynthia Doty have made the community
4 very proud.

5 I want to thank Pratt because they
6 did--the institute did a map of the 29 banks--
7 don't get me started on banks, people know how I
8 feel--the 29 banks in the district being proposed
9 and the 70 banks in my district, four or five new
10 banks have volunteered to come into the West Side.

11 There are 800 Upper West Siders who
12 signed the petition, they're real people in
13 support of this proposal, and 75 commercial store
14 owners who wrote letters in support, and the block
15 associations, I know will be here today. You
16 know, this is an issue that the City Planning did
17 such homework to show the residential composition
18 and the three avenues and the relationship between
19 both, and the point of--the East Side has also a
20 lot of commercial districts, many more avenues
21 that support that kind of a residential
22 population. So the uniqueness of the West Side, I
23 think, was only available due to this amazing
24 research.

25 So I want to say that the context

1
2 of the banks, I hope that people will ask the
3 counsel to the City Planning Commission to explain
4 while this particular proposal makes sense, it is
5 not something--it's something that is legal, it
6 uses a zoning application to deal with a
7 streetscape issue for this particular unique set
8 of commercial activity, and I think that's really
9 clear in the memorandum that the counsel to the
10 City Planning Commission has put on the desk of
11 every member of the City Council here today, and
12 it is available for public distribution, if
13 anybody is interested.

14 Small mom-and-pops are the heart
15 and soul of a neighborhood. We all love our
16 children, we love our dogs and cats and animals,
17 but I can tell you we love our mom-and-pops
18 equally well for a whole series of reasons--
19 they're people who help your children, keep you
20 safe, and actually become friends, and it's a
21 really important aspect to our neighborhood. And
22 I think anybody who lives in neighborhoods in New
23 York City knows that we're a city of
24 neighborhoods, we're not just a city of tall
25 buildings and buildings in general.

2 So there are no words to describe
3 my thanks to everybody involved in this process,
4 it has been long, it's been complicated, I think
5 everybody's been heard, and I look forward to the
6 hearing today.

7 I want to thank you, Chair Weprin,
8 for giving me this opportunity, and from the
9 bottom of my heart, to thank everybody involved.

10 CHAIRPERSON WEPRIN: Thank you very
11 much. Melissa, did you want to add something as
12 well?

13 COUNCIL MEMBER MARK-VIVERITO: Just
14 briefly. I want to thank the chairs for today's
15 hearing. You know, everybody that Gale's thanked,
16 but I really want to give special thanks to Gale
17 for the amount of work and attention that has gone
18 into this and really being responsive to her
19 community, as was indicated by the City Planning
20 representatives here.

21 This is something that was started
22 in 2007, so we are five years into this level of
23 detail, analysis, and thoughtfulness that went
24 into this proposal. And it really is, kind of, an
25 example of community-based planning. You know,

1
2 it's a need that resulted out of the community
3 expressing concern and government is responding.
4 The level of thoughtfulness to take into account
5 existing businesses and that they're grandfathered
6 in, it's not going to affect those businesses that
7 are currently in operation, and creating a level
8 playing field moving forward for banks, in
9 particular, I know that is something that had been
10 expressed.

11 But it's really something that I
12 think is to be an example, but also very unique
13 and not something that is going to be modeled in
14 every other community because there was so much
15 thought put into it and because this part of the
16 community is very different and unique.

17 So my community, the part that I
18 represent from 96 to 110th Street on the Columbus
19 and Amsterdam side originally had not been
20 considered, and due to the advocacy of
21 particularly CB 7, I want to thank them and,
22 obviously, Bob Botfeld and Cynthia Doty, now
23 Amsterdam Avenue is included up to 110th Street,
24 and we thank City Planning for considering that as
25 well.

2 So thank you all that are here, I
3 see a lot of reps here from the community, I thank
4 everyone that's here to provide testimony, and
5 thanks for the time that you've put into this.

6 CHAIRPERSON WEPRIN: Thank you,
7 Council Member Mark-Viverito. I also have a
8 letter from, which I won't read, but it's a
9 statement from Council Member Inez Dickens in
10 support of this plan as well.

11 We have a number of people who
12 wanted to ask questions so we're going to get to
13 that. I have a question myself before we get to
14 the list, just a couple. So, you know, a lot of
15 people in other parts of the city and other
16 places, I look at this and, like, go, wait, we're
17 limiting certain businesses from going into
18 certain neighborhoods. For a lot of places that
19 don't have any banks in other parts of the city,
20 you know, we look at this in the same way, you're
21 trying to discourage people from coming in who are
22 of a certain type of business, how common is that?
23 How often have we done that in this city?

24 LAURA SMITH: It's not
25 unprecedented in the city to limit bank frontages,

2 we limit bank frontages along 125th Street to 25
3 feet also for similar reasons: To promote an
4 active ground-floor streetscape for pedestrians.
5 In no case in no place do we limit the overall
6 number of banks or their square footage. We're
7 not trying to cut down on the availability of
8 services and banking opportunities, both from the,
9 you know, from the banking industry perspective or
10 from the commercial consumer perspective, but
11 where we see problems relating to active ground-
12 floor uses or in active ground-floor uses, we have
13 limited both bank frontages, as I mentioned, along
14 125th Street, and now, potentially, along Broadway
15 and Amsterdam and Columbus. And we also have
16 general active ground-floor use requirements in
17 other districts that limit banks and other
18 inactive uses by requiring that they occupy, in
19 some cases, no more than 50% of the ground floor
20 of a block.

21 CHAIRPERSON WEPRIN: And why single
22 out banks specifically for the 25-foot limit and
23 not make everybody 40 or everybody 25, for that
24 matter?

25 LAURA SMITH: Banks were the only

1
2 inactive use that we found to be proliferating
3 along Broadway, Amsterdam, and Columbus. We don't
4 see other inactive commercial uses occupying
5 significant ground-floor frontage along those
6 three avenues. We allow up to 25 feet because
7 we've seen examples of full-service banks with 25-
8 feet of ground-floor frontage who have their more
9 significant, sort of, service-oriented operations
10 where people sit and wait and speak to a, you
11 know, banking professional, and in those cases, we
12 have three examples of banks within the proposal
13 area already with less than 25 feet of ground-
14 floor frontage and then operations on the second
15 story. We think 25 feet is sufficient and we know
16 from what we've seen in real-world examples and
17 from the models that we've put on your desks that
18 25 feet is sufficient for providing ample room for
19 ATMs, for an active pedestrian flow for people
20 going inside to provide an elevator, an escalator,
21 both ADA compliant, fire code compliant stairwell,
22 and 25 feet works and we haven't seen evidence
23 from the banking industry that they need more than
24 25 feet in order to fit those, you know, sort of,
25 provisions on the ground floor with their major

2 operations above.

3 Of course, they don't have to go up
4 or down, they can have 25 feet of frontage setback
5 30 feet and then wrap around and occupy as much
6 square footage as they want on the ground floor so
7 long as it's not square footage that's fronting
8 the avenue. We don't think having coffee tables
9 and waiting areas for shoppers who use the bank as
10 an appropriate use of ground-floor frontage on
11 Broadway, Amsterdam, and Columbus on the Upper
12 West Side.

13 Also because the frontage
14 regulations only apply to the avenues and do not
15 apply to the side streets, it's possible for a
16 bank still to have 100 feet of ground-floor
17 frontage, if they're on a corner, they have 25
18 feet of frontage, say, along Broadway and 100 feet
19 down the side street.

20 CHAIRPERSON WEPRIN: Okay. Last
21 question from me, just has there ever been legal
22 challenges to something like this that you know of
23 where one industry is singled out for being
24 smaller, and if so, do you have precedent to
25 defend the action?

2 DAVID KARNOVSKY: We're not aware
3 of precedent with regard to this type of
4 limitation, however, our view is that it is
5 grounded in a land-use rationale that is strong,
6 that it's been demonstrated in the record, and
7 therefore, it can withstand challenge, both as a
8 land use matter and with respect to the various
9 issues that have been raised about preemption
10 under federal law.

11 CHAIRPERSON WEPRIN: Okay. And
12 your name for the record? Just restate it.

13 DAVID KARNOVSKY: Sure, David
14 Karnovsky, counsel--

15 CHAIRPERSON WEPRIN: Thank you.

16 DAVID KARNOVSKY: --at City
17 Planning.

18 CHAIRPERSON WEPRIN: Thank you,
19 David. All right, I'm going to get to some--a lot
20 of members have questions so it's going to go on a
21 little while. I want to warn people who are going
22 to be testifying warn--just to let you know who
23 are going to be testifying that we're going to
24 have to limit testimony to three minutes each. So
25 if you start in your head, start working out how

2 short you can make it. I'd like to call on
3 Council Member Reyna.

4 [Pause]

5 COUNCIL MEMBER REYNA: Thank you,
6 Mr. Chair. Can you hear me? Okay. I just wanted
7 to take a moment, you started out the presentation
8 with a comparison of five different neighborhoods,
9 can you just go over what those neighborhoods
10 were?

11 LAURA SMITH: We surveyed ten
12 different neighborhoods throughout the city--

13 COUNCIL MEMBER REYNA: Ten, okay.

14 LAURA SMITH: --we looked at the--
15 this has been several years now so forgive me if I
16 can't rattle them off so quickly, but the Upper
17 East Side, the Upper West Side, Hamilton Heights,
18 Norwood Avenue in the Bronx, Kingsbridge, Astoria,
19 Jackson Heights, New Dorp in Staten Island, Park
20 Slope, Nostrand Avenue, Flatbush Nostrand Avenue,
21 and I think that might've been it. I wasn't
22 keeping count, but if somebody...

23 COUNCIL MEMBER REYNA: You
24 mentioned about eight. But in the list that you
25 just communicated, what was the common denominator

1
2 in choosing these particular areas?

3 LAURA SMITH: So we spent some time
4 in our offices before setting out to survey the
5 ten neighborhoods to identify commercial corridors
6 that had high residential density surrounding
7 them, the Upper West Side had some of the highest,
8 that they all had high residential density.
9 Similar commercial zoning, so local commercial
10 overlay C1, C2 districts for the most part, as
11 opposed to more regional retail destinations. We
12 looked at proximity to public transportation, and
13 we looked at car ownership rates, and we were
14 trying to identify, sort of, a universe to sample
15 of local retail corridors throughout the city that
16 are oriented towards the residential population
17 that lives around them, with a sufficient
18 residential population to support them without
19 needing to get into a car, and we were also
20 looking at vacancy rates. So in cases where we
21 had identified a corridor and we got there and it
22 turned out that they weren't doing so well, we
23 didn't end up surveying them. We really were
24 trying to capture healthy, active, dynamic
25 commercial corridors.

2 COUNCIL MEMBER REYNA: And narrowed
3 what would be what we're hearing today to only one
4 applicable area.

5 LAURA SMITH: Well so we had the
6 contract began by the Community Board and by
7 Council Member Brewer, so it was the Upper West
8 Side who approached us with their list of concerns
9 and we heard their concerns, but we knew the Upper
10 West Side to be fundamentally healthy, and so we
11 wanted to see whether the concerns that we heard
12 from the Upper West Side were consistent with
13 concerns that we might see in similar
14 neighborhoods throughout the city or whether they
15 really were unique to the Upper West Side. So in
16 order to substantiate those concerns, we felt it
17 was, you know, contingent upon our, sort of,
18 surveying in a similar way many other
19 neighborhoods throughout the city in order to
20 determine that, yes, the Upper West Side really is
21 unique with these concerns, and two, to try to
22 quantify, sort of, the qualitative feel that we
23 think of when we think of a healthy local retail
24 corridor. I think we all have an idea of what it
25 means to be a healthy local neighborhood street,

2 but until we set out and did the ten surveys, we
3 measured storefronts, we counted the mix of
4 different types of retail uses, we counted
5 vacancy, et cetera. We looked at the mix of
6 retail versus, sort of, neighborhood services, and
7 until we had done that extensive fieldwork survey
8 and quantified all of these things that can
9 contributed to the look and feel of a healthy
10 neighborhood, we didn't feel comfortable proposing
11 a land use or zoning tools that might affect these
12 things that people typically just experience on an
13 emotional level.

14 COUNCIL MEMBER REYNA: And as far
15 as the ten areas that you had mentioned, are there
16 business improvement districts in all or some?

17 LAURA SMITH: In almost all cases
18 they have business improvement districts, that was
19 another sort of criteria that we considered--

20 COUNCIL MEMBER REYNA:
21 [Interposing] Because I didn't hear that, so I was
22 just curious--

23 LAURA SMITH: [Interposing] Yeah,
24 you're right.

25 COUNCIL MEMBER REYNA: --and so as

1
2 far as what is before us, the text that is being
3 proposed, did it factor in what would be the
4 business improvement districts, and is there any
5 challenges that the Bid itself has brought to your
6 attention?

7 LAURA SMITH: We found--we
8 obviously have gone into the most deal with the
9 Upper West Side so I'll speak to that experience.
10 What we found, of course, there are two business
11 improvement districts within the proposal area on
12 the Upper West Side: We have the Columbus,
13 Amsterdam BID in Manhattan Valley and the Columbus
14 Avenue BID further down on Columbus Avenue south
15 of the urban renewal area. What we're proposing
16 is consistent with the healthy retail environment
17 that has been largely supported, promoted, and
18 enhanced by the BID. So we give the BIDs, you
19 know, a lot of credit for keeping the neighborhood
20 in as great shape as it is. We're not proposing
21 to change the way BIDs do their business. The
22 Columbus Avenue BID was rightfully proud to
23 announce that they have a 0% vacancy rate.
24 Conditions along the BID's corridor are--promote
25 healthy retailer. I mentioned 93% of storefronts

2 comply with the proposal, 93% storefronts along
3 the entire study area have less than 40 feet in
4 frontage and there is a 0% vacancy rate. So the
5 BIDs were very helpful for us to see that what
6 conditions are like today are working and so we
7 tried to come up with a proposal that really
8 reinforced that.

9 Now we have heard from the Columbus
10 Avenue BID, who, you know, are not happy with the
11 proposal, they'd like to see Columbus Avenue
12 excluded, I think largely because they've done
13 such a great job with maintaining an active,
14 healthy retail environment along the corridor.
15 And we may hear from somebody from Columbus
16 Avenue, so I don't want to--

17 COUNCIL MEMBER REYNA:

18 [Interposing] Right, just separate and aside from
19 doing a good job, is there anything technical that
20 would compromise, let's say, their assessment?

21 LAURA SMITH: No.

22 COUNCIL MEMBER REYNA: So there's
23 no technical issue with how you are presenting the
24 text amendment that would impact their particular
25 BID?

2 LAURA SMITH: No, we haven't heard
3 any concern on that level.

4 COUNCIL MEMBER REYNA: And [pause]
5 else I wanted to... I understand that the--it was
6 brought to my attention that there's a duplicitous
7 process as far as a storefront with a CPC
8 restrictive declaration with a storefront master
9 plan would have to go through City Planning twice?

10 LAURA SMITH: I believe this
11 relates to a landmarked property.

12 COUNCIL MEMBER REYNA: Correct.

13 LAURA SMITH: And in that case,
14 they've received a special permit, 74-711, to--
15 which lays out a master plan for how frontages and
16 how commercial space is laid out within their
17 building. The proposal regulates street frontage.
18 Now the frontages that we've seen in the
19 landmarked building, the Belnord that's pursuant
20 to a 74-711, in some cases exceed 40 feet in
21 frontage, in some cases comply with the proposal.
22 Along Amsterdam, there is, I think, 200 feet of
23 frontage for CVS, or maybe a little bit less than
24 200 feet. In that case, they're subject to a 74-
25 711, that is a process that operates entirely

2 outside of the zoning regulations for the Upper
3 West Side neighborhood retail streets proposal, so
4 they're subject to a separate process. They
5 wouldn't have to go through City Planning twice,
6 it's not a dual--they don't have to receive
7 permission in one case to exceed the frontage
8 limitations and then permission again to modify
9 their 74-711 master plan.

10 COUNCIL MEMBER REYNA: And if they
11 already have a 74-711--

12 LAURA SMITH: [Interposing] That
13 supersedes zoning.

14 COUNCIL MEMBER REYNA: So that they
15 remain the same.

16 LAURA SMITH: They would not be
17 required to change anything about their existing
18 frontage to comply with the proposal. They
19 wouldn't anyway because they're under 74-711,
20 which is governed separately, so they would not
21 have to modify their frontage in any way to comply
22 with the proposal, but in all cases throughout the
23 district, because we've grandfathered in existing
24 frontages at their current sizes, there is no
25 frontage that exists in the proposal area today

2 that would have to modify in any way to comply
3 with the proposal. Every frontage today that you
4 see along Amsterdam, Columbus, and Broadway, would
5 be permitted to remain unchanged in perpetuity.

6 COUNCIL MEMBER REYNA: And so the
7 74-711--

8 LAURA SMITH: [Interposing] Is a
9 separate sort of regulatory process that the
10 Belnord has already gone through, they've already
11 received the special permit for 74-711 which
12 allows them to, sort of, bypass the zoning
13 regulations that we're proposing along Amsterdam
14 and Columbus and follow the path of 74-711 as
15 they've applied for their master plan.

16 COUNCIL MEMBER REYNA: And how many
17 others as far as this affected area have a 74-711?

18 LAURA SMITH: I can't answer that
19 question offhand, it applies to landmarked
20 buildings, and I think we have eight or nine
21 landmarked buildings within the entire project
22 area, so they may or may not be subject to 74-711,
23 but certainly we wouldn't see more than ten
24 because they apply only to landmarked.

25 COUNCIL MEMBER REYNA: So the 74-

2 711 supersedes the zoning text, but everything is
3 grandfathered in, it's a separate process, and--
4 but would that be considered an exclusion?

5 LAURA SMITH: It would not be
6 considered an exclusion because, if they, in the
7 future, no longer are under the 74-711, if they're
8 no longer subject to the master plan as approved
9 through the 74-711, they would be required to
10 comply with the proposal. But that being said,
11 because the proposal inherently would not require
12 them to subdivide, they wouldn't be required to
13 change the frontage but they wouldn't--it wouldn't
14 be right to call them exempt, they would be part
15 of the universe of sites that are--

16 CHAIRPERSON WEPRIN: [Interposing]
17 Council Member Reyna, if you could just wrap up
18 'cause we have a number of--

19 LAURA SMITH: Right.

20 CHAIRPERSON WEPRIN: --people who
21 want to ask questions.

22 COUNCIL MEMBER REYNA: Sure, no, I
23 appreciate it, it's just, you know, everybody's
24 been working on this for five years and we're
25 supposed to take it in in two minutes, and so we

1
2 just want to make sure that--I personally want to
3 make sure that I understand, you know, the overall
4 purpose and accomplishment of what is happening in
5 one specific neighborhood versus the rest of the
6 city.

7 Thank you.

8 CHAIRPERSON WEPRIN: Thank you,
9 Council Member Reyna. Council Member Garodnick.

10 COUNCIL MEMBER GARODNICK: Thank
11 you very much, Chair Weprin. And I only have a
12 couple of questions, but I first want to start out
13 by recognizing all of the hard work that Council
14 Member Brewer has put into this, as well as CPC--
15 and I agree the presentation was very good--and
16 Council Member Mark-Viverito and Council Member
17 Dickens as well.

18 This is a really interesting and
19 novel proposal, I think, and one of the questions
20 that I wanted to talk to you about was the
21 precedent question because, obviously, the concern
22 about proliferation of banks and the way they have
23 worked to the detriment of small businesses and
24 communities is something which is felt intensely
25 on the Upper West Side, but it also is something

1
2 that we do feel on the Upper East Side.

3 And to the point about 50% more
4 commercial square footage per resident on the
5 Upper East Side, if you could just go back to that
6 for a second and explain what the meaning is and
7 what the relevance is in terms of precedent.

8 LAURA SMITH: Sure. So the point
9 in raising that fact as it applies to the Upper
10 West Side, and obviously the Upper East Side as
11 well, is to demonstrate that when there is a more
12 constrained commercial supply serving a very dense
13 residential neighborhood, there's less flexibility
14 for the neighborhood to absorb one very dominant
15 use. So on the Upper West Side, where we see a
16 proliferation of banks, that's really at the
17 expense of many other retail uses and commercial
18 uses that are needed by residents on the ground
19 floor with easy access and as part of their, sort
20 of, daily shopping experience.

21 In neighborhoods like the Upper
22 East Side or other neighborhoods that are still
23 incredibly dense and where there may be a
24 sentiment that there are too many banks or banks
25 with frontage that's too large, you know, not to

1 deny the community feel that that's the case that
2 may, you know, that's a legitimate sort of
3 concern. From a land use perspective, you know,
4 from the perspective that these banks are
5 jeopardizing the neighborhood's ability to remain,
6 sort of, able to provide local residents with the
7 array of goods and services that they need, that's
8 where the, sort of, statistic about the
9 constraints apply of commercial square footage
10 comes in. We were approaching it from a land use,
11 you know, perspective that we want our locally
12 serving commercial neighborhoods to be able to
13 meet the needs of the residents who live in the
14 neighborhood, and so on the Upper West Side, where
15 there's already a constrained supply of commercial
16 square footage, the proliferation of one use
17 that's not particularly active at the expense of
18 many other uses is a particular problem.

20 COUNCIL MEMBER GARODNICK: We have
21 a clear picture of the percentage of square
22 footage of the overall amount of commercial square
23 footage is represented by banks on the Upper West
24 Side as opposed to the Upper East Side or other
25 neighborhoods?

2 LAURA SMITH: We haven't done that
3 level of analysis, and one reason why is we
4 haven't--we're not proposing to limit the overall
5 square footage of banks, nor are we proposing to
6 limit the number of banks, we really are just
7 approaching this from a, sort of, streetscape
8 perspective, the ability of a--

9 COUNCIL MEMBER GARODNICK:

10 [Interposing] I understand--

11 LAURA SMITH: Yeah.

12 COUNCIL MEMBER GARODNICK: --the
13 reason I ask is because we're talking about how
14 the Upper East Side presumably has more ability to
15 absorb banks than perhaps the Upper West Side
16 does, but if you have, say, a higher percentage of
17 overall square footage--

18 LAURA SMITH: Right.

19 COUNCIL MEMBER GARODNICK: --of
20 either frontage or bankage on the Upper East Side,
21 then it may actually weaken that argument a little
22 bit, which is the reason why I ask that--

23 LAURA SMITH: Right.

24 COUNCIL MEMBER GARODNICK: --but I
25 understand that you're not limiting the square

1
2 footage of banks, you're really just talking about
3 the frontage. But I do think that there is an
4 open question here as to whether there is
5 applicability more broadly than the Upper West
6 Side.

7 But then it takes me to my next
8 question about the legal issues--and this is, I
9 guess, for Mr. Karnovsky--on I think that there's
10 two issues, one of them is the preemption issue, I
11 think you dealt with that rather persuasively in
12 the memo as it relates to the National Bank Act
13 and it looks very clear to me that there is an
14 exemption on preemption for zoning. And so that
15 seems in my mind to deal with that question along
16 with everything else you set forth in the letter
17 of June 11th. But my question for you is, is
18 there any limit to what the City can do when it
19 comes to picking and choosing those commercial
20 establishments for which we will provide a
21 frontage limitation? If we wanted to, say,
22 provide a limitation for electronic stores because
23 we've seen particular consumer issues related to
24 electronic stores or, you know, stores that sell
25 too much soda or whatever, is there any limitation

2 to what we can do legally or are we able to simply
3 go the distance however we think appropriate?

4 DAVID KARNOVSKY: I think, as Laura
5 explained, the rationale for this proposal has to
6 do with the streetscape, the pedestrian
7 environment, and really is tied to land use
8 concerns, it's not about regulating transactions.
9 As I discuss in the memo on preemption, there's
10 nothing about this that actually regulates the
11 deposit taking or lending functions of the bank
12 and to use land use regulation to do that could
13 well raise issues. So this proposal is really
14 about neighborhood character, streetscape,
15 pedestrian experience, those are the subject
16 matter of land use and, to the extent that a
17 particular use, in this case, the banks, raises
18 those concerns in a way that is not the case with
19 other uses, there is a basis for doing so. I
20 wouldn't universalize that and I would certainly
21 be concerned about trying to regulate consumer
22 transaction in electronic establishments based on
23 a zoning regulation.

24 COUNCIL MEMBER GARODNICK: Could
25 you do the--could you consider this in the

2 reverse? One of the things which concerns all of
3 us about the proliferation of banks is the absence
4 of activity and the fact that they seem to swallow
5 up endless amounts of space to the detriment of
6 the smaller businesses, but let's say there was a
7 business that, instead of creating a dead space,
8 but actually created an active space, and let's
9 just take the electronic store, for example,
10 maybe, you know, people were drawn to it, maybe it
11 was, you know, because you have Best Buy on the
12 day after Thanksgiving suddenly creates a line
13 from--I'm making this up, of course--from 86th
14 Street and Park Avenue all the way around the
15 block to 89th Street and Lexington Avenue, could
16 you do anything in the zoning regulation to
17 address the excess of people as opposed to the
18 absence of people?

19 DAVID KARNOVSKY: Well I think--

20 COUNCIL MEMBER GARODNICK: From a
21 streetscape perspective.

22 DAVID KARNOVSKY: Yeah, I think the
23 zoning resolution already addresses the size and
24 type of retail uses by categories in relationship
25 to the type of street, local streets, wider

2 streets, and there is a system for organizing uses
3 in terms of more regional draws, larger draws,
4 customer draws in relationship to location. So I
5 think in a way that is done, and I think that we
6 recognize that there are parts of the city with in
7 lower density environments with local retail
8 streets where certain kinds of retail may not be
9 appropriate in terms of the traffic generation and
10 the effect on the pedestrian activity. So I think
11 zoning does that in a general way through the way
12 the use regulations are organized for retail.

13 CHAIRPERSON WEPRIN: Dan, I didn't
14 put a clock--

15 COUNCIL MEMBER GARODNICK: Thank
16 you.

17 CHAIRPERSON WEPRIN: --I didn't put
18 a clock on you--

19 COUNCIL MEMBER GARODNICK:
20 [Interposing] That's it, I'm going to end right
21 there, but I will end by saying that I think this
22 is extremely novel, and the reason I push on the
23 legal questions is I want to make sure that we're
24 on solid ground and it sounds like we are, and I
25 think we should continue this conversation. And I

2 note there's concern about precedent, but I think
3 that we should take a look at it further because
4 it's important and it really is something that is
5 impacting a lot of neighborhoods, certainly in
6 Manhattan and likely around the rest of the city
7 too. Thank you.

8 CHAIRPERSON WEPRIN: Thank you.

9 Council Member Lappin.

10 COUNCIL MEMBER LAPPIN: Thank you.

11 I'm going to continue along the same line and say
12 first many, many years ago, shortly after I was
13 sworn in, I approached City Planning on this exact
14 issue, Ellen Ryan, and was told that Councilwoman
15 Brewer was already working on it and has been
16 working on it for quite some time, so I want to
17 thank her. But it is something that we do hear
18 from people in different neighborhoods across the
19 city because our mom-and-pop shops very often are
20 what make our neighborhood special.

21 But I just want to be perfectly
22 clear 'cause you mentioned that the rationale here
23 was streetscape and the environments, that there
24 would not be a public health rationale used to,
25 for example, prohibit fast food establishments,

2 which is something that we did discuss a number of
3 years ago in this city, from certain places, so I
4 just want to discuss that a little bit further.
5 Could a public health rationale be used to then
6 apply to the zoning to prohibit certain kinds of
7 uses in other parts of the city?

8 DAVID KARNOVSKY: You know, I'm
9 just not going to enter into discussion of fast
10 food zoning here, it's a topic that we have not
11 looked at in depth. As you know, it has been
12 tried in other jurisdictions, it's a complicated
13 question of whether or not there is a land use
14 basis for doing it, apart from issues of
15 regulation and enforcement to determine what is
16 fast food and how you deal with it in a zoning and
17 code fashion. So I think that's a topic for
18 another day.

19 COUNCIL MEMBER LAPPIN: But is this
20 legally creating a precedent to do that?

21 DAVID KARNOVSKY: No, I think this
22 is distinct. I mean, this is related to
23 traditional concerns of the zoning resolution,
24 which, as Laura said, for example, regulates
25 transparency of retail frontage, active retail,

2 and so forth and so on. There are numerous ways
3 in which the zoning resolution relates to the
4 ground floor and its relationship to the street
5 and to pedestrian activity. I don't think that it
6 charts new orders in that way.

7 COUNCIL MEMBER LAPPIN: Okay. What
8 are other inactive uses? You mentioned that twice
9 but you didn't enumerate what they would be. What
10 would be examples of other inactive uses other
11 than banks?

12 LAURA SMITH: Doctor's offices,
13 general offices. We define it, you know,
14 depending on the neighborhood where we're
15 concerned about active versus inactive uses, we
16 can be fairly sharp in how we define what they
17 would be--sharp, meaning specific, I'm sorry. So
18 doctor's offices, in some cases trade schools, any
19 sort of standard office space, so a government
20 office, although they would probably be exempt.
21 I'm just sort of drawing a blank, but a real
22 estate office, community facilities, certain types
23 of medical uses. Just we're thinking, you know,
24 when we conceive of active versus inactive, active
25 would be something that's maybe a destination for

2 any pedestrian on the street where you go in and
3 you make a transaction and you leave, not where
4 you go and you sit for, you know, where you sit
5 and you're there for hours, and it's not a
6 restaurant, obviously, or a bar where people are
7 coming in and out regularly.

8 COUNCIL MEMBER LAPPIN: Okay. I
9 have a couple of questions about the proposal, one
10 is, I think I understand that it changed so I just
11 want to be clear in terms of frontages being
12 grandfathered in perpetuity. If there is an
13 existing bank, it becomes a clothing store, and
14 ten years later wants to become a bank again, that
15 is permissible and it does not have to be
16 subdivided.

17 LAURA SMITH: A bank that exists
18 today with, let's say, 100 feet of frontage could
19 become a restaurant, it could become a clothing
20 store, it could become another bank; however, if
21 it becomes a restaurant, a clothing store, if it
22 becomes anything but a bank, it could not ten
23 years down the line become a bank again. So the
24 frontage, we would not force a subdivision of the
25 frontage but, because banks are limited to 25

2 feet, whereas other uses are limited to 40 feet,
3 if it's 100 feet of frontage and it becomes a
4 restaurant, it would have, for example, it would
5 only be permitted to change again to another use
6 that is permitted the 40 feet of frontage.

7 COUNCIL MEMBER LAPPIN: So I want
8 to be clear actually, so we're not grandfathering
9 everything in perpetuity. If it continues on as a
10 bank, it could remain a bank in perpetuity, but if
11 it is not always a bank, it does have to be
12 subdivided if it tries to return to a bank use.

13 LAURA SMITH: To a bank. We are
14 grandfathering the frontages, not the uses. So--

15 COUNCIL MEMBER LAPPIN:
16 [Interposing] But you're not grandfathering the
17 frontage if it has to then be--if it becomes a
18 bank later, it has to be subdivided, so that
19 frontage is not grandfathered.

20 LAURA SMITH: But it would not have
21 to be subdivided if it were reoccupied by any
22 other use.

23 COUNCIL MEMBER LAPPIN: Right, but
24 if it's a bank, you said it has to be subdivided.

25 LAURA SMITH: That's correct, if--

2 COUNCIL MEMBER LAPPIN: So it's not
3 grandfathered in that case.

4 LAURA SMITH: The frontage is, but
5 the use is not. So if the use wishes to--

6 COUNCIL MEMBER LAPPIN:
7 [Interposing] They're tied together so that you
8 can't grandfather one without the other if that
9 use has to have a smaller frontage.

10 LAURA SMITH: Right, but as far as
11 the--we were hearing, you know, from property
12 owners who were concerned that no matter what,
13 there may be a condition where they would be
14 forced to subdivide, that there would be no use
15 that could fit into that space because it exceeds
16 40 feet, and so what we did--or what the
17 Commission did through the modifications is allow
18 frontages in perpetuity. So we would never create
19 a condition where a property owner would be forced
20 to subdivide, they may have to find a different
21 use to fill that space, but they would not have to
22 undergo, you know, significant--

23 COUNCIL MEMBER LAPPIN: Okay.

24 LAURA SMITH: --alteration to the
25 building.

2 COUNCIL MEMBER LAPPIN: And then
3 you sort of mentioned that you had changed or
4 there was a request that you clarify the
5 reasonable distance issue, and so I want to
6 understand clearly in terms of the outs where you
7 ended up.

8 LAURA SMITH: So the concern that
9 we heard from the Community Board was that the
10 authorization which required the finding that--

11 CHAIRPERSON WEPRIN: Could we have
12 a little quiet, please?

13 SERGEANT-AT-ARMS: Quiet, please.

14 LAURA SMITH: --that the use cannot
15 be reasonably configured within the permitted
16 street wall width and also--or that a high vacancy
17 rate exists in the surrounding neighborhood and we
18 were asked to clarify that. And we did not, we
19 did not specify what reasonably configured means
20 or what a high vacancy rate means. The City
21 Planning Commission has the discretion to make
22 that determination--

23 COUNCIL MEMBER LAPPIN:
24 [Interposing] I'm talking about the distance from
25 other businesses, 'cause you had mentioned if

1
2 there was already another business--

3 LAURA SMITH: Oh, okay.

4 COUNCIL MEMBER LAPPIN: --that had
5 expanded--

6 LAURA SMITH: Right.

7 COUNCIL MEMBER LAPPIN: --so what
8 is the distance now that you're looking at?

9 LAURA SMITH: An applicant may
10 apply for a certification to expand to up to 60
11 feet as long as not more than one other
12 establishment on the block, across the street, or
13 on either blocks adjacent already exceeds 40 feet.
14 So you can have one large frontage establishment
15 on, across, or adjacent when you apply, but there
16 cannot be more than one.

17 COUNCIL MEMBER LAPPIN: So whoever
18 gets there first, gets there first.

19 LAURA SMITH: To some extent, yes,
20 although because we see turnover all the time in
21 any retail neighborhood, we wouldn't expect, sort
22 of, a race to the finish line at the date of
23 adoption and then conditions remain static
24 forever. Spaces come open all the time, spaces
25 are occupied all the time, spaces--

2 COUNCIL MEMBER LAPPIN:

3 [Interposing] And is this what the Community Board
4 had requested?

5 LAURA SMITH: They had requested a
6 land use-based criteria that considered the
7 existing context. They wanted flexibility to
8 allow existing businesses to expand, but they were
9 also concerned, I mean, they were concerned from
10 the outset about the loss of neighborhood
11 character through the proliferation of stores, you
12 know, which we sort of came to a conclusion,
13 stores exceeding 40 feet. So, you know, I think
14 we're all comfortable with a compromise that
15 allows for a moderate number of expansions of
16 existing businesses, while still upholding the
17 basic tenets of the proposal, which is to preserve
18 the multi-store character.

19 COUNCIL MEMBER LAPPIN: Okay.

20 Thank you, Mr. Chair.

21 CHAIRPERSON WEPRIN: Thank you,
22 Council Member Lappin. Council Member Comrie.

23 COUNCIL MEMBER COMRIE: My
24 colleagues have asked mostly the questions about
25 the exclusion for just the banks, what are the

2 demographics of the area that you know of that
3 made you come to this decision?

4 LAURA SMITH: To the extent that we
5 looked at the demographics in the neighborhood, we
6 found an incredibly high aggregate spending power
7 that's largely the result of a lot of people with
8 relatively high incomes, and so when you have a
9 lot of--

10 COUNCIL MEMBER COMRIE:

11 [Interposing] I mean, I know the income is high,
12 I'm talking about, like, the ages, specifically.
13 Are there a lot of people that are looking at
14 nightlife there? I mean, because you're talking
15 about passive versus active, you know, you're
16 talking about the frontage that is concern to the
17 community because it's passive. So is there, you
18 know, are the stores that you're looking to open
19 on the mom-and-pops going to create active or are
20 they going to be at this dark after 7 o'clock or 8
21 o'clock as well? That's what I'm concerned. And
22 is there, the age--I'm concerned more about the
23 ages because that creates the idea or the need for
24 what is active, what is passive, you didn't answer
25 any of those questions specifically.

2 LAURA SMITH: So when we--or when I
3 was speaking in terms of active versus passive, it
4 has less to do with, sort of, our people, you
5 know, running around inside the space or not, it's
6 more about the dynamic activity on a sidewalk. So
7 are these establishments with high turnover where
8 people are coming in and going out, making
9 transactions and leaving on a regular basis, sort
10 of, fostering an active streetscape where people
11 feel safe, where there are a lot of bodies on the
12 sidewalk, where you can walk up a block and have a
13 lot of opportunities for entry and egress, et
14 cetera, that may be open on weekends, the stores
15 in the neighborhood today that we call active are
16 serving residents mostly seven days a week, they,
17 you know, they're largely catering to residential
18 hours so if it's a community where people are at
19 home all day and they're not working, they may
20 close earlier. If they know that their clientele
21 are coming home late from work, they stay open
22 later. And, you know, for the most part, that
23 works on the Upper West--

24 COUNCIL MEMBER COMRIE:

25 [Interposing] And doesn't that apply to most of

1
2 the newer banks? Just to play devil's advocate,
3 they're open on the weekends, they're open until 7
4 o'clock at night just to, you know, I mean they're
5 open in the evening, so most of the banks are
6 competing to stay open in the evenings now. And
7 after 8 o'clock, I mean, what is the active--what
8 is considered active as far as, you know, because
9 if a store shuts down at 8 o'clock, a tailor
10 store, let's just say, you know, that you're not
11 having the traffic back and forth either. So, you
12 know, I'm trying to identify the difference for
13 the record because I'm worried about, you know,
14 you say there is not a precedent, but I've got to
15 feel that Broadway, Astoria is going to be next or
16 Steinway Street or, you know, Queens Boulevard,
17 they're all going to look at this--and just to be
18 Queens specific, since I'm from Queens--but, you
19 know, I have to feel that there'll be other
20 neighborhoods in the city that will look at this
21 and say how do we create this ambience. And but
22 I'm even have a deeper concern as to what really
23 is a safe passageway for pedestrians in the
24 evening because if you're talking about safe
25 corridors, what do we do to make sure that our

1
2 constituents when they get off the bus or get out
3 the subway have a safe corridor walkway home. And
4 what that active streetscape should be since we're
5 only limiting 40 feet, we can't keep restaurants
6 that--you know, you're talking a restaurant, the
7 traffic in and out of restaurant, the traffic in
8 and out of a restaurant that has tables and chairs
9 either is a different type of passive activity.

10 So I was trying to figure out what
11 all that really means for the residents of that
12 area based on their age dynamics, as well as
13 everything else.

14 LAURA SMITH: And so with regards
15 to banks specifically, we sort of see them as two
16 entities--there's an active component to a bank,
17 which would be the ATMs, actually more people are
18 in and out all the time, and then there's the
19 passive component where people are in and sitting
20 for a fairly lengthy amount of time. But that
21 component, the sort of service oriented component
22 of a bank or the business operations, is a
23 destination in its own right, it's not, sort of,
24 an impulse, I'm going to run in and buy a sandwich
25 or I'm going to, you know, do some comparison shoe

2 shopping or whatever. And that would be sort of--
3 those are the types of uses that we think of as
4 active where you may set out and do window
5 shopping or you're in and out, it's not a--it
6 doesn't have to be a destination in its own right.

7 We recognize that ATMs are, you
8 know, need to be well lit, they, you know, need to
9 be on the street, people don't want to feel unsafe
10 withdrawing their money at any hour and they tend
11 to be open 24 hours, and we think that, you know,
12 we know that they can fit within 25 feet, in many
13 cases they fit, you know, within a 5-foot wide
14 alcove in a Duane Reade. And so those are the--
15 that's the active component of banking that we
16 think belongs on the ground floor.

17 If we had seen other less active
18 uses like, you know, a proliferation of medical
19 facilities, which, again, are destinations or of
20 other types of offices which are destinations, we
21 might have considered further limiting their
22 frontages on the ground floor as well, but because
23 we only saw it with banks, we're only proposing to
24 limit banks.

25 As far as, sort of, the demographic

1
2 component--well let me go back to the hours that
3 they're open. Certainly, some banks are meeting
4 needs of customers on the weekends and after
5 hours, but the primary function of the banking
6 operations is what makes it a passive use. It's
7 not necessarily the hours that they operate,
8 although that certainly is a major component--
9 historically, they are not open late and they're
10 not open on the weekends--but it's what happens
11 inside and it's, sort of, the flow of pedestrians
12 in and out that we were looking most closely with.

13 COUNCIL MEMBER COMRIE: So most
14 mom-and-pop stores in that corridor are open until
15 10 o'clock at night?

16 LAURA SMITH: I can't say that most
17 of them, but that's not exactly what we were
18 trying to address. We didn't--

19 COUNCIL MEMBER COMRIE:
20 [Interposing] But that's what I'm trying to drill
21 down to. And I'll ask the Community Board this as
22 well, but if the object is to try to create safe
23 corridors for pedestrian traffic, then how do we
24 create those safe corridors to make sure that--I
25 don't think it's daytime traffic you're worried

2 about, you're worried about after work traffic and
3 night traffic and the traffic flow of pedestrians
4 to feel walking that they're walking in safe
5 corridor, so I wanted to know how this planning
6 and zoning answered that. Just to put that out on
7 the table.

8 I think that you guys have done an
9 excellent job of trying to address a lot of these
10 issues, but if the idea for the community was to
11 create safe traffic zones, how did we get to
12 addressing those issues?

13 LAURA SMITH: And I think the
14 community was less concerned about, sort of,
15 safety in the evenings and more concerned about
16 neighborhood character as a retail destination as
17 an exciting and active place to walk up and down
18 the street and to shop, as well as a place where a
19 resident can obtain what they need for their day's
20 errands.

21 COUNCIL MEMBER COMRIE: Right.

22 LAURA SMITH: We didn't hear so
23 many concerns about safety or about how to make
24 the streets safer, we heard concerns about how do
25 we keep the streets exciting and active when

2 people are out and shopping. So--

3 COUNCIL MEMBER COMRIE: Okay.

4 LAURA SMITH: --you know, I think
5 if we heard from a community that was concerned
6 about safety in evening hours, we would approach
7 it differently.

8 COUNCIL MEMBER COMRIE: Okay.

9 Thank you.

10 CHAIRPERSON WEPRIN: Thank you,
11 Council Member Comrie. All right, we're going to
12 let this panel take a rest, and stick around for
13 the fun. I'd like to now call on a panel in
14 opposition to this project. Nick, we might need
15 another seat, but maybe not. So I'd like to call
16 up the following people: Michael Smith from the
17 New York State Bankers Association; Susan
18 Gwertzman, who is here; Sheldon Lobel; and then
19 Paul Selver; Brenda Levin; and Anthony Mannarino.
20 Do you all need to go up there to sit, Brenda?

21 BRENDA LEVIN: There's three of us.

22 CHAIRPERSON WEPRIN: Are you all
23 speaking?

24 BRENDA LEVIN: Yes, we are.

25 CHAIRPERSON WEPRIN: All right, so

2 we'll get you an extra seat.

3 BRENDA LEVIN: Okay.

4 CHAIRPERSON WEPRIN: Nick, six
5 people, 'cause that's the entire opposition panel
6 at once. Now, ladies and gentlemen, I apologize,
7 but we're going to have to limit you to three
8 minutes, I've been yelled at already for making it
9 as long as three minutes. So we have a lot of
10 people to testify still.

11 SUSAN GWERTZMAN: Sure. Where do
12 you want me?

13 CHAIRPERSON WEPRIN: Those people
14 who are here to testify in favor, we will call up
15 panels, I want to encourage you, if you don't feel
16 the need to testify and just want to have your
17 name read to the record and let us know you were
18 here, we're happy to let you to do that,
19 especially if you're going to be repeating a lot
20 of what you'll hear before you. But in the
21 meantime, did you guys choose up?

22 SUSAN GWERTZMAN: Yeah.

23 CHAIRPERSON WEPRIN: Once, twice,
24 three, shoot?

25 SUSAN GWERTZMAN: I'll go first.

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CHAIRPERSON WEPRIN: All right, can we have some quiet, please?

SERGEANT-AT-ARMS: Quiet, please. Quiet, please.

CHAIRPERSON WEPRIN: Make sure to state your name for the record before you start speaking, that way, if it's transcribed, they'll know who's speaking, that's why we do that.

SUSAN GWERTZMAN: Is this on? Good.

CHAIRPERSON WEPRIN: I think so.

SUSAN GWERTZMAN: Good morning, my name is Susan Gwertzman, I've been following this proposal and feel that my take on the situation needs to be considered. I've lived at 88th Street and Broadway for 41 years, I watch stores come and go, and feel that the large chain stores are not villains. When my electronics break--my TV, phone, printer, microwave--I love that I can run into PC Richard a block from my house and talk to a salesman who knows me and look at a wide selection of goods, and their prices are very fair. I don't have a car like many of the new people who have moved into my building, and,

1
2 therefore, can't pick up these items with ease
3 from big box stores in outlying neighborhoods or
4 suburbia.

5 This is a store that serves our
6 neighborhood. I understand that there are people
7 who do not like PC Richard because it does not
8 make for interesting window shopping or contribute
9 to the neighborhood character. PC Richard is the
10 largest chain of private, family-owned electronics
11 and appliance stores in the United States. They
12 opened in 1909 in Bensonhurst, then moved to
13 Queens, and are now headquartered on Long Island.
14 This is the American dream come true and a New
15 York success story.

16 CVS, which is a block away on
17 Amsterdam Avenue, provides me with all my drug
18 store needs. The managers and sales clerks know
19 me well and let me purchase heavy items and return
20 later with my shopping cart to pick up those heavy
21 items they have put aside for me.

22 The people who work in these stores
23 know the regulars and treat us well. I also want
24 to point out that if landlords have to rent
25 smaller spaces, they often rent to high end stores

2 who can pay high rents, such as Baked by Melissa
3 where one cupcake costs more than six packaged
4 cupcakes These small high end stores--fancy vegan
5 shops and global home furnishings--are popping up
6 on Amsterdam Avenue. These stores may appeal to
7 some people but are not practical for people in
8 the neighborhood who live on a budget.

9 I understand that chain stores will
10 not be prohibited, but this effort appears in my
11 community to be anti-chain stores and I feel that
12 new stores that could be beneficial and affordable
13 will not come because the limitations will not
14 serve their needs. Affordable is also part of
15 neighborhood character.

16 Thank you.

17 CHAIRPERSON WEPRIN: Thank you very
18 much, and I'm sure PC Richard appreciates the
19 commercial.

20 SUSAN GWERTZMAN: Yeah, well I love
21 them. Listen, I'm always breaking things and I'm
22 always running in there in the verge of hysteria
23 and I'm glad that they're there.

24 CHAIRPERSON WEPRIN: Thank you very
25 much. Mr. Smith.

2 MICHAEL SMITH: Mr. Chairman and
3 panel, good morning, I'm Mike Smith, I'm the
4 President of the New York Bankers Association, we
5 represent all the banks in the state of New York,
6 both large and small. We believe strongly that
7 this proposal discriminates against banks
8 specifically as it relates to the limitation on
9 frontage, affecting banks in terms of--

10 [Crosstalk]

11 CHAIRPERSON WEPRIN: [Interposing]
12 I think we'll stipulate to that.

13 MICHAEL SMITH: It is unusual for
14 us to appear and to comment on zoning matters--
15 we're a statewide organization. As a general
16 rule, it is customary and appropriate for local
17 jurisdictions to prescribe reasonable requirements
18 as to commercial establishments, however, we
19 believe this proposal is exceptional and
20 precedential in the treatment of just one
21 business, and that is banks. Banks and only banks
22 are limited to the 25 feet, as had been noted
23 already. All other retail establishments are to
24 be limited to no less than 40 feet, and in some
25 places, no limitation at all. Moreover, banks are

1 specifically excluded from the more liberal
2 frontage maximum variance, as I said before, as to
3 other commercial establishments. We believe this
4 discrimination poses security risks, marketing
5 risks, design risks, competitive and legal issues
6 for banks, which will not be imposed on any other
7 commercial enterprise.
8

9 While we have overall concerns that
10 have been expressed in our statements to the
11 Planning Commission, we're just going to focus on
12 the 15 foot limitation. We believe and understand
13 and met with the Planning Commission--25 feet, I'm
14 sorry, thank you very much--understand the desire
15 of the neighborhood and have been meeting with
16 representatives on this issue, however, we are
17 not convinced, nor do we see any rationale to
18 limit banks, which do provide, as we all know,
19 convenient banking services and funding for local
20 residential and commercial uses. In fact, this
21 disparate treatment which will discourage the
22 entry of new branches into the area for years to
23 come seems to contradict the stated goals of the
24 proposal. This is so, not only because banks are
25 desired tenants and neighbors and supporters of

2 the local charitable events and community
3 activities, but also because it is the
4 neighborhood bank branches on which community
5 residents rely for safe access, 24/7 well-lit,
6 secure ATM facilities are an example. It is this
7 financial accessibility and convenience which
8 provides the fuel for local shopping and dining
9 experiences.

10 It is also important to recognize
11 that bank branches have unique security
12 requirements, unlike any other business in the
13 United States or in the state or city. Federal
14 law requires all banks have a bank protection
15 policy along with a bank protection officer. We
16 are required to have written security programs.
17 Bank experts agree--security experts agree that
18 visibility into the branch and from the branch
19 onto the street is a key element of bank security.
20 Indeed, federal law specifically requires security
21 plans to take into account the physical
22 characteristics--

23 CHAIRPERSON WEPRIN: [Interposing]

24 Could you just quickly wrap up, Mr. Smith--

25 MICHAEL SMITH: Yes.

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CHAIRPERSON WEPRIN: It's okay,
keep going, but just kind of wrap up really
quickly.

MICHAEL SMITH: New York also has a
ATM Safety Act and a Bank Security Act as it
relates to the configuration of ATM facilities as
to their size and lighting.

It should be noted in this regard
that the Planning department also appears to
contemplate that the 25-foot limitation be
compensated through a multi-floor second floor
configuration. It's our understanding that there
are not that many opportunities in this
neighborhood for that.

CHAIRPERSON WEPRIN: Just make your
best points.

MICHAEL SMITH: Okay. Well that
is--

CHAIRPERSON WEPRIN: Okay.

MICHAEL SMITH: --a big one because
if--

CHAIRPERSON WEPRIN: No, no.

MICHAEL SMITH: --you can't go up
to the second floor--

2 CHAIRPERSON WEPRIN: I wasn't--

3 MICHAEL SMITH: --you're basically
4 going to have just an ATM facility, which we
5 believe has already been noted as a desirable
6 effect. But you need to have bank personnel if
7 you want to make a loan, if you want to do certain
8 transactions, and going to the second floor and
9 having a cash transaction or--

10 CHAIRPERSON WEPRIN: Right.

11 MICHAEL SMITH: --cashing a check
12 is not desirable getting on an elevator or an
13 escalator with that.

14 CHAIRPERSON WEPRIN: Okay.

15 MICHAEL SMITH: Finally, we have
16 concerns in the legal as it relates to equal
17 protection under the law. We believe that no
18 business should be subject to discrimination and
19 that laws are operating on the basis of equal
20 application.

21 There's also been mention to
22 federal and state laws in terms of preemption and
23 we've made that case, it's in our testimony.

24 CHAIRPERSON WEPRIN: Thank you, Mr.
25 Smith. Mr. Lobel.

2 SHELDON LOBEL: Yes, thank you.

3 Good morning, my name is Sheldon Lobel, I
4 represent the owner of the building at 2171
5 Broadway. That's a landmarked building, which
6 presently, in a sense, suffers from the
7 designation of a landmark and is burdened by the
8 landmark law, but we know the law is
9 constitutional as set forth in the Penn Central
10 case. However, adding another burden to a
11 landmarked building we think takes us into an area
12 which--it gives the building further difficulties
13 in being maintained as required under the
14 landmarks law.

15 But specifically, we're asking the
16 Council to extend the grandfathering provision
17 which is presently contained within the City
18 Planning amendment. In the case of a landmarked
19 building, the text allows a vesting or a
20 grandfathering from six months after a certificate
21 of appropriateness is issued by the landmarks
22 commission. We think realistically that's
23 insufficient time. Although it may be sufficient
24 for any other building to vest after the law is
25 adopted, the landmarked building suffers much more

2 intense scrutiny and requirements for substitution
3 of materials and special considerations which must
4 go into it.

5 So although we think this law
6 affects a landmarked building much more than
7 contemplated in the Penn Central case, which may
8 get us into the area of constitutionally making
9 this entire law invalid, but if the Council and
10 the courts uphold this law, we think the Council
11 should insert a provision that the landmarked
12 building--and I believe there's only one or two
13 this building happens to be on Broadway, which
14 prohibits the bank facility within that certain
15 footage designation--that the Council should amend
16 the law to give a landmarked building one year to
17 do substantial construction from the date that the
18 landmarks commission issues a certificate of
19 appropriateness.

20 Again, and I heard some testimony
21 about section 74-711 possibly being usurped or
22 possibly being waived, and I have to speak to City
23 Planning about that, whether 74-711, which is
24 specifically inserted in the zoning resolution to
25 compensate landmarked buildings for the losses

2 that they have encountered because they are now
3 considered landmarks, and based on the Penn
4 Central case, this provision of affecting--which
5 affects the landmarked building might take us into
6 an area of unconstitutionality.

7 CHAIRPERSON WEPRIN: Thank you, Mr.
8 Lobel--

9 SHELDON LOBEL: Thank you.

10 CHAIRPERSON WEPRIN: --I believe
11 the next people have a similar concern, so who
12 wants to go first? Brenda, you want to go first?

13 BRENDA LEVIN: I will.

14 CHAIRPERSON WEPRIN: Okay.

15 BRENDA LEVIN: Yes, thank you.
16 Thank you, Mr. Chairman--

17 [Crosstalk]

18 SERGEANT-AT-ARMS: --press the
19 button.

20 BRENDA LEVIN: Oh, I'm sorry. Good
21 afternoon or good morning, thank you, Mr.

22 Chairman, Members of the panel. My name is Brenda
23 Levin, I'm a land use consultant, I'm representing
24 Extell Development Company. We are the owners--
25 they are the owners, I wish it were me--of the

1
2 Belnord. The Belnord is one of the buildings that
3 we believe defines the character of the Upper West
4 Side. It's in a pivotal location, it occupies the
5 square block from 86 to 87 from Broadway to
6 Amsterdam, two great boulevards and a broad side
7 street. It is an individual landmark, it was the
8 17th individual landmark designated in 1966--a
9 year after the law was passed. In 1980, it was
10 added to the National Register of Historic Places,
11 and at the turn of this century, it was granted a
12 74-711 with extraordinary encumbrances and
13 restrictions for maintenance and other issues. It
14 is the only 74-711 in this area that also has a
15 storefront master plan--and Paul Selver will
16 explain that in a moment.

17 We want to acknowledge what other
18 people have that Councilwoman Brewer and the
19 Community Board, especially the Community Board
20 because they're volunteers, and City Planning have
21 done an extraordinary job, including eliminating
22 the Chairperson certification for landmarks to
23 which we objected and they heard our concerns.
24 Nonetheless, because our building is sui generis
25 we are asking that we be exempt from these

2 regulations, and Paul Selver will explain the
3 legal and planning rationale for that. We believe
4 that one building exempt from the hundreds that
5 are covered cannot diminish the import or the
6 intent of these regulations and so we ask for your
7 consideration.

8 CHAIRPERSON WEPRIN: Okay. Mr.
9 Selver.

10 PAUL SELVER: Actually, Tony is
11 going to go.

12 [Crosstalk]

13 TONY MANNARINO: Tony Mannarino.
14 Right.

15 CHAIRPERSON WEPRIN: All right.

16 TONY MANNARINO: Good morning, my
17 name is Tony Mannarino and good morning, Council
18 Members. I'm EVP of Extell Development
19 Corporation.

20 Extell, through one of its
21 affiliates, has owned the landmarked Belnord
22 apartments for over a decade. The Belnord was in
23 bad shape when it was acquired by Extell and had
24 been the site of one of the most contentious and
25 longest-running landlord-tenant disputes on the

1
2 Upper West Side and it's physical condition was
3 severely degraded both inside and out. Extell
4 began by honoring the tenants' legal rights and
5 establishing a respectful relationship with them
6 and has been maintained that relationship in the
7 years since. It also undertook a comprehensive
8 program to restore the historic exterior features
9 of the building to their former grandeur and to
10 upgrade the interior to 21st century standards.
11 Carrying out both parts of this program was a
12 complicated and costly undertaking, but the
13 result's a beautiful landmark with good landlord-
14 tenant relations are worth a lot to Extell and to
15 the city.

16 As part of its program of
17 restoration, Extell received a zoning special
18 permit for which it undertook a program of
19 continuing maintenance. It also gave a nonprofit
20 third-party a façade easement. Attached to both
21 was a storefront master plan that reflected the
22 then-current conditions at the building on
23 Amsterdam Avenue and the historic conditions on
24 Broadway. None of the storefront shown on the
25 master plan had a frontage as narrow of 25 feet.

1
2 Extell had no reason at the time to believe that
3 these agreements would unnecessarily prejudice its
4 use of the building's retail spaces.

5 Unfortunately, the proposed zoning
6 controls would have just that effect, with the
7 potential to adversely affect the income from
8 these spaces. In particular, they would force
9 Extell not to market space along Broadway to banks
10 in order to avoid having to alter the façade in a
11 manner contrary to the storefront master plan.

12 We believe that it is not good
13 public policy to put an owner such as Extell in
14 this position. Extell has been a good steward of
15 the Belnord for many years and it looks forward to
16 doing so for many more years. It's about to spend
17 \$10 million to repair and restore the façade, a
18 cost far in excess of what would be required if
19 the building were not a landmark.

20 There are other individual
21 landmarks on the Upper West Side, but the Belnord
22 is in a unique position. It is the only
23 individual landmark that is burdened with a zoning
24 obligation to comply with a storefront master
25 plan. In the balance between fostering

2 preservation and preventing one more larger bank,
3 we believe that greater weight should be given to
4 the preservation in this one narrow case and that
5 the landmarks in the position of the Belnord be
6 excluded from the storefront limitations in the
7 proposed zoning. Thank you for your
8 consideration.

9 CHAIRPERSON WEPRIN: Thank you.

10 PAUL SELVER: Okay. Thank you.

11 Mr. Chairman, Members of the Committee, I'm Paul
12 Selver, partner of Kramer, Levin, Naftalis &
13 Frankel and we're land use counsel to Extell
14 Development Company. The 74-711 that we've talked
15 about had as one of its conditions that the owner
16 of the building, Extell, undertake a program of
17 continuing maintenance that included, among other
18 things, the obligation to maintain the commercial
19 storefronts on Broadway and Amsterdam Avenue in
20 accordance with a master plan approved by the
21 landmarks commission and memorialized in a
22 restrictive declaration under the jurisdiction of
23 the City Planning Commission. Any deviations from
24 that master plan required, not only a public
25 hearing and approval by the landmarks commission,

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2 which is typical in the case of storefront master
3 plans, but also in this case an approval by City
4 Planning because it involved a modification of the
5 documents associated--incorporated into that
6 restrictive declaration. As an incident, Extell
7 also granted a façade easement to a third-party
8 preservation organization and that easement
9 requires that the easement holder approve any
10 changes to the exterior of the building.

11 The effect of the restrictive
12 declaration is to require Extell to seek approval
13 from two different agencies, each with its own
14 procedure in order to make any changes to the
15 storefronts. The façade easements adds still yet
16 another procedure to the mix. Extell is bound to
17 follow these procedures every time it is asked to
18 rent a compliant retail space to a bank. And
19 because this burden is not shared--and this burden
20 is not shared by other Upper West Side buildings,
21 even other Upper West Side landmarks, because it
22 arises out of the Belnord's retail master plan.

23 You know, Extell here has really
24 done the right thing. It's done the right thing
25 by establishing a legal framework for preservation

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2 and a legal framework that is ongoing and
3 continuing. When it made this commitment, it
4 reasonably expected that the retail environment
5 would be stable, as it had been for the past 35
6 years, the regulations governing what could be--
7 what uses could be put in the stores and the
8 frontage of those uses hadn't changed for probably
9 since the 61 zoning was passed, and actually, it
10 didn't pass until now. But this legislation
11 upends that expectation by artificially hindering
12 Extell's commercial marketing efforts.

13 In this context, this kind of a
14 restriction is neither good public policy nor good
15 preservation policy where it is applied to
16 buildings like the Belnord and buildings that are
17 similarly encumbered. The existence of the
18 storefront master plan that has been incorporated
19 into the restrictive declaration makes the Belnord
20 unique among individual landmarks on the Upper
21 West Side, and excluding it from the proposed
22 text, as Tony noted, would have very little
23 impact. We suggest and I just--

24 CHAIRPERSON WEPRIN: [Interposing]
25 Mr. Selver, if you could wrap up, yeah.

2 PAUL SELVER: I've got one more
3 sentence. We suggest that in this context,
4 excluding it cannot harm the neighborhood's goals
5 of promoting and protecting smaller scale retail
6 on the Upper West Side. Thank you.

7 CHAIRPERSON WEPRIN: Okay. Thank
8 you very much. Gale Brewer would like to ask a
9 question.

10 COUNCIL MEMBER BREWER: I'll be
11 very quick, I just have to say okay, so we have
12 Mrs. Sorel [phonetic], buildings a mess at the
13 Belnord, Bella Absigs [phonetic] attorney, you
14 can't make this up, is representing her. Then you
15 have your wonderful small stores, the barbershop,
16 the card shop, and then she leaves and in come--
17 and I have to give Extell great credit, beautiful
18 building--Tom Datilla Martin [phonetic], tenant
19 leader, everybody goes back to rent control, you
20 can't make this up. And then there's the
21 beautiful renovation and in comes PC Richards, a
22 favorite store of a West 88th Street resident, and
23 in the back CVS takes over 9, 10, I can't
24 remember, 13 stores. With all due respect, it is
25 the ugliest street front, storefront in the West

2 Side, I'm just saying, it just is. Now it doesn't
3 mean that the building isn't beautiful. So I
4 guess my question is, how do you feel that this
5 proposal would actually slow down so tremendously
6 the front, I assume you're not talking about
7 moving the CVS it sounds like. So and the idea,
8 you're honest, of bringing in another bank, it
9 just makes us crazy. I don't know what else to
10 say. So can't you just put in another similarly
11 situated store and then you don't have to renovate
12 anything? You just have to live within the
13 constraints that I don't think are so onerous.
14 I'm just laughing but--

15 CHAIRPERSON WEPRIN: [Interposing]

16 Okay. All right, Gale, let them answer.

17 COUNCIL MEMBER BREWER: --that's
18 the question.

19 BRENDA LEVIN: I'm going to start,
20 I'm very sorry, and then I think Paul or Tony are
21 going to jump in. No, too many answers for one
22 question. First of all, I was also there with
23 Bella and it is true, her attorney represented the
24 landlord who let the building deteriorate
25 terribly, as Gale said, you can't make it up.

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First of all, Councilwoman, these streetscape and community character regulations are not regulating window display, and so if people--or a product, except in the banks. So with all due respect, if people don't like the CVS window displays or they don't like the merchandise, apparently they still stop there because it wouldn't be there if they didn't. And the same with the PC Richard, people shop there, they like it, these are--

COUNCIL MEMBER BREWER:

[Interposing] I've been there.

BRENDA LEVIN: Okay. There you are. And you saw Susan when you were there--

[Crosstalk]

MALE VOICE: --can't make it up.

BRENDA LEVIN: --and you can't make it up. So we think that's really not the issue. And the Belnord has these extraordinary encumbrances, and then to add one more when it should not be necessary, and that's why we're asking for the exemption. I think Paul wants to add something.

PAUL SELVER: Actually, I think

2 Brenda said--

3 [Crosstalk]

4 CHAIRPERSON WEPRIN: [Interposing]
5 Into the mic, Paul, and say your name.

6 PAUL SELVER: Okay. Paul Selver.
7 I think Brenda said in plain English what I was
8 going to say.

9 CHAIRPERSON WEPRIN: Okay. Any
10 other history of the Upper West Side anyone want
11 to get into? No? Leroy stepped out, did he
12 disappear? 'Cause he had a question, I know.
13 Okay. Just curious, you're asking for the same
14 thing that Mr. Lobel is asking? He asked to make
15 for six month to one year, or no?

16 PAUL SELVER: No. Paul Selver.
17 What we are asking for is, in essence, a provision
18 that says that if you are a designated individual
19 landmark and if you are subject to a retail
20 storefront master plan that is incorporated in a
21 City Planning Commission approved restrictive
22 declaration, that you be exempt from the limited--
23 this frontage limitations in this legislation. In
24 essence, because it restricts your marketing
25 effort in artificial and unnecessary ways.

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SUBCOMMITTEE ON ZONING AND FRANCHISES104

MALE VOICE: Well subject to both,
just--

[Crosstalk]

CHAIRPERSON WEPRIN: I guess,
you've got to--you haven't been paying attention
to the rest of the hearing, have... No, yes, that
seems to be a part of the desire, with all due
respect. But okay.

BRENDA LEVIN: Brenda Levin again.
Sir, it is one building--

CHAIRPERSON WEPRIN: Right.

BRENDA LEVIN: --one building out
of hundreds that are being covered. Thank you.

CHAIRPERSON WEPRIN: All right.

[Off mic]

CHAIRPERSON WEPRIN: No more PC
Richard commercials. All right, Mr. Comrie went
out, I'm going to thank this panel, and I
apologize for the delay, but it's we have a lot of
people to testify and we're going to move on.

BRENDA LEVIN: Thank you.

CHAIRPERSON WEPRIN: Yes. Okay.
So what I'd like to do now, I'm going to call up
panel in favor of this project, and then I know

2 there are a number of people, like I said, not to
3 be over pushiness, but if you feel you don't need
4 to testify, you know, don't feel obligated. If
5 you feel you want to have your name mentioned in
6 favor, I'm happy to read the names, but you'll
7 hear a lot of things that are very similar to what
8 you want to say and sometimes less is more.

9 COUNCIL MEMBER BREWER: Thank you--

10 [Pause]

11 CHAIRPERSON WEPRIN: Thank you.

12 Hey, hey, hey. I'd like to call on Mark Diller
13 from Community Board 7; Mel Wymore; Frank of
14 Mama's Pizza--is that what it says, okay. Fidel
15 Hernandez, I think I'm reading it, I don't know if
16 I read that right, and Cynthia Doty. You all
17 here? That's five people. Again, we're going to
18 have to limit you to three minutes, don't feel
19 obligated to do three minutes either, but if you
20 can, keep it short. Mark, you can start, I guess.

21 MARK DILLER: Thank you and good
22 morning. I am Mark Diller, I'm the Chair of
23 Community Board 7. Our thanks to Chair Weprin and
24 to Chair Comrie in absentia and also our profound
25 thanks to the three amigos of Melissa Mark-

2 Viverito, Inez Dickens, and Gale Brewer, who have
3 been extraordinarily helpful in this process.

4 We're here to present the Community
5 Board 7's resolution in favor of this proposal.
6 It was a near unanimous vote of our board, 37 to
7 0, with two abstentions and two people with
8 conflicts. The two abstentions are how you know
9 it really was the Upper West Side.

10 We are thrilled that City Planning
11 listened to us and listened to the community and
12 listened to business interests and modified the
13 proposal. All of the proposal modifications that
14 City Planning has put forward, as well as those
15 that listened to the borough president, are
16 consistent with our resolution and, therefore, we
17 are without hesitation calling for this proposal
18 to be adopted.

19 The proposal is good policy. It
20 responds to a significant community concern--and
21 you've heard a lot about that--it is the result of
22 careful and thoughtful planning and study over a
23 long period of time. The frontages that it
24 imposes are not arbitrary, but the product of
25 calculation. As I believe you heard, 93% of the

1 frontages that exist are already in compliance.
2
3 There was overwhelming support in our community
4 for this proposal, perhaps the only negative that
5 we heard was that it did not go far enough to
6 protect mom-and-pop businesses, but what it does
7 is create an environment in which mom-and-pop
8 businesses can continue to compete and thrive, but
9 at the same time, it is true as a zoning tool. It
10 is not shoehorning another social purpose into a
11 zoning tool, it actually speaks in zoning terms
12 and it accomplishes zoning goals. And it is good
13 government because it's the kind of collective
14 benefit that you can't get individually. The
15 proposal is timely because the horse in this one
16 instance hasn't gotten out of the barn, so for
17 once, we're ahead of the curve and it's time to do
18 this and now is the right time.

19 The preemption arguments, with all
20 possible respect, fail, both because the
21 applicable federal regulations specifically
22 excludes zoning and because research shows us that
23 other, more restrictive limitations under state
24 law have been approved. For example, the National
25 Banking Act says that you can't impinge upon core

2 banking functions. I would have thought that that
3 overdraft protection fees would be the kind of
4 thing that would be prohibited and preempted, but
5 they're not, case law says that you can have state
6 regulation of overdraft fees. If you can do that,
7 you can certainly regulate the use of street
8 frontages as a marketing tool for big banks to try
9 to use our street fronts as loss leaders to
10 promote themselves. And that's what this is about
11 and that's why we think that this proposal makes
12 immense sense for the Upper West Side. And we
13 thank you for the opportunity to be heard.

14 CHAIRPERSON WEPRIN: Thank you,
15 Mark. Mr. Wymore.

16 MEL WYMORE: Thank you, Chair and
17 all of the Council Members for the opportunity to
18 speak. I also want to thank Department of City
19 Planning for their incredible work on this, as
20 well as Council Member Brewer and her colleagues.

21 This is a unique proposal and one
22 that we strongly ask for you to adopt quickly.

23 The things that--

24 [Off mic]

25 MEL WYMORE: Oh, sorry about that,

1
2 my name is Mel Wymore, I'm the former Chair of
3 Community Board 7 and was intimately involved in
4 the review and development of this proposal over
5 the last couple of years.

6 This proposal is specifically not
7 anti-business, anti-growth, or anti-change; it's
8 about commercial diversity, street vitality, and
9 balance in the neighborhood. The Upper West Side
10 has seen 50 years of consistent growth and the
11 pendulum has now swung to the point where the
12 growth is outpacing the quality of life on the
13 Upper West Side. And it's just time to take a
14 pause, and that's all that this proposal does.

15 What has occurred is that we have
16 attracted, because of our commercial success, two
17 economies, we've started to develop two economies.
18 One economy is made up of the businesses that
19 actually make ends meet because they're serving
20 visitors and residents of the Upper West Side.
21 The other economy is being developed by
22 advertising space because of the dense nature of
23 our environment and the high incomes of our
24 residents, certain organizations, certain national
25 companies take advantage of that by creating,

2 essentially, billboards out of our streetscapes,
3 and that has a huge impact.

4 The first impact is that street
5 life declines. I give you an example before in
6 conversation on 64th Street, we used to have a
7 bank on the corner of Broadway and 64th, a very
8 large Chase bank. That corner was dead, it was a
9 corner where people would avoid walking on it
10 because there was nothing going on. A couple of
11 years ago, Barbara Lude [phonetic] came into the
12 corner, built a café and a restaurant in the same
13 exact space. Now it's one of the most lively
14 corners in the district--always active, always a
15 place that people want to be. So street life is
16 impacted.

17 The second impact is that
18 businesses of these large concerns don't have
19 relationships with the local residents the way the
20 smaller businesses do. As someone who frequently
21 asks for donations to auctions for local schools
22 and local nonprofits, I can tell you we always
23 avoid going to the banks and the national
24 companies because it's almost impossible to get,
25 you know, a free dinner or some little thing

2 donated when it's easy to go to a local vendor and
3 say will you support our community and they almost
4 always do. So the relationships are very
5 important, that's the fabric of community.

6 The third impact is that it skews
7 our real estate economy. I recently talked to a
8 commercial real estate broker who said--this is a
9 story that they wouldn't even give me the sources
10 on--but he said one landlord was approached by a
11 bank and was asked to--for the space, that they
12 wanted to rent the space. They said to the
13 landlord, name your price and the landlord said, I
14 like my tenants, I'll never rent to a bank, and
15 then they said, well just go ahead, name any price
16 you can imagine, and that person did and they gave
17 him a 20-year--they didn't even try to negotiate,
18 they gave him this astronomical price in order to
19 rent for 20 years this same space. That's crazy
20 because what it does is it drives up the real
21 estate prices for everyone else and it creates a
22 market where smaller entities cannot thrive.

23 CHAIRPERSON WEPRIN: Thank you,
24 thank you, Mel. Next?

25 CYNTHIA DOTY: Good afternoon, I

2 think it's afternoon, not quite--

3 MEL WYMORE: Not yet.

4 CYNTHIA DOTY: --I guess. My name
5 is Cynthia Doty, I'm the Democratic District
6 Leader for the 69th Assembly District part A on
7 the Upper West Side, which is part of this
8 proposed rezoning.

9 Our neighborhood, actually the
10 Upper West Side from the 70s all the way up to
11 110th Street has been very active in trying to
12 preserve and protect the character and the
13 diversity of our area. We really love the
14 neighborhood and want to preserve it. Over the
15 last decade, we've worked very collectively to do
16 rezoning, we've managed to put in a number of
17 landmark buildings, we hopefully, next week we'll
18 have the historic district of the West End Avenue
19 voted on. All of this is to preserve the
20 character of the neighborhood and in face of
21 major, major development and over development
22 that's been going on, and we've been pretty
23 successful, I think, with all of that. We thank
24 City Council for the rezoning that they have done.

25 The one element that was left out

1 of that was our commercial strips. We do have a
2 wonderfully diverse and varied and vital
3 commercial strip at the moment. It has lots of
4 small mom-and-pop stores, they could be flower
5 shops, they could be shoe repair places, they
6 could be pizza places, we have lots of
7 restaurants, a huge variety of restaurants on
8 Amsterdam, Columbus, and Broadway, many within 20
9 feet, 25 feet, 40 feet. We don't have these huge
10 full block long restaurants as much as we have the
11 little ones. They all have outdoor cafés, we have
12 bakeries, we have the little green grocers, we
13 have a huge variety and we're trying to protect
14 and preserve that.

15
16 Unfortunately, without a little bit
17 of frontage protection, big chains, and
18 particularly banks, can come in and are already
19 doing this, come in, they take three and four
20 stores, combine them all, and put in a bank. We
21 felt this, we're very vulnerable to it. North
22 between 96th and 110th Street because the trend
23 has already been happening to the south.

24 A few years ago, we were hit by a
25 Duane Reade, CVS, Rite Aid marketing campaign.

1
2 They came in, they all wanted to be within two
3 blocks of each other, and it was not because of a
4 customer need for national pharmacies, it was
5 because they were doing a business model to
6 compete with each other. It had nothing to do
7 with the consumer base and the need of the
8 constituents. We were able to stop some of that
9 and actually protect a small independent pharmacy
10 because the community came out in force for that.

11 Banks became the next component
12 trying to take up lots of stores. We have a
13 number of stores along Amsterdam, especially, that
14 are vacant at the moment that would be prime
15 target for a bank to come in. Banks are already
16 coming into Amsterdam and Columbus, they used to
17 be on only on Broadway. We feel in our
18 neighborhood that the one bank that I use, the
19 Chase that was in the proposal, has an ample
20 supply for the ATM action and then you go upstairs
21 when you want to talk to a--to sit down and talk
22 about your loan or any other banking needs.

23 It can be fit into this new
24 proposed model and we're very much in support of
25 this and we hope that you will pass it.

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CHAIRPERSON WEPRIN: Thank you very much. Anybody on the panel have a comment or question for these--

COUNCIL MEMBER BREWER: Just thank you.

CHAIRPERSON WEPRIN: --people?
Thank you from Ms. Brewer. Mr. Comrie, okay.

COUNCIL MEMBER COMRIE: I'll just be brief.

CHAIRPERSON WEPRIN: Okay.

COUNCIL MEMBER COMRIE: I just want to say that I appreciate everything that you are trying to do. I still have the same general question on what it is that you're trying to create with active and passive usage, I'm not sure that you've answered that with this proposal. Because if you're using your example of 64th and Broadway--

MEL WYMORE: Right.

COUNCIL MEMBER COMRIE: --then you just eliminated everything that you talked about with the way this is going to be used because most of your stores are still going to be passive after dark. So I'm concerned about the usage or the

2 need to create this program if you're only looking
3 to increase active activity.

4 And also the demographics of your
5 community, whether or not there is a community
6 that doesn't want to go to SoHo or Chelsea
7 anymore, they want to have their activities right
8 there on the Upper West Side versus your older
9 folk that want to have safe corridors and, you
10 know, what their idea of active is is not
11 necessarily restaurants and nightlife either. So
12 I don't know, I didn't hear from anyone what those
13 concerns were.

14 MEL WYMORE: Can I speak to that a
15 little bit?

16 COUNCIL MEMBER COMRIE: Sure.

17 CHAIRPERSON WEPRIN: Please.

18 MEL WYMORE: Well first of all, I
19 did a lot of outreach on this, I talked to
20 residents, small businesses, large businesses,
21 real estate brokers, landlords, the entire gamut
22 of people, I did probably more on the ground
23 research and interaction with all the stakeholders
24 than I have ever done on anything before, and
25 everyone was unanimously for this, except for the

2 landlords who have--stand to make the most from
3 these large entities coming in with very stable
4 rents. It jacks up the rents. However, even in
5 that case, the stability of an active streetscape
6 that you're asking about isn't so much whether
7 it's closed at night. I spoke to the relationship
8 you have with smaller businesses and local
9 businesses that come in, I spoke to the idea that
10 you want an economy that's founded on the needs of
11 the community, not the needs of international
12 corporations warring with each other for
13 advertising space. We've essentially become a
14 billboard. And the older people in our district
15 love--

16 COUNCIL MEMBER COMRIE: Would you
17 allow--

18 MEL WYMORE: --their mom-and-pop
19 stores.

20 COUNCIL MEMBER COMRIE: --would you
21 allow billboards to be put on the street then
22 since we're--

23 [Crosstalk]

24 MEL WYMORE: [Interposing] No,
25 that's--

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COUNCIL MEMBER COMRIE: --

billboards around?

MEL WYMORE: --the point, we wouldn't, I mean, we--

COUNCIL MEMBER COMRIE: Okay.

MEL WYMORE: --don't want to be an advertising market for the entire world--

COUNCIL MEMBER COMRIE: Right.

MEL WYMORE: --we want to have a community that's supported by its own businesses and the demands that we have for goods and services that are actually being, you know, usurped by these other uses. We have no--

[Crosstalk]

MEL WYMORE: --choices anymore, we're only looking at international drug stores. We have three drug stores that were on my block all gone out of business.

COUNCIL MEMBER COMRIE: Okay.

CYNTHIA DOTY: I would just like to say--I'm sure Mark wants to talk too--but right now, our area does have the diversity, it has--we have stores and commercial areas that appeal to elderly, we have commercial areas that appeal to

1
2 very young, and we have a nightlife, an incredible
3 nightlife. And actually in the area that I
4 represent--96th Street and North--especially on
5 Amsterdam Avenue has for a long time was evolving
6 very slowly, it was kind of dead, but over the
7 last ten years has a tremendous diversity of
8 restaurants and there's a huge nightlife, they
9 stay open quite late at night. And most of those
10 stores are 20, at the most 40, feet wide and as a
11 result, when you walk down, you go down--up
12 Amsterdam, you see five and six restaurants within
13 one block and then there may be a hardware store
14 in there too that the hardware store closes at
15 nine, but the restaurants are still there and the
16 hardware store is only 25 feet wide or 40 feet
17 wide at the most. What we're trying to do is to
18 preserve that and to keep that diversity. If a
19 bank were to come along and take all of them and
20 go from, you know, 97th to 98th Street and have
21 the entire block, that block would in essence be
22 dead after 6 o'clock at night, and during the day
23 have very little activity going in and out.
24 People would go to the cash machine, but they
25 don't--it's so different from what it is now. If

1
2 you've got four restaurants there, there are
3 people going in there at noon and people going in
4 there at 9 o'clock at night and that's what we're
5 trying to hold onto.

6 The biggest challenge most of these
7 places have is actually that the rents are going
8 up and minute their lease ends, there is, you
9 know, the rent is tripled. Hopefully, next year,
10 maybe you'll do commercial rent control, that
11 would help us even more. This is only a small
12 proposal that will hopefully slow down some of
13 these changes and that's what we're asking for.

14 MARK DILLER: And so in the spirit
15 of adding without repeating, since most of what I
16 wanted to say has already been covered, what I'll
17 add is that the genius of this proposal is that by
18 having multiple storefronts on the block, you
19 create the opportunity for different uses that
20 appeal to different users, while still speaking in
21 zoning terms about uses and not users and not
22 individuals stores. So the vibrancy that makes
23 you want to walk down the block and the vibrancy
24 and the availability of different spaces so that
25 you have an opportunity for these different kinds

2 of businesses to occupy a block is what creates
3 the chance--on my block, for example, if I go out
4 at 10 o'clock in the morning, you're in Stroller
5 Central, and if you go out at 10 o'clock at night,
6 I have suddenly transferred myself to some
7 neighborhood with a lot of people very much
8 younger than me. And that's good, that's a
9 sustainable community, that's what we want, and to
10 get that, we need what City Planning is proposing.

11 CHAIRPERSON WEPRIN: Thank you,
12 Mark.

13 COUNCIL MEMBER COMRIE: Thank you.

14 CHAIRPERSON WEPRIN: Well thank you
15 all very much. We're going to move on to the next
16 panel. Again, if you're not here or if you can't
17 stay, we can just call your name out. Madge
18 Rosenberg, Elizabeth Kellner, Bob Botfeld, Roberta
19 Semers--

20 [Background noise]

21 CHAIRPERSON WEPRIN: Okay.
22 Whatever she said, Semer? Judy Wood. How many
23 does that end up with? Shucks, five, okay. [Off
24 mic]. Okay. If you can try to limit your remarks
25 to two minutes, even though we're giving you three

1
2 minutes, I would appreciate it, we are on somewhat
3 of a time constraint and the people from the
4 Queens City Planning office are very upset with
5 me.

6 MADGE ROSENBERG: I'm Madge
7 Rosenberg--

8 BOB BOTFELD: Sure, sure, sure.

9 MADGE ROSENBERG: --I've had a
10 small bakery in the neighborhood for 30 years.
11 I'm on the Community Board 2. And I'd like to
12 speak about one block in particular of Columbus
13 Avenue, which is in that 7% that doesn't comply.
14 There is a block in the 70s on the east side of
15 Columbus that has a giant national drugstore, a
16 very large bank, and one tiny craft shop. If you
17 walk down that block and think that this could be
18 the future of Columbus Avenue, it's pretty scary.
19 And I remember the past of Columbus Avenue, which
20 was scary too. It eliminates all diversity, all
21 action, and the whole sense of vibrancy has been
22 completely lost in this block. And if we have too
23 many of those on Columbus Avenue, that sense of
24 vibrancy will be gone from Columbus Avenue and the
25 West Side in general.

2 CHAIRPERSON WEPRIN: Thank you,
3 very good. Next.

4 ELIZABETH KELLNER: My name is
5 Elizabeth Kellner, I am a retired lawyer. Almost
6 36 years ago my husband and I bought a rundown
7 brownstone in the Manhattan Valley neighborhood of
8 the proposed area, that's 100 to 110th Street
9 Central Park West to Amsterdam Avenue. Vacant
10 lots, garbage strewn lots, vacant buildings, crack
11 epidemic, we struggled through it all.

12 When you own a house, you need a
13 hardware store, you need to buy a garbage can, you
14 need to buy a snow shovel, you need to buy ice
15 melts, all those things that apartment dwellers,
16 renters, don't necessarily need to do, I had to
17 worry about. It was the local stores that got us
18 through that. The local stores I want to keep;
19 they are the immigrant dream.

20 Somebody spoke about PC Richard
21 before, these are the people who come here from
22 all over the world and have a dream to open a
23 small business.

24 Couple of other things I'd like to
25 mention. Raised two children in the neighborhood,

1
2 they went to neighborhood public schools. Very
3 involved, I've been very involved with a number of
4 neighborhood association, parks, West Side Little
5 League, after school programs. These neighborhood
6 stores, they give the students discounts, they
7 want their business; some of them give senior
8 discounts, chain stores don't do that; they
9 support Little League teams; they participate in
10 the Safe Haven program.

11 I'm perfectly happy that there is
12 not a single bank between Central Park West and
13 Amsterdam Avenue from 97th to 110th Street. Walk
14 a few blocks to a Duane Reade and get an ATM.

15 And I know this is kind of
16 disjointed, but one other thing I wanted to
17 mention in terms of the commercial vitality, one
18 of the things that has happened with the
19 gentrification of Manhattan Valley now is that
20 Columbia University people will actually come
21 south of 110th Street, nobody would dare go south
22 of 110th Street there before, and nobody would go
23 north of 96th Street. And now all that has
24 changed and we have a chance to get it right and
25 not try to correct mistakes, but to get it right

2 from the start, so please pass this.

3 CHAIRPERSON WEPRIN: Thank you.

4 BOB BOTFELD: My name is Bob
5 Botfeld and I'm a 40 year resident of the area on
6 the Upper West Side, and I was very, very excited
7 when I heard about the proposal that Gale Brewer
8 and the City Planning Commission had put together.
9 And our neighborhood and mostly from 96 to 110th
10 was very interested in becoming part of that, and
11 so to make sure that we were part of it and to
12 find out what our neighborhood interested, we
13 asked all our neighbors and we collected hundreds
14 and hundreds and part of the letters that we found
15 out that our neighbors were interested by having
16 tables on the street.

17 But beyond that, because we were on
18 Amsterdam Avenue--and this goes to the issue of
19 safety and diversity that Councilman Comrie spoke
20 about--as we were collecting these letters, we
21 spoke to all the owners of the businesses on
22 Amsterdam Avenue. There is over 100 businesses
23 here, from 96th to 110th, and these represent
24 every single nationality that you can think of.
25 We have Koreans, Pakistanis, Indians, most of

2 these stores are owned or run by small business,
3 by individuals, and they're from 50 or 60
4 different countries. It is really a remarkable
5 community that has developed only in the last ten
6 years along Amsterdam Avenue.

7 Before that when I first moved to
8 the neighborhood, 108th and Amsterdam Avenue was
9 the murder capital of New York City. And we
10 didn't have a street presence at that time, we had
11 a number of stores where there was no street life,
12 no activity, those were number running joints.

13 Today we have on Broadway, we have
14 stores where there's no activity, where there's
15 passive activity, and nothing happens and those
16 are called banks. And we have from 96 to 110th,
17 we have 11 banks in 14 blocks. We have multiple
18 Chase, multiple Sovereign banks, there is no end
19 in these banks. They provide no activity. If you
20 walk in them, it's a good place to read and have a
21 cup of tea, they will all come and greet you.
22 They are not there for business, they are there as
23 billboards to advertise to the newly wealthy
24 community.

25 CHAIRPERSON WEPRIN: Right.

2 BOB BOTFELD: So this is a proposal
3 that is wanted by the people who live there; it is
4 a proposal that is wanted by the store owners,
5 overwhelmingly, overwhelmingly, including some of
6 the landlords, Luis José Olivares, of the DE LA
7 Caridad restaurant, who owns a number of
8 buildings, he also wants it. He is a landlord who
9 wants it, because a number of his friends were
10 displaced by the Duane Reade along Amsterdam
11 Avenue. So this is something that's wanted, it's
12 appreciated.

13 It also provides, if you look from
14 a larger perspective, I think provides the
15 amenities that we're looking for the city to
16 provide. The small owner business owners provide
17 police protection with their eyes on the street,
18 they provide safe havens for the children, they
19 tend the blocks, they tend the gardens, they tend
20 the trees, they also provide local employment. If
21 you speak to them, you'll find that they provide
22 local employment for the youth in the projects
23 across the street--

24 CHAIRPERSON WEPRIN: [Interposing]
25 Thank you. All right, thank you very much. Next,

2 please.

3 ROBERTA SEMER: I'm Roberta Semer,
4 I serve as a Member of Community Board 7, and I've
5 been a resident on the Upper West Side for 24
6 years for it. I want to thank Gale Brewer, I want
7 to thank Mel Wymore and Mark Diller and City
8 Planning Commission for just doing a wonderful
9 job. I've listened, I've been at every--I serve
10 on the land use committee and I'm not here
11 representing the board--but I've listened to every
12 hearing, I've listened to what the people say.

13 And just to put a little humor in
14 this, my friends and I always joke that if there's
15 an empty store on a corner that we're going to get
16 another bank because every corner needs a bank. I
17 mean, you know, you walk down the street and there
18 are four banks on four corners, and you're like,
19 who goes there. And now we have more of these
20 supernatural pharmacies than we can do.

21 I just got a letter yesterday that
22 broke my heart, my drug store is closing. The
23 pharmacist that's taken care of me and my kids for
24 24 years who, you know, if I have a prescription
25 will get me one drug, you know, when I was going

2 through cancer and I needed something to prevent
3 nausea and the script hadn't come through, he
4 would get me at least one pill so I would be fine.
5 And now you know, I feel bereft that he's no
6 longer there to take care of us.

7 So, you know, I think this measure
8 is very well thought out, and I hope the City
9 Council will find fit to vote for it.

10 CHAIRPERSON WEPRIN: Thank you.

11 JUDY WOOD: Good morning, my name
12 is Judy Wood, long-time Upper West Side activist.
13 I've been in the neighborhood for 46 years. I do
14 want to thank all the people who have worked so
15 hard to put this together, I think it's
16 phenomenal. I will be brief.

17 I represent citizens' united--
18 that's with a lowercase C and a lower case U--and
19 I'm talking about the small individual store
20 owners, the wonderful little restaurants that keep
21 popping up all over the neighborhood. When I
22 moved into that neighborhood 46 years ago there
23 wasn't one bank from 96th Street to 110th Street,
24 I remember I had to walk up to 110th Street to do
25 some transactions.

2 I will say that my bank is
3 Amalgamated Bank of New York, the labor bank, I
4 don't go to these banks, I don't like them, I
5 don't want to have anything to do with them. I
6 don't feel too bad for the banking industry, which
7 has looted this country--in brief, I'll leave it
8 at that. They are the citizens united, and these
9 corporations are not people, despite what anybody
10 tells you, I think we all understand that.

11 And we--if, in fact, this proposal
12 does limit the banks in some way, well more power
13 to it for sure. The neighborhood has become
14 desirable, attractive, more expensive than the
15 Upper East Side--something that some of us can
16 hardly believe when we look in the real estate
17 section--and it is because--

18 [Off mic]

19 JUDY WOOD: Well Gale. It is
20 because we have all for all these years, all of
21 us, all of us worked so hard to ensure that, to be
22 involved with the community, with the local
23 precinct councils, with all the other things that
24 have developed over the years in our community.

25 With the schools, with the

2 religious institutions, all of this that has made
3 us a meaningful integral important community to
4 which the banks have contributed very little that
5 I can figure out.

6 And every store you go into has its
7 own ATM machine, so I don't even see the point of
8 the bank, frankly, and the stores are open and
9 it's just a total no-brainer.

10 Thank you all very much, I do urge
11 you to pass this bill.

12 CHAIRPERSON WEPRIN: Thank you very
13 much. Ms. Lappin has a question for this panel.

14 COUNCIL MEMBER LAPPIN: Very brief.
15 It's so cold in here, I need a cup of tea, maybe I
16 should find a TD bank.

17 JUDY WOOD: I think we should all
18 have tea.

19 COUNCIL MEMBER LAPPIN: So I want
20 to thank you all for your work on this and many
21 other issues over many years. And I just have one
22 question, because I think it was Mr. Botfeld who
23 brought up public safety, so you or one of the
24 others can answer it, one of the arguments that
25 the banks make in their own defense is that they

2 help keep the streets safe because they have these
3 big areas that are very well lit up and that
4 deters crime.

5 JUDY WOOD: Yeah, right.

6 COUNCIL MEMBER LAPPIN: So I just
7 wanted to give--

8 BOB BOTFELD: All right.

9 [background noise]

10 COUNCIL MEMBER LAPPIN: --I wanted
11 to give you--that's your--so I just wanted to let
12 you respond to the--

13 BOB BOTFELD: I think the answer to
14 that is the streets are well lit, we're not
15 complaining about Broadway or Amsterdam not having
16 sufficient street lights. What is the problem and
17 where you do have additional muggings is when
18 there is no one on the street and there is no one
19 watching the street and you don't have the
20 activity. And because we have so many banks,
21 Broadway is so much more dead than it has been in
22 years because of all of these banks. And also
23 because of all the banks on Broadway, we actually
24 have had stores that are now empty for eight years
25 and nine years and even though, as everyone has

1
2 said, the area is growing so well, that's because
3 they're warehousing and waiting for a larger
4 retail tenant.

5 On my own block, which is 100th
6 Street, which is a very nice block, we've had
7 three muggings in the last six months, we have not
8 had muggings in five years. So we have a deadened
9 area and the smallest deadened area contributes to
10 the mugging.

11 So for public safety, we need these
12 mom-and-pop stores, these stores and but all these
13 little--

14 COUNCIL MEMBER LAPPIN: They keep
15 people trafficking through.

16 BOB BOTFELD: Right, and these
17 stores are, they are open on the list that I have,
18 and I was looking through it, these stores are
19 open 'til 9, 10 o'clock, a lot of them are 99 cent
20 stores, small stores, even the shoemakers, they're
21 all open much, much later than the banks, and of
22 course, the restaurants are open 'til 11 o'clock
23 and they provide the real safety.

24 ROBERTA SEMER: The smaller stores,
25 children know they can go into certain stores,

2 their parents have told them if they're walking
3 home from school and they--if they know the owner
4 or they know the shop clerk, they're going to get
5 satisfaction. I was stalked one day on a
6 Saturday, a sunny, bright Saturday, by some guy.
7 And at some point I went into a store where I had
8 shopped before and asked the owner to lock the
9 door behind me and we called the police. So, you
10 know, you know where you're safe--

11 COUNCIL MEMBER LAPPIN:

12 [Interposing] Right, and Mrs. Kellner mentioned
13 the Safe Haven program, which is great.

14 ROBERTA SEMER: Exactly.

15 COUNCIL MEMBER LAPPIN: Okay.

16 Thank you very much.

17 CHAIRPERSON WEPRIN: Thank you, Ms.
18 Lappin. Thank you all. Guys are ready to leave,
19 boy, look at that. I'd like to call on Lauren
20 Williams, John Davenport, Lynn Bender Max?

21 LYNN BENDER MAX: Yes.

22 CHAIRPERSON WEPRIN: Okay. Merle
23 Mel--

24 MERLE MCELLOWNEY: McEldowney.

25 CHAIRPERSON WEPRIN: --McEldowney,

2 thank you, Phyllis Gunther, and Debra Cooper. I
3 don't know if everyone's here, is everyone, we may
4 not have enough room if everyone's here, but I'm
5 not sure everyone is here.

6 [Crosstalk]

7 FEMALE VOICE: Lauren had to leave.

8 CHAIRPERSON WEPRIN: Okay. Not
9 that. Yes, this will be the last group on this
10 item. And then I'll--

11 [Pause]

12 CHAIRPERSON WEPRIN: Right. Hold
13 on, I have a hand on my--

14 [Pause]

15 FEMALE VOICE: You first.

16 CHAIRPERSON WEPRIN: Thank you. So
17 whenever you're ready, you guys could decide who
18 goes first. Please state your name for the record
19 and try to keep it as brief as possible.

20 JOHN DAVENPORT: My name is John
21 Davenport, I'm a retired history professor, I'm a
22 long-time resident of the Upper West Side. I
23 wanted to talk about--this is going to be a
24 surprise to you--homogenization. The world's
25 oceans are losing dolphins, sharks, and so on and

1
2 so forth. People predicted within 20 or 40 years
3 we're going to have nothing but squid and
4 jellyfish. Agriculture, monoculture has pretty
5 much--and agribusiness has pretty much taken over
6 our agriculture. So family farms with pigs and
7 cows and vegetable gardens and so on, they're all
8 gone and replaced by soybean and hybrid corn and
9 so on.

10 If you go anywhere in this country
11 to rural areas or suburban areas, you see nothing
12 but suburbanization. The small businesses have
13 been driven into the ground by Wal-Marts and so
14 on.

15 That brings me to New York City.
16 In New York City, we have mom-and-pop stores,
17 they're still around. Mom-and-pop stores are the
18 ultimate in entrepreneurship, they're high risks,
19 50% of all restaurants go out of business within
20 five years. People put their life savings, their
21 dreams into these enterprises. We've heard and
22 read their testimony, they need your vote to
23 survive. These people are their own lobbyists;
24 we're one of their few lobbyists as opposed to the
25 voices of the big shots who have come here and

2 talked. The big-box stores, their only thing is
3 the profit motive, that seems to be their--the
4 bottom line seems to be their only consideration.

5 New York City has become the--it's
6 number one in the World Cities Index and I think
7 one of the reasons for that is it's the best--what
8 else in this country is the best in the world
9 still? Well New York is the greatest damn city in
10 the world and we should keep it that way, and I
11 think one way we're going to be able to do that is
12 to keep power to the people.

13 And I think I really like the New
14 York City Council because they are the voice of
15 the people, just ordinary people. We need your
16 vote, we want your vote.

17 CHAIRPERSON WEPRIN: You're the one
18 who likes us.

19 JOHN DAVENPORT: This country is
20 the Amazon jungle of retailing and let's just try
21 to keep it that way. Thank you very much.

22 CHAIRPERSON WEPRIN: Thank you, you
23 want to submit your pad for the record or--

24 [Laughter]

25 CHAIRPERSON WEPRIN: Thank you.

2 JOHN DAVENPORT: Well I need notes

3 I--

4 [Crosstalk]

5 CHAIRPERSON WEPRIN: [Interposing]

6 I understand, no, thank you. Next.

7 LYNN BENDER MAX: Good afternoon,

8 my name is Lynn Bender Max, I'm a long-time

9 resident of 104th at Riverside Drive. In fact,

10 I've spent my entire adult life in New York City

11 on the West Side, been active for most of that

12 time. I love the city, there's no place I would

13 rather be.

14 One thing people give all kinds of

15 reasons about why they want to come to New York to

16 visit or to live, but one thing you never hear,

17 you never hear I want to come 'cause I want to

18 visit a Bank of America branch or a Duane Reade.

19 They come for the vibrancy and the vitality of the

20 neighborhoods.

21 As Gale had said when she cited the

22 neighborhoods in New York City, many first-time

23 visitors don't understand that we're not an

24 anonymous city, that we're a city of neighborhoods

25 and that our stores are very much a part, okay, of

1
2 the community fabric. My neighbors and I, we shop
3 at our local stores, we eat at the restaurants, we
4 get our shoes repaired, and we grieve when those
5 stores are forced out of business and replaced by
6 banks or drugstores.

7 One comment I wanted to make about
8 the banks and what they contribute to the
9 neighborhood, it's kind of a joke in my
10 neighborhood that if you're looking for a space
11 for a large social gathering, you might want to
12 try the branch of Bank of America on 107th and
13 Broadway. It's a huge space, lots of chairs, and
14 there's never a single person inside, all right?

15 So I very much support the zoning
16 proposal, and I urge you to pass it. And I want
17 to thank City Planning for the wonderful proposal,
18 and particularly Gale Brewer for her vision and
19 her work and for keeping the West Side, the West
20 Side.

21 CHAIRPERSON WEPRIN: Thank you very
22 much.

23 MERLE MCELLOWNEY: Hello, my name
24 is Merle McEldowney, and of course, as everyone
25 else has, I really want to thank Gale Brewer for

1
2 what she's done in getting this through.

3 I've only lived on the Upper West
4 Side for six years, and I live on Broadway between
5 72nd and--between 76 and 77th, and it's kind of a
6 lifelong dream of mine to get to live on the Upper
7 West Side. My joke though is that as soon as I
8 moved here, the Upper West side left.

9 There was a cosi on 76th and
10 Broadway when I moved there. It was a wonderful
11 little place, not a mom-and-pop store, but a great
12 place to go for a coffee and a salad. We used to
13 have meetings in the basement. That cosi is gone
14 now, what is there? A Republic Bank. I walk by
15 there every day, although the bank is lit, the
16 corner is dark, there is never anyone there. That
17 bank clearly serves no purpose but advertising.

18 What we're talking here is two real
19 visions of New York: A New York of luxury
20 buildings and office spaces and expensive stores,
21 and then there is the vision of New York that all
22 of us hold.

23 Beacon Hardware is an old family
24 store, they're very much in favor of this. Beacon
25 Hardware charges a little more than Home Depot,

1
2 but I can walk in there with a weird little light
3 bulb and get out of there with a replacement much
4 faster than I could even find the light bulb
5 department in Home Depot. And not only that, they
6 always have a treat for my dog.

7 There's new businesses that are
8 coming up. Pour [phonetic] Wine is a wonderful
9 little place and they sell boxed wines. I wonder
10 how many places in the city will sell boxed wines
11 in a small wine store. It's 'cause there's a lot
12 of little crazy people like me on the Upper West
13 Side that want to buy a wine that's more
14 environmentally sound, and that's who they're
15 catering to. They're nice to my dog, but they
16 haven't given her treats yet.

17 So I just want to say that who's
18 opposed and who's in favor of this. It's language
19 that's come almost trite now, but it's about the
20 99%. The people who live in this community almost
21 entirely--I know there's exceptions, we've heard
22 them--want this proposal. Nobody is suffering.
23 The landlords are not struggling, they're getting
24 good rents, there's no little old ladies occupying
25 storefronts that they've had for 40 years and

2 they're protected by commercial rent control.
3 Those stores are paying high rent, it's just not
4 as high as a Duane Reade or a bank will pay. So
5 for the 1% that wants just more rent, we oppose
6 it.

7 CHAIRPERSON WEPRIN: Next.

8 PHYLLIS GUNTHER: Hi, I'm Phyllis
9 Gunther, a Member of Community Board 7 for many
10 years now, a former Democratic District Leader.

11 I have lived in a Title I building
12 called Lincoln House, which was built to keep
13 middle income people in New York City, for 51
14 years, when it first went up. I have raised my
15 two sons, who went to public schools and played
16 with neighborhood kids. And I want the community
17 to not be sterile, which is what the banks and the
18 big pharmacies contributed negatively to our
19 community.

20 I must say having had Extell talk
21 so much, I am next to Riverside below South
22 development. There isn't, well, there's a few
23 rent--there's a restaurant and a supermarket now,
24 but that's--and a cat hospital and a dog place to
25 keep your dog active. That's it in our

neighborhood.

I'm lucky that I'm over 80 and still able to get over to Amsterdam and Broadway, but we do need more commercial stores and the Community Board did vote to have Riverside Center to get some stores, but we could use more of that.

And I am so privileged to thank Gale and the City Planning for coming up with this and keeping mom-and-pop stores, that's what I think of when I think of the West Side. Thank you.

CHAIRPERSON WEPRIN: Thank you.

DEBRA COOPER: Hi, I'm Debra Cooper, I am the Democratic State Committee woman for the Upper West Side, which is the 67th Assembly District from 44th to 97th Street, and Gale Brewer is my City Councilwoman, and, as usual, we are all very proud of the perseverance that Gale has brought to this. New York City is a city of more than 8 million people with 800 languages and scores of neighborhoods.

It's an enormous place, but it's made livable by the very diversity and particularity of its neighborhoods. Actually,

1
2 it's districts like the Upper West Side have
3 within them lots of many neighborhoods. In a way,
4 New York is a collection of small towns, and in
5 small towns we have neighbors--the person down the
6 hall, the storeowner down the street--and this
7 piece of legislation is aptly nicknamed mom-and-
8 pop store zoning. They don't just sell us stuff,
9 they are members of a coherent supportive
10 community, these owners of the mom-and-pops, in a
11 way that big chains are not.

12 Many people have addressed the fact
13 that these storeowners provide safety, they
14 provide services and participate in the community,
15 but in a way, I also--one of the things that
16 hasn't been mentioned is the fact that they're
17 small business owners who actually live in our
18 community and they're part of our community. And
19 we want to as, you know, in public policy, we
20 always talk about the beneficial impact of small
21 businesses, and this is a way to sustain small
22 businesses and make sure that they survive in this
23 neighborhood. We probably have a Supreme Court
24 that would not allow us to do commercial rent
25 control, so this is one way to make sure that

1
2 these people survive, not just to enhance our
3 lives, but to make sure that they survive
4 themselves.

5 There's also been in the media the
6 question of this kind of zoning driving up rents
7 on the very small businesses that they're meant to
8 protect. Well I think that argument's a red
9 herring. Commercial rents have gone up and up and
10 up long before this proposal was even a gleam in
11 Gale Brewer's eye. Commercial rents are
12 independent of this zoning, they're a function of
13 what a landlord thinks he can charge in a
14 neighborhood of increasing affluence. So blaming
15 zoning for increasing rents is like blaming the
16 sunrise because the cock crowed. There really is
17 no relationship.

18 Some stores have had to move, not
19 because they've been zoned or that the spaces are
20 wrong, but because large chain stores come in and
21 give, you know, will give the landlord much higher
22 rents by enormous factors of five to ten times
23 more. So this zoning does not in any way make
24 rents higher for local businesses, it will protect
25 local businesses by making it harder for big chain

2 stores to come in and take huge spaces and drive
3 up their rents, and this is one way to do that.

4 Thank you.

5 CHAIRPERSON WEPRIN: Thank you very
6 much. Anybody? Gale, you want to ask a question?

7 COUNCIL MEMBER BREWER:

8 [Interposing] No, I just want to again thank
9 everybody else, I want to--

10 CHAIRPERSON WEPRIN: Or accept all
11 the accolades?

12 COUNCIL MEMBER BREWER: No, I'm
13 trying not to do that, I appreciate it, I just
14 appreciate everyone's support and I think the
15 comments are extraordinary. And I really want to
16 thank the chairs and also Jesse Bodine [phonetic]
17 from our office who's been amazing.

18 [Applause]

19 COUNCIL MEMBER BREWER: Thank you
20 very much.

21 CHAIRPERSON WEPRIN: Okay. Jessie,
22 we'll allow the applause. Okay. Well thank you
23 all very much. Again, I'm sorry to keep everybody
24 waiting.

25 We are going to--anyone else here

2 to testify on this matter that we might've missed?

3 No, good. Not good that you're not testifying,

4 but good I didn't miss anybody.

5 I'm going to close this hearing
6 now, we are going to probably wait on the vote
7 until Thursday, I just want to let you know the
8 vote will be scheduled Thursday before the Land
9 Use meeting.

10 And now I'd like to call up the
11 Queens City Planning office as I go to find the
12 number here. Land Use number 621, the Woodhaven
13 Richmond Hill rezoning, and we have our friend
14 John Young and Brendan Pillar. And they will
15 present. I apologize, gentlemen, for having put
16 you second, in hindsight, maybe I should have done
17 you first, but you were outnumbered. And I know
18 you love coming to Manhattan, John. So whenever
19 you are set up on the PowerPoint, this is going on
20 the screen, no, we don't have a--oh, there it is,
21 okay, there it is, okay, I didn't know where the
22 screen was. So whenever you're ready, John, you
23 know the drill.

24 JOHN YOUNG: I do indeed. So good
25 morning, Chair Weprin, Chair Comrie, Council

2 Members, my name is John Young.

3 MALE VOICE: Good afternoon, John.

4 JOHN YOUNG: Good afternoon, yes.

5 My name is John Young and I'm Director of the
6 Queens Office of Department of City Planning. On
7 behalf of City Planning Director Amanda Burden,
8 I'm very pleased to be here today to very briefly
9 introduce the department's 229 block Woodhaven
10 Richmond Hill proposal. It's a finely tuned well-
11 balanced rezoning initiative to provide for the
12 orderly and sustainable growth of two bustling
13 Queens neighborhoods. I am joined by Brendan
14 Pillar, who will present the details, again
15 briefly, of the proposal to you.

16 As Brendan will explain, the
17 rezoned proposal seeks to cultivate and reinforce
18 elements that contribute to the success of each of
19 these neighborhoods. They're appealing side
20 streets lined with wood framed residences and
21 they're vital shopping streets.

22 Crafting the proposal has involved
23 a thorough block by block analysis of more than
24 6,700 parcels and their building contexts, land
25 use patterns, and area resources, such as public

2 transportation and open space. The proposal has
3 been shaped and refined by extensive community
4 outreach over more than a one-year period to a
5 broad spectrum of dedicated residents, civic
6 groups, community boards, and elected officials.
7 During the public review process itself, which was
8 initiated this past February, the proposal
9 received a unanimous Community Board 9 voted in
10 favor, the endorsement of Queens Borough President
11 Helen Marshall, and the approval of the City
12 Planning Commission.

13 We look forward to your
14 consideration in support of this important
15 contextual zoning framework to guide the
16 development of Woodhaven and Richmond Hill. You
17 should have received a package of the proposal
18 that Brendan will now review with you. Thank you.

19 BRENDAN PILLAR: Good afternoon,
20 Mr. Chairman, Committee Members remaining, ladies
21 and gentlemen.

22 The Woodhaven Richmond Hill, these
23 are vibrant and diverse communities in South
24 Central Queens. The growth of these neighborhoods
25 can be attributed to their appealing one and two-

1 family wood-framed houses built in a variety of
2 traditional styles, attractive tree-lined streets,
3 and good access to mass transit. The proposed
4 rezoning includes all or portions of 229 blocks in
5 Woodhaven in Richmond Hill and is generally
6 bounded by Park Lane South and Forest Park to the
7 north, 103rd Avenue to the south, Eldert Lane and
8 the Brooklyn Borough Line to the west, and the Van
9 Wyck Expressway to the east.

11 As John mentioned, the formal
12 public review process of the rezoning changes
13 began when the department certified the proposal,
14 Community Board 9, the borough president, and the
15 Queens or the City Planning Commission all
16 considered and approved the proposal.

17 Within the past two decades, the
18 rezoning area has experienced a considerable
19 increase in total population and remarkable
20 demographic shift as the percentage of the total
21 population that is foreign-born has become
22 increasingly large. Over 53% of the rezoning
23 area's total population is now foreign-born. The
24 top three countries of origin are Guyana, India,
25 and the Dominican Republic. Woodhaven's foreign-

1
2 born population is primarily of Hispanic origins,
3 while Richmond Hills foreign-born population is
4 primarily of Indo Caribbean origins.

5 Woodhaven and Richmond Hill have
6 seen their populations grow, but due to outdated
7 zoning this growth has not resulted in new
8 development that is consistent with the
9 established built context of these neighborhoods.

10 As I mentioned, one and two-family wood-framed
11 houses typify much of the area, however, due to
12 outdated zoning, recent development has led to
13 their demolition and replacement with residential
14 buildings that do not match area built character.

15 The rezoning area is primarily comprised of two
16 existing residential districts. The first is an
17 R3-1 district, which is generally located north of
18 Atlantic Avenue. R3-1 district's permit one and
19 two-family detached and semi-detached residential
20 buildings. The predominant character in the area
21 currently zoned R3-1 is one and two-family
22 detached buildings like the building depicted in
23 the top of the slide, however, recent developments
24 has included buildings like this semi-detached
25 building at the bottom of the slide, which do not

1
2 reflect the established detached character of the
3 area currently zoned R3-1.

4 The second district is an R5
5 district, which is generally located along
6 Atlantic Avenue in the blocks to the south. R5
7 districts permit all residential building types.
8 The predominant character in the area currently
9 zoned R5 is one and two-family detached and semi-
10 detached buildings like those depicted on the left
11 of the slide, however, recent development has
12 included buildings like the multifamily buildings
13 depicted on the right of the slide, which do not
14 reflect the established one and two-family
15 residential character of the area currently zoned
16 R5.

17 The rezoning area also has two
18 primary commercial corridors--Jamaica and Atlantic
19 Avenue. Jamaica Avenue serves as Woodhaven's
20 primary shopping corridor and is well served by
21 transit, including the J and Z trains, whose
22 elevated tracks you can see in this photo before
23 they received their new paint job. Atlantic
24 Avenue, a busy 120-foot wide street, showing the
25 photograph on the right, serves as Richmond Hills

1 primary shopping corridor. A hundred and first
2 avenue is also a main corridor in the area, but it
3 was not studied as a part of this rezoning,
4 however, it will be included in a follow-up study
5 the department will be conducting, Ozone Park when
6 the entire corridor can be looked at all at once.
7 The rezoning area's main commercial corridors are
8 mapped with commercial overlays, but the
9 underlying residential districts are not
10 differentiated from the residential blocks to the
11 north or south. Existing zoning does not provide
12 a greater scale or density for building and, as a
13 result, these major corridors, which have access
14 to transit and can accommodate growth, have not
15 experienced new development opportunities. In
16 addition, existing overlay districts are largely
17 mapped to the depth of 150 feet, which allow
18 commercial uses to encroach onto residential side
19 streets.
20

21 Concerned about recent development
22 trends, Community Board 9 asked the Department of
23 City Planning to conduct a rezoning study of
24 Woodhaven and Richmond Hill. The proposal was
25 refined over the last two years through an

1
2 extensive public outreach process and in close
3 consultation with Community Board 9, local civic
4 associations, and local elected officials. The
5 proposal seeks to reinforce a neighborhood
6 character and establish building patterns by
7 updating existing zoning with new lower density
8 and contextual districts, direct new residential
9 and mixed-use development to major corridors and
10 locations near mass transit, and support economic
11 development along two distinct commercial
12 corridors while preventing commercial uses from
13 intruding onto residential side streets.

14 The proposed rezoning was produced
15 with a block by block and lot by lot analysis to
16 carefully develop appropriate zoning strategies
17 for Woodhaven and Richmond Hill. In a broad 229
18 block area where two residential districts have
19 been in place for over 50 years, six contextual
20 districts are proposed to reinforce established
21 neighborhood character and to provide a framework
22 for orderly growth. The proposed R3-A, R3-X, R4-
23 A, R4-1, and R4-B contextual zoning districts will
24 more closely match the one and two-family
25 residential building patterns found among

1
2 Woodhaven and Richmond Hills residential blocks,
3 and it will ensure future development will
4 reinforce the surrounding context.

5 Our 6-A districts are proposed in
6 Woodhaven along Jamaica Avenue generally between
7 the Brooklyn Borough line and 102nd Street, and in
8 Richmond Hill, along Atlantic Avenue generally
9 between 104th Street and 121st Street. The
10 proposed zoning of portions of Jamaica and
11 Atlantic Avenues to R6-A will provide a moderate
12 increase in building height and density and bulk
13 where it can be used to create new developments
14 opportunities in already established mixed-use
15 areas along wider streets and locations near mass
16 transit resources.

17 The proposed zoning of select
18 locations of Jamaica and Atlantic Avenues will
19 provide opportunities for moderate growth where it
20 can reinforce the already strong Main Street
21 character of Jamaica Avenue and, over time,
22 strengthen the Main Street character of Atlantic
23 Avenue. We anticipate new development would look
24 much like this five-story building on the left of
25 the slide with ground floor retail and apartments

2 above and will help enliven the streetscapes of
3 these corridors.

4 The proposal would also update and
5 reduce the depths of commercial overlay districts
6 along Jamaica and Atlantic Avenues to prevent
7 commercial uses from encroaching onto residential
8 side streets and establish new overlay districts,
9 such as here, along Lefferts Boulevard, it's just
10 south of Jamaica Avenue and along the Van Wyck
11 Expressway service road to reflect the location of
12 existing commercial uses and to provide new
13 business location opportunities. Thank you.

14 [Pause]

15 CHAIRPERSON WEPRIN: Who's watching
16 us? I know it, I'm sorry. Just give us one
17 second. [Pause] All right, I know Councilman
18 Comrie wanted to discuss one item.

19 COUNCIL MEMBER COMRIE: Well I did
20 have a chance to look at it and I am pleased that
21 the commercial overlays are reducing the impact on
22 the residential streets behind Jamaica and
23 Atlantic Avenue. I do have a request from Council
24 Member Ruben Wills to remove or to maintain the
25 existing zoning for a block on 9503, which is the

2 block of Van Wyck to the east, 135th Street to the
3 west, Liberty Avenue to the south, and 102nd
4 Avenue to the north, to keep that as existing R5,
5 and I understand that he had already spoken with
6 City Planning about that and there was an
7 agreement that, since it was on the edge of the
8 district, that there wouldn't be a problem with
9 keeping that in the existing zoning. So I propose
10 that that would be an amendment to the plan.

11 CHAIRPERSON WEPRIN: And that
12 amendment, is that already on this? That the area
13 that next to it--

14 BRENDAN PILLAR: [Interposing] This
15 is just to illustrate the area where--

16 [Crosstalk]

17 CHAIRPERSON WEPRIN: --the one that
18 says R5 to remain--

19 COUNCIL MEMBER COMRIE: Right.

20 BRENDAN PILLAR: This one--

21 CHAIRPERSON WEPRIN: --is that next
22 to where we're talking?

23 BRENDAN PILLAR: That is the block-

24 -

25 [Crosstalk]

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BRENDAN PILLAR: --9503 generally bounded, as the Councilman said, by 103--35th Street and the Van Wyck Expressway. This is an area along the Van Wyck Expressway service road where we have maintained R5 zoning in other areas, as I mentioned 101st Avenue, we'll look at it at a future study, but that's also currently zoned R5.

COUNCIL MEMBER COMRIE: So there's a request to amend the plan to continue that as a R5.

CHAIRPERSON WEPRIN: I'm just confused, the words that it says R5 to remain--

COUNCIL MEMBER COMRIE: Right, that's--

CHAIRPERSON WEPRIN: --is referring to this spot? So--

[Crosstalk]

CHAIRPERSON WEPRIN: --you guys amended the--

BRENDAN PILLAR: [Interposing] No, they haven't--

COUNCIL MEMBER COMRIE: No--

[Crosstalk]

JOHN YOUNG: No, we're showing a

2 diagram--

3 COUNCIL MEMBER COMRIE: They're
4 showing the diagram.

5 JOHN YOUNG: --that is based on the
6 discussion that we had with the Council Member and
7 his staff.

8 CHAIRPERSON WEPRIN: Okay. But
9 that little red square that says R5 to remain was
10 added since the Councilman talked to City
11 Planning.

12 JOHN YOUNG: Correct, it had been
13 proposed as an R4-A part of this rezoning.

14 CHAIRPERSON WEPRIN: Okay. Okay.
15 All right, just wanted to make sure, you guys are
16 so up to date on your presentations, it threw me
17 for a loop.

18 JOHN YOUNG: We're quick studies.

19 CHAIRPERSON WEPRIN: Okay. I got
20 it. Mr. Comrie, you have any questions on this
21 rezoning? I know you may have mentioned this,
22 just for the record, that the Community Board
23 approved this unanimously, I believe, right?

24 MALE VOICE: Yes.

25 CHAIRPERSON WEPRIN: That's true

2 and unanimous at City Planning as well.

3 COUNCIL MEMBER COMRIE: Right.

4 [Crosstalk]

5 COUNCIL MEMBER COMRIE: I just want
6 to congratulate Mary Ann Carey and the Community
7 Board, Community Board 9, for everything that they
8 did on working on this rezoning, and also to John
9 Young and--

10 BRENDAN PILLAR: Brendan.

11 COUNCIL MEMBER COMRIE: --Brendan--

12 BRENDAN PILLAR: Yes.

13 COUNCIL MEMBER COMRIE: --for all
14 of their hard work and continued excellent job in
15 working with communities to do the things
16 necessary to enhance and improve communities.
17 Thank you.

18 CHAIRPERSON WEPRIN: Gentlemen,
19 thank you very much. We're now going to close
20 this hearing, do you want to--excuse me? Oh, you
21 want to testify, I apologize, I apologize. Thank
22 you, gentlemen, we're going to excuse you. I'm
23 sorry, and then Maria Thompson from the Greater
24 Woodhaven Development Corporation, Woodhaven BID--

25 MARIA THOMPSON: Thank you.

2 CHAIRPERSON WEPRIN: --is here and
3 she'd like to testify on this plan as well.

4 MARIA THOMPSON: Thank you.

5 CHAIRPERSON WEPRIN: I apologize,
6 not only did we make you wait, I almost forgot
7 about you.

8 MARIA THOMPSON: That's okay.

9 MALE VOICE: Right this way.

10 MARIA THOMPSON: Thank you.

11 CHAIRPERSON WEPRIN: All right,
12 take your time and whenever you're ready, make
13 sure--Sergeant-at-Arms, if you can just make sure
14 she gets the mic correct--

15 SERGEANT-AT-ARMS: Yep.

16 CHAIRPERSON WEPRIN: --and make
17 sure to restate your name for the record and give
18 your testimony.

19 MARIA THOMPSON: I'm Maria A.
20 Thompson, I'm representing the Greater Woodhaven
21 Development Corporation, I'm the Executive
22 Director there, also the Woodhaven Business
23 Improvement District.

24 My esteemed Honorable City Council
25 Members and New York City Planning Commission and

2 distinguished Members of the Council, my name is
3 Maria Thompson, I have been a resident of
4 Woodhaven, Queens, for 43 years. Today I am
5 representing at this hearing the Greater Woodhaven
6 Development Corporation, our 33-year organization,
7 and also we are dedicated to the stabilization of
8 the Woodhaven's commercial and residential
9 properties.

10 The Woodhaven Business Improvement
11 District representing the property owners and the
12 business owners on Woodhaven, Jamaica Avenue from
13 a 100 Street to Dexter Court. Both of which I am
14 the executive director and the Woodhaven
15 residents' block association that represents all
16 the residents of Woodhaven. All of these are
17 Woodhaven organizations being in favor of the
18 rezoning of Woodhaven.

19 Also in favor on the state level of
20 government, we have the strong support of
21 Honorable Joseph P. Addabbo, our the New York
22 State Senator; Honorable Michael G. Miller, our
23 New York State Assemblyman; and on the City level,
24 our New York City Council Members Honorable Eric
25 Ulrich and Honorable Elizabeth Crowley, who led

1
2 this rezoning efforts.

3 This rezoning is very important to
4 Woodhaven for it is a balance and fear. It up
5 zones our Jamaica Avenue commercial properties,
6 showing this area to build above existing
7 properties and downsizes our properties that are
8 existing as residential areas. This preserves our
9 large Victorian homes from over-development. We
10 thank--and also this would change the quality and
11 the character of our small town.

12 We thank the Department of City
13 Planning Queens, John David Young, Director, and
14 who worked so hard and diligently on this plan,
15 and Brendan Pillar, his assistant, and most of all
16 New York City Commissioner Honorable Amanda M.
17 Burden, who is since becoming Commissioner, so
18 strongly has advocated for the rezoning and
19 [pause] and the preservation of Queens and the
20 local neighborhoods.

21 The Greater Woodhaven Development
22 Corporation seven years ago, after Richmond Hill
23 and Kew Gardens had been rezoned, began the quest
24 to our--for our Woodhaven to be the next rezoned
25 community. We approached our Woodhaven residents

1
2 block association, our elected officials,
3 Community Board number 9, our borough president,
4 and then, with the support of all, we had the vote
5 and Community Board number 9, which I am a Member,
6 and formalized this plan. All of ZIP code 11421
7 will be zoned and down-zoned accordingly. This
8 plan determined was to preserve the zoning of the
9 residential area homes and allow the up zoning of
10 the commercial properties along Jamaica Avenue,
11 this increasing the property values throughout
12 Woodhaven. In this way, our large Victorian homes
13 would be preserved and not be demolished and
14 replaced by small apartment buildings.

15 It also was of great Jamaica Avenue
16 from Dexter Court to 100 Street, allowing
17 buildings above the commercial properties. This
18 plan, in our thinking, is balanced one, and for
19 the first time in 50 years, would revise and
20 positively stabilize the zoning here and Woodhaven
21 for the next 50 years.

22 A yes vote for the Community Board
23 number 9 was the first hurdle. This plan was then
24 formalized to preserve the character of the
25 Woodhaven homes and assist our commercial property

2 owners so that they may maintain their property
3 and the integrity of their property would be
4 perpetuated.

5 As I have stated before, the reason
6 we have [off mic] and moved into Woodhaven is
7 because we appreciate before, the reason we have
8 stayed is because we appreciate the open space
9 being around us that is so vital and our
10 commercial shopping strip. The Community Board
11 number 9 vote was unanimous and now we go on to
12 support of the rest of the zoning, and we ask you
13 to preserve the character of the community of
14 Woodhaven by voting yes on the zoning issue.
15 Thank you so much.

16 CHAIRPERSON WEPRIN: Well thank you
17 very much, we appreciate your testimony.

18 And what we're going to do now is
19 we're going to move to close this hearing, 'cause
20 you were so convincing we don't have any
21 questions, we're going to close this hearing and
22 we are going to recess the Subcommittee until
23 Thursday on both this item and on the Upper West
24 Side neighborhood retail item, and we will be
25 considering them on Thursday before the Land Use

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meeting, which is scheduled for 10 a.m. So I appreciate you coming down, appreciate everyone's patience, and we will be now recessed until Thursday. Thank you.

MARIA THOMPSON: Thank you for your time.

CHAIRPERSON WEPRIN: You are welcome.

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 *Tammy Wittman*

Date July 12, 2012