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SUBCOMMITTEE ON ZONING AND FRANCHISES

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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February 23, 2023
Start: 1:30 p.m.
Recess: 1:53 p.m.

HELD AT: 250 BROADWAY - COMMITTEE ROOM,
14TH FLOOR

B E F O R E: Kevin C. Riley, Chairperson

COUNCIL MEMBERS:

Shaun Abreu
David M. Carr
Farah N. Louis
Francisco P. Moya
Lynn C. Schulman

2 SERGEANT-AT-ARMS: This is a microphone
3 check for the Subcommittee on Zoning and Franchises
4 located on the 14th Floor, recorded by Nazly Paytuvi
5 on February 23, 2023. May the host please start the
6 webinar?

7 HOST: Webinar has been started.

8 SERGEANT-AT-ARMS: Thank you. Good
9 afternoon and welcome to today's New York City
10 Council hearing for the Subcommittee on Zoning and
11 Franchises.

12 At this time, please silence all
13 electronic devices.

14 Chair, we are ready to begin.

15 CHAIRPERSON RILEY: [GAVEL] Good
16 afternoon, everyone, and welcome to the meeting of
17 the Subcommittee on Zoning and Franchises.

18 I am Council Member Kevin Riley, Chair of
19 the Subcommittee. I am joined today by Chair Louis,
20 Council Member Abreu, Council Member Carr, and
21 remotely by Council Member Moya.

22 Today, we will vote on two parking
23 special permits in Manhattan that were heard by the
24 Subcommittee on January 24th. We will also hold a
25

2 public hearing on a zoning text amendment proposed in
3 Manhattan.

4 Before we begin, I recognize the
5 Subcommittee Counsel to review the hearing
6 procedures.

7 COMMITTEE COUNSEL HUH: Thank you, Chair
8 Riley. I am Arthur Huh, Counsel to the Subcommittee.

9 This meeting is being held in hybrid
10 format. Members of the public who wish to testify may
11 do so in person or remotely via Zoom.

12 Members of the public wishing to testify
13 remotely may register by visiting the New York City
14 Council website at www.council.nyc.gov/landuse to
15 sign up or for anyone here with us in person please
16 see one of the Sergeants-at-Arms to submit a speaker
17 card.

18 Members of the public may also view a
19 livestream broadcast of this meeting at the Council's
20 website.

21 When you are called to testify before the
22 Subcommittee, if you are joining us remotely, you
23 will remain muted until recognized by the Chair. When
24 the Chair recognizes you, your microphone will be
25 unmuted. Please take a moment to check your device

2 and confirm that your microphone is on before you
3 begin speaking.

4 Public transportation will be limited to
5 two minutes per witness. If you have additional
6 testimony you would like the Subcommittee to consider
7 or if you have written testimony you would like to
8 submit instead of appearing before the Subcommittee,
9 you may send it via email to
10 landusetestimony@council.nyc.gov. Please indicate the
11 LU number and/or project name in the subject line of
12 your email.

13 We request that witnesses joining us
14 remotely remain in the meeting until excused by the
15 Chair as Council Members may have questions.

16 Finally, there will be pauses over the
17 course of this meeting for various technical reasons,
18 and we ask that you please be patient as we work
19 through any issues.

20 Chair Riley will now continue with
21 today's agenda.

22 CHAIRPERSON RILEY: Thank you, Counsel.
23 Today, we will vote to disapprove LU numbers 165 and
24 166 relating to the 213-227 West 28th Street Parking
25 Special Permits in Council Member Bottcher's District

2 in Manhattan. These applications requested zoning
3 special permits pursuant to Section 13-45 and 13-451
4 of the Zoning Resolution to allow two accessory
5 parking facilities with a combined maximum capacity
6 of 77 parking spaces on portions of the ground floor
7 cellar and sub-cellar levels of two adjacent mixed-
8 use as-of-right development.

9 Now, I'm going to read a statement by
10 Council Member Bottcher and note that a written copy
11 of these remarks will be submitted to the record.

12 This part of Chelsea that includes the
13 site of these parking applications has seen an
14 increase in pedestrians, bicyclists, busses,
15 rideshare services, and taxis in recent years. The
16 transportation system here has evolved with the City
17 adding Citi Bike stations, bike lanes, bus lanes, a
18 dedicated busway, sidewalk widenings and other
19 pedestrian improvements, and subway infrastructure
20 improvements by the MTA with still more to come. In
21 fact, if you look at Zillow listings for these
22 buildings, you'll see that the Walk Score is 99 out
23 of 100, the Bike Score is 95, and the transit score
24 is 100. It is increasingly easy to get around without
25 a car, and we want that trend to continue. To give

1 you a sense of the bountiful transit options at this
2 location, just a few steps to the 1 Train at 28th
3 Street, a few blocks to the C and E Trains at West
4 23rd Street and 8th Avenue, or the D, F, and M Train
5 as well as the PATH Train to Jersey at West 23rd and
6 6th Avenue and less than a 10-minute walk to two of
7 the most well-connected transit hubs in North America
8 at Penn Station and Moynihan Train Hill and Herald
9 Square, Greeley Square including access to Amtrak
10 Intercity Rail and the Acela High Speed Network, the
11 Long Island Railroad and the New Jersey Transit
12 Commuter Rail System, the PATH Train and the 1, 2, 3,
13 A, B, C, D, E, F, M, N, Q, R, and W subway trains.
14 Also within a ten-minute walk, there's access to the
15 M34 SBS and the M23 SBS Rapid Busses as well as nine
16 local busses and 32 out-of-borough express busses.
17 That's a lot of transit. Beyond that, the Penn
18 Station Access Project is expected to bring Metro
19 North Commuter Rail services to Penn Station by 2027.
20 Cutting carbon emissions in this neighborhood is
21 vitally urgent action considering that in large part
22 due to vehicle traffic, CB5 already has the worse air
23 pollution in the city rated at a 9.2 PM 2.5
24 micrograms per cubic meter and keep in mind that
25

conservative estimates count PM 2.5 air pollution as the cause of at least 5 percent of deaths and hospitalizations for at least 6,300 New Yorkers annually. The applicant has indicated that their intention is to accommodate electric vehicles at 25 of the 77 parking spaces they are proposing and to be prepared to potentially accommodate electric vehicles at the remaining spaces. However, we don't know how long it will take before all or even just a significant amount of garage users will be driving EVs nor is there any guarantee that they will as the developer will not control the vehicle type of garage users given their intent to sell the parking spaces. In the meantime, those spaces will be accommodating gas engine vehicles. Furthermore, there's no guarantee that all the remaining spaces would be electrified. I will note, in closing, that over the course of a lengthy public review process these are some of the reasons that formed the basis of the Community Board and the Borough President's vote for disapproval. Given all these factors, I cannot support this application and must recommend disapproval by the Subcommittee.

One second please.

I would also like to give comments on this project. As we confront the ongoing existential threat of climate change, the New York City Council is committed to doing everything we can to reduce the City's greenhouse gas emissions. In 2019, the Council took unprecedented actions when it passed the Climate Mobilization Act, and we remain strongly committed today to reducing the city's greenhouse gas emissions by 40 percent by 2030 and by 80 percent by 2050.

Recognizing the far-reaching consequences of climate change, the need to act immediately, the State followed suit and established its own ambitious emissions goal in 2019. However, enacting legislation is not enough. We must make sure that all actions that we make as Council Members undertake bring us closer to achieving our State emissions reduction goal. We will not reach those goals through a single action or project. The need reductions will only be achieved through incremental steps. While these may seem negligible on their own, their effect will make a real difference. Vehicle traffic accounts for 21 percent of the city's greenhouse gas emissions, and every project implicating vehicular traffic has to do its part. Achieving the emissions targets is non-

2 negotiable as the City's very ability to function
3 properly will be impaired unless we reach these
4 goals. The additional parking requested by these
5 special permits application is located in an area
6 that is very well-served by public transit. As stated
7 by Council Member Bottcher, the proposed parking is
8 located next to no less than four subway lines, a
9 regional train station as well as multiple bus lines.
10 Not surprisingly, 83 percent of the residents in this
11 area do not have access to a vehicle and instead rely
12 on this great public transit access. Yet, the
13 applicant is requesting a parking ratio for the
14 proposed buildings of 39 percent in strong contrast
15 to the modest car use of area residents. According to
16 the applicant, neither the need to commute nor the
17 neighborhood's economic viability is driving the need
18 for these applications but rather the desire by the
19 developers of this new luxury housing to facilitate
20 weekend getaways. In 1982, the City Planning
21 Commission adopted the current parking limitation
22 explicitly to reduce parking in the Manhattan Core
23 because the air quality was so bad. As Council Member
24 Bottcher referred to, 40 years later, the air quality
25 in this neighborhood remains amongst the worst in

1 this City. The 2011 Manhattan Core Parking Study also
2 makes clear that allowance for additional parking was
3 intended to accommodate certain uses such as
4 hospitals and sites of large public assembly.
5 Noticeably, missing from these uses is the sale for
6 hundreds of thousands of dollars of such accessory
7 spaces to facilitate private vehicle use in high-end
8 residential projects. Besides the academic study that
9 the Manhattan Borough cited in his recommendation, I
10 am entering into record three additional studies that
11 make it clear the more parking there is in a
12 building, the more likely a household will own and
13 use a car. I am also submitting for the record both
14 the 1982 CPC resolution and the 2011 Manhattan Core
15 Parking Study.
16

17 Finally, it is important to note that the
18 applicant here is under no legal obligation to
19 actually provide electrical charging stations. There
20 is also no guarantee that the people who will buy or
21 rent these additional parking spaces will choose to
22 use electric vehicles. Therefore, these applications
23 amount to a request to set aside the need for
24 everyone to do their part in reducing greenhouse gas
25 emissions and to facilitate the luxury lifestyle of a

2 select few. Following a lengthy public review process
3 and having considered the applicant's arguments for
4 the additional parking against consideration I just
5 discussed, I support Council Member Bottcher in his
6 opposition to these applications and recommend a
7 disapproval.

8 I now call for a vote to disapprove LUs
9 165 and 166 for the 213-227 West 28th Street Parking
10 Special Permit.

11 Counsel, please call the roll.

12 COMMITTEE COUNSEL HUH: Chair Riley.

13 CHAIRPERSON RILEY: Aye.

14 COMMITTEE COUNSEL HUH: Council Member
15 Moya.

16 COUNCIL MEMBER MOYA: I vote aye.

17 COMMITTEE COUNSEL HUH: Council Member
18 Louis.

19 COUNCIL MEMBER LOUIS: I vote aye.

20 COMMITTEE COUNSEL HUH: Council Member
21 Abreu.

22 COUNCIL MEMBER ABREU: Aye to disapprove.

23 COMMITTEE COUNSEL HUH: Council Member
24 Schulman.

2 COUNCIL MEMBER SCHULMAN: Aye to
3 disapprove.

4 COMMITTEE COUNSEL HUH: Council Member
5 Carr.

6 COUNCIL MEMBER CARR: Aye.

7 COMMITTEE COUNSEL HUH: Chair, by a vote
8 of six in the affirmative to disapprove LUs 165 and
9 166, the vote is adopted and referred to the full
10 Land Use Committee.

11 CHAIRPERSON RILEY: Thank you, Counsel. I
12 failed to mention we've been joined by Council Member
13 Schulman.

14 I will now open the public hearing on the
15 Preconsidered LUs related to the ULURP number 230045
16 ZRN relating to the Otis Elevator Building at 260
17 Eleventh Avenue in Council Member Bottcher's District
18 in Manhattan. This application seeks a zoning text
19 amendment to modify provisions of the Special West
20 Chelsea District.

21 For anyone wishing to testify on this
22 item remotely, if you have not already done so you
23 must register online, and you may do that now by
24 visiting the Council's website at
25 council.nyc.gov/landuse.

2 Once again, for anyone with us in person,
3 please see one of the Sergeants-at-Arms to prepare
4 and submit a speaker's card.

5 Counsel, please call the first panel for
6 this item.

7 COMMITTEE COUNSEL HUH: The applicant
8 panel will include Gene Travers, land use counsel for
9 the applicant, and Alan Reagan on behalf of the
10 developer.

11 CHAIRPERSON RILEY: Counsel, please
12 administer the affirmation.

13 COMMITTEE COUNSEL HUH: Panelists, would
14 you please raise your right hands. I will ask each of
15 you in turn to answer the following.

16 Do you affirm to tell the truth, the
17 whole truth, and nothing but the truth in your
18 testimony before this Subcommittee and in answer to
19 all Council Member questions? Mr. Travers.

20 GENE TRAVERS: I do.

21 COMMITTEE COUNSEL HUH: Mr. Reagan.

22 ALAN REAGAN: I do.

23 COMMITTEE COUNSEL HUH: Thank you.

24 CHAIRPERSON RILEY: Thank you. For the
25 viewing public, if you need an accessible version of

2 this presentation, please send an email request to
3 landusetestimony@council.nyc.gov.

4 Now, the applicant team may begin.

5 Panelists, as you begin, I would just ask that you
6 state your name and organization for the record and
7 you may begin.

8 GENE TRAVERS: Thank you. Good afternoon,
9 Chair Riley and Council Members. My name is Gene
10 Travers. I'm a land use attorney with Kramer Levin
11 Naftalis and Frankel. I'm joined by Alan Reagan of
12 Vornado Realty Trust on behalf of the applicant, and
13 we are to present the Otis Elevator Building Text
14 Amendment. Next slide, please.

15 I'm just going to start by giving a very
16 brief history to kind of set the table for the
17 actions that are being requested. First of all, this
18 site is within the Special West Chelsea District
19 which was adopted in 2005. We're also located in the
20 West Chelsea Historic District which was adopted in
21 2008. In 2009, a prior owner of this site secured a
22 zoning amendment to address a split-lot condition
23 which we'll discuss in a moment, but for the time-
24 being you should just be aware that that application
25 was approved by Community Board 4 and it applied to

1 this development site only. In 2015, the applicant
2 entered into its ground lease for the site, and in
3 2019 we obtained a Certificate of Appropriateness
4 from the Landmarks Preservation Commission. That
5 application was also approved by Community Board 4.
6 We filed a draft of our Land Use Application in 2020,
7 and that's the application that's before you today.
8 Next slide, please.

10 Where we are currently, first and
11 foremost, there's no change to the design that was
12 previously approved by the Community Board and LPC.
13 What we are seeking are technical adjustments to the
14 Zoning Resolution they're going to need to actually
15 build that previously approved project. Specifically,
16 we're looking to amend the height and setback
17 regulations of the Special District to allow the LPC-
18 approved enlarged of the Otis Building, and we're
19 also looking to amend that zoning text that was
20 adopted in 2009 just to ensure that it will continue
21 to apply to this project area once the zoning lot is
22 enlarged. Similar to the 2009 zoning text amendment,
23 these changes are going to be limited to this site
24 only. We're happy to report that Community Board 4

2 and Borough President Levine recommended approval of
3 this application. Next slide, please.

4 Just to orient ourselves, we are on
5 Eleventh Avenue between West 27th and West 26th
6 Streets. We are in Council Member Bottcher's
7 District. The project area consists of three
8 different tax lots. Tax lot 1 is the Otis Elevator
9 Building site, and it also includes a vacant surface
10 parking lot along West 27th Street. Tax lot 6 is
11 occupied by a six-story commercial building known as
12 the John Williams Building. Tax lot 10 is occupied by
13 a one-story commercial building. Next slide, please.

14 This is a rendering of the proposed
15 condition. The project is going to consist of a
16 renovation of the Otis Elevator Building, the John
17 Williams Building as well as the construction of a
18 new structure on the vacant parking lot located
19 behind the two buildings as you can see here. Those
20 three structures are going to be interconnected.
21 They're going to operate as a single building under a
22 single certificate of occupancy. Next slide, please.

23 This is a rendering along West 27th
24 Street. You can see the new structure on the vacant
25 parking lot more clearly. Next slide, please.

2 This is a rendering on 26th Street. You
3 can see the renovated Otis Building and John Williams
4 Building in the backgrounds. In the foreground is the
5 one-story commercial building with the slanted roofs
6 on lot 10, and then you can see the new structure on
7 the parking lot rising up and over the existing
8 structures, and it's really this setback enlargement
9 that's driving the need for the first of our
10 requested zoning text amendments. Next slide, please.

11 The current Zoning Regulations mandate a
12 uniform street wall up to a height of 125 feet. The
13 problem is that the Otis Elevator Building is only
14 111 feet tall. This means that an as-of-right
15 enlargement under the current regulations would need
16 to be located at the street line and rise to a height
17 of 125 feet before a setback could be incorporated.
18 As you can see in the diagram on the left, this
19 enlargement would overwhelm the historic building, it
20 would be significantly visible from the street, and
21 that's why LPC approved our minimally visible setback
22 design shown in the diagram on the right. What we're
23 seeking to change with the text amendment is to make
24 the minimum base height equal to the existing height
25 of the building, and that's going to allow our

2 setback enlargement to occur on an as-of-right basis.

3 Next slide, please.

4 The second text amendment involves a
5 technical adjustment to that floor area provision
6 that was adopted in 2009 specifically for this site.
7 That 2009 provision was created to ensure that the
8 overbuilt condition of the Otis Building in the C6/3
9 district portion of the site would not
10 unintentionally diminish the development potential of
11 the vacant M1/5 portion of the site, and the way that
12 2009 provision works is that it allows the floor area
13 ratio in the C6/3 district to be increased to cure
14 the overbuilt condition of the Otis Building by
15 making a contribution to the Highline Improvement
16 Fund. As drafted, that 2009 provision applies only to
17 zoning lots existing prior to June 23, 2005. That was
18 the date of adoption of the Special District. The
19 requested amendment would simply remove that
20 limitation to ensure that the provision continues to
21 apply to the enlarged zoning lot so what you're
22 looking at is the zoning lot as it exists today. Next
23 slide, please.

24 This diagram shows the zoning lot as
25 proposed inclusive of lot 10, and lot 10 is part of

2 the project because the excess floor area is actually
3 used in the previously approved design by LPC. Again,
4 these changes that are being requested are just to
5 ensure that the previously approved design can
6 actually be constructed.

7 That concludes our presentation. We hope
8 we can count on your support of this project and
9 happy to answer any questions.

10 CHAIRPERSON RILEY: Thank you so much. I
11 just have one question before I open it up to my
12 Colleagues. You may have mentioned this during the
13 presentation, but are there any other specific sites
14 to which this text amendment would apply?

15 GENE TRAVERS: Although we are removing
16 that time limitation, the text as drafted will still
17 only apply to this development site. We went through
18 a very thorough analysis with City Planning, and the
19 reason that is is because this is the only site
20 within the Special District that presents the
21 specific condition of an overbuilt building in C6/3
22 built to greater than 5 FAR but less than the max of
23 7.5 and an underbuilt portion in the M1/5 District.
24 This is the only one that presents that situation.

2 You couldn't recreate it so this provision as amended
3 will continue to only apply to this site.

4 CHAIRPERSON RILEY: Okay. Thank you.

5 GENE TRAVERS: You're welcome.

6 CHAIRPERSON RILEY: Do any Council Members
7 have any questions?

8 There being no questions, this applicant
9 panel is excused.

10 Counsel, are there any members of the
11 public who wish to testify on the Otis Elevator
12 Building Proposal remotely or in person?

13 COMMITTEE COUNSEL HUH: If there are any
14 members of the public who wish to testify on the Otis
15 Elevator Building Proposal, please use the raise hand
16 button now if participating remotely or, if you are
17 here with us in person and wish to testify, please
18 see one of the Sergeants to submit a speaker card.

19 CHAIRPERSON RILEY: There being no members
20 of the public who wish to testify on the
21 Preconsidered LUs related to the ULURP number 230045
22 ZRM relating to the Otis Elevator Building 260th
23 Eleventh Avenue Proposal, the public hearing is now
24 closed, and the item is laid over.

2 That concludes today's business. I would
3 like to thank the members of the public, my
4 Colleagues, Subcommittee Counsel, Land Use and other
5 Council Staff and Sergeant for participating in
6 today's hearing. This meeting is hereby adjourned.

7 [GAVEL]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date February 25, 2023