

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 6, 2011

Start: 10:10 am

Recess: 11:10 am

HELD AT: Committee Room  
250 Broadway, 16th Floor

B E F O R E:

MARK S. WEPRIN  
Chairperson

COUNCIL MEMBERS:

Mark S. Weprin  
Leroy G. Comrie, Jr.  
Daniel R. Garodnick  
Robert Jackson  
Jessica S. Lappin  
Diana Reyna  
Joel Rivera  
Larry B. Seabrook  
James Vacca  
Vincent M. Ignizio  
Domenic M. Recchia, Jr.  
Margaret Chin  
Stephen Levin

## A P P E A R A N C E S

Michael Kelly  
Urban Rustic, LLC  
dba Lodge

Wilson Tsao  
Co-owner  
Super Noodle, Inc.  
dba Old Town Hot Pot

Nick Hockens  
R. A. Real Estate

Robert A. Zorn  
R.A. Real Estate

Jay Segal  
Land Use Counsel  
R. A. Real Estate

Melinda Katz  
R. A. Real Estate

Lish Whitson  
Planner for Boerum Hill  
NYC Department of City Planning

Purnima Kapur  
Director of Brooklyn Office  
NYC Department of City Planning

Dwight Smith  
Vice President  
Boerum Hill Association

Howard Kolins  
President  
Boerum Hill Association

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

Betty Cohen  
Director of Corporate Relations  
Century 21

Richard Lobel  
Sheldon Lobel, P.C.  
Representing Century 21

Randall Minor  
Land Use Attorney  
Greenberg Taurig

Deirdre Carson  
Shareholder  
Greenberg Taurig

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2 CHAIRPERSON WEPRIN: Thank you, Mr.  
3 Economou. Ladies and gentlemen, good morning. My  
4 name is Mark Weprin. I'm chair of the Zoning and  
5 Franchises Subcommittee of the Land Use Committee.  
6 I am delighted to be joined this morning by my  
7 colleagues Jimmy Vacca, Joel Rivera, Diana Reyna,  
8 Jessica Lappin and Dan Garodnick and Larry  
9 Seabrook from the committee. Is he still here, he  
10 walked out, Domenic. We have a special guest of  
11 Domenic Recchia and his lovely daughter, who are  
12 here today as well.

13 We're going to get started right  
14 away. We have a few cafes we're going to start  
15 with first. The first item is Land Use No. 444,  
16 it's called Lodge. We'd like to call on Michael  
17 Kelly. Right on time there, Mr. Kelly; if you  
18 could, please describe the café application.

19 MICHAEL KELLY: Good morning,  
20 Chairman, Council Member Reyna and members of the  
21 Council. My name is Michael Kelly. I'm  
22 representing Urban Rustic, LLC, doing business as  
23 Lodge. They are located at 318 Grand Street in  
24 Brooklyn.

25 I would like to read into the

1  
2 record the following. To conform with the latest  
3 DCA rules, we agree with Council Member Reyna to  
4 submit new sidewalk café plans, showing the metal  
5 gratings that are currently on the sidewalk. The  
6 café currently consists of 11 tables with 22  
7 seats, and has been in operation since the year  
8 2005. Thank you.

9 CHAIRPERSON WEPRIN: Thank you very  
10 much. Council Member Reyna would like to speak on  
11 this matter.

12 COUNCIL MEMBER REYNA: Thank you,  
13 Mr. Chair. I just wanted to thank Mr. Kelly for  
14 just being able to accommodate what were certain  
15 unclear facts as far as this grating is concerned.  
16 Normally, a sidewalk café over a grate is not  
17 allowed. But there needs to be an explanation as  
18 to what this grate is, because it's neither a  
19 transformer nor a subway grate. Correct me if I'm  
20 wrong.

21 MICHAEL KELLY: It's basically  
22 ventilation that leads down to the office that's  
23 in the basement.

24 COUNCIL MEMBER REYNA: And the  
25 ventilation grate, it isn't reflected in the

1  
2 architectural plans that are filed with the  
3 Department of Consumer Affairs. We have this  
4 particular matter that was raised because no one  
5 could answer what the grate was for, other than  
6 the business owner and yourself, representing the  
7 business owner.

8           So we just wanted to make sure that  
9 for future clarity that your architectural plans  
10 are reflecting that this is not a hazard to the  
11 public, that your client, as far as Urban Rustic  
12 and the Lodge, or DBA the Lodge, which I am a huge  
13 fan and patron of, is able to continue to do  
14 business without any liabilities.

15           We want to thank you for just  
16 making sure that you were able to reflect those  
17 particulars by resubmitting what would be a  
18 correction to and design factor with an  
19 explanation of what the grate is intentionally  
20 for.

21           MICHAEL KELLY: Yes.

22           COUNCIL MEMBER REYNA: Thank you so  
23 much.

24           MICHAEL KELLY: Thank you.

25           CHAIRPERSON WEPRIN: Does anyone

1  
2 else have any comments or questions on this  
3 matter. All right, well thank you very much, Mr.  
4 Kelly.

5 MICHAEL KELLY: Thank you.

6 CHAIRPERSON WEPRIN: Thank you.

7 The next item on our agenda is Land Use No. 449,  
8 which is in Speaker Quinn's district. It is going  
9 to be laid over. That's Mezzogiorno Associates.  
10 We are going to wait for the next meeting to  
11 consider that item.

12 Now, we're going to move on to Land  
13 Use No. 450. This is the Old Town Hot Pot, and  
14 Mr. Wilson Tsao, I think I pronounced that right.  
15 Good morning, sir. I think the mike is on already  
16 there. Please state your name again for the  
17 record and describe your sidewalk application.

18 WILSON TSAO: My name is Wilson  
19 Tsao, actually as a co-owner of the Super Noodle,  
20 Inc, dba as Old Town Hot Pot. So I represent the  
21 present to show up at this hearing. We agree to  
22 reduce our seats and chairs from 13 tables to 12  
23 tables, and seats from 25 to 24, and we will  
24 especially remove the one chair and the one table  
25 at the bottom line of the café. That's the east

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most part, and we agree to do that.

CHAIRPERSON WEPRIN: Thank you, Mr. Tsao. I have a letter that specifies exactly what you just said, from a Tao On [phonetic]. Who is that?

WILSON TSAO: That's the president. I'm the co-owner.

CHAIRPERSON WEPRIN: Okay, great. I know this has been in discussions with Speaker Quinn's office. I'm getting the nod of the head that she is fine with this discussion and this agreement of this letter of limiting the tables by one and the seats by one as well.

WILSON TSAO: Correct.

CHAIRPERSON WEPRIN: Okay. That's great. Peter says we have the plans and everything is fine. That's always a good thing. Does anyone have any comments or questions to disrupt this fine application? No? Great, well thank you much, sir. We appreciate you coming down.

WILSON TSAO: Thank you very much.

CHAIRPERSON WEPRIN: Thank you. Now, we're going to move on to the main card here.

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2 The next item is going to be Land Use No. 451  
3 through 455 inclusive. This is in Council Member  
4 Recchia's district. It's known as Ocean Dreams.  
5 I'd like to call on a group of people: Nick  
6 Hockens, Robert Zorn, Jay Segal, and we would be  
7 remiss not to acknowledge the presence of our old  
8 friend Melinda Katz, former chair of the Land Use  
9 Committee of the City Council. It's good to see  
10 her here again. Gentlemen, you know the drill.

11 JAY SEGAL: May I start? Thank  
12 you. Morning, my name is Jay Segal. I'm the land  
13 use counsel for the owner of this property. The  
14 property is shown here. It's between Surf Avenue  
15 and the Boardwalk on the western portion of Coney  
16 Island. It's approximately two and a half acres.

17 You can see immediately to the west  
18 is Seagate. There's some city housing over here,  
19 and some community facilities that surround it.  
20 The property has been unimproved for about 50  
21 years.

22 This is an application to enable us  
23 to construct the project you see outlined over  
24 there, which is approximately 428,000 square feet.  
25 There would be three towers: 14 stories, 22

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stories and 18 stories.

Looking at it more closely, from the Boardwalk area, there would be a lot of amenity space between these taller parts of the building. There would be place for parking. These units, there'll be 415 rental units at market rate. There would be a supermarket over here on Surf Avenue that the community was very interested in seeing. There are no fresh food stores in the area. On the Boardwalk, we would have a restaurant and local retail, a total of about 25,000 square feet.

The land use actions that would allow us to construct this building are a rezoning from the current R6A to R7-3 with a commercial overlay and some special permits. The reason for the special permits, are primarily three of them. One is in order to have the amount of parking that the development would require, we've had to put two levels above ground, and that requires a waiver. In order to have retail on the Boardwalk, we need a waiver because it's much higher than Surf Avenue, and you're not allowed to have commercial over the residential. And in order to

1  
2 move the buildings away from Seagate, we needed a  
3 height and setback waiver.

4 Are there any questions?

5 CHAIRPERSON WEPRIN: Before I get  
6 to that, Council Member Recchia represents this  
7 area in Coney Island and would like to speak and  
8 just tell us how dreamy Ocean Dreams is.

9 COUNCIL MEMBER RECCHIA: First of  
10 all, I just want to thank the Chair Mark Weprin  
11 and all the committee members. This is one of the  
12 last actions for Coney Island that we have to  
13 take.

14 This project is something that  
15 years ago the owner of this property was going to  
16 build three and four-family houses. It was the  
17 community and the community board and myself that  
18 went to the owner of the property and met with  
19 him, because it was very important that we needed  
20 more rental properties that were going to be  
21 affordable, but more importantly, we needed a  
22 supermarket and we needed a mechanism to build up  
23 the west end of the Boardwalk.

24 As you can see in the photos that  
25 you have before you, this end of the Boardwalk was

1  
2 desolate. There were no stores, no rides, no  
3 entertainment. And the people who live in this  
4 end of Coney Island for years have been  
5 complaining about a supermarket and what about our  
6 end of the Boardwalk. So what this developer did,  
7 he really went out of his way by addressing the  
8 issues that were important to the community.

9           The stores that are going to be  
10 placed on the Boardwalk are going to be more  
11 employment for the community. The developer has  
12 committed to hiring local, the people from the  
13 local community. That's very important to the  
14 community and to the people of Coney Island that  
15 the local people who live there, for the over  
16 50,000 residents, that they get the jobs, they get  
17 the construction jobs, they get the permanent  
18 jobs. We've been meeting with this developer and  
19 we've been working everything out.

20           So I strongly support this. It's  
21 like I said, it was the community and my idea to  
22 build up this high. The original owner, who still  
23 owns the property, never wanted to build this. He  
24 was happy with three-family houses. It was the  
25 community that really needed to build up the west

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2 end of the Boardwalk. Believe it or not, these  
3 stores are very important because we don't know,  
4 and the owner doesn't know, he's taking a big risk  
5 in whether he can rent them out and whether  
6 they'll be profitable and businesses will be able  
7 to survive. But we have to try it. He's willing  
8 to work with the community and try.

9           Again, as you can see by that  
10 photo, there is no supermarket in this area for  
11 Seagate and everyone else that lives there. Just  
12 to answer Vincent Ignizio's question: Yes, this is  
13 in Zone A. So everybody was evacuated. That's  
14 why we have to build up two stories high for the  
15 parking lot, because you can't go under in Coney  
16 Island. You can't go down, you could only go up.

17           I just want to give a shout out to  
18 Purnima who's here. Purnima, it's always a  
19 pleasure to see you. I just want to thank Gail  
20 Benjamin and her staff for working with this. So  
21 that's all I had to say.

22           CHAIRPERSON WEPRIN: Thank you,  
23 Council Member Recchia. I apologize; I forgot to  
24 mention the aforementioned waterlogged Vincent  
25 Ignizio who joined us some time ago. Just one

1  
2 question gentlemen. I know that Council Member  
3 Recchia kept referring to a supermarket. It's my  
4 understanding that the developer does know  
5 something about supermarkets. Is he willing to  
6 guarantee that in finding a supermarket, if all  
7 else fails for other people that he indeed is  
8 willing to develop one, put one in there himself?

9 JAY SEGAL: Absolutely.

10 CHAIRPERSON WEPRIN: Okay. Any  
11 questions? Mr. Rivera first. We're joined by the  
12 chair of the Land Use Committee, Leroy Comrie.

13 COUNCIL MEMBER RIVERA: Thank you  
14 very much, Mr. Chair. My question is actually to  
15 Melinda Katz. I just wanted to find out on the  
16 record, what do you miss most about the Council?

17 CHAIRPERSON WEPRIN: As her  
18 attorney, I would advise--

19 MELINDA KATZ: [interposing] You,  
20 Councilman.

21 COUNCIL MEMBER RIVERA: Thank you,  
22 a very good answer. The next question to Melinda  
23 Katz: do you find yourself waking up doing train  
24 stops in the morning?

25 MELINDA KATZ: [off mic]

1  
2 COUNCIL MEMBER RIVERA: We've got  
3 to get that on the record. You've got to put the  
4 mike on, Melinda. Say that again.

5 MELINDA KATZ: I'm not jealous  
6 about all the train stops that I'm missing, no.

7 COUNCIL MEMBER RIVERA: Okay.

8 MELINDA KATZ: But I'm happy to see  
9 everyone here again today and thank you for the  
10 warm welcome.

11 COUNCIL MEMBER RIVERA: It's a  
12 pleasure to have you back, Melinda.

13 MELINDA KATZ: Nice seeing you,  
14 Councilman.

15 CHAIRPERSON WEPRIN: Council Member  
16 Reyna?

17 COUNCIL MEMBER REYNA: I promise,  
18 Melinda, I won't ask you a question. I just  
19 wanted to get clarity on the reason for a rezoning  
20 on top of a rezoning. Was this available for a  
21 BSA variance application?

22 JAY SEGAL: No, it wouldn't have  
23 been because the BSA insists that something be  
24 special and unique, and you usually need something  
25 odd about the property. This property is large,

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2 two and a half acres, and there's nothing special,  
3 other than the fact it's close to the water, but  
4 every property is close to the water. We would  
5 not have been able to make the uniqueness finding  
6 that the BSA requires.

7 COUNCIL MEMBER REYNA: So there  
8 were no hardships that would have qualified for a  
9 variance through the BSA application process?

10 JAY SEGAL: Right, because the  
11 hardship has to be unique and not generally found  
12 in the area. And if it's generally found, as all  
13 properties along the waterfront experience the  
14 same issues, there should be a zoning change and  
15 not a variance. That's the position the BAS  
16 understandably takes.

17 COUNCIL MEMBER REYNA: And is this  
18 participating in the Fresh Food program, the  
19 campaign for Fresh Food, where supermarkets would  
20 be encouraged? Is this considered a food desert?

21 JAY SEGAL: Well, it isn't yet,  
22 because it's not yet zoned to a commercial. When  
23 this is enacted, it would be zoned for commercial.

24 COUNCIL MEMBER REYNA: Then it  
25 would.

1  
2 JAY SEGAL: And we would hope that  
3 the zoning resolution would be amended in order to  
4 include this in the Fresh Food. Whether it's in  
5 the Fresh Food area or not, we're committed to  
6 having fresh foods in the supermarket.

7 COUNCIL MEMBER REYNA: Excellent.

8 JAY SEGAL: Even if we don't get  
9 any special benefits for it.

10 COUNCIL MEMBER REYNA: Land is a  
11 premium, so to see the upzoning where it's  
12 befitted, thanks to the hard work of Council  
13 Member Recchia, just to be able to accommodate  
14 what is the fastest growing borough, next to  
15 Queens I would assume, that we're looking to  
16 maximize the density as opposed to just the  
17 current zoning from 2005, which limited the number  
18 of households and the potential to have density.  
19 So thank you very much.

20 JAY SEGAL: Thank you.

21 CHAIRPERSON WEPRIN: Any other  
22 comments or questions from the panel? I see none.  
23 Great, thank you very much. Thank you. Good to  
24 see you again, Melinda.

25 On this same matter, is Natalie

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2 Musumea here? Natalie? Is there a Natalie  
3 Musumea here? Someone filled out a ticket. Okay,  
4 so we're going to have to close this hearing.  
5 She's not here. We're going to close this hearing  
6 and move on to our next item.

7 The next item is Land Use No. 456,  
8 Boerum Hill rezoning. I'd like to call on Lish  
9 Whitson from City Planning and Purnima Kapur.  
10 Sorry about that, Purnima.

11 [Pause]

12 CHAIRPERSON WEPRIN: Whenever  
13 you're ready, please state your name for the  
14 record and describe the application.

15 PURNIMA KAPUR: Good morning  
16 everyone, my name is Purnima Kapur. I'm the  
17 Director of the Brooklyn office of City Planning.  
18 I'm here with Lish Whitson, our planner for Boerum  
19 Hill. We are very pleased to present to you the  
20 Boerum Hill rezoning.

21 This is something that we undertook  
22 at the strong urging and request of the Boerum  
23 Hill Civic Association, as well as Council Member  
24 Levin and the Borough President. It is a small  
25 neighborhood, hemmed in between Carroll Gardens,

1  
2 Cobble Hill, downtown Brooklyn, and Park Slope.  
3 It is one of the few remaining areas in the  
4 downtown Brooklyn area that does not have the  
5 contextual zoning protections.

6 The rezoning was done in close  
7 collaboration with the Civic Association. We are  
8 very pleased that both the Borough President and  
9 the Community Board have supported this without  
10 any conditions. Lish Whitson is going to walk you  
11 through the proposal that you have printouts of.

12 LISH WHITSON: Thank you. So the  
13 rezoning covers an area of 31 blocks, between  
14 Court Street and Fourth Avenue, south of Atlantic  
15 Avenue, in Brooklyn Community District 2. It's  
16 mostly currently zoned R6, which allows buildings  
17 without height limits. The area between Third  
18 Avenue and Fourth Avenue was rezoned in 1991 as  
19 part of the Park Slope North rezoning. The Boerum  
20 Hill Association asked us to take another look at  
21 that area and we're proposing some changes to that  
22 previous rezoning.

23 There are four key goals. The  
24 primary one is to respond to the community's  
25 request for height limits in the area--as I

1  
2 mentioned, the R6 zoning currently doesn't have  
3 height limits--to match the new zoning to the  
4 existing character of the neighborhood, to allow  
5 for appropriate development and to support the  
6 commercial corridors along Court Street and Smith  
7 Street.

8           The area includes the Boerum Hill  
9 Historic District. There are currently commercial  
10 overlays along Court Street and Smith Street and  
11 sections of Pacific Street.

12           If you take a look at the zoning  
13 map, it's primarily zoned--or the land use map,  
14 it's primarily a residential area, mainly row  
15 houses, three to four stories. But along Smith  
16 and Court Streets you have mixed use structures  
17 with ground floor retail. And also, along the  
18 north side of Bergen Street and Third Avenue where  
19 you don't currently have commercial zoning, you  
20 see a mix of uses.

21           There are two areas that have a  
22 different character than that area the row house  
23 character, and that's between Smith Street and  
24 Court Street and near Third Avenue. In those  
25 areas you see more multi-family buildings and loft

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buildings.

We've included a number of pictures of the neighborhood. As you can see, looking at the residential buildings, it's mainly a very consistent character. New development has not necessarily matched that existing row house character. There are also areas with larger buildings, converted warehouses and apartment buildings.

Smith and Court Streets have become very popular retail corridors over the last 15 years. The rezoning seeks to continue to support those areas.

There are some more mixed use areas that are currently not zoned for commercial, like Third Avenue, where we want to support the existing businesses that are there and the mixed use character that's there.

So, under the existing zoning, the R6 zoning allow height factor buildings, which allow towers without height limits. The primary purpose of the rezoning is to remove that option, to instead match the current building stock to the zoning. We're proposing R6-B zoning on most row

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2 house blocks, R6-A fro areas where there are more  
3 of a mixed character. That allows up to 70 feet.  
4 R7-A is proposed on Third Avenue where you have a  
5 few large vacant sites and there's an opportunity  
6 to really revitalize that street through  
7 redevelopment.

8 About two-thirds of the rezoning  
9 area is proposed to be R6-B, mostly the row house  
10 blocks. Again, near Third Avenue, R6-A is  
11 proposed and also between Smith and Court Streets  
12 where you have the larger buildings, it's also  
13 proposed to be R6-A, and Third Avenue is proposed  
14 to be R7-A.

15 We're also proposing changes to the  
16 commercial overlays in the neighborhood. We're  
17 trimming them back on side streets where you  
18 currently have commercial overlays that go 150  
19 feet from the main street. We're trimming those  
20 back to 100 feet to reflect the current lot size  
21 along those main commercial corridors. We're  
22 proposing to add new commercial overlays along  
23 Bergen Street and Third Avenue where you have a  
24 mix of uses today that's not reflected by the  
25 current zoning. At the end of your package is a

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map that shows the proposed zoning.

CHAIRPERSON WEPRIN: Great, thank you. Does anyone have any questions on this matter? Nobody? Council Member Comrie?

COUNCIL MEMBER COMRIE: I'll just make a comment. I had an opportunity to look through this and go over it with City Planning. I think it's a good improvement to an area that I actually frequently travel through. Just hopefully they don't mess up my short cut with a bike lane later on. But it is a good proposal, and it will definitely impact and hold that community to a historic level and a level to do proper growth. So I just want to compliment you. Thank you, Mr. Chair.

CHAIRPERSON WEPRIN: Great, thank you very much. Thank you very much. We have a couple of people who are going to be testifying on this matter if you want to stick around for that. We have some people from the community who are here: Dwight Smith and Howard Kolins from the Boerum Hill Association. Gentlemen, thank you for being here. Could you restate your name for the record and tell us what you think?

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2 DWIGHT SMITH: Dwight Smith, the  
3 Boerum Hill Association, a vice president. We  
4 have worked for about a year and half,  
5 exhaustively with the neighborhood residents, with  
6 the community board, strong support from the  
7 borough president's office and the City Planning  
8 folks and very strong support from our City  
9 Councilman, whom I see in the back there.

10 We've taken the position that we'd  
11 like to continue to be part of that downtown  
12 Brooklyn brownstone neighborhood that is  
13 protected. We've been the orphans, so we  
14 appreciate the willingness of the City Council and  
15 the City Planning Commission to include us in that  
16 protection.

17 We've done the protections but  
18 we've also tried to, as Lish pointed out, in the  
19 Third Avenue and the Fourth Avenue corridor,  
20 create an opportunity for additional development  
21 within the neighborhood to accommodate what we  
22 understand will be continued growth over the next  
23 10, 20 years. We think that's accommodated there.  
24 We believe that additional growth is accommodated  
25 by what will happen in the Gowanus Canal

1  
2 development area, as well as that which is along  
3 Fourth Avenue.

4           So I think what our proposal does  
5 is balance the need for contextual zoning with  
6 what we have today, but allowing for some  
7 developmental growth in the future. But which  
8 together still gives us the kind of general  
9 protections that we need.

10           CHAIRPERSON WEPRIN: Thank you.

11           HOWARD KOLINS: Howard Kolins,  
12 Boerum Hill Association President. Everything  
13 that Dwight just mentioned, those were our  
14 objectives. Just to reiterate that the  
15 neighborhood is mostly three and four-story Greek  
16 revival and Italian residential buildings,  
17 brownstones. This proposal goes a long way to  
18 protecting that and encouraging, again, small  
19 business growth on the major avenues that have  
20 seen it already: Atlantic, and Court and Smith.  
21 We want to continue that.

22           Again, I want to thank Brooklyn  
23 City Planning for being so patient with us and  
24 working so closely along with our elected  
25 officials. Thanks.

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2 CHAIRPERSON WEPRIN: Thank you very  
3 much. Council Member Levin, who you mentioned, is  
4 here, and I didn't acknowledge yet, would like to  
5 say a few words about this matter. Would someone  
6 lend him a mike there? There we go.

7 COUNCIL MEMBER LEVIN: Thank you,  
8 Mr. Chairman. Just very briefly I want to commend  
9 and thank the City Planning Commission, the  
10 Department of City Planning in Brooklyn for their  
11 willingness to work with us over the last year and  
12 a couple of months on this rezoning. I think that  
13 it's an important rezoning. I want to acknowledge  
14 the time and effort that went into this on the  
15 part of Dwight and Howard and all of those at the  
16 Boerum Hill Association.

17 It's an important rezoning, because  
18 as was mentioned, it's kind of the donut hole in  
19 terms of contextual zoning in the area and this  
20 will fill that in and make sure that development  
21 is held in check in perpetuity in the area, and  
22 that the historic nature, not just of facades but  
23 of the character of the neighborhood, which is a  
24 small scale neighborhood that really has a  
25 wonderful character. That's why so many people

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2 have invested in it over the last 30 and 40 years.  
3 So this rezoning will go a long way towards  
4 protecting that heritage and protecting what that  
5 neighborhood is. So I want to thank City  
6 Planning, I want to thank the Boerum Hill  
7 Association for really working together on a very  
8 positive, positive process. Thank you.

9 CHAIRPERSON WEPRIN: That's good to  
10 hear. Does anyone else want to make a comment or  
11 question?

12 [Pause]

13 COUNCIL MEMBER: Yes, I do not want  
14 to vote today.

15 CHAIRPERSON WEPRIN: Great. No  
16 other comments. Thank you gentlemen very much.  
17 Thank you for your good work. Thank you, City  
18 Planning. We are going to close this hearing now.  
19 We are not going to be voting on this item today.  
20 We are going to be voting on it at our next  
21 meeting, which I think is in two weeks. The  
22 hearing will be closed and we will be voting on it  
23 at the next meeting.

24 Now, we're going to move on to the  
25 Chin portion of the agenda here. The next item,

1  
2 we're very excited to have Land Use No. 457, which  
3 is the Century 21 text amendment, which I just  
4 heard the Mayor describe and talk about downtown  
5 at the Abney breakfast. We are joined by Betty  
6 Cohen and Richard Lobel. Ms. Cohen or Mr. Lobel,  
7 whoever is going to start, please state your name  
8 again for the record and describe what it is  
9 Century 21, our neighbor downtown here, is hoping  
10 to do.

11 RICHARD LOBEL: Thank you, Mr.  
12 Chairman. Again, my name is Richard Lobel. I'm  
13 from the law firm of Sheldon Lobel P.C. I'm here  
14 today to represent Century 21 Department Stores.  
15 With me today: Betty Cohen, the Director of  
16 Corporate Relations for Century 21.

17 We're very excited to be here today  
18 for a proposed zoning text amendment. What this  
19 zoning text amendment would do would be to propose  
20 an alteration to the Lower Manhattan special  
21 district regulations, which would allow in very  
22 specific instances a waiver of loading berth  
23 requirements. You can see the pictures of Century  
24 21 here and you can see of the bottom the Day  
25 Street frontage. Everyone, of course, is very

1  
2 familiar with Century 21, a neighborhood  
3 institution which was one of the first businesses  
4 to open after the 9/11 attacks. So we hold a very  
5 special place in the community.

6 The zoning text amendment would  
7 really allow the chairperson of City Planning to  
8 waive the requirement for a loading berth in  
9 certain instances. This is a good example of  
10 where one would be allowed. We're on Day Street,  
11 which is a 50-foot wide street. It is an area  
12 where trucks have great difficulty passing. It's  
13 a narrow street. It's a curb cut restricted  
14 street. As an example, we have existing truck  
15 traffic which is currently unable to back into  
16 existing loading berths.

17 Century 21 was presented with an  
18 opportunity to expand in its existing building at  
19 22 Cortland Street. They currently have three  
20 grounds of above ground level stores. They were  
21 presented with an opportunity to expand to an  
22 additional three floors. The problem, however, is  
23 that since those floors are currently used by  
24 offices that the conversion to a department store  
25 use would bump up the requirement of loading

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berths.

So we're presented with this position where we have a store which is bringing jobs to downtown Manhattan. We would foresee 300-500 new jobs created. It's obviously a good situation for the community. But because of the existing regulations in Lower Manhattan, we would not be able to do this because of the difficulty in installing a curb cut.

So the fix here is to allow this certification. And assuming you satisfy these four rigorous conditions, the chairperson of City Planning can waive the requirement of the loading berth and you can proceed to add additional department store space without triggering these additional loading berths.

The four qualifications as far as what you need to do would be first that DOT, the Department of Transportation would have to approve a plan for curbside deliveries, which would be based upon a traffic study prepared by a qualified professional. Here in May 2011, we were able to get a letter from the Department of Transportation with this very approval, saying that the measures

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2 that we put in for our curbside deliveries, which  
3 involve limiting the number of trucks, the time of  
4 deliveries, where they can occupy the sidewalk, et  
5 cetera, as well as the plan for getting the  
6 pallets into the building, was sufficient on  
7 behalf of the city to allow us to get this waiver.

8           The second thing would be that  
9 improved goods receiving system is provided,  
10 including at least 6,000 square feet of new  
11 staging areas within the building, and at least  
12 one additional freight elevator is provided.  
13 Here, not only are we providing two new high speed  
14 freight elevators, we're also providing in excess  
15 of 1,000 square feet of additional loading space  
16 on each floor. The Manhattan Borough President,  
17 when they noted in their approval that they were  
18 in favor of this plan, you know they noted that  
19 it's very difficult because getting goods into  
20 buildings like this on this street system is very  
21 difficult.

22           As an example here, if you required  
23 Century 21 to add a new loading berth, you  
24 basically would be providing a 400 square foot  
25 space on the ground floor to get another truck in,

1 another truck which by the way can't even fit.

2 Here, what we're required to do under the  
3 certification is to add internal loading space.

4 So we're ending up with an additional 7,000 square  
5 feet inside the building. Because the high speed  
6 elevators can get the freight up in a more  
7 expedited fashion, we're able to offload things.

8 There's going to be less accumulated goods on the  
9 sidewalk. It's really a great situation for  
10 everyone.  
11

12 The final two findings in the  
13 certification are that there's a plan showing that  
14 the former loading berth space exempted from the  
15 definition of floor area will be used for an  
16 improved goods receiving system. This just means  
17 that if you convert any space in the loading berth  
18 area which now may be required to be counted as  
19 floor area, as long as you're using it for your  
20 goods receiving system, and it's an improved goods  
21 receiving system, we won't count that against your  
22 building. Here, we're taking former loading berth  
23 space and we're putting our high speed elevator  
24 there. So we're satisfying that finding.

25 Finally, we are required to enter

1  
2 into a restrictive declaration which includes  
3 plans for the building, showing this improved  
4 goods receiving system so that we are tied to our  
5 plans and we are tied to our curbside delivery  
6 schedule. We are doing that. We have a  
7 restrictive declaration in place which we intend  
8 to execute and record against the property upon  
9 the final approval of the Council.

10 So, again, we've received  
11 tremendous support on this application from the  
12 Community Board, Manhattan Borough President's  
13 office, the Downtown Alliance, Council Member Chin  
14 as well. We're really excited about the  
15 opportunity. Betty and I, of course, would be  
16 happy to answer any questions.

17 CHAIRPERSON WEPRIN: Thank you very  
18 much, Mr. Lobel. Yes, I acknowledge that the  
19 Community Board did unanimously pass this. I know  
20 Council Member Chin is supportive. I just want to  
21 make my own comment, if I may. This is really a  
22 terrific story and I'm really proud to be even a  
23 little bit a part of it. Because ten years ago  
24 and one week ago, had you told me that Century 21  
25 would not only be in business but would be

1  
2 expanding, I never would have believed it, covered  
3 in ashes as it was.

4           Downtown really is a miracle, a lot  
5 that's gone on. Because, you know, I often talk  
6 to people and I remember how people felt right  
7 after 9/11 that downtown would never be the same  
8 again. Well, it's not the same, it's better. It  
9 really is pretty incredible. Congratulations to  
10 you and Council Member Chin, as well as others.  
11 Council Member Chin, do you want to speak before  
12 we have other people talk? Did you want to make a  
13 comment on this?

14           COUNCIL MEMBER CHIN: Yes.

15           CHAIRPERSON WEPRIN: Council Member  
16 Margaret Chin.

17           COUNCIL MEMBER CHIN: Thank you,  
18 Chair. Finally, I'm so glad that it's finally  
19 here. I really urge my colleagues to support it.  
20 As you heard, it is a wonderful story for Lower  
21 Manhattan and by supporting Century 21. I mean,  
22 they're going to expand and it's going to grow  
23 even more and create more jobs and businesses for  
24 not just Lower Manhattan but for the whole city.  
25 I think especially on this tenth anniversary, it's

1  
2 such a tremendous effort on their part to continue  
3 to grow and thrive. We want to be supportive.  
4 I'm so glad that it finally is happening. Thank  
5 you, Chair and thank you for your support.

6 CHAIRPERSON WEPRIN: Thank you,  
7 Council Member Chin. Council Member Reyna I  
8 believe has a question.

9 COUNCIL MEMBER REYNA: Thank you so  
10 much. I do want to just congratulate, echo the  
11 words of Council Member Chair Weprin as well as  
12 Council Member Chin, and would love to have you  
13 join us telling your story at our Small Business  
14 hearing joint with Lower Manhattan Committee,  
15 looking at ten years later, small businesses  
16 thriving in Lower Manhattan. It's going to be  
17 September 15th at 10:00 in the committee room to  
18 be announced. Currently we don't have a room  
19 assigned yet, but we should shortly. I just  
20 wanted to congratulate you on a terrific job. The  
21 only complaint I have is that I would love to see  
22 Century 21 in North Brooklyn, the district I  
23 represent. So if we can have further discussion  
24 on expanding in the outside boroughs that would be  
25 fantastic.

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BETTY COHEN: [off mic]

COUNCIL MEMBER REYNA: You never know. That's a good answer. Absolutely, I'm volunteering as the next area.

BETTY COHEN: Yes.

COUNCIL MEMBER REYNA: Thank you so much.

BETTY COHEN: It's our pleasure, thank you. We're very flattered.

CHAIRPERSON WEPRIN: Thank you, Council Member Reyna. Do any members of the panel want to say anything? If I stare at them long enough, I feel like I make them speak. We don't need to. I don't see any others, so thank you very much. Congratulations to you and thank you for all you're doing.

BETTY COHEN: Thank you ladies and gentlemen.

CHAIRPERSON WEPRIN: We're going to close this hearing. That's great. We're going to move up to our final item. I do want to acknowledge on our Land Use item before, on Ocean Dreams, Council Member Recchia talked about how the developer was committed to using local

1  
2 builders and local workers on that project. I  
3 have a letter that was submitted for the record  
4 from Robert Zorn, executive vice president of Red  
5 Apple Real Estate stating such. So we have  
6 confirmation of Council Member Recchia told us.

7 Now, we're moving to Land Use No.  
8 460, 38-40 Grand Street, also in Council Member  
9 Chin's district. Deirdre Carson, I believe it is,  
10 and Randall Minor. I got the name right, Mr.  
11 Carson, good to see you again. I'd like to have  
12 them make the presentation. Restate your name for  
13 the record. Describe the application and any  
14 discussion you want to share with us.

15 RANDALL MINOR: My name is Randall  
16 Minor. I'm a land use attorney at Greenberg  
17 Taurig. As the Chair mentioned, I'm here with  
18 Deirdre Carson who's a shareholder at Greenberg  
19 Taurig.

20 We represent the applicant. This  
21 is an application pursuant to permit the use of a  
22 portion of the ground floor and cellar of a  
23 building located at 38-40 Grand Street. The  
24 building, the premises are about 1,300 square feet  
25 on the ground floor, 500 square feet in the

1  
2 cellar. It's located on the north side of Grand  
3 Street between West Broadway and Thompson Street  
4 in SoHo. It's an M1-5B district which doesn't  
5 allow use group 6 uses below the level of the  
6 second story.

7 In accordance with 74-781, the  
8 applicant engaged a broker that advertised  
9 availability of the space for rent in local and  
10 citywide newspapers. The applicant also informed  
11 citywide and local industry groups of the premises  
12 availability. No offers were made for a  
13 conforming use.

14 The Community Board recommended  
15 that the application be denied unless the  
16 applicant agreed to a restriction against eating  
17 and drinking establishments. No objections were  
18 expressed with regard to other use group 6 uses.  
19 The Borough President recommended that the  
20 application be approved and the City Planning  
21 Commission approved the application last month.

22 Last week, we met with Council  
23 Member Chin to resolve the Community Board  
24 concerns, and the applicant agreed to the  
25 following, and we have a letter embodying the

1  
2 applicant's agreement. It should be in your  
3 packet there, the second document.

4           Number one: all restaurant leases  
5 for the premises will contain covenants that will  
6 prohibit the operation of a restaurant in a manner  
7 that results in the violation of applicable noise  
8 standards enforced by the Department of  
9 Environmental Protection. If such a tenant  
10 becomes a chronic violator of the covenants, the  
11 landlord will commence litigation to correct the  
12 condition and may, among other things, seek to  
13 terminate the lease and evict the tenant.

14           Two: no alcoholic beverages will be  
15 served on the premises, except in conjunction with  
16 the operation of a table service restaurant with  
17 at least a full dinner menu.

18           Third: if the premises is used as a  
19 restaurant, the restaurant operator will work with  
20 the community to establish standards and methods  
21 of operations that will minimize adverse noise,  
22 odor and traffic impacts on community residents.

23           One of the things that's not in the  
24 letter is that the principal of the applicant is a  
25 longtime community resident and he has a vested

1  
2 interest in making sure that the type of use that  
3 goes into this location is not something that's  
4 going to be adverse to the community.

5 So, as I mentioned, a copy of the  
6 letter is in the packet, and if you have any  
7 questions, let us know.

8 CHAIRPERSON WEPRIN: Thank you, Mr.  
9 Minor. I think Council Member Chin would like to  
10 make a statement for the record.

11 COUNCIL MEMBER CHIN: Thank you,  
12 Chair. Yes, last week I did have an opportunity  
13 to meet with the owner. I was very impressed with  
14 his commitment. I really felt that in our  
15 conversation that if he were able to show up at  
16 the community board meeting, Community Board 2  
17 might not have passed such a resolution. That Mr.  
18 Vendome.

19 DEIRDRE CARSON: Vendome.

20 COUNCIL MEMBER CHIN: Vendome,  
21 okay. He is a long-term resident and his  
22 commitment for the community was truly there. He  
23 was also very involved in the 9/11 effort to  
24 support responders with his restaurant. He has  
25 just a wonderful story for the neighborhood. His

1  
2 intention is really to try to have something that  
3 can meet the general good of the community. But  
4 if that doesn't happen, at least he has an option  
5 with what he agreed to in terms of if it happened  
6 to be a restaurant, at the end these are the  
7 agreements that he has made to me. With that, I  
8 do urge my colleagues to support it. Thank you.

9 CHAIRPERSON WEPRIN: That's a great  
10 story, Council Member Chin. I know just a little  
11 bit of talking and look what wonderful  
12 accomplishments we can have. I know the Community  
13 Board had concerns and Council Member Chin seems  
14 to have been satisfied with the discussions.  
15 That's great. Does anyone have any comments or  
16 questions here? I know Council Member Jackson had  
17 stepped out for a second. He had been here. I  
18 don't think I ever did mention that, just on the  
19 record. Anyone else? Thank you very much then.  
20 We're going to close this hearing.

21 DEIRDRE CARSON: Thank you very  
22 much.

23 CHAIRPERSON WEPRIN: Thank you.  
24 We're going to now move to vote on the items we  
25 are considering today. I will recap those in a

1  
2 second. We are going to be voting on Land Use No.  
3 444, which was the Lodge café request in Council  
4 Member Reyna's district.

5 We are going to be laying over 449,  
6 Mezzogiorno in Council Member Quinn's district.

7 Land Use No. 450 we will be  
8 considering today. It will be coupled with these  
9 other items. That's the Old Town Hot Pot, which  
10 was in Speaker Quinn's district. Then we will be  
11 coupling the following other Land Use items, which  
12 is Land Use 451 through 455, which was the Ocean  
13 Dreams project that we heard about from Council  
14 Member Recchia and others.

15 We will be laying over Land Use No.  
16 456 until our next meeting also, Boerum Hill  
17 rezoning.

18 We will be coupling with these  
19 other items number 457, which was the great story  
20 of Century 21. And lastly now, the happy ending  
21 on Grand Street 38-40, which is Land Use No. 460,  
22 will also be coupled. So, the Chair will  
23 recommend an aye vote on all these items. All  
24 seem to have nice happy endings, so I recommend an  
25 aye vote. I'd like to call on Christian Hylton,

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the counsel to the committee to please call the roll.

CHRISTIAN HYLTON: Chair Weprin?

CHAIRPERSON WEPRIN: Aye.

CHRISTIAN HYLTON: Council Member Rivera?

COUNCIL MEMBER RIVERA: I vote aye.

CHRISTIAN HYLTON: Council Member Reyna?

COUNCIL MEMBER REYNA: Aye.

CHRISTIAN HYLTON: Council Member Comrie?

COUNCIL MEMBER COMRIE: I happily vote aye. Aye, aye, aye.

CHRISTIAN HYLTON: Council Member Seabrook?

COUNCIL MEMBER SEABROOK: I vote aye.

CHRISTIAN HYLTON: Council Member Garodnick?

COUNCIL MEMBER GARODNICK: Aye.

CHRISTIAN HYLTON: Council Member Lappin?

COUNCIL MEMBER LAPPIN: Aye.

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CHRISTIAN HYLTON: Council Member  
Ignizio?

COUNCIL MEMBER IGNIZIO: Aye.

CHRISTIAN HYLTON: Council Member  
Vacca?

COUNCIL MEMBER VACCA: Aye.

CHRISTIAN HYLTON: By a vote of ten  
in the affirmative, none in the negative, no  
abstentions, LU 444, 450, 451, 452, 453, 454, 455,  
457 and 460 are approved and referred to the full  
Land Use Committee.

CHAIRPERSON WEPRIN: Thank you very  
much, Mr. Hylton. Council Member Jackson, who  
stepped out will be back in a few minutes. We're  
going to hold the rolls open for a couple of  
minutes for him to come back. With that in mind,  
we are finished for the day and the meeting is now  
adjourned. Thank you.

[Pause]

CHRISTIAN HYLTON: Correction. The  
final vote is ten in the affirmative, none in the  
negative and no abstentions. Committee of Zoning  
and Franchises is now adjourned.

C E R T I F I C A T E

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

Signature Donna Hintze

Date September 26, 2011