

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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January 25, 2011

Start: 1:40 pm

Recess: 2:48 pm

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 Vincent M. Ignizio
Council Member Robert Jackson
Council Member Jessica S. Lappin
Council Member Diana Reyna
Council Member Larry B. Seabrook
Council Member James Vacca

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

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

Colin Devlin
Owner
Dressler Restaurant

Dan McElroy
Director of Operations
Dressler, Dumont and Berger

Diana Reyna
Speaking on LU 280
Committee Member
Subcommittee on Zoning and Franchises

Diana Reyna thanks:
Peter Janosik, Land Use Division
Antonio Reynoso, her Chief of Staff

Thomas Wargo
Director
Zoning Division
Department of City Planning

Chris Holm
Senior Planner
Design Division
Department of City Planning

Carol Shine
Committee Counsel
Subcommittee on Zoning and Franchises

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2 MS. GINA SHAW: January 25th, 2011,
3 Subcommittee on Zoning and Franchises, taped by
4 Gina Shaw.

5 CHAIRPERSON WEPRIN: We don't?
6 Okay. Are we ready? Good afternoon. I want to
7 thank everyone for their cooperation. It's a very
8 busy day here at 250 Broadway and in the City of
9 New York, so there's been some changes of rooms
10 and everything and so I appreciate everyone being
11 as cooperative as they've been. We're going to
12 start right in but before I do that I want to
13 acknowledge who's here. On my left is Leroy
14 Comrie, next to him is Larry Seabrook, just to my
15 right here is Jimmy Vacca, Vincent Ignizio,
16 Jessica Lappin and Diana Reyna and that's it I
17 believe.

18 And our first item on the agenda is
19 a café, Land Use Number 250, Dressler, in
20 Brooklyn. And I'd like to call up Dan McElroy and
21 Colin Devlin. Please come to that front table
22 there. If you could please introduce yourselves,
23 state your name for the record and discuss your
24 application.

25 [Pause]

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MR. COLIN DEVLIN: How's that?

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Better? Okay. Hello--?

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CHAIRPERSON WEPRIN: [Interposing]

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Whenever you're ready.

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MR. DEVLIN: My name is Colin

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Devlin. I'm the owner of Dressler Restaurant and

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this is Dan McElroy. He is the Director of

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Operations for the restaurant group, Dressler,

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Dumont and Berger. We're basically just here

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today to address some concerns brought to us from

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the Council regarding our sidewalk application.

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I think all of you have a copy of

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it. There's three points. One is a fire escape

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ladder that obstructs--I'm sorry, is obstructed,

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I'm sorry, yeah, is obstructed by the awning that

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is underneath of it. So to remedy that we planned

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to basically cut a flap that is modular. I mean

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it'll--can be taken in and out and that should,

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whether it be in or out allow access for the fire

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escape.

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The second point is the Siamese

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Connection. We have an inset, in our restaurant

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we have an inset vestibule already outside of the,

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you know, the common outdoor plastic vestibule.

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2 We're just going to take ours down because we have
3 one inside already with a heater. We were just
4 probably trying to save heat or something but, you
5 know, that shouldn't be a problem.

6 The third point, the fire escape
7 ladder is not represented on our café plans.
8 We're presently having those plans redrawn. And
9 is soon to be included. But we don't presently
10 have them today but we are addressing that point
11 as well.

12 CHAIRPERSON WEPRIN: Thank you and
13 I have that letter in question and I do believe
14 that the members do have it. I'd like to call on
15 Council Member Diana Reyna who represents where
16 the café is or hopes to be if she'd like to say a
17 few words.

18 COUNCIL MEMBER REYNA: Thank you
19 Mr. Chair. Can you hear me? I just wanted to
20 thank the Dressler establishment for just
21 complying with the inspection of making sure that
22 everything was in order and being so reasonable in
23 to having so much interest in making sure that
24 they were up to code. With the help of Peter
25 Janosik and my Chief of Staff Antonio Reynoso,

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2 this particular letter addressed to the Committee
3 is delineating exactly the three areas that have
4 just been mentioned by Mr. Colin Devlin. And we
5 just hope to continue to see this establishment
6 continue to grow and prosper in our district and
7 we're very happy with the establishment. I know
8 that many of my colleagues have gone to enjoy your
9 particular--

10 MR. DEVLIN: [Interposing] Oh
11 [laughing].

12 COUNCIL MEMBER REYNA: --cuisine.
13 And I hear so many great reviews of your
14 establishment. So we just wanted to make sure
15 that that is mirrored inside and out. Thank you.

16 MR. DEVLIN: Great.

17 CHAIRPERSON WEPRIN: Well that's
18 quite an endorsement. So with that in mind,
19 anyone else have any comments or questions? I'm
20 going to move to close this hearing. Thank you
21 gentlemen very much. And--

22 MR. DEVLIN: [Interposing] Thank
23 you.

24 CHAIRPERSON WEPRIN: --we'll be
25 voting a little later on.

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MR. DEVLIN: Thank you.

CHAIRPERSON WEPRIN: Okay let's move on then. Next is Land Use Number 302. This is the Key Terms Text Amendment. And joining us today from the Department of City Planning is Thomas Wargo and Chris Holm who are going to discuss this very fascinating and very long Key Terms clarification.

[Background conversations]

CHAIRPERSON WEPRIN: Uh-oh Mr. Vacca is now going to go through it with a fine tooth comb as you describe it. Okay. Quiet please. And gentlemen please reintroduce yourself for the record and you can start your PowerPoint or however you want to handle this. Thank you.

MR. THOMAS WARGO: Thank you. Good afternoon Council Members. I'm Tom Wargo. I'm the Director of the Zoning Division at the Department of City Planning. And with me is Chris Holm who is a Senior Planner in the Design Division and the project manager for this text amendment which we're happy to present to you this afternoon.

I'll start with a little

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2 background. The need for this text amendment
3 became evident after the Department of City
4 Planning was challenged over the meaning of the
5 word development. The Zoning Resolution defines
6 development as the construction of a new building.
7 And there was a court case over whether a zoning
8 rule prohibiting curb cuts for developments in R-
9 8-B districts applied to a 100-year old building.
10 The Department argued that once a building was
11 developed it remained a development. The judge
12 did not agree and although he didn't offer any
13 guidance as to how much time needs to go by before
14 a new building ceases to be a development, he
15 reasoned that a 100 years was long enough.

16 Rather than appeal the decision the
17 Department prepared a text amendment that restored
18 the curb cut prohibition in an R-8-B district,
19 this time applying the rule to buildings rather
20 than developments. And that text amendment was
21 adopted by the Council last spring as part of the
22 Streetscape Preservation Text Amendment. Last
23 fall as the Streetscape--

24 CHAIRPERSON WEPRIN: [Interposing]
25 Gentlemen, just hold up one second. I know this

1
2 is one of the most exciting things we've had to
3 deal with but you guys are making a lot of noise
4 up here. So just keep it a little quiet, okay?
5 Thank you.

6 MR. WARGO: Last fall as the
7 Streetscape Text Amendment was going through the
8 public review process, City Planning began
9 reviewing the entire Zoning Resolution to
10 determine whether we were using the term
11 development as intended in light of the judge's
12 ruling and making revisions to ensure that each
13 provision reflects the intention of the City
14 Planning Commission and the intention of the City
15 Council. This was an enormous undertaking because
16 the term development appears throughout the Zoning
17 Resolution. To help us in this task we invited
18 professionals who used the Zoning Resolution on a
19 daily basis to review each chapter as we finished
20 it to ensure that each rule truly reflects
21 original intent and is written as clearly as
22 possible.

23 We had a team of professionals who
24 were members of the New York, Staten Island, and
25 Queens Chapters of the American Institute of

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2 Architects, REBNY, the Bar Association, Citizens
3 Housing and Planning Council, and the American
4 Planning Association. We also worked closely with
5 HPD, the Department of Buildings and the BSA. We
6 completed the review over a 6-month period and in
7 June of last year we posted the complete text on
8 our website.

9 Because of the large size of this
10 text amendment we wanted to give the Community
11 Boards ample time to prepare. So several months
12 prior to certification we sent a letter signed by
13 our Chair to each of the Community Boards
14 explaining the need for this amendment and
15 inviting them to a presentation in June at City
16 Planning. We also made presentations to the
17 Bronx, Queens and Manhattan Borough Boards prior
18 to certification to explain the need but also to
19 stress that the purpose of the text amendments is
20 to ensure that all the regulations adopted by the
21 City Planning Commission and adopted by the City
22 Council reflect the intention of the Commission
23 and the Council at the time they were adopted. So
24 unlike most text amendments which are about new
25 rules and new ideas, the purpose of this amendment

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2 is to ensure that the existing rules are
3 interpreted and applied as intended.

4 So with that I'm going to hand the
5 presentation over to Chris who can walk you
6 through some of the specifics of the text
7 amendment.

8 MR. CHRIS HOLM: Okay. Thank you
9 Tom. So again my name is Chris Holm. And so I'll
10 walk you through this PowerPoint. So the key
11 terms that are the subject of this text amendment
12 are the words development and building. And they
13 are defined terms. They've got very specific
14 meanings. And as Tom said these words are on
15 virtually every page of the Zoning Resolution. So
16 this text amendment was over 700 pages. And there
17 was this court decision that Tom talked about that
18 applied a rule to development when really what was
19 intended was that the rule should be applied to
20 buildings less than 40 feet wide. So we went
21 through and we looked at all the occurrences of
22 the word development and decided whether the word
23 should be retained as development or whether it
24 should be changed to the word building. If it
25 should apply to all building on the zoning lot not

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2 matter whether they're new or old or to a zoning
3 lot, meaning that the rule should apply to the
4 whole property not just to new buildings on the
5 property. And also because the term development
6 uses the term building in its definition we had to
7 look at the definition of building as well.

8 So the current definition of
9 building is it's any structure which is
10 permanently affixed to the land, has one or more
11 floors and a roof and is bounded on the sides by
12 either open area or lot lines of the zoning lot.
13 And in this example that we have on the screen,
14 that definition works fine but when you've got
15 multiple buildings on a single zoning lot, these
16 building are not separated from each other by open
17 space and nor are they separated from each other
18 by zoning lot lines. So the zoning today
19 considers this one building. And that results in
20 some problems when we come to certain regulations
21 in the Zoning Resolution today.

22 So we are proposing a new
23 definition of building, to amend this definition
24 of building, so that buildings are bound by
25 firewalls or open space on the sides. So you can

1
2 see in this picture, we've got the firewalls are
3 delineating the spaces between the buildings. And
4 I'll show you some examples of why this definition
5 is better.

6 But the first one is something that
7 I just want to point out here. This was shown as
8 a new-looking building going up, today, because
9 the two buildings next to it are considered one
10 building and they're all on one zoning lot. This
11 new building is technically considered an
12 enlargement. So that in itself is a big problem.

13 And then we have location of uses.
14 Today it's considered one building and you're not
15 allowed to have office uses on the same floor--any
16 commercial use really, on the same floor or above
17 a residential use. So technically that would
18 apply to this new building going up even though
19 it's totally separate from the other buildings.
20 With our proposed definition of building that
21 problem will be solved.

22 There's something that's commonly
23 known as the sliver rule which limits the height
24 of narrow buildings. And again today you're able
25 to claim that your building in terms of the zoning

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2 rules is, in this case, let's say 60 feet wide and
3 therefore wouldn't be subject to the sliver rule,
4 when in reality this is really your new building
5 and the sliver rule was intended to apply to that
6 building and limit its height. So with the
7 proposed definition of building that rule will
8 work as intended and its height will be limited to
9 the height of the neighboring buildings or the
10 height of the street.

11 There's also an ability to
12 construct dormers within an area that normally is
13 required to be set back away from the street. And
14 the size of the dormers related to the width of
15 the building. So again we have the same situation
16 where the width of the building is artificially
17 considered large because of the current definition
18 of building. And with the definition of building
19 the width of that dormer that exceeds the street
20 setback will be an appropriate size related to the
21 width of the actual building.

22 And the last example we have in
23 this group is recess rules in higher density
24 zoning districts require a building to be built on
25 the street line. A certain percentage can be set

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2 back, 30% can be set back away from the street
3 line. However in this example that we have, this
4 older building is considered part of the newer
5 building and the newer building is the 30% that's
6 set back and that really isn't what was intended.
7 So with the definition of building, the new
8 building that's mostly glass in this example, that
9 building contributes to the street wall as
10 intended. And 30% of the new building can be set
11 back away from the street line.

12 A couple of other examples, here we
13 have on the left, this today is considered one
14 building. And it's considered one detached
15 building 'cause it's separated from other
16 buildings by open area. With our proposed
17 definition of building there's firewalls in
18 between these buildings so therefore this is
19 actually going to be considered what's on the
20 right, the same example, will not be called four
21 attached buildings. And that really brings the
22 zoning language into how we experience these
23 buildings in a sort of common sense way. This
24 isn't really going to change the way the zoning
25 regulations work. This kind of discrepancy

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2 between zoning language and the common
3 understanding of what is a building has been
4 addressed in other ways in the past but it will
5 make zoning easier to understand.

6 And the same kind of thing with
7 semi-detached buildings. The example on the left
8 is a typical semi-detached building. It's two
9 buildings that share one common wall. However our
10 definition of semi-detached building only
11 specifies that it's one building that shares a
12 common wall with another building. So the example
13 on the right today you can call that a semi-
14 detached building, that end unit is sharing a
15 common wall with the next building but in our
16 common experience of this building form, that's a
17 row house. So we are clarifying, we are changing
18 the definition of semi-detached building that it
19 has to be abutting another semi-detached building
20 to be considered semi-detached. And if it's not,
21 it's an attached building even if it's the end
22 unit.

23 One of the systematic things that
24 we're doing here is right now if you're building a
25 building that's a mix of community facility and

1 residential in a residential district, the way the
2 bulk regulations work is you stay in the rules for
3 community facilities unless you're specifically
4 sent back for the residential bulk. And we don't
5 think that was what was intended. So but right
6 now the example on the left, you could build a mix
7 of community facility use on the bottom,
8 residential on the next couple of floors. And the
9 building could be built under a sky exposure plane
10 which is the kind of height limits that's intended
11 for community facilities like hospitals and
12 universities and things like that. So we're
13 bringing this back to what we believe was intended
14 where the residential portion of the building has
15 to comply with residential bulk, residential
16 height limits in this example.

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18 So that's a systematic change that
19 would especially affect lower density districts,
20 R-3-2, R-4, R-5. And we also have examples in R-
21 7-2 and R-8 where in R-7-2 and R-8 a building can
22 penetrate that sky exposure plane in the community
23 facility rules and right now it doesn't
24 specifically say what to do if your building is a
25 mix of residential and community facilities. So

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2 this example that we have, as far as we know
3 nothing like this has ever been built, but the
4 example we have is a residential portion of the
5 building is penetrating the sky exposure plane and
6 that would no longer be permitted and it's never
7 believed to be permitted but now it will be clear
8 that the residential portion has to be below the
9 sky exposure plane and by the way all these
10 examples I'm showing are the same amount of floor
11 are. You get the same amount of building in all
12 these examples. It's just different
13 configurations. So the building has to be below
14 the sky exposure plane or of course you have the
15 quality housing configuration with the base
16 heights.

17 So this proposal has gone through
18 the public review process. And a little less than
19 half of the Community Boards voted on this. A lot
20 of the Community Boards felt like this was
21 technical and didn't take a vote but were
22 generally very supportive. Even some Community
23 Boards didn't vote, participated in the vote at
24 the Borough Board level. Four Borough Boards
25 voted. The Manhattan Borough President also wrote

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2 a letter in favor. So it got broad support and
3 virtually unanimous support.

4 The comments that we received, we
5 had some specific comments on the text. One of
6 then was from the Brooklyn Borough Board and
7 Borough President and they asked the City Planning
8 Commission to look again at the rules for the FAR
9 for buildings, quality housing buildings on wide
10 streets in non-contextual districts. It was
11 unclear. The language currently says that for
12 developments within 100 feet of wide streets you
13 get to use a higher FAR. And the text as referred
14 said that the whole zoning lot should get to use
15 the higher FAR even portions beyond 100 feet of
16 the wide street. And so the comment was about
17 that.

18 The Brooklyn Borough Board and
19 Borough President also suggested that one thing
20 that's happening in the slide I showed you earlier
21 is what's considered semi-detached today is the
22 end unit of a row of attached houses. And where
23 that's on a corner lot, semi-detached is required
24 to have a 20-foot side yard. That building will
25 now be considered attached and it will only have

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2 to provide an 8-foot side yard. So there was
3 comment about changing that, the way that rules
4 works, to retain the 20-foot side yard.

5 Also Brooklyn Community Board 2 and
6 Manhattan Community Board 4 made comments about
7 the definition of building. Brooklyn Community
8 Board 2 recommended that there be additional
9 elements added to what distinguishes a building.
10 That it should include, every building should have
11 its own separate heating, storm water and plumbing
12 systems. And Manhattan Community Board 4
13 suggested that where firewalls are difficult to
14 distinguish because the building was constructed a
15 long time ago and there were no standards for
16 firewalls, that text lot lines be used to help
17 differentiate buildings prior to going to the
18 level of having the Borough Commissioner of
19 Buildings make that call.

20 So the City Planning Commission did
21 make some modifications based on these comments
22 and other comments from staff. The wide street
23 FAR, the Commission did make a change so that the
24 higher FAR for optional quality housing buildings
25 in non-contextual districts, like a straight R-6

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2 or R-7, only applies within 100 feet of the wide
3 street. And the City Planning Commission also
4 allowed for an extension of time for small and
5 medium size enlargements. They will have an extra
6 year to complete and then after that if they're
7 not complete they would have to--and if they
8 didn't comply with the zoning requirements they
9 would have to tear down some part of their
10 building.

11 So this is just an extension of
12 time to allow the changes that are part of this
13 text amendment to take effect for the small and
14 medium enlargements. Without this, two things
15 would happen. The Department of Buildings would
16 have a lot more work to do to determine the
17 compliance citywide on this text. So the
18 Department of Building really supported breaking
19 that group out and allowing them to wait for a
20 year. And also there would be at least a handful
21 of projects that would either have to go to the
22 Board of Sentence [phonetic] and Appeals to be
23 allowed to finish their project or they would just
24 have to demolish some portion of their project.
25 So the City Planning Commission allows them an

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extra year to finish.

And finally the City Planning Commission actually separated the application into two parts. One part that stays with the original application is a very small piece of the application. The rest of the application is what you have before you today. So the A text is really the whole application minus one sentence. And the one sentence that was part of the original application was deleting a sentence about, maybe I should back up and explain that rule. It's a rule about what your FAR is in R-1 and R-2 districts for community facilities. Back in the 70's you would have an FAR of 1. And then up until the 70's. And then there was a change that community facilities have an FAR of .5 and when that rule was instituted there was something that said for projects that have plans on file with the Department of Buildings, they can have the FAR of 1. They can continue to have the old FAR.

And that sentence is part of a litigation right now. There's a project out in eastern Queens, yes, St. Mary's, that is actually I think it's before the Board of Sentence and

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2 Appeals. A judge recently made a decision on it
3 as well on January 5th I believe. But anyway it's
4 still before the Board of Sentence and Appeals and
5 that part of the application has been set aside to
6 await the outcome. So--

7 MR. WARGO: [Interposing] Yeah the
8 issue there was whether the language of having
9 plans on file before the Department of Buildings
10 at the time of that text amendment was meant to
11 grandfather only those projects that had active
12 building plans before the Buildings Department at
13 that time or whether it could be read to be open-
14 ended and apply to any community facility so long
15 as they had plans on file on that date. So that's
16 what the litigation is about. And we don't want
17 to include that sentence as part of this text
18 amendment until the BSA resolves that litigation.

19 MR. HOLM: Okay so that's a
20 summary. And actually there's a lot more, as you
21 may imagine, that this goes into. So we passed
22 around, you should also have with you a 7-page
23 summary that goes into a little more detail on
24 some of these things. But that's the overview.

25 CHAIRPERSON WEPRIN: Great. I know

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Council Member Vacca has a question.

COUNCIL MEMBER VACCA: Just one or two questions. We're talking about the location of uses within the definition of building? I don't that--these are not paged. Page 4, do you see page numbers--

MR. WARGO: [Interposing] Yeah.

COUNCIL MEMBER VACCA: Oh page 7, I'm sorry. Now what you're talking about here, right now commercial uses are only permitted below the first residential use in the building.

MR. WARGO: Right. Um-hum.

COUNCIL MEMBER VACCA: The result would be, what you're proposing, the second and third stories of the new structure cannot be used for residences since they are on the same story as offices in the zoning building. Just explain that to me.

MR. WARGO: Right. Okay so what we have here, this is the current definition of building. These three buildings in the--these three buildings here, okay under here it says one zoning lot. So these three buildings are on one zoning lot. There's no open space between them so

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they're considered one building today. Okay?

COUNCIL MEMBER VACCA: Yes.

MR. WARGO: And when they're considered one building then this is considered one whole story and you're not allowed to have residential on the same floor as office.

COUNCIL MEMBER VACCA: So you would now say that resident--you're saying now that residential could not be allowed on the same floor.

MR. WARGO: Right.

COUNCIL MEMBER VACCA: Is this meant to encourage people to limit commercial use to the first floor and then go residential above in its entirety? Is that the intent of this?

MR. WARGO: Well it's an old rule. This rule about location of uses is a rule that exists today. So all we're doing is clarifying what the rule is intended to do. It wasn't, we don't believe it was ever intended to restrict residential use in a separate building that's on the same zoning lot.

MR. HOLM: Yeah so going forward with the new definition of building that new

1 building, the one that's very glassy, in the
2 future that will be considered its own building.
3 So each story--well the ground floor will be
4 retail but each of the floors above will be purely
5 residential so that'll be fine.

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7 COUNCIL MEMBER VACCA: Doesn't this
8 affect the zoning computation on new construction
9 when you do things like this?

10 MR. HOLM: No, no, this doesn't
11 affect the amount of floor area--

12 COUNCIL MEMBER VACCA:
13 [Interposing] The FAR--

14 MR. HOLM: --no.

15 COUNCIL MEMBER VACCA: --no, it
16 does not?

17 MR. HOLM: No.

18 COUNCIL MEMBER VACCA: Okay.

19 MR. WARGO: Because the floor area
20 is a based on the zoning lot.

21 MR. HOLM: Right.

22 COUNCIL MEMBER VACCA: All right.
23 You mentioned on page 14, the recess rule in R-6
24 to R-10 contextual districts. Rule permitting
25 recesses will apply to each building separately.

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2 The result will be up to 30% of the street wall of
3 the new building can be re-recessed to provide
4 façade articulation while maintaining street wall
5 continuity. Now I'm just not clear on how does
6 that differ from what we have right now. The
7 current, explain to me what's the impact?

8 MR. WARGO: Well you were reciting
9 slide 14 so this is slide 14. This is what the
10 proposal will allow and require. But this is how
11 the recess rule works today, technically. It says
12 up to 30% of the building can be recessed. And if
13 you look at the bottom of the screen it says one
14 zoning lot. Right? So again if you have one
15 zoning lot and even though these look like two
16 separate buildings to everybody in the--anybody.
17 The zoning today considers this as one building
18 because there's no open space separating the two
19 and therefore this building is 30%, 30% of this
20 whole building is allowed to be recessed away from
21 the street line. So that wasn't intended but
22 that's legal today. And that building is not
23 contributing to the street wall and this building
24 is.

25 COUNCIL MEMBER VACCA: Okay.

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[Off mic comments]

COUNCIL MEMBER VACCA: But there is a reason why people, there is a reason why a developer recesses his building.

MR. WARGO: Yeah and well this again, this is an old rule. So this ratio was worked out a long time ago. And we believe this how the rule was intended to work as proposed. So the rule had a certain allowance for a certain amount of recess built in so you could have courts, for instance, and you could provide--

COUNCIL MEMBER VACCA:
[Interposing] - - guards.

MR. WARGO: --and you could provide more light in there.

COUNCIL MEMBER VACCA:
[Interposing] Yeah. Right.

MR. WARGO: Right. You can still do that with the proposal because this is what was intended anyway.

MR. HOLM: Yeah this rule applies in the high density commercial districts that, you know, are R-8, R-9 and R-10 contextual districts. And these are, the contextual districts are the

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2 districts where we want a strong street wall
3 presence. And so where there are neighborhoods
4 where we want this strong street wall presence, we
5 map them as these contextual districts. There are
6 other R-7, 8 and 9 districts where we don't care
7 so much about a strong street wall presence and
8 those we don't map as contextual. So those would
9 have, those buildings would have, you know,
10 complete freedom to have all the recesses they
11 want. But where we take a lot of care to map
12 certain neighborhoods as contextual we don't want
13 people evading those street wall requirements that
14 people expect when the new buildings go up. So
15 this is really just to ensure that what was
16 intended by the Commission actually gets built in
17 reality.

18 COUNCIL MEMBER VACCA: Okay. Last
19 question page 17. Community facility height and
20 setback is applicable in the R-1 to R-5. The
21 current rule, now the picture under the proposed
22 rule looks much better than the picture under the
23 current rule but what is the effect? The current
24 rule applies to the entire building. The proposed
25 rule applies to the residential portion of the

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2 building containing residential and community
3 facility uses. How could the residential portion
4 of the building contain a community facility use?

5 MR. WARGO: Well the idea is that
6 the residential, in the proposal, the residential
7 portion has to comply with the residential height
8 and setback and the community facility part of the
9 building has to comply with community facility
10 height and setback. So with the community facility
11 on the ground floor complying with height and
12 setback it's easy, right? It's only one story
13 high. But the residential portion is higher than
14 that. That's, in this case, that's where you see
15 the difference.

16 COUNCIL MEMBER VACCA: So the
17 difference would be that we could expect more
18 residential development.

19 MR. HOLM: No--

20 MR. WARGO: [Interposing] No--

21 MR. HOLM: --this doesn't change--
22 this doesn't change the amount of floor area
23 that's permitted in any way. It just affects the
24 configuration. So whoever you have these
25 combinations of residential and community facility

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2 uses in these districts which we often have, this
3 ensures that when they're built they respect the
4 scale and character of the residential neighbors.
5 Today they don't have to. Today they can be much
6 taller by being built under the community facility
7 sky exposure plane.

8 COUNCIL MEMBER VACCA: How does the
9 designation of a district as a lower growth
10 management district impact upon these?

11 MR. HOLM: Well the lower density
12 growth management areas have by and large stricter
13 regulations than the city at large. For instance
14 we just adopted a text amendment for medical
15 offices and daycare centers which make those uses,
16 those community facility uses, subject to the
17 residential height and setback regulations. This
18 doesn't go that far. This just says that when you
19 have a combination of residential and community
20 facility uses in the rest of the city that the
21 residential portion must be built under the
22 residential height and setback regulations so that
23 these buildings are going to be much more
24 compatible with the residential neighborhoods
25 going forward.

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2 COUNCIL MEMBER VACCA: Okay. Thank
3 you.

4 CHAIRPERSON WEPRIN: Anybody else
5 have any comments or questions? No? Okay great.
6 Well we're going to move to close this hearing.
7 Thank you very much.

8 MR. WARGO: Thank you.

9 CHAIRPERSON WEPRIN: Okay. I do
10 want to acknowledge that we do have testimony from
11 the Real Estate Board of New York in support of
12 this, as you mentioned, they were part of the
13 negotiation, but they cite many of the factors as
14 reasons they support it as well. So therefore we
15 are closing this hearing. We will now move to
16 couple these items that we have heard today which
17 would be coupling Land Use Number 280 in Brooklyn,
18 that's 2011-5171; and Land Use Number 302, the Key
19 Terms Text Amendment we just heard, N110-090 ZRY.
20 AZRY. And I would call on the counsel, Carole
21 Shine to please call the roll.

22 MS. CAROL SHINE: Chair Weprin.

23 CHAIRPERSON WEPRIN: Aye.

24 MS. SHINE: Council Member Reyna?

25 COUNCIL MEMBER REYNA: I vote aye.

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MS. SHINE: Council Member Comrie.

COUNCIL MEMBER COMRIE: I want to congratulate City Planning on all of the work that they did to get to the point where they could bring the Key Terms Text Amendment clarification and update to us. It required a lot of collaboration between the City Planning agencies and outreach to make sure that all of the interested parties could be involved. And as you can see they had unanimous support and adoption from all of the Community Boards which is no small feat, and the Real Estate Board agreeing with it. So I just wanted to congratulate the entire City Planning Staff and especially, I blanked on your names already, but the two gentlemen that did the presentation, they were the key leaders of making this happen 'cause I know it was a major effort. It started as a result of a technical lawsuit but it's actually come up with clearing up a lot of things and to make life a little bit simpler in an un-simple world. Aye on all.

MS. SHINE: Council Member

Seabrook.

COUNCIL MEMBER SEABROOK: I vote

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aye on all.

MS. SHINE: Council Member Vacca.

COUNCIL MEMBER VACCA: I vote aye.

MS. SHINE: Council Member Ignizio.

COUNCIL MEMBER IGNIZIO: Yes.

MS. SHINE: LUs 280 and 302... oops...

Council Member Jackson.

COUNCIL MEMBER JACKSON: I vote aye

on all.

MS. SHINE: LU 280 and 302 are

approved by a vote of 7 in the affirmative, none

in the negative and no abstentions.

CHAIRPERSON WEPRIN: Thank you very

much Ms. Shine. Gentlemen I would be remiss if I

didn't acknowledge what Mr. Comrie did, that this

was quite an undertaking and the tedious and long

process was well worth it and thank you very much.

We are going to leave the rolls open considering

there are a couple of meetings going on at the

same time. And we just got to have some members

show up. But we're going to leave those rolls

open until the members of the Education Committee

can vote and with that in mind thank you very

much. And pending the open vote, the meeting is

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now adjourned.

[Gavel banging]

[Pause]

MS. SHINE: Council Member Lappin?

COUNCIL MEMBER LAPPIN: Aye.

MS. SHINE: The vote stands at 8 in
the affirmative, none in the negative and no
abstentions.

COUNCIL MEMBER LAPPIN: Meeting
adjourned.

[Gavel banging]

MS. SHINE: Perfect.

COUNCIL MEMBER LAPPIN: Thank you.

C E R T I F I C A T E

I, Laura L. 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 L. Springate_____

Date _____January 29, 2011_____