

CITY COUNCIL
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

-----X

July 23, 2012
Start: 10:10 a.m.
Recess: 10:45 a.m.

HELD AT: Council Chambers
City Hall

B E F O R E:

MARK S. WEPRIN
Chairperson

COUNCIL MEMBERS:

Leroy G. Comrie, Jr.
Daniel R. Garodnick
Robert Jackson
Jessica S. Lappin
Diana Reyna
Joel Rivera
Larry B. Seabrook
James Vacca
Albert Vann
Vincent M. Ignizio

APPEARANCES [CONTINUED)

Richard Woo
Representative
Panca Restaurant

Robert Callahan
Representative
Abilene Restaurant
Smorgas Restaurant

Shlomo Steve Wygoda
Architect/Representative
Mickey Spillane's Kitchen
Papasito Mexican Grill
Villa Pacri

Bolivar Paredes
Owner
Focacceria Restaurant

Georgette Fleischer
Founder
Friends of Petrosino Square

CHAIRPERSON WEPRIN: Good morning.

I'm Mark Weprin. I'm chair of the Zoning and Franchises Subcommittee, and I am joined this morning by the chair of the Land Use Committee, Leroy Comrie, by Council Member Dan Garodnick, by Council Member Jimmy Vacca, Council Member Joel Rivera, Council Member Robert Jackson and Council Member Jessica Lappin. I'm sure we'll be joined by others as we go along. We have a number of cafes today, and we are going to get started on them right off the bat.

Our first café is Land Use number 630, Panca Restaurant. I'd like to call up Mr. Richard Woo, please. I'm sorry how I pronounce it. Go sit at that table. Mm-hmm. Mr. Woo, and then turn the mic on, state your name and discuss the café application, please.

RICHARD WOO: Good morning. My name is Richard Woo. I have a letter here to read to you. Dear Council Member Quinn, this letter serves as our agreement with the chair, Council Member Mark Weprin and the encompassing members of the Subcommittee on Zoning and Franchises that we will commit to the following: number one, we will

1
2 remove the two exterior loud speakers and dismount
3 speaker holders in accordance to the New York City
4 Code; number two, we will remove the nine planters
5 currently located on the sidewalk café zone as
6 they have not been indicated on the plans approved
7 by the new York City Department of Consumer
8 Affairs. The planters are going to be replaced by
9 railings, which have been indicated on the DCA
10 approved plans. The railings are going to comply
11 with DCA height limitations. Number three, we
12 will remove the sandwich board currently located
13 within the sidewalk café zone and number four, we
14 will remove any tables and chairs from the
15 sidewalk café that exceeds the permitted 13 tables
16 and 36 chairs. As of now, we have pretty much
17 cured most of the problems, and I brought some
18 pictures as evidence if anyone would care to see.

19 CHAIRPERSON WEPRIN: We have our
20 own pictures too. I understand from Speaker
21 Quinn's office, where this is located, that they
22 have discussed these changes and agree with the
23 changes that have been mentioned today. I turn to
24 the Committee and see if anyone has any questions
25 for this gentleman. Seeing none, we thank you

1
2 very much, and appreciate your coming down and
3 working with us so well. Thank you.

4 [pause]

5 CHAIRPERSON WEPRIN: We're going to
6 move around the agenda a little bit here. We're
7 going to go to Land Use number 642, which is
8 Abilene, I believe. Robert Callahan is here on
9 behalf of the owner. This is in Council Member
10 Lander's district. Whenever you are ready, Mr.
11 Callahan, you know the drill.

12 ROBERT CALLAHAN: Yes. I'm going
13 to read into the record a copy of the agreement
14 letter that was previously submitted to the
15 Council. Dear Council Member Weprin and Council
16 Member Lander, I am writing regarding the
17 application from Leahlala LLC for an unenclosed
18 sidewalk café, Abilene, located at 442 Court
19 Street, Brooklyn, which was filed with the
20 Speaker's Office on June 8th, 2012. This letter
21 serves as our agreement with the chair, Council
22 Member Mark Weprin and the encompassing members of
23 the Subcommittee on Zoning and Franchises that we
24 will commit to the following: number one, Abilene
25 agrees to close all windows at 7pm. If the

1
2 windows are open prior to 7pm, the music volume
3 will be at or below 1/3 of the volume control on
4 the bar stereo, which cannot be heard five feet
5 from the bar. Number two, Abilene agrees to
6 provide wait service at the sidewalk café tables
7 and keep the sidewalk clear. Number three,
8 Abilene agrees to close the sidewalk at 11pm on
9 weekdays and midnight on weekends. Number four,
10 Abilene agrees to operate according to the plans
11 that were filed with the Department of Consumer
12 Affairs. If there are any questions, please call
13 my office. Sincerely, Michael O'Neill [phonetic].

14 CHAIRPERSON WEPRIN: Thank you. I
15 had gotten a call from Council Member Lander--
16 excuse me, as I stare at Lappin--and he had said he
17 supports this with the changes and I told him he
18 didn't have to be here today, so let's not give
19 him a hard time. Anybody have any questions or
20 comments with that in mind? Okay. Thank you, Mr.
21 Callahan. Why don't you stay there because I
22 understand you are here for another café as well?
23 We're going to close this hearing. We are joined
24 by Council Member Diana Reyna. We're now going to
25 move on to Land Use number 644, which is Smorgas,

1
2 and excuse me, one second. That's also in Speaker
3 Quinn's district. Alright. Mr. Callahan?

4 ROBERT CALLAHAN: Yes. This letter
5 was also previously submitted to the Council.

6 CHAIRPERSON WEPRIN: Just state
7 your name again.

8 ROBERT CALLAHAN: My name is Robert
9 Callahan. Dear Council Member Quinn, this letter
10 serves as our agreement with the chair, Council
11 Member Mark Weprin and the encompassing members of
12 the Subcommittee on Zoning and Franchises that we
13 will commit to the following: number one, we will
14 set up the café according to the approved plans.
15 A copy of the plans will be available inside of
16 the restaurant for staff reference. Number two,
17 we will serve the West 4th Street and West 12th
18 Street sides of the café only from their
19 respective street service doors. There will be no
20 service from the public sidewalk. All waiter
21 service will occur within the appropriate three
22 foot waiter service aisle. Number three, we will
23 remove any tables and chairs from the sidewalk
24 café that exceeds the permitted 13 tables and 26
25 chairs. Number four, we will not set up the

1
2 sidewalk café prior to noon on Sundays in
3 accordance with DCA regulations. If there are any
4 questions, please call my office. Sincerely,
5 Morton Salberg [phonetic], member.

6 CHAIRPERSON WEPRIN: Thank you, Mr.
7 Callahan. This is also as I mentioned in Speaker
8 Quinn's district and they have negotiated these
9 changes and agreement and the Speaker is okay with
10 these changes. Does anyone have any comments or
11 questions on the panel? Seeing none, we thank you
12 very much, Mr. Callahan.

13 ROBERT CALLAHAN: Thank you.

14 CHAIRPERSON WEPRIN: That's it for
15 the day. Thank you. Come back soon.

16 [pause]

17 CHAIRPERSON WEPRIN: Okay, we're
18 going to now move on to Land Use number 643,
19 Mickey Spillane's Kitchen. I'd like to call up
20 Steve Shlomo Wygoda. Come up. And he has a few
21 of them. Come on up, Steve. Mr. Wygoda, you
22 know, please state your name. You saw what we're
23 starting with, right? 643?

24 SHLOMO STEVE WYGODA: Yeah.

25 CHAIRPERSON WEPRIN: Mickey

1
2 Spillane's.

3 SHLOMO STEVE WYGODA: Mickey

4 Spillane's. My name is Shlomo Steve Wygoda. I'm
5 the architect representing this establishment. We
6 have come to an agreement letter with Council
7 Member Quinn's office - - was here, and if I may,
8 I'll read it. Dear Council Member Quinn, this
9 letter serves as our agreement with the Chair,
10 Council Member Mark Weprin and the encompassing
11 members of the Subcommittee on Zoning and
12 Franchises that we will commit to the following:
13 we will reduce the total size of the sidewalk café
14 from 9 tables and 23 chairs to 8 tables and 21
15 chairs. We will specifically remove the one table
16 and three chairs just south of the 9th Avenue
17 service door. Additionally, we will move the
18 three top table at the corner of West 49th Street
19 and 9th Avenue to the western most portion of the
20 West 49th Street side of the café and add a chair
21 to that table. We will separate the two tables
22 and four chairs at the eastern most end of the
23 West 49th Street side of the café and will move
24 them against the façade on either side of the West
25 49th Street service door. All of the tables and

1
2 chairs on West 49th Street will be additionally set
3 up against the façade of the building. Number
4 three, all service to the 9th Avenue side of the
5 café will be done only through the 9th Avenue
6 service door and all service to the West 49th
7 Street side of the café will be done only through
8 the service door located on the eastern most end
9 of West 49th Street side of the café. There will
10 be no service from the bi-folding doors. Number
11 four, we will close all bi-folding doors and
12 sliding windows by 11pm on Fridays and Saturday
13 and 10pm on all other days. Number five, we will
14 ensure that all sidewalk café furniture is stored
15 nightly inside of the establishment after café
16 closing. Number six, we will limit the level of
17 interior sound that escapes into the public
18 sidewalk in accordance with New York City noise
19 code. Number seven, all the aforementioned
20 changes will be reflected in the revised plans
21 submitted to DCA. It's signed by Scott Sternick
22 [phonetic]. He is the manager.

23 CHAIRPERSON WEPRIN: Thank you, Mr.
24 Wygoda. Also, this is in Speaker Quinn's district
25 and she too has negotiated this agreement. Any

1
2 members of the panel have any comments or
3 questions? Seeing none, we thank you, Mr. Wygoda,
4 and we're going to close that hearing and move on
5 to the next one, so you can stay there.

6 SHLOMO STEVE WYGODA: Okay.

7 CHAIRPERSON WEPRIN: You've got two
8 in a row. Two more.

9 SHLOMO STEVE WYGODA: Yeah.

10 CHAIRPERSON WEPRIN: Okay. We have
11 then Land Use number 645, Papasito Mexican Grill,
12 and if you could discuss... That's in Council Member
13 Jackson's district, and if you could discuss that,
14 we'd appreciate it.

15 SHLOMO STEVE WYGODA: Sure.

16 CHAIRPERSON WEPRIN: State your
17 name. There you go.

18 SHLOMO STEVE WYGODA: Shlomo Steve
19 Wygoda, and we thank Council Member Jackson and
20 his staff for working with us on this. Thank you,
21 Council Member. And again, I'd like to read into
22 the record an agreement letter that was reached
23 with this restaurant and several others on Dyckman
24 Street several years ago, and we are re-dating
25 this letter, so it's active as of today as well.

1 Dear Council Member Jackson, SWIR [phonetic]
2 Architects is an authorized representative of Vida
3 Mexicana Inc. in connection with their
4 application for an unenclosed sidewalk café and on
5 behalf of Vida Mexicana Inc. hereby commits to
6 the City Council and the Zoning and Franchises
7 Committee that in light of the concerns of the
8 surrounding community with respect to noise
9 congestion and loitering on/and/or around Dyckman
10 Street, Vida Mexicana Inc. shall: number one,
11 close the café at 10pm on Sunday through Thursday
12 and 12 midnight on Friday and Saturday. Closed
13 means that there will be no customers or guests in
14 the café and the café will not be used for any
15 kind of activity; number two, remove the number of
16 café seats from 44 to 36 seats and the number of
17 tables from 22 to 18; number three, provide
18 security personnel to be present and in or around
19 café; number four, post signs in both English and
20 Spanish saying, "Please respect our neighbors at
21 all times by keeping the noise down," and clearly
22 indicating the time that the café closes; number
23 five, will close the garage door, the opening of
24 the front wall of the restaurant and any other
25

1
2 doors no later than one hour before the closing of
3 the café; number six, not install gas or other
4 heaters in the café; number seven, not mount
5 loudspeakers to or at the exterior wall of the
6 restaurant or use any other sound amplification
7 devices in the café. In addition all speakers
8 mounted inside the restaurant should be pointed
9 away from the outdoor café and only background
10 music will be played in the restaurant during the
11 operation of the café. The speakers will also be
12 tuned to reduce the bass woofer volumes. Number
13 eight, follow all applicable laws and regulations
14 with respect to the operation of the café. Number
15 nine, install a flush metal grating at the tree
16 pit directly in front of the sidewalk café.
17 Number ten, Vida Mexicana will participate in
18 ongoing meetings with community representatives to
19 discuss any ongoing concerns or problems as they
20 may arise with the intent of developing
21 satisfactory solutions. This is a letter that I
22 signed. We will replace this letter with a
23 signature by the owner. We have a second letter
24 as well from—may I read it?

25 CHAIRPERSON WEPRIN: Sure. Read

1
2 away. Read it with a little more energy though,
3 okay though, Shlomo? Reading very monotone today.

4 SHLOMO STEVE WYGODA: Okay. June
5 1st, 2012. Dear neighbors and community leaders,
6 this is from Papasito. My name is Eusebio
7 [phonetic] Chavez and I am the owner of Papasito
8 Mexican Grill and Agave Bar; one of the
9 establishments located on the ground floor of 4761
10 Broadway. I am writing to describe the steps I
11 have taken to ensure that my establishment is a
12 neighborhood friendly business and to address the
13 concerns that were expressed at the May 22nd
14 Community Board 12 general meeting regarding
15 noise. Papasito is a full sound proof
16 establishment. In addition, we recently installed
17 a device to control the volume of all speakers in
18 the restaurant from a central location. We are
19 also looking into installing double doors at the
20 main entrance to avoid noise from side the
21 premises from spilling out into the street as
22 customers enter and exit the establishment.

23 Better?

24 CHAIRPERSON WEPRIN: That was much
25 better. Although, I'm glad you're a good

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

architect.

SHLOMO STEVE WYGODA: [laughs] In the summer of 2010, we entered into a binding agreement with Council member Robert Jackson to close the restaurant sidewalk café at 10pm from Sunday to Thursday and at 12am on Friday and Saturday and to reduce the number of tables from 22 to 18. We intend to renew that agreement when the sidewalk café renewal application goes to the City Council for final approval. I have already informed the Council Member's Office of my intention to do so. Since Papisito opened its doors, we have conducted outreach to the restaurant's immediate neighbors to ensure that we have an open line of communication to address any relevant quality of life concerns. Most tenants of 4761 have my direct e-mail address and mobile telephone number and are able to reach me at any time of day. I have participated in meetings with community residents and local elected officials coordinated by Council Member Jackson's office. Papisito currently employees approximately 55 people, 5 of these employees are licensed security guards, whose main responsibility is the safe and

1
2 orderly operation of the establishment. One of
3 these security guards is exclusively charged with
4 moving patrons away from the restaurant when they
5 exit as to prevent an accumulation of people on
6 the sidewalk. It is my intention to operate a
7 neighborhood friendly establishment. I look
8 forward to continuing working with you and the
9 residents of Dyckman Street and furthering this
10 goal. Sincerely, Eusebio Chavez.

11 CHAIRPERSON WEPRIN: Thank you.

12 Mr. Jackson, you wanted to comment on this café?

13 COUNCIL MEMBER JACKSON: Thank you,
14 Mr. Chair, and good morning. I wanted to ask a
15 couple of questions. First, a recent visit by
16 staff of the City Council found several things
17 that were not in order, so for example
18 specifically, there were four illegal planters on
19 the sidewalk, and that was not in the approved
20 plan, and there was an illegal A-frame [phonetic],
21 illegal menu stand. There was a barrel on the
22 sidewalk in the café area, and a bunch of tables
23 in the café are not the ones used in the café
24 that's presently existing, so in essence, there
25 are things that are there that are not what they

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

are supposed to be. Are you aware of that?

SHLOMO STEVE WYGODA: I wasn't aware of these items that you just raised until you just raised them. I will make the owners aware. I'm sure they're aware 'cause they've done it, but I wasn't aware of it.

COUNCIL MEMBER JACKSON: Well, I'm more concerned with the owner and/or his managers, whoever is operating the restaurant, to live in compliance with the agreements that are reached and not to basically exceed those. I mean everyone knows that you cannot put menu stands outside and all the other things that were described in what I just read. So I ask you to communicate clearly to the owner that he must be in compliance with all the rules and regulations that govern the operation of an outdoor café. As you know, Community Board 12 recommended not to approve this because of the noise, and the June 1st letter in my understanding since June 1st, the noise level has been reduced dramatically, with respects to the noise complaints that we received, and we have not received the types of complaints that we received before, but I wanted to ask you

1
2 about the letter in which you signed on behalf of
3 the owner, in which the owner has to commit to as
4 the individual owner. If you look at number one
5 and number five, number one talks about closing
6 the café, which means the outdoor part from 10pm
7 on Sunday to Thursday and 12 midnight on Friday
8 and Saturday, but number five says, we will close
9 the garage door which is the opening of the front
10 wall and any other doors no later than one hour
11 before the closing of the café. That's in
12 reference to number one; is that correct? So for
13 example, the whole closure should be closed at 9
14 o'clock during the week and 11 o'clock on the
15 weekends; is that correct?

16 SHLOMO STEVE WYGODA: The closure
17 of the building, of the doors, the garage doors
18 that is correct.

19 [crosstalk]

20 COUNCIL MEMBER JACKSON: The garage
21 door is the front big door that they open and they
22 leave open during the course so that you can see
23 straight into the restaurant.

24 SHLOMO STEVE WYGODA: Right. That
25 should be closed one hour, so 9 and 11, correct.

1
2 COUNCIL MEMBER JACKSON: Well, let
3 me just say that my expectations and the City
4 Council's expectations is that the owner must live
5 up to every aspect of this agreement, and you need
6 to let him know that Robert Jackson will be
7 visiting from time to time and I do expect him to
8 do that, and not just do it a month before his
9 license is being renewed to have an outdoor café
10 because if not, then I will have NYPD and the
11 Consumer Affairs up there to fine them like
12 they're supposed to be. Let's make that very
13 clear.

14 SHLOMO STEVE WYGODA: I understand
15 this fully. I'll express all of these items to
16 them directly.

17 COUNCIL MEMBER JACKSON: And we do
18 have his cellphone number and his e-mail, and we
19 where appropriate will be communicating with him
20 in any alleged violations that take place.

21 SHLOMO STEVE WYGODA: Okay.

22 COUNCIL MEMBER JACKSON: With that
23 understanding, Mr. Chair, I concur that we should
24 approve it based on everything that is read into
25 the record and what I've just said.

1
2 CHAIRPERSON WEPRIN: Okay, so
3 Council Member Jackson is supporting this, but the
4 owner should realize that he will be flying in and
5 out of there and he can run fast, Council Member
6 Jackson, so he will be by a lot. Okay. Good.
7 Alright. We're going to close that hearing then,
8 unless there is a question from any of the panel.
9 I don't think so. Okay. Thank you. And we're
10 going to go to the last café that Mr. Wygoda has
11 and then we have one more after. This is Land Use
12 number 646 in Speaker Quinn's district, Villa
13 Pacri. Okay. Also approved by the Community
14 Board 45 to 0. Go ahead, Mr. Wygoda.

15 SHLOMO STEVE WYGODA: Shlomo Steve
16 Wygoda, speaking on behalf of Villa Pacri LLC.
17 This is a letter dated July 19th, 2012 addressed
18 to--Dear Council Member Quinn, this letter serves
19 as our agreement with the Chair, Council Member
20 Mark Weprin and the encompassing members of the
21 Subcommittee on Zoning and Franchises that we will
22 commit to the following: number one, we will
23 reduce the total size of the sidewalk café from 41
24 tables and 83 chairs to 39 tables and 80 chairs.
25 We will specifically remove the three tables and

1
2 five chairs that currently impede clearance to the
3 overhead fire escape. A three foot clearance 360
4 degrees around the landing of the exterior fire
5 escape will be maintained at all times in
6 accordance with the New York City Fire Department
7 regulations. The eastern most three tables and
8 six chairs will be additionally removed from the
9 larger portion of the sidewalk café in order to
10 provide a clear path to the restaurant's front
11 entrance. Number two, we will remove the eight
12 planters currently located in the sidewalk café
13 zone as they have not been indicated on the plans
14 approved by New York City Department of Consumer
15 Affairs, DCA. Number three, we will remove the
16 three sandwich boards, water service station and
17 hostess stand all currently located on the
18 sidewalk café zone in accordance with DCA
19 regulations, and number four, all of the
20 aforementioned changes will be reflected in
21 revised plans submitted to DCA.

22 CHAIRPERSON WEPRIN: Thank you.

23 Hold on a second.

24 [pause]

25 CHAIRPERSON WEPRIN: Thank you. I

1
2 understand from Speaker Quinn's office that
3 everything is okay. This is the agreement that
4 they helped put together. Anyone have any
5 comments or questions on this? Seeing none, we're
6 going to close this hearing. Thank you very much,
7 Steve.

8 SHLOMO STEVE WYGODA: Thank you,
9 Council Member.

10 CHAIRPERSON WEPRIN: I appreciate
11 all your cooperation.

12 [pause]

13 CHAIRPERSON WEPRIN: I apologize.
14 Okay. We do have one other and then we're going
15 to get to Café Select last, so I'm going to call
16 up Land Use number 631, which is Focacceria
17 Restaurant and come on up. Where is that slip?
18 I'm sorry. Bolivar Paredes [phonetic]. Okay.
19 Mr. Paredes, please state your name and discuss
20 the application please.

21 BOLIVAR PAREDES: Last name
22 Paredes, first name Bolivar. I have this letter
23 here being in contact with the Council. This
24 letter serves as an agreement with the Chair,
25 Council Member Mark Weprin and the encompassing

1
2 members of the Subcommittee on Zoning and
3 Franchises that we will commit as follows: number
4 one, the total of the sidewalk café will be reduce
5 from 7 tables and 14 chairs to 5 tables and 12
6 seats, specifically, we will remove the southern
7 two tables and two chairs from the sidewalk café -
8 - in accordance with the New York City fire
9 Department regulations. The remaining two chairs
10 will be added to the two tables directly north
11 side of - - . A three foot clearance 360 degrees
12 around the fire escape will be maintained at all
13 times. Number two, a three foot waiter service
14 aisle will be maintained during the operation of
15 the sidewalk café in accordance with the city of
16 New York Consumer Affairs regulations.

17 CHAIRPERSON WEPRIN: Thank you. I
18 got the thumbs up from Speaker Quinn's office that
19 that is exactly what they had agreed to. Does
20 anyone on the panel have any questions for this
21 gentleman? Seeing none, thank you very much, sir.

22 BOLIVAR PAREDES: Thank you, sir.

23 CHAIRPERSON WEPRIN: See you later,
24 and we're going to close that hearing. On Land
25 Use number 629, we'll get a motion to file

1
2 pursuant to withdrawal. That is Tasca Restaurant.
3 Now I'd like to—okay. And now I'd like to call up
4 the last item on our agenda, which is Land Use
5 number 637. This is Café Select in Council Member
6 Chin's district. Is Arthur Goldstein going to do
7 this? Okay.

8 [long pause]

9 CHAIRPERSON WEPRIN: Okay. The
10 applicant is not going to testify today. I'd like
11 to now call up one person in opposition, Georgette
12 Fleischer [phonetic], who is here. Ms.
13 Fleischer, please state your name for the record
14 and discuss why you oppose this application.

15 GEORGETTE FLEISCHER: I'm Georgette
16 Fleischer. I'm founder of Friends of Petrosino
17 Square, so this is the community group that is
18 affected by this establishment. I also want to
19 mention that Walter Clark [phonetic] from 210
20 Lafayette Street, which is very much affected by
21 this is here. He wasn't invited by his co-op
22 board, his condo board, to speak today, but he is
23 here out of concern for the experience of the
24 residents in that building. Sorry about the
25 feedback. I want to make three points--first,

1
2 questions of fire safety; second, quality of life,
3 and third, if there is time, and if you'll permit
4 it, the character of the applicant. I don't know
5 how DCA approved this sidewalk café. There is not
6 the appropriate 11 feet of clearance between the
7 lamppost that would allow also the 3 feet of wait
8 service aisle that is supposed to happen here, but
9 more importantly, there isn't clearance for 3 feet
10 around the fire escape ladder that comes down the
11 front of this building. You know, some of the
12 people who live in the building are kind of hale
13 and healthy like me, but we have elderly senior
14 citizens in this building, Italian Americans and
15 Chinese Americans who have lived here all their
16 lives and I hate to think of what would happen to
17 these women if there were a fire and this fire
18 escape route is blocked. I've also handed in half
19 a dozen sustained building violations over the
20 last two years, all of which have to do with fire
21 safety for the residents in this building, whether
22 it be in front with their illegal awning that
23 blocks the fire escape route, whether it be in the
24 cellar where they built out an office when they
25 weren't supposed to or whether it be in back,

1
2 which is the second fire escape route which is
3 absolutely necessary in a building of this size.
4 They blocked it with equipment and there were
5 problems with the ladder. I've given you the
6 package—six sustained DOB violations having to do
7 with fire safety for the residents in the
8 building. In addition, the establishment is
9 licensed through DOB with a letter of no objection
10 for no more than 74 persons and only on the first
11 floor. They have been operating in the cellar
12 illegally. They just reopened a new place called
13 Cervantes' [phonetic] Oyster Shack and Bar that
14 operates Tuesdays through Saturdays from 7pm 'till
15 2am in the cellar, and they're not licensed to be
16 having eating and drinking in the cellar. This
17 too is a fire safety hazard for the residents in
18 this building. My second point has to do with the
19 quality of life issues. Even before they got the
20 sidewalk café, again, we were really perplexed
21 that DCA licensed this, and we appreciate Council
22 Member Chin calling it up because of our concerns.
23 They partnered with La Esquina. You may recall
24 the La Esquina thing from a year ago. They
25 partnered with La Esquina in the storefront for

1
2 art and architecture for an election night grill,
3 a viewing party. They mounted projectors on a
4 ladder on a New York City sidewalk projecting the
5 election results. They had huge amplifiers
6 mounted on tripods and Café Select's contribution
7 was that they pulled out these two huge barbecue
8 grills on the sidewalk. They were grilled wurst
9 over open flame in order to feed the people coming
10 to this unlicensed party. The NYPD of course shut
11 it down. Just to give you an idea, I give you a
12 photograph there. It's completely unretouched
13 [phonetic], and I'm not a good photographer.
14 After that, they had a - - celebration and I took
15 photographs and you can see that people are
16 drinking. They bring in their champagne glasses
17 and their cocktails out onto the front. They had
18 put furniture out there. They had benches. They
19 had whole furniture, like in a lounge. They
20 basically turned the sidewalk into a lounge, and
21 people drinking out there. You can imagine what
22 that is like for those of us who live there who
23 are trying to say, read our student papers at
24 night for the next day's class when this kind of
25 thing is going on. So we were very surprised that

1
2 they got the sidewalk café to begin with, and they
3 have not been good neighbors by any means. I want
4 to point out that they are the only sidewalk café
5 on Petrosino Square that isn't shut and cleared
6 and quiet by 11pm, even La Esquina was forced with
7 the agreement that they made here that they must
8 be closed by 11pm on Thursday, Friday and Saturday
9 and by 10:30pm on the other nights of the week.
10 Spring Natural [phonetic] is closed and cleared by
11 11pm. Jack's Wife Rita [phonetic] is closed and
12 cleared by 11pm. Here we have people out there
13 and honestly, I'm not seeing food served on that
14 sidewalk café. All I see going on there is
15 drinking and smoking. It's extremely disruptive.
16 I see that you're giving me the sign that you have
17 kind of heard enough. Maybe I'll stop there and
18 let people ask questions if you have something
19 that you'd like to have filled out.

20 CHAIRPERSON WEPRIN: Thank you, Ms.
21 Fleischer. I appreciate you noticing how subtle I
22 was. Ms. Lappin has a question for you.

23 COUNCIL MEMBER LAPPIN: I have a
24 question for staff. So does this conform to DCA's
25 regs or does it not? 'Cause that's what I would

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

like to be clear on.

CHAIRPERSON WEPRIN: Well, we're going to call Peter. Do you want to just state your name for the record? We have Peter - - on the record. Is that okay? No, no. Special guest. Gail Benjamin [phonetic] - - . Please bear with us a second. State your name.

GAIL BENJAMIN: Hi. Gail Benjamin. I'm told that this is more complicated than a yes or a no answer, and that we should probably get a fuller answer and give you a memo about where it meets, what it meets and why. It may not need to meet, but there are different answers for zoning issues. There are different answers for the clearance issues, so I'd like to be able to give you a fuller answer on a diagram. Yes.

[background conversation]

CHAIRPERSON WEPRIN: Okay. We are going to hold off on the vote on this particular item until tomorrow. Does anyone else have any questions? Yes? Ms. Reyna. We are also joined by Vincent Ignizio by the way.

COUNCIL MEMBER REYNA: It would be helpful if we can just request from DCA a copy of

1
2 the architectural plans that are filed to deal
3 with the FDNY code.

4 CHAIRPERSON WEPRIN: We have that
5 and we can get it to you. Do you want to see
6 those right now or do you want to wait until after
7 the meeting?

8 COUNCIL MEMBER REYNA: Well, if
9 they can—I'd like clarity in addition to what
10 Council Member Lappin had requested, the issue of
11 FDNY and the means of clearance whether or not it
12 meets the fire code in relationship to residents
13 versus the established business and whether or not
14 there is a grandfather clause or is this an issue
15 that exempts the business from having a fire
16 escape clearance?

17 CHAIRPERSON WEPRIN: We are
18 currently looking at—there's been some discussion
19 about the fire escape clearance issue and whether
20 it includes the three feet on the ground or the
21 three feet in the air, so that is what we are
22 holding off this to discuss and figure out by
23 tomorrow morning.

24 COUNCIL MEMBER REYNA: That FDNY
25 will provide for us.

1
2 CHAIRPERSON WEPRIN: Yes, we are
3 going to speak to FDNY again today.

4 COUNCIL MEMBER REYNA: Okay. Thank
5 you.

6 CHAIRPERSON WEPRIN: Any other
7 questions? Seeing none, so thank you very much,
8 Ms. Fleischer. We are going to close this
9 hearing, but we are not going to vote on this item
10 today. We are going to vote on all the other
11 items today and I will recap those items, okay?
12 Okay, Land Use number 630, which was Panca in
13 Speaker Quinn's district, has a motion to file--no,
14 no, no. Oh, that's why it's not on there, okay.
15 629 was a motion to file. That's Tasca, not
16 Panca. Tasca. Same amount of letters though, I
17 notice. So that one is pursuant to withdrawal.
18 Now the following items are going to be coupled
19 that we heard about today: Land Use number 630,
20 Panca; Land Use number 631, Foccaceria; Land Use
21 number 642, Abilene, in Council Member Lander's
22 district; Land Use number 643, Mickey Spillane's
23 Kitchen; Land Use number 644, Smorgas Chef; Land
24 Use number 645, Papasito Mexican Grill; and Land
25 Use number 646, Villa Pacri. Those items are all

1
2 going to be coupled. Again, Land Use number 637,
3 Café Select will not be one of the coupled items.
4 That vote will not take place today, but the other
5 items, which are coupled. I'd like to call on
6 Christian Hilton to please call the roll.

7 COUNSEL: Chair Weprin?

8 CHAIRPERSON WEPRIN: Aye.

9 COUNSEL: Council Member Rivera?

10 COUNCIL MEMBER RIVERA: I vote aye.

11 COUNSEL: Council Member Reyna?

12 COUNCIL MEMBER REYNA: Aye.

13 COUNSEL: Council Member Comrie?

14 COUNCIL MEMBER COMRIE: I vote aye.

15 COUNSEL: Council Member Jackson?

16 COUNCIL MEMBER JACKSON: Aye on

17 all.

18 COUNSEL: Council Member Garodnick?

19 COUNCIL MEMBER GARODNICK: Aye.

20 COUNSEL: Council Member Lappin?

21 COUNCIL MEMBER LAPPIN: Aye.

22 COUNSEL: Council Member Vacca?

23 COUNCIL MEMBER VACCA: Aye.

24 COUNSEL: Council Member Ignizio?

25 COUNCIL MEMBER IGNIZIO: Aye.

1
2 COUNSEL: By a vote of nine in the
3 affirmative, none in the negative and no
4 abstentions, L.U. 630, L.U. 642, 644, 643, 645,
5 646, 631 are approved and referred to the full
6 Land Use Committee, and L.U. 629, a motion to file
7 pursuant to withdrawal is approved and referred to
8 the full Land Use Committee.

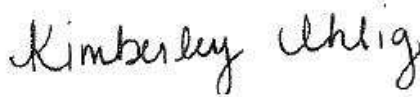
9 CHAIRPERSON WEPRIN: Alright. This
10 meeting is going to be recessed until tomorrow
11 morning at 9am, 9:15am and please try to be prompt
12 so we can get this meeting done, and then Land Use
13 started on time. With that in mind, this meeting
14 is now recessed until tomorrow morning. Thank
15 you.

16 [gavel]

C E R T I F I C A T E

I, Kimberley Uhlig 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 _____



Date _____

8/5/12