

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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September 21, 2010
Start: 10:05 am
Recess: 11:13 am

HELD AT: Council Chambers
City Hall

B E F O R E:
MARK S. WEPRIN
Chairperson

COUNCIL MEMBERS:
Council Member Leroy G. Comrie, Jr.
Council Member Daniel R. Garodnick
Council Member Robert Jackson
Council Member Brad S. Lander
Council Member Jessica S. Lappin
Council Member Diana Reyna
Council Member Joel Rivera
Council Member Larry B. Seabrook
Council Member James Vacca
Council Member Albert Vann

A P P E A R A N C E S [CONTINUED]

Mark S. Weprin
Opening Statement
Chairperson
Subcommittee on Zoning and Franchises

Christian Hilton
Counsel
Subcommittee on Zoning and Franchises

Winston Von Engle
Deputy Director
Brooklyn Office
Department of City Planning

David Parrish
Brooklyn Office
Department of City Planning

Jack Hammer
Compliance Office
Department of Housing Preservation and Development

Brad S. Lander
Speaking on Culver El Rezoning
New York City Council Member

Jerry Staffieri
Sergeant at Arms
Subcommittee on Zoning and Franchises

Gail Benjamin
Policy Analyst
Subcommittee on Zoning and Franchises

Jill Carliner
Speaking in opposing to Culver El rezoning
Kensington resident

Lawrence Levy
Attorney at Law
Representing Al Figliola
Owner of Lot where Bergament Department Store is

A P P E A R A N C E S [CONTINUED]

Adam Rothkrug
Attorney at Law
Southern Brooklyn Community Organization

Chaim Israel
Housing Director
Southern Brooklyn Community Organization

Rabbi Yeruchim Silber
Vice Chair
Zoning and Variance Committee
Community Board 12

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2 CHAIRPERSON WEPRIN: Good morning
3 everyone. My name is Mark Weprin. I'm the Chair
4 of the Zoning and Franchises Subcommittee of the
5 City Council. And I'm joined today by my Council
6 colleagues Al Vann, Larry Seabrook, Joel Rivera,
7 Counsel Christian Hilton, Brad Lander who is here
8 visiting on an important item, Dan Garodnick and
9 Diana Reyna.

10 I want you all to know that this
11 room has been deemed a fire safe room so in the
12 event that there is a fire drill, you can take my
13 word for it or you can leave the room. But they
14 have said that during the fire drill this room can
15 continue to do our business. So whatever that's
16 worth. They told me they would tell us if a real
17 fire does break out at the time of the fire drill
18 so hopefully at that point we would change plans.
19 But right now you can stay here if that does
20 happen.

21 We are now going to--before we get
22 started on the Culver El, we did a hearing the
23 other day on Land Use number 199, the car-sharing
24 zoning text amendment which we had a hearing on
25 allowing cars like Zip Car and other companies

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2 around the City to have places to park their
3 vehicles to help this service exist. We finished
4 the hearing. We closed the hearing. We didn't
5 vote on the bill on the 199. I'm going to move to
6 do that now. We'll leave the vote open for the
7 rest of the meeting, if someone does come in later
8 and wants to vote then. So I'm going to ask
9 Christian to please call the roll.

10 MR. CHRISTIAN HILTON: Chair
11 Weprin.

12 CHAIRPERSON WEPRIN: Aye.

13 MR. HILTON: Council Member Reyna.

14 COUNCIL MEMBER REYNA: Pass.

15 MR. HILTON: Sorry, Council Member
16 Rivera.

17 COUNCIL MEMBER RIVERA: I vote aye.

18 MR. HILTON: Council Member
19 Seabrook.

20 COUNCIL MEMBER SEABROOK: Aye.

21 MR. HILTON: Council Member Vann.

22 COUNCIL MEMBER VANN: Aye.

23 MR. HILTON: Council Member
24 Garodnick.

25 COUNCIL MEMBER GARODNICK: Aye.

MR. HILTON: Council Member Reyna.

[Pause]

COUNCIL MEMBER REYNA: I apologize,
thank you, I vote aye.

MR. HILTON: By a vote of six in
the affirmative, none in the negative, no
abstentions, LU 199 is approved and referred to
the full Land Use Committee.

CHAIRPERSON WEPRIN: Thank you Mr.
Hilton. We are now going to call up the Culver
El, it is Land Use numbers 177 through 193,
inclusive. So without reading off each one, 177
through 193 inclusive, Winston Von Engle from the
City Planning, David Parrish from City Planning
and Jack Hammer from HPD, would you please come on
down.

[Pause]

CHAIRPERSON WEPRIN: Yes. In the
meantime while you're setting up Councilman
Jackson's here, you want to vote on the car
sharing?

MR. HILTON: Council Member
Jackson.

SERGEANT AT ARMS: Quiet please.

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2 COUNCIL MEMBER JACKSON: On the
3 issue of car sharing I vote aye.

4 MR. HILTON: Vote now stands seven
5 in the affirmative, none in the negative, no
6 abstentions.

7 CHAIRPERSON WEPRIN: Thank you.
8 And that was Council Member Robert Jackson who
9 joined us. And whenever you're ready, please
10 state your name again for the record and you can
11 make your presentation. Thank you very much.

12 MR. WINSTON VON ENGLE: Okay. Good
13 morning Council Members. My name is Winston Von
14 Engle. I'm the Deputy Director of the Brooklyn
15 Office of the Department of City Planning. I'm
16 joined here by our colleagues from HPD and the
17 colleagues from my office to present to you the
18 Culver El rezoning proposal as well as the
19 disposition of City-owned property to facilitate
20 affordable housing in Community District 12, Boro
21 Park, Brooklyn.

22 As I was sitting here I was
23 thinking back to 2005, a cold wintry day when
24 Mayor Bloomberg and former Council Member Bill de
25 Blasio together with Council Member Simcha Felder

1
2 announced the commitment, the Mayor's commitment
3 to do this project, to sell off, to rezone the
4 Culver El parcel and to create affordable housing
5 in Boro Park. This is a long-standing commitment
6 obviously by the Mayor and the Council Members to
7 provide for affordable housing and we're very
8 proud to be here today.

9 As you will hear from my office
10 about the proposal and from HPD, we received
11 strong support from Community Board 12 who voted
12 almost unanimously in support of this proposal as
13 well as the Borough President and of course the
14 City Planning Commission voted to approve this
15 project as well.

16 I'm now going to go hand this over
17 to David Parrish who is a Senior Planner in our
18 office, who brought this project. The other
19 planners who brought this project finally to the
20 end and he will walk you through the entire
21 proposal. Thank you.

22 MR. DAVID PARRISH: Good morning.
23 As Winston mentioned this project is a joint
24 application between the Department of City
25 Planning and the Department of Housing,

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2 Preservation and Development. It seeks to
3 accomplish two main things: to provide new zoning
4 in this area that reflects the existing mix of
5 uses, the existing density and the existing scale
6 or building heights in this unique area; and it
7 also seeks to provide much needed affordable
8 housing on two parcels of vacant and underutilized
9 City-owned land.

10 The project area is located in
11 Community District 12 in Brooklyn. It's to the
12 southeast of Greenwood Cemetery and is bounded on
13 the north by 36th Street, on the east by Old New
14 Utrecht Road and 14th Avenue, on the south by 39th
15 Street, and on the west by 12th Avenue. It's
16 located at the end of Church Avenue as well
17 between McDonald Avenue and Fort Hamilton Parkway.

18 The project area and the area
19 around it is primarily developed with residential
20 uses. To the north there are many detached and
21 semi-detached homes interspersed with small
22 department stores and automotive uses in areas on
23 streets such as Fort Hamilton Parkway and 36th
24 Street.

25 To the south it's a bit more dense

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2 where there are detached homes and small apartment
3 buildings. I want to point out 13th Avenue which
4 runs through the middle of the project area is a
5 mixed use corridor and it becomes a major
6 commercial corridor further south in the center of
7 the Boro Park neighborhood. The rezoning area is
8 also primarily residential with a mix of detached
9 and semi-detached homes and some row houses.

10 There are a number, also, of
11 manufacturing and automotive related uses. These
12 are typically clustered on 39th Street and there's
13 a large warehouse on 38th Street between 12th and
14 13th Avenue. Along 38th Street on large parcels of
15 what was previously vacant land, a number of
16 community facilities have been developed pursuant
17 to special permits through the Board of Standards
18 and Appeals. There's a large department store
19 which is a nonconforming use in the M-1-2 district
20 which we'll talk about, between 36th and 37th Street
21 and 13th Avenue in Old New Utrecht Road.

22 The two parcels of City-owned land
23 that we'll focus on are to the south of 37th Street
24 between 12th Avenue and Old New Utrecht Road. I
25 just want to point out the department store use.

Okay.

As Winston mentioned these two parcels were part of the former Culver El railroad right of way which ran between Fort Hamilton Parkway and McDonald Avenue. The zoning in this area reflects the past manufacturing character in the neighborhood. M-1-2 and M-2-1 districts allow manufacturing and commercial uses. They also allow certain community facility uses but do not allow new residential.

As you can see in the yellow color and the orange color and the salmon color there are a number of residential and mixed use properties within this area. Truly it's a mixed use area with not a single character.

Just some photos to show you the character of the area. At the top right is Bergament's Department Store, adjacent to that on the left is the mixed use 13th Avenue. And you see shots of residential on the left-hand side and some of the auto related uses on the bottom.

To reflect this existing mix of uses the Department of City Planning has proposed several zoning changes as well as a zoning text

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2 amendment which would recognize the mixed use
3 character of this neighborhood and provide
4 districts which are of similar density and scale
5 to what's built today for the most part.

6 We're proposing to extent an R-5
7 district from the north down around several
8 detached homes. We would also map a commercial
9 overlay at 12th Avenue and 36th Street. This would
10 allow for continued commercial use of this
11 corridor, of this corner. Around the department
12 store this is where we're proposing a district
13 where there's potential for a little more density.
14 The Department is proposing a C-4-2A district
15 which would allow, which would make the existing
16 department store a conforming us. It would also
17 potentially allow for future housing development.

18 The rest of the study area, we are
19 matching two zoning districts together by
20 proposing a special mixed use district. The
21 special mixed use district has been done in places
22 like Greenpoint Williamsburg and Dumbo and allows
23 the pairing of a manufacturing and a residential
24 district together. Property owners would have the
25 option of developing an all residential building,

1
2 an all manufacturing or a commercial building, or
3 something that contains both.

4 Now there are limits on the types
5 of uses and there are environmental safeguards
6 within the special mixed use district. But the
7 genesis is to allow both a home owner to develop a
8 home or a business to develop a new or expanded
9 warehouse or retail store.

10 Along the side streets between 12th
11 Avenue and 13th Avenue and between 13th Avenue and
12 14th Avenue the Department is proposing an M-1-2,
13 R-6-B district. M-1-2 as we spoke about is a low
14 density manufacturing district. R-6-B is a row
15 house residential district. It allows building up
16 to 50 feet tall or approximately 5 stories and
17 approximately twice the size of the property.

18 On the avenues and along the Culver
19 El right of way south of 37th Street the Department
20 is proposing an M-1-2, R-6-A district. This would
21 potentially allow buildings up to 7 stories tall
22 and it would allow property owners to develop to 3
23 times the size of the property.

24 Along with these actions the
25 Department and HPD are proposing several actions

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2 related to the proposed housing project. Because
3 of the unique size and shape of this parcel, HPD
4 is proposing to split these two parcels of City-
5 owned land, once again on the left is Old New
6 Utrecht Road, 37th Street is below the orange
7 colored area and 12th Avenue is on the far right.
8 It is proposing to split these parcels into 14
9 separate zoning lots.

10 MR. JACK HAMMER: Good morning.
11 Jack Hammer, HPD, Compliance Office. Just to pick
12 up on the earlier comments, we have been working
13 closely with the Department of City Planning and
14 the Southern Brooklyn Community Organization over
15 the last several years on the development of the
16 Culver El strip, really the last City-owned parcel
17 of planned under HPD jurisdiction in Community
18 Board 12. So it's been a great area of focus of
19 ours to move forward on this development project
20 which we're very excited about.

21 The site consists of a strip of
22 land on two tax blocks which are, the way the site
23 has been planned, entails a total of 17 4-story
24 buildings, each with 4 units. These would be
25 condominium units built on the assemblage of land,

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2 the assemblage of City-owned land. The actions
3 also at the same time in addition to the special
4 permits that we're seeking which are required in
5 order to build in a former railroad right of way
6 as well as the zoning map amendment that will
7 allow the residential housing, there's also a
8 disposition and UDAAP action which will allow for
9 the sale of the site to the developer, Southern
10 Brooklyn Community Organization, as well as 3
11 assemblages as you can see on the site plan, if
12 you can just show the community city parking lots
13 please.

14 There are 3 parking lots that are
15 proposed to be disposed to adjacent community
16 facilities as part of the overall UDAAP and
17 disposition actions. At the time of the early
18 planning process there was interest in
19 effectuating a disposition for the housing
20 development as well as community facility
21 accessory parking. So the actions will also
22 facilitate the later disposition for that purpose
23 as well.

24 Working with Southern Brooklyn
25 Community Organization, plans have been developed,

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2 gone through HPD's design and review process.
3 It's a difficult site obviously with the 50-foot
4 depth of the site. And we think given the site
5 constraints and working through the whole process
6 we've developed a very, you know, attractive
7 design that will provide affordable housing for
8 families. The proposed income range at this point
9 is 80% to 120% of AMI.

10 The site is being developed under
11 HPD's New Foundations program. New Foundations
12 program has been in existence in HPD for a number
13 of years. It facilitates the development of sites
14 similar to these scattered in-fill type sites
15 where home ownership housing is being programmed.
16 And under that initiative we will dispose of the
17 sites to Southern Brooklyn following ULURP
18 approval. Funding is being proposed through the
19 State Affordable Housing Corporation as well as
20 bank financing which Southern Brooklyn will be
21 seeking.

22 So that really sums up the housing
23 and the HPD actions and we'd be happy to take any
24 questions. You want to continue?

25 MR. PARRISH: Also following the

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2 approval of these applications the nonprofit
3 developer, SACO, selected by HPD, will seek
4 variances from the Board of Standards and Appeals.
5 This is due to the unique size of the parcels. At
6 a 50-foot depth zoning under the proposed M-1-2,
7 R-6-A district would require a 30-foot rear yard
8 so they would be seeking variances to reduce the
9 rear yard to 10 feet. And also variances to
10 reduce the requirement between lot lines and
11 legally required windows, windows for bedrooms and
12 living rooms that are required under law.

13 CHAIRPERSON WEPRIN: Okay thank you
14 very much. Before I go to the panel for questions
15 I'm going to ask Brad Lander who represents the
16 area in the Council and who is here with us today,
17 to make a statement on this issue.

18 COUNCIL MEMBER LANDER: Thank you
19 Chair Weprin and members of the Subcommittee.
20 It's my first time with you on a matter in my
21 community, coming before the Subcommittee and the
22 Land Use Committee. So I'm happy to be with you.
23 Thanks also to Winston, David and partners from
24 City Planning and to Jack at the team at HPD and
25 to SACO and also to Community Board 12, Yeruchim

Silber is here.

I'm looking forward to listening to public testimony and we still have a little while to sort of consider a few things but let me just give you some of my general impressions and hopes. I generally support the Culver El project both the broader rezoning and the disposition of the lots to SACO for affordable housing but with some modifications that I hope the Subcommittee and the Committee will be supportive of and that can be worked out with City Planning, HPD and SACO that I think will substantially improve the project.

There are three matters of policy that I don't want to go into a lot but that I do want to just note because I think this could be a stronger project if we had public policy supportive in a couple of ways. So I do want to flag them first. Although we are getting a nice affordable housing project here, the new R-6-A and R-6-A equivalent zones in this district do not include inclusionary zoning or an affordable housing mandate even though we're rezoning from manufacturing to residential.

And I believe it should be our

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2 policy that they should, when we rezone from
3 manufacturing to residential. I believe we should
4 require affordable housing even at the R-6-A and
5 in my opinion the R-6-B densities here. It's, you
6 know, too late in this process to do that and that
7 would be a matter of policy change. I have a
8 specific change to address it.

9 Second, you know, there is some
10 viable manufacturing in this area. And I wish we
11 had in New York City a mixed use zone that allowed
12 some residential development but didn't make all
13 of what had been manufacturing zoned land as of
14 right for conversion. I think we're eliminating
15 space for jobs in the City and at a time when we
16 really need those jobs. And I'd like to see a
17 mixed use zone that preserved jobs in a stronger
18 way than the current ones that we have.

19 And finally I think when we're
20 disposing City-owned land for housing that we
21 ought to require that that housing remain
22 permanently affordable. We've seen too many times
23 whether it's rental or home ownership when you
24 reach the end of a regulatory period and then we
25 lose affordability, either jeopardizing families

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2 in a rental situation or in a home ownership
3 situation like this one, it's a loss to the
4 community. And I would like to see a day when we
5 perhaps even when we just are subsidizing a
6 project but certainly when we're disposing City-
7 owned land, require permanent affordability.

8 So those are policy changes and not
9 ones that we can really deal with specifically in
10 this context but I wanted to begin by saying them.

11 There are two specific changes to
12 the rezoning that come from those principles that
13 are germane at this moment that I would like to be
14 considered by the Subcommittee. The department
15 store block, 5301, I don't know if it would be
16 helpful to put that map back up that shows it,
17 it's proposed actually, there's a mistake in my
18 testimony, I apologize, it's proposed to be
19 rezoned to C-4-2A, not C-6-4A, but that would
20 allow the development of more than 100 units, I
21 think, 120 residential units and 150 parking
22 spaces in a 7-story building on this site without
23 any requirement for affordable housing and for
24 open space or real planning in my opinion for that
25 kind of traffic and parking issues.

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2 So I would like to see us amend
3 that to C-8-2 which is in scope here and would
4 recognize the existing use and normalize the
5 Bergament Department Store that is there but not
6 allow as of right residential development at
7 market rate.

8 And in addition I would like to
9 remove Block 5300, Lot 45 and Block 5299, Lot 37
10 which I believe are strong and viable
11 manufacturing buildings and could stay they way
12 they are. They're at the edge of the rezoning
13 area so they wouldn't--they're not--they wouldn't
14 be a spot rezoning. They would be essentially
15 continued to stay attached to the M-1-2 and M-2-1
16 districts that you see adjacent. So those are my
17 thoughts on the broader rezoning itself.

18 On the SACO project, Southern
19 Brooklyn Community Organization has really done a
20 lot of work over a very long time. Winston was
21 referring to 2005 date at which the Mayor
22 committed to this. It's even prior to that of
23 course that they've been working to do this. And
24 I think it's a strong project. They voluntarily
25 agreed in advance of coming here to deepen the

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2 affordability range down to 80% which I think is
3 deeper than New Foundations normally requires.
4 And they've dealt with a challenging site.

5 There are two things that I still
6 hope we can improve about this project. One is to
7 perhaps make permanent or at a minimum
8 substantially lengthen the affordability period
9 which in New Foundations is only 15 years. Again
10 my policy preference would be permanent
11 affordability and I'd like to see that here but at
12 a minimum we should at least substantially
13 lengthen the affordability requirement.

14 And there are also some parking
15 issues. I won't go into in relationship to the
16 Bergament site but basically the department store
17 is meeting some of its parking in the Culver El
18 strip which is being disposed which gives them
19 some challenges, so both serving their customers
20 and addressing C of O and zoning issues and I'd
21 like to see that worked out in a way that at least
22 for the duration of the time for the lease that
23 Bergament has enables them to meet their parking
24 requirements.

25 And we're in good dialog,

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2 productive dialog with SACO about both of these
3 issues and I'm hopeful that we'll be able to
4 conclude them positively before the Committee has
5 to vote.

6 Finally there are two larger issues
7 where the EAS identifies real significant
8 challenges in the neighborhood on both public
9 school seats and on open space. Now the truth is
10 those are real issues today and the rezoning only
11 modestly adds population to this. It's not a
12 situation where everything is hunky-dory now and
13 this rezoning adds so much new population that
14 it's a problem.

15 The problem is that the schools are
16 at 100% capacity today and even without this
17 rezoning it will be over capacity in a decade.
18 And it's a sore lack of open space here. You're
19 not so far from Prospect Park that you can't get
20 there but Kensington and Boro Park here, you can
21 see there's not green anywhere on the map. And
22 that was identified in the EAS as well.

23 I outlined in my testimony a few
24 ideas. We have been talking to the Parks
25 Department. I was able to secure some resources

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2 to improve Dome Playground which is nearby and
3 give us a little better open space. But we'd like
4 some more open space. And so I'm hopeful that the
5 Parks Department will work with us to identify
6 some sites that could be acquired, that DOT could
7 help us with some of the street space that might
8 be converted to plazas that we could plant some
9 more trees in the neighborhood in order to address
10 the community's open space issues.

11 But again there's been a lot of
12 hard work on many people, the community has come
13 out and testified so I want to thank folks who
14 have come to the Borough President or the
15 Community Board hearing. While it was an
16 overwhelming vote in favor at the Community Board,
17 community concerns particularly around open space
18 have been articulated in the process. And I
19 really hope we can do something to advance those
20 issues. So thank you again for all the hard work
21 on the rezoning and for the time to share those
22 thoughts with you.

23 CHAIRPERSON WEPRIN: My pleasure.

24 Does anyone else have a question before we move to
25 that vote on this one? Everyone can vote. We

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2 will. We're going to--before I move on, we're
3 going to have Councilman Vacca who has joined us
4 vote on the car sharing proposal.

5 COUNCIL MEMBER VACCA: I vote aye.

6 MR. HILTON: Vote stands, eight in
7 the affirmative, none in the negative, no
8 abstentions.

9 CHAIRPERSON WEPRIN: Okay. Just do
10 you have a comment on the statement that Mr.
11 Lander made? Are you in a position to comment on
12 this at the time? We will not be taking a vote
13 today but as we discussed, is there something you
14 want to share with us on the record?

15 MR. PARRISH: No I think Councilman
16 Lander has been very open and shared his comments
17 before on this. He has been consistent in his
18 comments. And we've reviewed them and discussed
19 them with him so. Thank you, yes.

20 MR. HAMMER: Just from HPD's
21 perspective, just to echo, yes that we've had
22 conversations with the Council Member and Southern
23 Brooklyn on the issues that were discussed and I'm
24 sure they will continue.

25 CHAIRPERSON WEPRIN: Okay thank

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2 you. Other members of the panel have any
3 questions here? Okay. Well thank you very much
4 gentlemen. We appreciate the presentation. We're
5 going to move now to two different panels, one in
6 opposition and one in favor. We're going to ask
7 the people testifying to limit their remarks to
8 three minutes. And Jerry will operate the clock
9 over there, above the head of Gail Benjamin.

10 And I'd like to call on Joel
11 Carliner and Lawrence Levy to please come up. And
12 they will be testifying in opposition to this
13 proposal I believe. Sit at the table. When you
14 are ready, please state your name for the record
15 and make your statement.

16 [Pause]

17 CHAIRPERSON WEPRIN: Okay. Are you
18 in support? You're sort of in both. You're kind
19 of in between. I see both boxes were checked now
20 that I look. So you're welcome to join us. Okay
21 well have a seat. You'll explain it. When it's
22 your turn you'll explain it and you'll explain
23 your lack--inability to make a commitment. No.

24 [Laughter]

25 CHAIRPERSON WEPRIN: Jill. Please,

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when you can, please start.

[Witnesses getting settled]

MS. JILL CARLINER: Hi, my name is Jill Carliner [phonetic] and I live in Kensington on Day Hill Road, not so far from this project. I want to start off by saying both this hearing and the City Planning hearing, unfortunately they're scheduled on a day when people work so many, our Community Board representative couldn't be here 'cause she teaches and the same was true at the City Planning hearing.

Okay. About this area, there is no green space in this area. So already we have the Latino community, Ecuadorians primarily are playing soccer on the street. There is a tradition of doing this going back 40 years. There is no soccer field nearby. Should you renovate Dome Playground which everybody's talking about as a solution, is seriously overcrowded. There are four basketball hoops. They are packed every night from 5:30 on.

I see no way really of expanding them to include soccer fields or I've met the cricket team who hangs out on the street. And

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2 there's no room for cricket unless you go to the
3 parade grounds at Prospect Park. There are no
4 restrooms there. So I understand from David
5 Greenfield who testified before who was talking
6 before Community Board 12 that a new restroom
7 costs \$1.5 million. That is above and beyond
8 what's been allocated for the renovation of Dome
9 Playground. Okay.

10 That's more than allocated for the
11 entire renovation of Dome Playground. I mentioned
12 that. Okay. You have these three lots that have
13 been assigned for community facilities. Dalton
14 School does not get City subsidized parking. Why
15 do schools and community facilities in Boro Park
16 get these? If you insist upon parking why can't
17 it be buried underground and then build park on
18 the surface? It is not so small as City Planning
19 says.

20 I think, I mean I don't have my
21 figures from the last time, I think it would make
22 a size--not a big park but enough space to have a
23 green space on one of them and a playground on the
24 other. Should you not be willing to do that,
25 another thought might be to have green roofs the

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2 way they have in Chicago, really viable green
3 roofs on the top of all these buildings that are
4 state of the art, and not just a jungle gym placed
5 in the middle of the building on a tar roof,
6 nobody's going to use that. Something attractive,
7 green, useful for that community but of course I
8 would endorse green space on the ground, useable
9 both for the new people and the old people. Thank
10 you.

11 CHAIRPERSON WEPRIN: Thank you.

12 Actually Jill just stay there one minute. We're
13 going to let the next--the gentleman testify and I
14 think Mr. Lander has a question or a statement for
15 you as well. Mr. Levy, please state your name,
16 and why you're here and you can explain to us how
17 you feel on the proposal. Okay thank you.

18 MR. LAWRENCE LEVY: Thank you. My
19 name is Larry Levy. I'm an attorney and I
20 represent Al Figliola [phonetic] who owns the plot
21 where Bergament is.

22 Mr. Figliola physically built that
23 building over 40 years ago. He's a plumber and a
24 laborer who, you know, has been able to be
25 somewhat successful. That property pays

1
2 significant taxes, \$210,000 currently. It pays
3 over \$100,000 to the City and employs
4 approximately 100 people and provides services to
5 the community. The lease for that property
6 extends through July of 2015.

7 We are working with SBCO and we are
8 working with another land owner in attempts to
9 find parking. I note that the certificate of
10 occupancy issued by the Department of Buildings
11 specifically noted that the HPD lots are on the C
12 of O as the parking, that's ancillary. And I thin
13 it raises a question about the City removing that
14 parking. The City did offer that in 2002 for sale
15 and Mr. Figliola responded he wanted to buy it and
16 the City stopped talking to him.

17 On the zoning change, we generally
18 support the notion of the zoning and what the City
19 has done. The ULURP program, the SECRA [phonetic]
20 program, the Borough President and everything that
21 has gone forward for the last several years has
22 proposed housing as the need in the community and
23 community facilities as well as Council Member
24 Lander pointed out school needs where we're going
25 to run out of seats in schools. Councilman Lander

1
2 has proposed, fairly recent vintage, to switch the
3 zoning from C-4-2A to C-8. And I understand he
4 raised this a few months ago. My client learned
5 of it just a couple of weeks ago.

6 Switching to a C-8 would prevent
7 the building of housing, would prevent the
8 building of a school and would seem to undermine
9 everything the ULURP plan and old plans that have
10 gone through for all these years, have been trying
11 to accomplish.

12 Mr. Figliola is not a residential
13 developer but this will deprive him of clearly the
14 highest and best use of his land and if that store
15 does not renew its lease, or the economic
16 realities of our current marketplace drives them
17 out of business, besides putting a lot of people
18 out of work and having a hole there we won't be
19 able to develop the property in a way that
20 benefits the community. So we are concerned. We
21 are concerned if this is within the ULURP
22 envelope. We are concerned if this has been
23 properly addressed in the SECRA.

24 CHAIRPERSON WEPRIN: You can finish
25 up.

1
2 MR. LEVY: The C-8 primary while
3 there are multiple uses, its primary is heavy
4 industrial, heavy automotive. Nobody has looked
5 at the impact of a heavy automotive in that
6 location. Mr. Figliola has some concerns that
7 this may in some way constitute a taking and also
8 the fact that of the 53 proposed sites that his
9 site with him not being a member of the community
10 is the only--is the one that is being targeted for
11 change. Mr. Figliola has offered to work with the
12 Council, recognizing affordable housing is an
13 issue and to provide restrictive declaration that
14 if housing would be developed that it would be
15 done with 20% affordable housing in a way that
16 would run with the land and be enforceable.

17 CHAIRPERSON WEPRIN: Thank you Mr.
18 Levy. Mr. Lander I know has a couple of questions
19 or statements.

20 COUNCIL MEMBER LANDER: Thank you.
21 I'll start with Ms. Carliner. First I want--

22 CHAIRPERSON WEPRIN: [Interposing]
23 Actually Brad can I hold off one second. I
24 apologize. Council Member Comrie arrived and we
25 would like him to vote on the car sharing

proposal. So if you can call his name.

MR. HILTON: Council Member Comrie.

COUNCIL MEMBER COMRIE: I gladly vote aye on the car sharing proposal and that's the only thing on today's agenda so aye.

CHAIRPERSON WEPRIN: Thank you Mr. Comrie, I apologize Mr. Lander.

COUNCIL MEMBER LANDER: Thanks.

CHAIRPERSON WEPRIN: Please continue.

COUNCIL MEMBER LANDER: So first Ms. Carliner I want to thank you and the Kensington Prospect blog right before--and the community for really pushing the important issue of open space which I think had not been taken up adequately in this process and I just think, you know, as I said in my testimony I really agree that this is an area starved of open space and one that we need to attend to getting it. So I just want to be clear about that.

One thing about Dome Playground which won't give us any more open space is I see that as a multiphase renovation and that the resources that have been secured so far are just

1
2 to get us started. We need to do a community
3 planning process. It'll probably be a two or
4 three or four phase renovation that will move
5 through different parts of the park.

6 And I think we will be able to come
7 up with the resources necessary over time to
8 achieve people's goals whether those include a
9 restroom or some additional fields. You know, I
10 think that's going to go through a community
11 planning process and so I'm optimistic there. Now
12 that won't get us new open space but it will I
13 think improve Dome in some of the ways that we
14 hope for.

15 You know, I wish this strip were
16 bigger and that structured parking were kind of
17 physically or economically viable and there was
18 some way to do something on the site. I've spent
19 a lot of time looking at it and I just don't think
20 there's any way to use this narrow strip of land
21 in a way that does that. That's supports it.

22 So I hear the, you know, and will
23 certainly continue to look at it but I just do
24 want to confirm that, you know, I feel like if we
25 do this we're taking on an obligation to keep

2 working hard to improve open space in the
3 community. And if that can't happen on the Culver
4 El site there are still other ways that it can
5 happen and that I hope we'll be able to work
6 together on so.

7 Mr. Levy, thank you for coming out
8 today. I guess I want to start by asking did a
9 representative of the owner come to the Community
10 Board hearing on this project?

11 MR. LEVY: I don't--

12 COUNCIL MEMBER LANDER:

13 [Interposing] To the Borough Board hearing on this
14 project?

15 MR. LEVY: I do not know--

16 COUNCIL MEMBER LANDER:

17 [Interposing] To the City Planning Commission
18 hearing on this project?

19 MR. LEVY: I know we obtained the
20 testimony at the City Planning Board which was
21 about two weeks ago, two or three weeks ago, and
22 that's when we learned of your testimony. I don't
23 think he came because he had been told repeatedly
24 that this was zoned for a C-4-A and he was not
25 objecting to that or controlling it.

1
2 And as I said Mr. Figliola is a man
3 who literally built this with his hands. He's had
4 some success in life. But he's a simple man and
5 he did not see a need to hire people to monitor
6 everything because he believed it was moving
7 forward with the C-4-2A.

8 COUNCIL MEMBER LANDER: So I'll
9 just note for the record that, you know, I started
10 speaking probably a year ago before this even
11 started moving forward and certainly publicly nine
12 months ago about my feelings about this site. I
13 testified to it publicly at the Community Board
14 hearing, at the Borough Board hearing and at the
15 City Planning Commission hearing.

16 And to my knowledge the owner is
17 only here because I made three phone calls to him
18 before one even got returned to try to indicate
19 that I thought it was important that attention be
20 paid. So now if he would prefer for it to be left
21 as it, which obviously wouldn't be a taking
22 because it's the zoning under which he built it
23 with his own hands, I'm certainly open to leaving
24 the zoning as it is today.

25 I see C-8-2 as something is helpful

1
2 to the owner because it both recognizes the
3 existing use and reduces the parking requirement.
4 But if a preference would be to leave it as it is
5 so we don't have any concern about uses or
6 takings, it's obviously within scope simply to
7 remove the site from the rezoning altogether. I'd
8 be glad to do that and if there's concerns about
9 C-8-2 then that will be okay.

10 I will note C-8-2 would allow a
11 school and a public school could be developed,
12 obviously the board, the SCA can do what it likes
13 with our zoning. So a school would still be
14 allowed here. And just two other things, first
15 it's not the only site in the rezoning that I'm
16 hoping to change.

17 There are three sites and they're
18 not really with regard to owns or doesn't own
19 them. They're with regard to appropriate land
20 uses. There's no other site in this rezoning at
21 all that could come anywhere near more than 100
22 units of residential development as of right, all
23 market rate.

24 So finally I'd just note that the
25 Borough President did not in fact support--and

1 supported it in his public testimony, the same
2 position that I've offered here. So I'm glad to
3 have further conversations with you, with Mr.
4 Figliola or Mr. Conjure [phonetic] and I do feel
5 strongly as I say in my testimony that we ought to
6 attend to the parking issues and make sure that
7 for the remainder of the life of the Bergament
8 lease that they can achieve their required
9 parking.
10

11 And while I'm always happy to have
12 conversations about what might be possible, I do
13 feel that in its current form, C-4-2A which would
14 allow full as of right residential development at
15 a market rate without affordability, without open
16 space, is just not something that I can support.
17 So perhaps we'll be able to--I'm glad to hear, I
18 had not heard before, about the possibility of
19 consideration of a restrictive covenant on the
20 property for affordability. And I'm open to
21 continuing that conversation.

22 MR. LEVY: We hope to be able to
23 have that conversation and meet the community
24 needs. I do believe unless I misread the Borough
25 President's position that while he did say he'd

2 like to see more affordable housing, he supported
3 the project and hence our thought of adding a
4 covenant to supply affordable housing would be in
5 total concert with his testimony. And I might
6 note when you first spoke against this, you were
7 not the elected official. If you did it a year
8 ago, unless my calendar's off.

9 COUNCIL MEMBER LANDER: You know,
10 from when it got certified at City Planning
11 through when it went through every individual
12 public hearing, I think I have been the elected
13 official and I've been public at all those times
14 and it's been, I think, you know, a pretty strong
15 matter of public record so.

16 MR. LEVY: Thank you.

17 CHAIRPERSON WEPRIN: Thank you Mr.
18 Lander. I think we're okay now. Thank you very
19 much to this panel. We do have one more panel in
20 favor, at least that's the box they checked. And
21 I'd like to call up Adam Rothkrug, Yeruchim Silber
22 and Chaim Kryal [phonetic]. Huh? [off mic]
23 Israel. Oh Israel. Sorry the I and the S look
24 like a K, I apologize Chaim.

25 [Pause]

2 MR. ADAM ROTHKRUG: Gotcha. Now
3 it's on. Thank you. Good morning Chair Weprin,
4 Councilman Lander and members of the Council. My
5 name is Adam Rothkrug. I'm here on behalf of the
6 Southern Brooklyn Community Organization.

7 For more than five years as
8 everyone has pointed out since Mayor Bloomberg
9 first announced his plan to bring affordable
10 housing to the Culver El, SBCO has been working
11 with a variety of City agencies, local
12 organizations and politicians in their effort to
13 effectuate the Mayor's plans. And we're excited
14 to be moving closer to a hopeful and approved
15 project.

16 SBCO is a community based not-for-
17 profit organization that has developed almost 500
18 units of affordable rental and individually owned
19 condominium units in Brooklyn. In this Boro Park,
20 land is scarce; the options for new development
21 are extremely limited. And the Culver El
22 represents an opportunity to provide affordable
23 housing designed for families that are between 80%
24 to 110% of the local AMI.

25 Over the last several years SBCO

1
2 worked very closely with HPD's Division of
3 Architecture, Construction and Engineering to
4 design the proposed family-friendly, affordable
5 housing units.

6 And SBCO is also responsible for
7 completing a phase one as well as soil testing to
8 ensure that the Culver El property is
9 environmentally clean and safe. The units that we
10 are proposing are 4-bedroom units; the density for
11 the site is actually far below what the new zoning
12 would permit. These are designed for family use.

13 The action will facilitate
14 development of 68 affordable housing units
15 designed to be sold under HPD's New Foundations
16 program. Chaim Israel from SBCO is here today to
17 respond to any questions that the Council may
18 have.

19 With regard to the two issues that
20 Councilman Lander raised and have been discussed,
21 with regard to extending the affordability, SBCO
22 has been working with HPD and the Councilman and
23 we're open to suggestions. We've only asked that
24 we be--that the program be under some type of
25 recognized program so that we don't face issues

1
2 with regard to obtaining financing or even future
3 marketability.

4 SBCO's experience with regard to
5 units they've built has been that there is very,
6 very low turnover. So--and that's our goal is to
7 sell to people, establish communities that are
8 going to stay there. So we're sure that with an
9 extended affordability program or even under the
10 New Foundations, whatever we can work out, that we
11 will be able to reach an agreement and one way or
12 another that these units will remain pretty much
13 owned by the original owners, a very high
14 percentage.

15 In addition we've been working with
16 Bergament and the Councilman to address the
17 Bergament parking issue. We've identified several
18 potential alternatives. And I think that we will
19 be able to reach a consensus and hopefully an
20 agreement within the next week or two involving
21 HPD also so that they will be protected under the-
22 -for the length of the current lease. So I'd like
23 to thank the Councilman as well as City Planning
24 and HPD for all their hard work on this project.

25 CHAIRPERSON WEPRIN: Thank you.

1
2 Mr. Israel, it's up to you. Who wants to go
3 first? Okay.

4 RABBI YERUCHIM SILBER: Hi. Good
5 morning Chair Weprin, members of the Committee.
6 My name is Yeruchim Silber, I have been intimately
7 involved with this project, well I shouldn't say
8 in it but involved since back in 2002 as--

9 [Chime ringing]

10 RABBI SILBER: [Laughing] Oh, okay,
11 my new time.

12 CHAIRPERSON WEPRIN: I can't help
13 on the clock.

14 RABBI SILBER: But as a staff
15 member to then Council Member, current Public
16 Advocate Bill de Blasio, when we originally worked
17 to obtain the land and help working with SBCO to
18 present the application to the Bloomberg
19 Administration, I'm currently Vice Chair of the
20 Zoning and Variance Committee of Community Board
21 12. Our Committee voted unanimously to approve
22 this project and our board, as was mentioned
23 previously, voted with near unanimity, almost
24 overwhelmingly to approve it. Primarily our issue
25 was the affordable housing.

1
2 As everyone knows throughout the
3 City, housing, there is an acute shortage of
4 affordable housing, particularly in the
5 communities of the orthodox communities where for
6 religious reasons it is necessary for people to
7 live in clustered communities. And our young
8 families, our children, are not able to live in
9 our communities and are forced to move to New
10 Jersey or Long Island simply because of the lack
11 of affordability.

12 Obviously 68 units cannot answer
13 the entire problem but it does go somewhat to
14 alleviating this issue and providing much needed
15 affordable housing to the people in our community.
16 The previous projects have been very successful,
17 the previous affordable housing projects.

18 I do recognize the issues that have
19 been brought up as far as the green space and I do
20 strongly support, I think I called the
21 Administration to work with the relevant agencies
22 to identify the possible green space. As
23 mentioned Dome Playground, I'd also propose
24 something with the school yard at PS 230 which is
25 in the area to possibly be converted when school

1
2 is not in use to some sort of play area. So we do
3 strongly support that. And if space could be
4 identified we are all in favor of green and open
5 space. But the need for housing I think at this
6 point trumps that because there is such an acute
7 need to provide this housing.

8 I just want to address for a moment
9 the Bergament site. I listened to Mr. Levy's
10 testimony. Talking from the Community Board
11 standpoint, from our Board and our Committee, we
12 would be willing to work closely with Mr. Levy and
13 his clients to see whether to put it in an
14 agreement now or down the road, whether it's to
15 rezone or to retain relevant variances to allow in
16 the future some type of affordable housing in that
17 area. It would, as I said, any affordable housing
18 would greatly benefit all of us. And we would
19 certainly be willing to work with the owners of
20 the site to see what we could do in that regard.
21 Thank you.

22 CHAIRPERSON WEPRIN: No, okay,
23 right to questions? Okay good. Mr. Lander do you
24 have any questions for this group?

25 COUNCIL MEMBER LANDER: Thank you

1
2 Mr. Weprin. Just a couple of things. First I
3 just want to--you, SBCO has said this before on
4 the record, publicly but I want to say it on the
5 record here that, you know, while as Mr. Silber
6 said there certainly is a strong need for
7 affordable housing in the orthodox community.

8 It's also a very diverse community
9 and a strong need for affordability across all the
10 families of the City and the Community Board 12
11 there's a strong--large Bangladeshi community as
12 was mentioned, Ecuadorian and Mexican community.
13 And, you know, you said it before but I would just
14 like to have your clarify for the record that this
15 project will be marketed under the HPD Fair
16 Housing Guidelines. There'll be a 50% set-aside
17 for Community Board 12 residents and it'll be
18 broadly available to members of the City and
19 members of the community families.

20 MR. ROTHKRUG: Absolutely. This is
21 an HPD sponsored project and as you said the 50%
22 of the units are earmarked toward local residents
23 but the other 50% are marketed by HPD to anyone
24 that meets the guidelines which again we've agreed
25 to reduce guidelines of between 80% and 100% and

1
2 we're really aiming to bring in a good number
3 closer to 80% AMI.

4 COUNCIL MEMBER LANDER: Thank you.
5 And thanks for what you said about both working
6 with Bergament on the parking and on extending the
7 affordability. I look forward to continuing our
8 conversations about that. On the open space, I
9 look forward to working with Community Board 12
10 and coming up with any ideas. One thing Mr.
11 Silber that you said, PS 230's lot actually
12 already is a playground but PS 179's is not. It's
13 filled with--

14 MR. SILBER: [Interposing]
15 Trailers.

16 COUNCIL MEMBER LANDER: --temporary
17 classrooms. So maybe if we could find a way to
18 address the school issue with some, you know,
19 construction of a new school somewhere that would
20 have enough additional seats to open up where we
21 didn't need those trailers maybe the 179
22 playground could also be converted to--that would
23 be a sizeable new open space. So, you know, we'll
24 work together to explore that.

25 I want to thank all of you for the

1
2 leadership that you've provided on this project
3 and in collaboration with my office. And I know
4 we'll continue to do that both in the next couple
5 of weeks as we move toward a vote on the project
6 and then for years to come as it gets built and
7 occupied.

8 CHAIRPERSON WEPRIN: That's going
9 to be our fire drill. So I want to thank you
10 gentlemen. Let's listen to the announcement.

11 [Fire drill announcement]

12 CHAIRPERSON WEPRIN: All right.
13 Thank you very much gentlemen. We're going to
14 move to close this hearing now. But thank you for
15 your testimony. We're not going to be voting
16 today. We'll be discussing it over the next
17 couple of weeks and I'd also want to mention...

18 [Fire drill alarm]

19 CHAIRPERSON WEPRIN: And we thank
20 you very much, we close this hearing and we'll
21 continue with the vote later on. Mr. Hilton will
22 announce the vote on the car sharing matter.

23 MR. HILTON: Final vote on LU 199,
24 nine in the affirmative, none in the negative, no
25 abstentions.

2 CHAIRPERSON WEPRIN: Thank you. We
3 are going to leave that roll open for a few more
4 minutes until the meeting.. [Off mic] Until the
5 next Committee meeting starts, we're going to
6 leave that roll open if that's all right, until
7 probably after the fire drill.

8 And the last thing I just have to
9 mention is that the application, the café license,
10 Land Use 216 East End Bar and Grill is being put
11 off until our next meeting. And with that I make
12 a motion to adjourn. And so moved. The meeting
13 is now adjourned. The rolls will be left over
14 until the next Committee starts, thank you.

15 [Gavel banging]

16 MR. HILTON: Council Member Lappin.

17 COUNCIL MEMBER LAPPIN: Aye.

18 MR. HILTON: By a vote of ten in
19 the affirmative, none in the negative, no
20 abstentions, LU 199 is approved and referred to
21 the full Land Use Committee. The hearing is now
22 adjourned.

23 [END

24 Land_Use_Sub_Committee_on_Zoning__Franci9ses_part1
25 .mp3]

C E R T I F I C A T E

I, Laura E. Springate 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.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in black ink on a light-colored background.

Signature _____ Laura El. Springate _____

Date _____ October 3, 2010 _____