

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 30, 2013

Start: 10:03 a.m.

Recess: 1:57 p.m.

HELD AT: Council Chambers
City Hall

B E F O R E: Mark S. Weprin
Chairperson

COUNCIL MEMBERS:

Maria del Carmen Arroyo
Leroy G. Comrie, Jr.
Daniel R. Garodnick
Robert Jackson
Jessica S. Lappin
Diana Reyna
Joel Rivera
Albert Vann
Vincent M. Ignizio
Ruben Wills

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

Carol Samol
Department of City Planning

Paul Phillips
Department of City Planning

Howard Slatkin
Department of City Planning

Chris Holme
Project Manager of City Planning Zoning Division

Jerilyn Perine
Executive Director of Citizens Housing and
Planning Council

Melanie Meyers
Attorney with Fried, Frank, Shriver, Harris and
Johnson

Lance J. Brown
American Institute of Architects New York Chapter

Illya Azaroff
American Institute of Architects New York Chapter

Willy Zambrano
Vice President of the AIA Queens Chapter

John Calcagnile
Chairperson of the Land Use Committee for
Community Board 10 Queens

Michael Marella
Director of Waterfront and Open Space Planning at
the New York City Department of City Planning

Eddie Bautista
New York City Environmental Justice Alliance

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

Juan Camilo Osorio
Director of Research with New York City
Environmental Justice Alliance

Eva Hanhardt
Professor at Pratt Institute

Anusha Venkataraman
El Puente, Director of Green Light Initiative

Roland Lewis
CEO Metropolitan Waterfront Alliance

Edward Kelly
Executive Director of Maritime Association of
Port of New York and New Jersey

Kethia Joseph
Representing Sustainable South Bronx

Bonnie Harken
New York Metro Chapter of American Planning
Associates

Joaquin Brito
UPROSE

Jesse Masyr
Attorney with Fox Rothschild LLP

Jerry Johnson
Partner at Fox Rothschild LLP

Gary Handel
Architect

Steve Whitehouse
Landscape

Howard Goldman
Representative for Ruppert House

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

Oscar Fernandez
Campaign to Save Ruppert Playground

Geoffrey Croft
President of New York City Park Advocates

Sharon O'Connell
Resident

John Russell
Head of Windward School

Devin Fredericks
Trustee of Windward School

Gina Switzer
Parent of Windward School

Howard Zivitoski
Resident

Elizabeth Rieman
Resident

Carol Uziak
Resident

Sylvia Larkin

Sydney Trubowitz

Judy Phillips

Bruce Fromerman
Resident

Catherine Fromerman
Resident

Robert Hoffman
Executive Director of Manhattan Youth Baseball

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

Dianne Stafford
Resident

Lori Boyce

Teri Ashcroft

Renee Ennis
Yorkville Resident

2 CHAIRPERSON WEPRIN: Okay, we ready
3 to go? Okay. We're going to get started. My
4 name is Mark Weprin, I'm Chair of the Zoning
5 and Franchises Subcommittee. For quorum
6 purposes we are joined by the following members
7 of the Subcommittee, Council Member Robert
8 Jackson, Council Member Al Vann, Council Member
9 Leroy Comrie, Council Member Vincent Ignizio,
10 Council Member Dan Garodnick--forgot somebody?
11 Nope? Alright. And so we have a--oh, and
12 Council Member Diana Reyna. You guys sat there
13 so quietly, you know. Council Member Diana
14 Reyna. So we have a quorum. I want to start
15 out. I know there are not people here on items
16 that we are not taking up today. MSK CUNY, the
17 Memorial Sloan Kettering CUNY project that we
18 heard a hearing on, we will be laying over to
19 our next meeting. And also I know a lot of
20 people are interested in the Willets Point
21 Project which we had the hearing on already.
22 There are ongoing discussions on that item and
23 we are not ready to take that up yet, so we are
24 laying over the Willets Point items as well,
25 that's Land Use number 876-881. Our next

1 meeting for the record is Wednesday morning,
2 9:30, same time, same place. The following
3 items we had heard the hearing on. We had the
4 hearing already, and we are going to move to
5 vote on these items. Alright. Well the first
6 item is 891, which is the New Hope request in
7 Council Member Arroyo's District. We have a
8 letter form Council Member Arroyo. Actually,
9 we have Council Member Arroyo, look at that.
10 Council Member Arroyo, want me to read the
11 letter into the record? Okay. I hope I do it
12 justice it now. "Dear Chair Weprin, I write to
13 request the Land Use Subcommittee of Zoning and
14 Franchises disapprove the application number
15 C110154 ZSX, submitted by Liska New York, Inc.
16 Pursuant to section 197 C and 201 of the New
17 York City charter for a special permit pursuant
18 to section 74902 of the zoning resolution."
19 I'm going to skip the other on that aspect.
20 "The facility in question has a strong and has
21 a long and very controversial history, on that
22 begins over 10 years ago and involves a
23 property owner's misrepresenting his intentions
24 for the development of this property to the
25

1 Bronx Borough President, the Department of
2 Buildings, and our community on August 19th,
3 2003. The Bronx Borough President's Office
4 pursuant to its charter mandate originally
5 issued a house number for a 32 unit apartment
6 building which is classified under Use Group
7 Two of the Zoning Resolution. In August 2007,
8 four years later, the owner filed with the
9 Department of Buildings to change the building
10 to a 57 unit project with sleeping
11 accommodations for the homeless and is operated
12 by the New Hope Transitional Housing. The
13 owner not only neglected to make that change
14 use, from the Use Group Two to Use Group Three,
15 but also neglected to engage the borough
16 President's Office, Community Board Two, or the
17 Council Member to discuss his intent to change
18 the use of the property. Community Board Two
19 held a public hearing on this application on
20 May 22nd, 2013, and it's opted a resolution
21 recommending disapproval of the application.
22 On June 19th, 2013 this application was
23 considered by the Bronx Borough President who
24 issued a recommendation to also disapprove it.
25

1
2 Although a favorable report was provided by the
3 City Planning Commission, on this application
4 we cannot overlook the Commission did not
5 consider or evaluate the oversaturation of
6 homeless services, facilities within the
7 quarter mile radius of 731 Southern Boulevard.
8 There are also seven facilities with 229
9 transitional units within a quarter of a mile
10 of this property. Also disregarded is the fact
11 that the Community Board Two in the Bronx has
12 the second highest number of units and beds per
13 housing units in the Bronx, representing 10
14 percent of the units in the Community District.
15 The owner of the property claims the over build
16 was due to an error in oversight at the
17 Department of Buildings. If this were the only
18 instance of the purported error, I would be
19 more inclined to rethink my position, but this
20 is not the only instance. The property owner
21 filed under Group Two for 1073 Hall Place, and
22 in Community Board--also in Community Board
23 District Two and later proceeded to operate it
24 as a shelter using the same non-profit service
25 provider. It is the belief of the Bronx

1
2 Borough President, Community Board Two and
3 yours truly that the over build of the facility
4 was not done--was not done in error, but done
5 intentionally in order to maximize the number
6 of homeless families and the facility could
7 accommodate, not with the intention to aid more
8 families, transition out of homelessness, but
9 to maximize the profit of property owner--the
10 property owner could extract from the service
11 providers and ultimately to the department of
12 homeless services. Approving this application
13 would encourage the owner and other developers
14 to engage in bad practices that not only
15 violate the zoning resolution, but also
16 disregard local communities in the process.
17 The Bronx Borough President of Community Board
18 Two and I do not recommend approval of this
19 application and urge the committee to reject
20 it." That is by Maria Carmen Arroyo, Council
21 Member. We are going to move to disapprove
22 this motion based on Council Member Arroyo's
23 letter. And so we're going to vote on this
24 item first. The motion is to disapprove the
25 application, Land Use number 891. So the vote

1 will be aye to disapprove. An aye vote is to
2 disapprove of this number, of this application.
3 So with that in mind, Counsel will please call
4 the roll,
5

6 COUNSEL: Chair Weprin?

7 CHAIRPERSON WEPRIN: Aye.

8 COUNSEL: Council Member Reyna?

9 COUNCIL MEMBER REYNA: Aye.

10 COUNSEL: Chair Comrie?

11 COUNCIL MEMBER COMRIE: Aye.

12 COUNSEL: Council Member Jackson?

13 COUNCIL MEMBER JACKSON: Aye.

14 COUNSEL: Council Member Vann?

15 COUNCIL MEMBER VANN: Aye.

16 COUNSEL: Council Member Garodnick?

17 COUNCIL MEMBER GARODNICK: Aye.

18 COUNSEL: Council Member Ignizio?

19 COUNCIL MEMBER IGNIZIO: Yes.

20 COUNSEL: By a vote of seven in the
21 affirmative, zero abstentions, zero negatives,
22 Land Use 891 motion to disapprove is approved and
23 referred to the Full Land Use Committee.

24 CHAIRPERSON WEPRIN: Okay. Thank you
25 Council Member Arroyo. Thank you members of the

1 Committee. We now will move to vote one more
2 time. Now on two items, an item that we heard
3 the other day also, the Brooklyn College Campus
4 in Council Member Jumaane Williams' District of
5 which we have agreement. That's Land Use 892 and
6 893, the motion on this item is to approve. A
7 yes vote will approve this item. I'd like to
8 call on Anne [phonetic] to please call the roll.

9
10 COUNSEL: Chair Weprin?

11 CHAIRPERSON WEPRIN: Aye.

12 COUNSEL: Council Member Reyna?

13 COUNCIL MEMBER REYNA: Aye.

14 COUNSEL: Chair Comrie?

15 COUNCIL MEMBER COMRIE: Aye.

16 COUNSEL: Council Member Jackson?

17 COUNCIL MEMBER JACKSON: Aye.

18 COUNSEL: Council Member Vann?

19 COUNCIL MEMBER VANN: Aye.

20 COUNSEL: Council Member Garodnick?

21 COUNCIL MEMBER GARODNICK: Aye.

22 COUNSEL: Council Member Ignizio.

23 COUNCIL MEMBER IGNIZIO: Aye.

24 COUNSEL: By a vote of seven in the
25 affirmative, zero abstentions, zero negatives,

1 Land Use items 892 and 893 are approved and
2 referred to the Full Land Use Committee.

3
4 CHAIRPERSON WEPRIN: Alright, we have
5 a number of items on the agenda today. I
6 apologize that we, you know, have people, a lot
7 of people here I know to testify, but we're going
8 to get to everybody today. We just have to get
9 through the items, and we usually like to do them
10 in reverse order of people here. So we can get
11 the people moving through as fast as possible.
12 So we're going to start with East Fordham Road,
13 which is Land Use 934, the East Fordham Road
14 rezoning. And who's here to testify on behalf of
15 East Fordham Road, let's see. Carol Samol from
16 DEP and Paul Phillips from DCP, right, DCP of
17 course. DEP may care also, but Department of City
18 Planning is here. Apologize. So whenever you're
19 ready, please make sure whenever you speak to state
20 your name if you alternate speaking, but at the very
21 beginning please state your name for the record.
22 Thank you.

23 CAROL SAMOL: Good morning, thank you.
24 My name is Carol Samol, and I'm the director of the
25 Bronx Office at the Department of City Planning. And

1 I'm joined by Paul Phillips who will make the bulk of
2 the presentation. You've been provided with handouts
3 which we will use to walk through the description of
4 the proposal. I just want to say a brief word first
5 about the collaboration and outreach that went into
6 crafting this proposal. It's a small, but very
7 significant area in a very prominent location in the
8 Bronx, the front door to many institutions in the
9 Central Bronx, and it's been a very much
10 collaborative process with--to come to this proposal
11 with Community Board Six, who's been an incredible
12 partner throughout. And the institutions in the
13 area, Fordham University, this is their front door,
14 the gardens, New York Botanical Gardens, the Zoo, as
15 well as the Belmont Bid and Arthur Avenue area. And
16 of course, the property owners have been very
17 supportive and engaged throughout. So, all the major
18 stake holders are here, have been with us. And
19 Council Member Rivera and Council Member Koppell have
20 actually walked the streets with us many years ago
21 when we first started out to come with a vision for
22 this. So I'm going to turn it over to Paul Phillips
23 who will walk you through the proposal.
24

1
2 PAUL PHILLIPS: Good morning. My name is
3 Paul Phillips. I am a project manager with the Bronx
4 Office Department of City Planning. The department
5 proposes to rezone portions of 12 blocks located in
6 the Belmont neighborhood in Community District Six.
7 East Fordham road is a major east/west thoroughfare.
8 It provides connections to not only points throughout
9 the borough of the Bronx, but it also provides
10 connections to Manhattan, New Jersey, as well as
11 Westchester for area institutions which are the Bronx
12 Zoo, the Botanical Gardens, as well Fordham. East
13 Fordham road really is their front door. It really
14 is a gateway and it provides the first impression
15 that people get not only of the neighborhood and the
16 borough but also of the region. The proposal seeks to
17 create an attractive gateway to the Central Bronx,
18 establish height limits to unify the look and feel
19 for this major corridor. We also want to stimulate
20 revitalization through private investment. We also
21 want to incentivize permanently affordable housing.
22 We also want to protect neighborhood character and
23 ensure predictable development for the future, and
24 lastly, we want to reinforce the existing commercial
25 character of the neighborhood. If you turn to your

1 second slide there is an overview of the area, and
2 this really gives a sense of--I'm sorry, number
3 three--really gives a sense of what's taking place in
4 the area. There's a great deal that has happened in
5 this neighborhood. As Carol mentioned, the Belmont
6 Bid has been very instrumental in this proposal.
7 They were formed in 2008. The Third Avenue and
8 Webster Avenue rezonings respectively in 2010 and
9 2011 were approved the by the City Council. Fordham
10 Plaza, which is a major transit hub has undergone 26
11 million dollar redesign in February. So this is
12 really an important many things going on in the area.
13 In addition, this area has excellent access to mass
14 transit. There are more than eight bus lines that
15 run through the area. This is where the first select
16 bus service, the SBS 12 as well as the Webster Avenue
17 Select Bus Service began running in June of this
18 year. Also we have the Fordham Metro North Station,
19 which is the third busiest station system-wide for
20 Metro North, and it also provides connections to
21 subways of the B, D, the two, the four, and the five.
22 If you turn to your next slide, I'll talk a little
23 bit about the existing zoning, what's taking place
24 there and what some of the limitations are. The bulk
25

1 of the rezoning area is focused on a C81 Zoning
2 District. C81 are primarily automotive related uses.
3 This zoning has primarily been in place since 1961,
4 and very little has changed. It's important to note
5 in C81 zoning districts, there's no street wall
6 requirements, which contribute to lack of eyes and
7 ears on the street. It also contributes to the lack
8 of foot traffic in this area. Additionally, there's
9 no interaction between pedestrians and buildings at
10 the street level. What we have seen--what we have
11 seen over the past few years in terms of development
12 trends have been one to three story medical related
13 and commercial facilities. And this is a--this is a
14 limitation of the zoning, which limits the types of
15 uses and also the size of development on parcels.
16 There is a strong commercial character here, both
17 south of East Fordham Road, as well as north along
18 East 191st Street. You have many multifamily
19 residential buildings, particularly on Arthur Avenue
20 you have multifamily apartment buildings with ground
21 floor retail. This is also the Little Italy area of
22 the Bronx. This is a strong regional draw for
23 people, not only in the borough of the Bronx, but
24

1 throughout the metropolitan region. If you turn to
2 your next slide, these are just--

3
4 UNKNOWN: [interposing] Which slide?

5 PAUL PHILLIPS: Slide number five, number
6 five. These are some photographs that give you a
7 sense of what's taking place here in the area. As I
8 mentioned, C81 is an auto-related, is an auto-related
9 zone, provide auto-related uses. There are several
10 gas stations in the area. It's important to note
11 that these gas stations, they don't have--there's no
12 street wall requirement in the C81, so the gas
13 stations, for example, are set far back from the
14 street line. There's no interaction between
15 pedestrians and the built environment. There's also
16 a bank here. This is a TD bank. This is a drive
17 through. So again, the building is set very far back
18 from the street line. People either drive through
19 the bank or they park and they go inside. As I
20 mentioned there is residential and then in the
21 neighborhood the photograph on the right corner is a
22 one family attached housing, and the bottom right is
23 an apartment building with ground floor retail which
24 is located on Arthur Avenue. And the very last
25 photograph are medical related facilities, and these

1 are some of the new uses that we've seen in the area.
2 Now, again, these are the types of uses that we're
3 seeing, but again, the zoning currently really limits
4 the types of uses and the bulk of the development
5 that can happen in the area today. If you turn to
6 slide six, I'll walk through the proposed zoning. So
7 the bulk of the proposal focuses on a C45D zoning
8 district. This is a medium density commercial
9 district. It's important to note that this district
10 allows residential, which is not permitted today in
11 the C81 zoning district. It also allows commercial
12 at a greater FAR. Today, the permitted FAR on a C81
13 is a 1FAR. It will be increased to 4.2. In
14 addition, community facility uses will also be
15 allowed at maximum FAR 4.2. We are also mapping the
16 inclusionary housing. There's an inclusionary
17 housing program here to incentivize permanently
18 affordable housing in the area. Also very important
19 to note in this zone, there's a street wall
20 requirement here. Six to eight stories at the street
21 wall. After a set back, there's a maximum height of
22 100 feet. Today, there is no street wall
23 requirement, and as you walk along the corridor, you
24 see buildings that are kind of set back. There's no
25

1 interaction and there's no foot traffic. So this
2 will create a more unified look and feel along the
3 corridor and cap the height limit of buildings at 100
4 feet. Also importantly for this district, two very
5 important things, mandatory active uses on the ground
6 floor. This is very important to sort of activate
7 the ground floor so any new development will be
8 required to have either an active commercial or
9 community physically used on the ground floor.
10

11 Additionally, this district mandates that there's a
12 grazing requirement on the ground floor as well. So
13 in concept, all of these components will really unify
14 and strengthen this corridor, creating a unified look
15 and feel, increasing the capacity for commercial and
16 community facility uses as well as introducing
17 residential as a use, which is not permitted today.

18 The second component of the proposal is an R6B
19 primarily mapped along East 191st Street. This has a
20 maximum height of 50 feet. This is important because
21 along this area we have very strong residential
22 character. They are low scale one and two family
23 attached homes, and we want to preserve that
24 character and create predictability for future
25 development. The last component of the proposal are

1 commercial overlays that we are proposing along
2 Arthur Avenue. Currently today in the area where
3 we're proposing the commercial overlays, there are no
4 commercial overlays there today. So these uses are
5 non-conforming which means that today property owners
6 cannot modernize. They cannot expand their
7 businesses, but the commercial overlays will make
8 these uses conforming allowing these businesses to
9 thrive and grow, modernize, expand if they so choose
10 within the permits of zoning, and also would create
11 retail continuity between the heart of the Little
12 Italy Area along Arthur Avenue up to East Fordham
13 Road. And if you turn to slide seven, this just
14 gives you a sense of how the built form of the
15 proposed C45D relates to East Fordham Road, which is
16 a very wide street. So in conclusion, both the
17 Community Board and the Borough President and the
18 City Plan Commission voted to approve this proposal.

19
20 CAROL SAMOL: Thank you.

21 PAUL PHILLIPS: Thank you.

22 CHAIRPERSON WEPRIN: Okay. Thank you
23 very much and I've spoken to Council Member Rivera
24 just now, and to Council Member Koppell and also we
25 heard from and they both are okay with this plan and

1 are very happy with City Planning on this. So--
2
3 Alright, well thank you very much. We excuse this
4 panel. Is--I apologize. Please wait one second. I
5 didn't realize Council Member Reyna, I believe, yes.
6 What is it you guys are drinking exactly? [laughter]
7 Okay. That's juicing, but what exactly kind of
8 juice? Okay. Alright, you don't--you don't have to
9 answer these questions.

10 COUNCIL MEMBER REYNA: Just wanted to
11 ask, as far as this rezoning is concerned, the flow
12 of pedestrian traffic encouraging what would be a
13 trifecta here of supporting the Botanical Garden,
14 Bronx Zoo, and obviously the commercial strip along
15 what has been the proposed zoning lines, if you could
16 just express to us what you envision and was
17 Botanical Garden, Bronx Zoo and Fordham University
18 working in collaboration in a task force? If you
19 could just tell us exactly how you envision what
20 would be, if those discussions took place as to how
21 you're going to be supporting each other as
22 institutions?

23 CAROL SAMOL: Sure, I'll say a little
24 bit, and then Paul can chime in as well. They were
25 very much a part of the discussion, and we meet kind

1 of regularly with them. They're, you know, a
2 concerned group of major institutions in the area,
3 major employers in the area, and working together now
4 to help promote the growth and vitality of the entire
5 area, knowing full well that that is in their
6 interest. And they helped us. They were there
7 walking the streets with us at the community
8 meetings, talking about their goals, knowing full
9 well that this area that is today auto-related is
10 their front door, as Paul said. And it would serve
11 them to support redevelopment there. This also--
12 this--redevelopment in this quarter would also
13 connect this area to the bustling and historic East
14 Fordham Road that, you know, you know about in the
15 major shopping district in the Bronx, which is
16 further to the west of this area, but it dies off
17 right here because there is no shopping, and--and
18 yet, you've got the zoo and the gardens and Belmont
19 and all of those very much large attractions right
20 there. So, bringing that pedestrian traffic from
21 East Fordham Road from the Fordham Station to these
22 institutions is--would be very much facilitated by
23 redevelopment. Paul, I don't know if you would add
24 anything?
25

1
2 PAUL PHILLIPS: Just to--the only thing I
3 would add is that, yes, the both the zoo, the
4 gardens, as well as Fordham University and all the
5 property owners were very much involved in crafting
6 this proposal and really talking about the built form
7 and what we thought was appropriate in terms of
8 heights along this corridor. As Carol mentioned, we
9 walked the corridor, we did a walking tour with
10 everyone on a Saturday afternoon, and we did a lot of
11 outreach. So this really is a collaborative effort
12 on everyone's part.

13 COUNCIL MEMBER REYNA: And as far as the
14 commercial spaces are concerned, the commercial
15 spaces would be encouraging small scale, small
16 businesses, or--so that the spaces are in multiple
17 volume as opposed to square footage that would be
18 taken by one specific establishment?

19 CAROL SAMOL: Yeah, I think the lot
20 configuration would naturally bring us to smaller
21 stores. There are a couple of lots that are larger.
22 There's a large lot with a hotel, kind of a small
23 scale hotel on it, motel that could actually
24 redevelop with something larger, but for the most
25

1
2 part their smaller lots. We would expect smaller
3 retail spaces to emerge.

4 COUNCIL MEMBER REYNA: And is Fordham
5 University as the--you're the applicant, correct?

6 CAROL SAMOL: Correct.

7 COUNCIL MEMBER REYNA: And--

8 CAROL SAMOL: [interposing] We're, City
9 Planning is the applicant.

10 COUNCIL MEMBER REYNA: Okay. So City
11 Planning is the applicant, and as far as Fordham
12 University is concerned, are you going to be
13 continuing, you know, a working relationship with
14 property owners to build on what would be further
15 studies to encourage commercial development so that
16 there is this local economy being built?

17 CAROL SAMOL: Yes, there's a very active
18 bid here, the Belmont Bid, and all the property
19 owners are members. It's actually a small group
20 here, only a handful of property owners. It's a
21 small area, and Fordham is represented on the bid.
22 So there is actually already an existing
23 collaborative group designed to promote economic
24 development in the area.

2 COUNCIL MEMBER REYNA: Well I appreciate
3 your presentation, and you know, the encouraging of
4 the purchasing dollar empowerment of this community
5 and hopefully your vision will see through what would
6 be an economic activity that will benefit the
7 community at large, and small businesses as well as
8 the institutions that surround this area. Thank you
9 so much.

10 CAROL SAMOL: Thank you.

11 PAUL PHILLIPS: Thank you.

12 CHAIRPERSON WEPRIN: Thank you. Any
13 other questions from the panel? Seeing none. We
14 thank you very much. Is there anyone else here to
15 testify on this item? I see none. So we're going to
16 close this hearing. We've been joined by Council
17 Member Ruben Wills for the record. Alright. We're
18 going to have the two members, Council Member Rivera
19 and Council Member Wills vote on the items we voted
20 on before so we can get rid of that piece of
21 housekeeping. So once again, for the record, that's
22 Land Use 891, which was the New Hope motion to
23 disapprove in Council Member Arroyo's District, and
24 Council Member's 892 and 893, which is the Brooklyn
25 College item in Council Member Williams district.

1 That was a motion to approve. Together they'll be a
2 yes vote, meaning disapprove on the first and approve
3 on the second. So counsel will please call the two
4 names.

5 COUNSEL: Council Member Rivera?

6 COUNCIL MEMBER RIVERA: I vote aye on
7 all.

8 COUNSEL: Council Member Wills?

9 COUNCIL MEMBER WILLS: Aye on all.

10 COUNSEL: Vote now stands nine in the
11 affirmative, zero abstentions, zero negatives.

12 Motion to disapprove Land Use item 891, and motion to
13 approve Land Use items 892 and 893.

14 CHAIRPERSON WEPRIN: Okie doke. We're
15 going to move on now. Alright, we're going to move
16 to the Flood Text Amendment now, Land Use 921 Flood
17 Resilience Text Amendment. And I'd like to call on
18 Chris Holme and Howard Slatkin at City Planning.
19 Who's left in the office today? Gentlemen, whenever
20 you're ready. You alright? Do you need Carolyn
21 Grossman [phonetic] to pick up any signs or anything?
22 No, she's good? Okay.

23 HOWARD SLATKIN: Good morning, Chair
24 Weprin, Council Members. Thank you for having us
25

1 here today to talk about the department's proposed
2 Flood Resilience Zoning Text Amendment. I'm joined
3 here by Chis Holme who is our project manager from
4 City Planning's Zoning Division. I'm going to start
5 with a little bit background and introduction that
6 obviously since hurricane Sandy there have been many
7 levels of response from the City to the challenges
8 that face the City, that face home owners, property
9 owners, residents in recovery from the storm and
10 rebuilding. What we're going to present to you today
11 between this Flood Resilience Text Amendment and also
12 the Waterfront Revitalization Program are two of the
13 measures that City Planning has been working on
14 related to flood resilience that form a part of this
15 broader set of actions. Obviously there's the--there
16 was the Mayor's special initiative on rebuilding
17 resilience. There are the ongoing efforts of the
18 office of Housing Recovery Operations and the Build
19 it Back Program, but today we're going to talk to you
20 about this zoning text amendment and the WRP, which
21 is the City's Waterfront Coastal Zone Management
22 Policy. The text amendment that we're about to
23 present to you is a product of long-standing
24 collaboration between the Department of City
25

1
2 Planning, individual property owners, home owners,
3 architects, engineers, landscape architects, other
4 professionals that we've been speaking to on an
5 ongoing basis before and particularly since the storm
6 to understand the specific challenges that people
7 face in recovery and rebuilding. The goal of this
8 proposal is to help residents and owners recover
9 quickly and rebuild to the higher, to a higher
10 standard than their homes may have previously been
11 built to, based on the latest best available
12 information from the federal government from FEMA.
13 This proposal follows up on the January 31st
14 executive order issued by the Mayor which was an
15 emergency measure that on an emergency temporary
16 basis relaxed certain provisions of zoning that we
17 had identified that would impede rebuilding to these
18 new higher standards based on the new maps that FEMA
19 has put out. The text amendment that we're proposing
20 today would replace that executive order and would
21 make this possible resilient retrofitting and
22 rebuilding on an ongoing basis. This proposal does
23 not solve every problem faced by every neighborhood
24 around the whole city, but it's intended to address
25 that set of issues that we think can be addressed on

1 a city-wide basis throughout the flood zone. It will
2 enable buildings to meet these new standards from
3 FEMA, whether it's on a mandatory basis because
4 they're required by code or because they're a
5 conditions of the use of federal relief dollars, or
6 whether it's on a voluntary basis as home owners or
7 other property owners are seeking to protect their
8 investments and to reduce their flood insurance
9 premiums which are set to rise significantly as a
10 result of Congressional action last year. So as a
11 result, these--the proposal includes primary
12 introduces new flexibility to zoning, and it allows
13 more options for how you can meet these new flood
14 resilient standards. And there are a few in addition
15 there are a few requirements that ensure that the
16 proposal that zoning will not only enable people to
17 meet these new standards, but also mitigate the
18 negative, the potential negative effects of those
19 federal flood resilience construction standards on
20 the streetscape in the public realm. The standards
21 for flood resisting construction in New York City
22 really start at the federal level. FEMA issues flood
23 maps which identify areas of flood risk within which
24 the city must apply FEMA construction standards for
25

1 flood resilient buildings as a condition of the
2 ability of anyone in the City to participate in the
3 National Flood Insurance Program. In addition, the
4 State has a building code that includes requirements
5 for adherence to those flood resistant construction
6 standards that include an addition of what's called
7 freeboard, and additional one or two feet of
8 elevation that's required in addition to what's on
9 the FEMA map, and the City's building code must be as
10 protective as the State's building code, and so the
11 City's building code reflects those state standards.
12 What this proposal does is take the City's zoning and
13 make sure that people are allowed to build in a way
14 that gives them the ability to reconstruct the home
15 that they had previously, but in compliance with
16 these new FEMA standards. And my colleague Chris
17 here is going to run through the presentation and
18 describe in greater detail both the new flood maps,
19 the issues that come up because of those flood maps
20 and how the proposal would address them.

22 CHRIS HOLME: Thank you, Howard. Once
23 again, my name is Chis Holme. So the flood maps that
24 we have today, the official flood maps are based on
25 data from 1983 when the flood maps where first

1 introduced, and as you all probably know, FEMA has
2 issued temporary flood maps, advisory flood maps, and
3 this proposal allows people to use those newer flood
4 maps for reference when constructing buildings. The
5 newer flood levels are higher and they cover a larger
6 area, and the proposal is based on the concept that
7 if you build to that newer, higher flood level that's
8 on the latest flood maps of FEMA, they're not
9 official yet, they'll be official in 2015, if you
10 build to that new advisory flood level and add the
11 required freeboard on top of that, that's what you
12 need to do in order to access all these rules. And
13 that, that combination of the freeboard on top the
14 latest flood maps we're calling the flood maps we're
15 calling the flood resistant construction elevation,
16 FRCE, and you'll see that throughout or proposal,
17 FRCE. So one more piece of background, these federal
18 requirements for building in flood zones that are
19 incorporated in the City's building code really allow
20 only two strategies for dealing with flooding and
21 with buildings. The first is to elevate the building
22 above the flood level, and that's really the only
23 option that's available to residential buildings
24 shown on the left on this slide. Any space below the
25

1 flood level has to be constructed to allow water to
2 pass through, has to be treated with flood resistant
3 materials, and there's no below grade space allowed
4 in buildings built to this standard. For non-
5 residential portions of buildings, they have the
6 option of elevating their active use above the flood
7 level. Or they also have the option of keeping the
8 water out with what we call dry flood-proofing, and
9 sealing any doors and windows with flood panels of
10 some sort. And I should note also that if a building
11 is using the elevation method, the only use of the
12 building allowed below that flood level is storage,
13 parking, or building access, and that creates some
14 issues in terms of the streetscape that we'll get to
15 in a bit. So these are the federal standards that
16 are in building code that the City--the zoning needs
17 to respond to these conditions. So as we look at
18 these, we broke it out into six categories of issues.
19 The first is height with higher flood levels. We
20 need to look at how building height is measured with
21 higher floors above grade. We looked building
22 access, longer ramps, longer stairs. One of the most
23 important issues is getting the mechanical systems
24 out of areas below the flood level. SO we looked at
25

1
2 how zoning interacts with that. We have many
3 proposals to deal with that. In terms of that below-
4 grade space and residential not being allowed. By
5 current standards we looked at how that relates to
6 parking that's currently required and maybe there,
7 the buildings today. For the ground floor use of
8 buildings that are too large to be elevated or are
9 attached, there are building code opportunities, and
10 we looked at how that interacts with zoning. And then
11 finally, in the lower right, the streetscape issues
12 of higher first floors above the sidewalk level, and
13 as Howard mentioned we have a proposal to deal with
14 that. So this is just the overview. So first
15 getting into the building height issue, basically our
16 proposal is to allow all building height to be
17 measured from the latest flood maps plus the
18 freeboard, the FRCE. So it's got **[inaudible**
19 **00:38:16]** districts, they're measured from ground.
20 They would be measured in, after this proposal from
21 that higher flood level, and the same with base
22 planned districts, they're measured from the old
23 flood map elevation. They would proposed to be
24 allowed to be measured from the latest flood map
25 elevations. So moving onto the access part of the

1 story--we recognize that there are situations where
2 buildings that will be close to the front lot line
3 and when they're elevated they would need to--they
4 wouldn't have room really to put the stairs in to get
5 to the front door. So we're proposing to allow, in
6 that situation, buildings to be shifted back into the
7 required rear yard to get those stairs in. As
8 another alternative, the building could stay in the
9 same place, and the stairs would be discounted from
10 floor area, the portion going from the ground to the
11 first floor at the flood elevation. And for larger
12 buildings a similar concept, but you have much longer
13 ramps and stairs. Ramps really take up a lot of
14 space, so we're proposing to discount those ramps and
15 stairs and get those--they really break up the
16 streetscape when we're talking about just a couple
17 feet of elevation. So we're proposing to discount
18 those ramps and stairs to solve that issue inside the
19 building. So with mechanical systems the overall goal
20 is to get these mechanical systems out of cellars and
21 out of first floors that are at risk of flooding up
22 into the safer portions of the building, and there
23 are a few zoning issues in relation to that. First
24 of all, for existing single and two family homes,
25

1 we're proposing to allow mechanical systems to be
2 relocated even into required rear yard, provided that
3 their placed either close to the building wall of the
4 building or they can placed in a detached garage as
5 well. In lower density districts, mechanicals
6 sometimes are not allowed to be discounted from floor
7 area if they exceed a certain cap. That works fine
8 when you're not in a flood zone, but in flood zones
9 we're proposing to exempt all mechanical from floor
10 area calculations even in lower density districts,
11 just the way they're exempt everywhere else in the
12 city. And then for all buildings that are not single
13 or two family we're proposing to allow mechanical
14 systems in the required rear yard in the same way
15 that parking garages and other structures are allowed
16 and required for yard. For existing buildings,
17 another strategy to get mechanical systems out of the
18 cellar is to put them up on the roof and because
19 existing building may already have bulkhead that
20 takes up the allowable space, we're proposing to
21 allow those--the mechanical systems to be a little
22 bit higher on those buildings. Those buildings are
23 built to take the weight of the bulkhead in a
24 particular area so that the--going up may be the only
25

1 option for existing buildings. For all other
2 buildings we're proposing to allow them, those
3 mechanical systems to extend over 30 percent of the
4 roof instead of the normal 20 percent. Then looking
5 at the parking issue--in the event that a building
6 that has below grade parking and it's an all
7 residential building, in the event that a building
8 like that is substantially damaged and is required to
9 comply with these flood resistant standards set by
10 the federal government. The only way to do that is
11 to fill in the basement. And this is a common
12 condition, where the parking dips down from the
13 sidewalk to tuck under the house. So what we're
14 proposing is to modify the parking location rules in
15 several ways to try to retain the parking on site,
16 and this allows the building to--in many cases this
17 would provide an option for a complying building to--
18 with building code and with zoning, instead of having
19 to tear the whole building down just to get into
20 those parking spaces. So what we're proposing to
21 allow the parking in the front yard or along the side
22 lot ribbon where others zoning rules would be a
23 problem for them. And if there's no way for the
24 parking to be retained on the site, even with these
25

1 relaxed parking location rules, we're proposing to
2 allow the Commissioner to waive that required
3 parking. Just in this case where an existing
4 building is being retrofitted. So looking at ground
5 floor use, we are proposing to allow--on the left
6 side of the slide, the only option for a residential
7 building is to wet flood proof the ground floor. In
8 this case, the example we have is an attached
9 building. It's not the sort of thing that could be
10 lifted up or elevated. So the only way that they can
11 make this flood resistant for residential building is
12 to wet flood proof that ground floor, and it becomes
13 used only for parking, storage, or building access.
14 And we're proposing to allow that building to exempt
15 that ground floor from floor area calculations so
16 that they can replace the floor space elsewhere on
17 their zoning lot. In this case, the example we have,
18 they're putting it up on the top. And we also are
19 proposing in commercial districts in medium and low
20 density commercial districts--recognizing that we
21 don't want a vacant ground floors of buildings,
22 we're--and we want to make it--we recognize also that
23 it's very difficult to dry flood proof existing
24 buildings. It's difficult in terms of engineering
25

1 and the expense. So we're proposing to allow that if
2 a ground floor is dry flood proofed in an existing
3 building in these low density and mid-density
4 commercial districts, that that floor could also be
5 exempted from floor area and they could build
6 additional space as long as it fits within the bulk
7 envelope on this site. Now in terms of streetscape,
8 how we're going to deal with that--those higher
9 buildings. The picture on the left shows what might
10 happen without any intervention in terms of zoning.
11 You get sort of a stark building with not much
12 connection between the ground floor of the
13 residential building and the street. So our proposal
14 is once buildings are at a certain distance above
15 grade, that they'll be required to provide certain
16 streetscape mitigations. And in this example we have
17 two--the porch with the roof provides two strong
18 horizontal components which helps break up the mass
19 of the building, and the plantings also help soften
20 the appearance. So the idea is that if a single or
21 two family home is being elevated or a new home is
22 being provided, and that the lowest floor is between
23 five feet and nine feet above curb level, people
24 would have to choose one of these streetscape
25

1 mitigation options, and if the lowest floor is nine
2 feet above curb level, there would be a requirement
3 to choose two of these options. Similarly, for
4 larger buildings the issue is that that first story
5 could, at the sidewalk level, could have a lot of
6 blank walls, only storage, parking and access at that
7 first level in many cases. So our proposal would
8 require plantings, shrubs or trees at least three
9 feet high once the flood level is five feet above the
10 sidewalk and a wide lobby once the flood level is ten
11 feet or more above the sidewalk. In commercial
12 districts, instead of a wide lobby what we would be
13 asking a large amount of glazing at the front of the
14 building. And then in terms of last couple of
15 issues, we recognize that by interpretation the
16 Department of Buildings limits the ability to rebuild
17 a single or two family home that is noncomplying,
18 that's over bulk to two years after it's been
19 demolished. And recognizing that there are unusual
20 circumstances in this case, people are working with
21 their insurance companies and with other sources,
22 we're proposing to extend that time limit to rebuild
23 what you had to ten years after the adoption of the
24 flood insurance rate maps. We're also proposing to
25

1 allow pre-existing, non-conforming uses and non-
2 complying buildings that were damaged by hurricane
3 Sandy to be replaced. And for all single or two
4 family homes, we're proposing to allow those building
5 to be lifted to the extent necessary to bring their
6 first floor up to the flood resistant construction
7 elevation so that they can comply with building code,
8 even if that means they're creating a new non-
9 compliance in terms of zoning height limits. And
10 finally, recognizing that this is a very complex
11 situation and there may be unusual circumstances out
12 there, we're proposing a new special permit to be
13 administered by the Board of Standard and Appeals to
14 allow bulk waivers limited to 10 percent of the
15 building height or 10 feet, whichever is less to help
16 allow buildings to retrofit in order to comply with
17 flood standards. So we've had--this has been in
18 public reviews since May 20th. We've had very good
19 feedback, and all Community Boards that voted on this
20 voted in favor. So we're here for any questions you
21 have.
22

23 CHAIRPERSON WEPRIN: Thank you,
24 gentlemen, very much. I'd like to call on Leroy
25 Comrie, Council Member Comrie for a question.

2 COUNCIL MEMBER COMRIE: More of a comment
3 than questions, just wanted to add. I first wanted
4 to congratulate you for putting all this together and
5 working with all the community boards and doing the
6 presentations and getting the feedback. Clearly,
7 this is something that's important to the future of
8 our city to--for people to understand what they need
9 to build to deal with the new realities with flooding
10 in our communities. Just a couple of questions that--
11 this does meet the new flood guidelines that are
12 being proposed by FEMA?

13 HOWARD SLATKIN: Yes, this actually
14 references the latest flood maps that have been
15 issued by FEMA, and as FEMA proceeds with the process
16 of issuing new flood insurance rate maps the zoning
17 would refer to the latest version as those are
18 released. So there should be another version
19 released shortly, which would be the draft or the
20 preliminary flood insurance rate maps, and then after
21 a period of appeal that FEMA has, they will issue
22 final flood insurance rate maps which would then
23 become the referenced standard on rezoning.

24 COUNCIL MEMBER COMRIE: And just to ask,
25 for those people that have properties that are

1
2 difficult to meet these new standards, such as the
3 Rockaway Bungalows or, you know, some of the homes
4 in, you know, other parts of the city that are
5 structured and that have been there like over 100
6 years, what is the plan to either help them or, you
7 know, give them grandfathers? Not that being
8 grandfathered is necessarily a good thing, but the
9 fact is that, you know, it's going to be very
10 difficult to change those homes.

11 HOWARD SLATKIN: Right. There, I think,
12 two parts to answer that question. One is that once
13 a property--once a building has been either
14 substantially damaged or is substantially improved,
15 meaning the value of the improvements or the repairs
16 is more than half the value of the building before
17 the storm, then by federal requirements they must
18 comply with the new flood standards that are in
19 building code. And in addition, anyone who's using
20 assistance from the federal government through the
21 disaster relief appropriation that's been made to New
22 York City, would be required to comply with those new
23 standards. So there are definitely challenged
24 specific to particular neighborhoods and types of
25 buildings. City Planning is working with the Office

1 of Housing Recovery to identify approaches that can
2 be used there, and in addition City Planning is--will
3 be using federal funding to launch neighborhood
4 studies, resilient neighborhood planning studies of
5 areas that were particularly effected by the storm as
6 well as other areas that are at risk of flooding. And
7 I want to make sure to mention, you know, the Bronx,
8 where flooding did not occur on widespread basis
9 during this storm, but the level of risk that exists
10 is still there, and so we need to plan for those
11 neighborhoods as well.

13 COUNCIL MEMBER COMRIE: Okay. And then
14 just that you talked at one point about inspection in
15 locations where they have materials and can you just
16 go into detail about what your plans are for making
17 sure that there's a--oh, I'm sorry, that's the wrong
18 plan. Sorry. That the--I'm getting my plans
19 confused. That's the waterfront revitalization plan,
20 but the--yeah, a lot going on today. Just the when
21 you talked about allowing the additional area for the
22 mechanicals and how that can be done, will there be
23 an additional opportunity for people to get either
24 loans or discounts for having to relocated those
25 mechanicals in their buildings?

2 HOWARD SLATKIN: There are--the answer is
3 the City is working on programs to address different
4 levels of need. Obviously, there is going to be more
5 work that needs to be done on buildings throughout
6 the City. Then there are federal dollars to, you
7 know, to accomplish, but for certain buildings that
8 were damaged and need to be elevated, the Office of
9 Housing Recovery is working on--has build it back
10 programs and repair programs for that, and in
11 additions as laid out in the Stronger More Resilient
12 New York Report, the City has proposed to use a
13 substantial amount of the federal funding to
14 implement what we call core resiliency measures,
15 which are things like relocating or flood proofing
16 your mechanical systems or protecting the foundations
17 of the buildings so that even if the building can't
18 be elevated, it can survive a flooding event and
19 recover more quickly, and in addition to looking to
20 actually fund that through use of federal dollars,
21 the City has been reaching out to the federal
22 government to FEMA to identify ways that home owners
23 can be credited on their flood insurance for making
24 those kinds of improvement. So for instance, if you
25 do something that isn't meeting the full FEMA

1 requirements, but none the less reduces the
2 likelihood that you're going to suffer damage during
3 a flood event, that should be reflected in how much
4 you pay for your flood insurance under the national
5 program, and that would require changes to the
6 national programs. That's the beginning of a
7 dialogue, but it's a very important set of issues.

8
9 COUNCIL MEMBER COMRIE: Okay, thank you.
10 Thank you.

11 CHAIRPERSON WEPRIN: Any other members of
12 the panel? Council Member Reyna?

13 COUNCIL MEMBER REYNA: Just needed
14 clarity on this. First of all, thank you for all the
15 work as we approach the anniversary of hurricane
16 Sandy, and preparing for this climate season. I want
17 to just understand the revision as far as the
18 resilience plan, how does this apply to the
19 industrial areas that are also part of the flood maps
20 that have been identified as we see it today?

21 HOWARD SLATKIN: These amendments to the
22 zoning would apply to all buildings. It would apply
23 to homes to commercial buildings to industrial
24 buildings. So if--and the solution is going to be
25 different for different buildings, but in the event

1 that a building needs to be built and elevated to
2 meet the new standards, and in the even that that
3 would put them in exceedance of some zoning
4 limitation, these provisions would still apply. The
5 idea is that the zoning needs to become more flexible
6 in order to accommodate the shape of buildings that
7 are required to meet the federal flood standards.
8

9 COUNCIL MEMBER REYNA: And as far as a
10 model of what the design for the new text amendment,
11 was this engineered at a small scale to understand
12 whether or not the goal of the resilience plan has
13 been proven to be effective to a certain degree?

14 HOWARD SLATKIN: In terms of the flood
15 resisting construction standards--

16 COUNCIL MEMBER REYNA: [interposing]
17 Correct.

18 HOWARD SLATKIN: and their effectiveness?

19 COUNCIL MEMBER REYNA: Correct.

20 HOWARD SLATKIN: This is based on--the
21 flood resisting construction standards as I mentioned
22 are in some ways handed down from the federal
23 government.

24 COUNCIL MEMBER REYNA: Uh-hm.
25

1 HOWARD SLATKIN: It's just sort of the
2
3 law of the land.

4 COUNCIL MEMBER REYNA: Uh-hm.

5 HOWARD SLATKIN: And the city has to
6 comply with them. Those standards are based on
7 engineering analysis and sort of the post disaster
8 analysis that FEMA comes and does in every city.
9 FEMA, after this event, had mitigation assessment
10 teams that surveyed the type of damage that occurred
11 in neighborhoods, and they use that to update their
12 technical guidance. There are ways in which New York
13 City's buildings are different--

14 COUNCIL MEMBER REYNA: Correct.

15 HOWARD SLATKIN: from other communities
16 around the country at flood risk. In particular, our
17 buildings are older and larger and often built closer
18 to the street, and so there are ways in which we
19 believe that the FEMA guidance has to be updated or
20 should be considered to reflect this, and that was a
21 set of recommendations that were laid out in the
22 Stronger More Resilient New York Report in order to
23 work with FEMA on how to--how to get the National
24 Flood Insurance Program to recognize those
25 differences, and that, you know. What we've

1 introduced here are the best alternatives to
2 demolition that we can find. In other words, if the
3 FEMA standards say that you must elevate your
4 building, but it's masonry building and you can't
5 just lift, it's not a frame house and you can't just
6 lift it up. What are the alternatives? How can we
7 make the zoning flexible enough to give you ways to
8 maintain that building and reactivate it?
9

10 COUNCIL MEMBER REYNA: And as far as the
11 bureaucracy of government and navigating all the
12 different agencies, is there going to be a special
13 assigned process for this so that property owners
14 don't have to wait two, three years for their permits
15 for construction? Whether that's the rehabilitation
16 for upgrading or new construction, or is this just
17 going to be part of what would be the very
18 complicated permit process in the City of New York?
19 There's definitely, you know, there's definitely new
20 complexity and there's an education process that's
21 going on in terms of everyone learning about how to
22 build in the flood zone. And the Department of
23 Buildings has put together a rebuilding after Sandy
24 guide that lays out what the federal flood
25

1 requirements are, particularly with an eye on small
2 home owners--

3
4 COUNCIL MEMBER REYNA: Uh-hm.

5 HOWARD SLATKIN: who often have, you
6 know, the least familiarity with these types of
7 regulations. Also, City Planning has worked very
8 closely and the Department of Buildings have worked
9 closely with the local chapters of the American
10 Institute for Architects in all of the boroughs in
11 order to make sure that the information is available
12 to everybody and that we can make this process as
13 straight forward as possible.

14 COUNCIL MEMBER REYNA: But no dedicated
15 office for hurricane Sandy victims as far as
16 channeling what would be an express line for--

17 HOWARD SLATKIN: There is the--there are
18 programs through the Mayor's Office of Housing
19 Recovery Operations which is administering the
20 federal disaster recovery assistance to individual
21 building owners, and so there is assistance through
22 that process as well.

23 CHRIS HOLME: And the Department of
24 Buildings does have a special team of people that are
25 available for consultations with architects to help

1
2 people understand how the rules work and how to
3 rebuild in flood zones.

4 COUNCIL MEMBER REYNA: Fantastic. And
5 just my last question, as far as this particular text
6 amendment is concerned, below grade engineering
7 infrastructure, does that take into account what
8 would be better designs as far as removing what would
9 be--in the case of a disaster like a hurricane to
10 prevent the flooding, any type of discussion in
11 unproven engineering technology out there that could
12 have been applied but at this time because we needed
13 something that would be left off the table for
14 further review in the future?

15 HOWARD SLATKIN: I think are--there's
16 definitely as part of the Stronger More Resilient New
17 York process there is an effort to identify
18 technologies that haven't been used in New York City
19 and the opportunities for them. Sometimes that will
20 be in buildings that haven't been substantially
21 damaged, and so they don't have to comply with the
22 letter of the federal requirements, but there may be
23 alternatives and ways that they can become more
24 resilient. So there is--as part, one of the
25 initiatives is a--I hope I get the name correct, I

1 apologize if I don't--a Resilient Building
2 Technologies Competition.
3

4 COUNCIL MEMBER REYNA: Uh-hm.

5 HOWARD SLATKIN: And to identify what are
6 the cost effective systems that in particular for
7 businesses, what can they do to make their buildings
8 and their inventories within the buildings more
9 resilient to a flood event. There's definitely a
10 focused effort on identifying those alternatives,
11 yes.

12 COUNCIL MEMBER REYNA: Well thank you
13 very much, and I appreciate the work and the
14 expediency of this document. Thank you.

15 CHAIRPERSON WEPRIN: Thank you Council
16 Member Reyna. Anybody else on the panel have any
17 questions? As Council Member Comrie alluded to, this
18 was approved by Community Boards all over the
19 affected areas. We have no other questions so
20 gentleman, thank you very much. We do have a number
21 of people from the community or from the public who
22 want to testify on this item. We're going to have
23 them come up. They're all actually in favor of this
24 item. What we're going to limit people to, and I
25 apologize for this, is to two minutes a person. I can

1
2 give you a little leeway on occasion, but if you can
3 try to sum up your remarks in your head to two
4 minutes, and that'll be true for the other items as
5 well. I know that's a little frustrating, but we
6 will take any submissions of further testimony as
7 well to the committee. So let me call up the
8 following people to come u and testify, Jerilyn
9 Perine, Joseph Popello [phonetic] and Melanie Meyers.
10 We'll do those three together and then we'll take the
11 architect group after that. Okay. Alright, and
12 while these--they're getting ready--it's just the two
13 of you now? I missed the other person? Okay. We're
14 going to call on Council Member Lapin who had joined
15 us after we voted. I want to call on her to vote on
16 the items that we voted on before, the motion to
17 disapprove 891 and the motion to approve 892 and 893.
18 I'd like to call on counsel to please call Council
19 Member Lapin's name.

20 COUNSEL: Council Member Lapin?

21 COUNCIL MEMBER LAPIN: I vote aye.

22 COUNSEL: Vote now stands 10 in the
23 affirmative, zero abstentions, zero negatives
24 approving the motion to disapprove Land Use item 891
25 and approving Land Use item 892 and 893.

CHAIRPERSON WEPRIN: Alright, ladies,
whenever you're ready. How are you?

JERILYN PERINE: Hi, good. How are you?

CHAIRPERSON WEPRIN: Good to see you Ms.
Perine. Good to see you again.

JERILYN PERINE: Hi, I'm Jerilyn Perine,
and I'm the Executive Director of The Citizens
Housing and Planning Council and the former
Commissioner of HPD. CHPC has been committed to
collaboratively working with the City in the
aftermath of hurricane Sandy, and our Board has
provided advice and recommendations concerning the
regulatory changes needed to facilitate flood
resilient post disaster reconstruction and planning.
And important part of this work has been the
Department of City Planning's efforts to revise the
zoning provisions applicable within flood zones so as
to both streamline repair and rebuild efforts and
improve the flood resilience of new and existing
buildings. The proposed text changes are an
important step to encourage this type of construction
and compliance with updated FEMA guidance. The
zoning committee of CHPC reviewed these text changes
submitted and offered several suggestions in response

1 to an early draft that were subsequently adopted or
2 addressed. In particular we are pleased that owners
3 and developers are now encouraged to move electrical
4 rooms above the flood resisting construction
5 elevation by having such space be deducted from the
6 floor area, and that DCP has addressed the
7 accessibility challenges presented by buildings which
8 are raises significantly above the freeboard. We're
9 especially encouraged to see that new changes permit
10 small homes to actually be raised beyond the minimum
11 requirement to 10 feet in some instances which will
12 allow the space to be used more productively. We
13 fully support these changes and we're really grateful
14 to City Planning's diligent work revising the City's
15 zoning that affects resident's most urgent concerns.
16 Moving forward, we recommend that a study should be
17 conducted with regard to the legalization of affected
18 buildings illegal basements, or seller apartments to
19 minimize the loss of this housing stock, that the
20 department of City Planning explore other building
21 envelope relief for owners and developers choosing to
22 include features that promote flood resilience, such
23 as more flexibility on small home lots from side yard
24 requirements. And while we're happy to see an
25

1
2 expedited BSA process included, we would encourage
3 DCP to consider a multiple lot application with
4 support from the City where such lots might be
5 subject to zoning variances.

6 CHAIRPERSON WEPRIN: Thank you
7 Commissioner. Ms. Meyers?

8 MELANIE MEYERS: Good morning. My name
9 is Melanie Meyers. I'm an attorney with Fried,
10 Frank, Harris, Schriver and Jacobson. We represent
11 New Water Street Corporation, owners of 55 Water
12 Street in lower Manhattan. Chris and Howard from
13 City Planning talked about the goals of the flood
14 resiliency text. I'm here to talk about 55 Water
15 Street and it is an example of the need to adopt the
16 text as quickly as possible. 55 Water Street is the
17 largest office building in lower Manhattan, and is
18 the home to nine and I guess from New York post to
19 date, 10 major companies employing more than 12,000
20 workers. The building is surrounded by publicly
21 accessible plazas including the Vietnam Veterans
22 Memorial Plaza and the Elevated Acre, which is a
23 completely rebuilt and upgraded plaza that ownership
24 undertook several years ago. 55 Water Street was one
25 of the buildings hardest hit by superstorm Sandy with

extensive damage to the building's infrastructure.

In response, the ownership has expended more than 150

million dollars on the building, both to repair

damage, but also to prepare the building for future

storm events. They are at the forefront of storm

resiliency efforts, we think, in lower Manhattan, and

a significant aspect of the plan relies on the flood

resiliency zoning text before you. In particular,

the proposed section 64323 allows the for the

location of temporary flood control devices within

public plazas, and if this text is adopted it will

allow ownership to prepare the site for installation

of a temporary flood barrier around 55 Water Street.

The barriers are state of the art and can be

installed in less than a day, and they will protect

the building, the occupants, and the businesses. The

only part of the system that is permanent are a

series of plates that will be flush with the surface

of the plaza, and they will anchor the temporary

barrier. The 55 Water Streets work closely with the

City, has purchased the system and is ready to

install the systems support plates as soon as all of

the approvals are in place. We expect that all the

approvals will be obtained within the next week, but

1 the sustainability text must be approved in order to
2 install the support plates over the plaza areas. The
3 storm season is quickly approaching and we ask for
4 you support and action as quickly as possible. Thank
5 you.

6
7 CHAIRPERSON WEPRIN: Thank you, and thank
8 you for your cooperation. Anybody on the panel have
9 a question for these two women, anybody? No. Well
10 thank you both very much, and we appreciate your
11 testimony. I'd like to now call up John Calcagnile,
12 Willy Zambrano, Lance J. Brown, and Illya Azaroff.
13 If you're all here; we have four seat up there.
14 Okay. Gentleman, again, if we could--we're going to
15 put you on a two minute clock. If you can decide who
16 goes first. Just make sure to state your name when
17 you start speaking. We ready, Anne? Okay, whenever
18 you're ready, Gentlemen.

19 LANCE BROWN: My name is Lance J. Brown.
20 I'm accompanied by Illya Azaroff, we're here
21 representing the American Institute of Architects New
22 York Chapter, and between the two of us we will not
23 exceed four minutes. On behalf of the New York
24 Chapter of the American Institute of Architects,
25 we're here to testify in support of the proposed

1 flood resilience text amendment and offer suggestions
2 for further longer term investigation. Immediately
3 after super-storm Sandy, City of New York began a
4 concerted effort to establish a framework for
5 recovery, how to resiliently rebuild areas damaged by
6 the storm, how to establish new rules to cover the
7 new realities of vulnerability. As a parallel
8 supporting effort, the AIANY spearheaded a
9 collaborative initiative to investigate issues and
10 outline options and opportunities to address the
11 impacts of storm and the escalating effects of
12 climate change. This group--this work group form an
13 informal partnership with the AIANY Design for Risk
14 and Reconstruction Committee and the Department of
15 City Planning. Well in advance of super-storm Sandy
16 these two groups worked in collaboration on multi-
17 disciplinary design explorations related to climate
18 change. After the storm, this collaboration expanded
19 to include a larger set of organizations representing
20 other AIA chapters and the Design and Planning
21 Community as a whole. The group worked with City
22 Planning through a shared process on issues defined
23 by the Department of City Planning. Departments
24 jointly examined a variety of potential building
25

1 types and zoning responses to increase resiliency
2 while maintaining and improving the streetscape. The
3 current Flood Resilience Text Amendment is in part an
4 extension of those initial efforts, part of an
5 impressive and extensive program of technical
6 research, stakeholder outreach and innovative
7 planning. The Department of City Planning has done
8 an admirable job of creating reasonable and feasible
9 zoning standards to protect property owners during
10 future Sandy-like occurrences, and anticipated longer
11 term changes to the City's natural environment.
12 They've examined the unexpected consequence of
13 raising structures out of harms way and have proposed
14 creative ways to various--to very previous height set
15 back mechanical and streetscape standards to mitigate
16 negative impacts. And they've illustrated these
17 proposals with a set of very clear user friendly
18 diagrams building perspectives and plans. These are
19 a first set of proposals and the Department of City
20 Planning recognizes that further work is yet to be
21 done. Any suggestions AIANY suggest the following
22 issues that need attention in the near future,
23 allowing these regulations and mitigations to apply
24 to properties beyond the proposed 100 year boundary
25

1 to within the new 500 year boundary and using the 500
2 year flood elevation as the flood elevation
3 increasing the opportunity to create further long
4 term sea level resiliencies. These would be
5 discretionary, not mandatory, but would allow home
6 owners in this expanded zone the opportunity to avail
7 themselves of the same regulatory mitigations.
8

9 CHAIRPERSON WEPRIN: Mr. Brown, I'm going
10 to have to cut you off. I apologize. If you could
11 somehow--

12 ILLYA AZAROFF: [interposing] I will go
13 ahead and continue.

14 CHAIRPERSON WEPRIN: Okay. 'Cause if let
15 you go too much longer, then it spins out of control

16 ILLYA AZAROFF: providing greater
17 ability--our further recommendations are such,
18 providing greater ability to replace floor area below
19 the flood elevation and existing buildings through
20 greater flexibility in horizontal and vertical
21 expansions, further modification regarding issues of
22 street wall alignment and rear yard set back
23 requirements to allow for accessible entrances to
24 buildings, modifications for addressing side yard
25 requirements, for building replacement on narrow

1
2 lots. In closing, we reiterate our support and urge
3 the Subcommittee on Zoning and Franchises to approve
4 these proposals and we commend the Department of City
5 Planning for its efforts. Given that this proposal
6 sunsets a year after final flood elevations are
7 approved, we recommend that the department review
8 results of the proposed standards in practice and
9 look to incorporate the additional issues we have
10 raised in the permanent proposal to follow. Thank
11 you for your attention.

12 CHAIRPERSON WEPRIN: Thank you. Thank
13 you. I understand now. Alright, the combined
14 efforts. You didn't get the good parts. I don't
15 know.

16 ILLYA AZAROFF: I know.

17 CHAIRPERSON WEPRIN: Gentlemen, whenever
18 you're ready.

19 WILLY ZAMBRANO: Uhm--

20 CHAIRPERSON WEPRIN: [interposing] Just
21 stay there for a second though.

22 WILLY ZAMBRANO: Good morning Council
23 Members. My name is Willy Zambrano. I'm also a
24 registered architect, and I am the Vice President of
25 the AIA Queens Chapter and joining me here is John

1
2 Calcagnile who's also an architect and former Vice
3 President of the AIA Queens Chapter, and he's also
4 Chairperson of the Community Board 10 Land Use
5 Committee. On behalf of the AIA Queens Chapter we
6 would like to thank City Planning Commission for
7 inviting us again to take part in this tremendous
8 effort, Flood Resilience Text Amendment process,
9 which will enable buildings in flood zone areas
10 throughout the City to be built to revise FEMA flood
11 resilience standards. Reduced future flooding
12 vulnerability and provides zoning provisions to
13 protect against future increase in flood insurance
14 premiums for property owners. This text amendment
15 will provide a much needed zoning relief for those
16 flood designated areas that have become over burdened
17 by height and **[inaudible 1:14:54]** regulations since
18 the enactment of the zoning resolution, and enable
19 property owners to make decisions about proceeding
20 with their rebuilding efforts after hurricane Sandy.
21 As mentioned at the City Planning Public hearing a
22 month ago on the subject, the AIA Queens Chapter is
23 in full support of the currently flood resilient text
24 amendment. We also suggest that once the text
25 amendment is approved that CBC and DOB continue their

close working relations for its implementation.

Department of Building examiners need assistance in understanding the changes through training and having direct line of communications with CPC staff to address questions or interpretations of the new text revisions that arise during plan review with the architectural and engineering professionals. I will let John take over after this.

CHAIRPERSON WEPRIN: Boy, you guys are coordinated. I like this. Okay, John. State your name, though.

JOHN CALCAGNILE: Again, John Calcagnile, registered architect. I practice in the southern portion of Queens. I'm also Chairperson of the Land Use Committee for Community Board 10 in Queens, and Chair of the City Planning's presentation and also we did vote positive for it. I have a short statement. With the one year anniversary of hurricane Sandy upon us next month, a more prepared plan examination staff will help streamline the plan, a review process and provide a quick turn around on all future applications and plans being submitted for approval on rebuilding projects in all current and future designated flood zones. Again, we are in strong

1 support of the Flood Resilience Text Amendment and
2 encourage the City Council to process this through
3 and approve the amendment. Thank you.

4 CHAIRPERSON WEPRIN: Anybody on the panel
5 have any questions? No? Okay, gentlemen, thank you
6 very much. Is there anyone else here to testify on
7 this item, the flood item? Okay, super. Alright, so
8 we're going to move to close this hearing. And then
9 we actually are going to vote on the items we've
10 heard so far today, which was the East Fordham Road
11 Re-zoning, Land Use 934 and 935, and then this item,
12 the Flood Resiliency Land Use 921. We're going to
13 couple those three items. Okay. And we are going to
14 call the roll on this vote.

15 COUNSEL: Chair Weprin?

16 CHAIRPERSON WEPRIN: I vote aye on all.

17 COUNSEL: Council Member Rivera?

18 COUNCIL MEMBER RIVERA: I vote aye on
19 all.

20 COUNSEL: Council Member Reyna?

21 COUNCIL MEMBER REYNA: Aye on all.

22 COUNSEL: Chair Comrie?

23 COUNCIL MEMBER COMRIE: Aye.

24 COUNSEL: Council Member Vann?
25

COUNCIL MEMBER VANN: Aye.

COUNSEL: Council Member Lappin?

COUNCIL MEMBER LAPPIN: Aye.

COUNSEL: Council Member Wills?

COUNCIL MEMBER WILLS: Aye on all.

COUNSEL: Council Member Ignizio?

COUNCIL MEMBER IGNIZIO: Yes.

COUNSEL: By a vote of eight in the affirmative, zero abstentions, and zero negatives Land Use items 921, 935, and 934 are approved and referred to the Full Land Use Committee.

CHAIRPERSON WEPRIN: I want to note that Council Member, I know, Garodnick and Jackson had a committee meeting across the street, an education meeting which is ongoing. They had to step out for that. So we're going to leave the rolls open for them. If they can make it back here we'll have them cast their votes. Okay. Alright, we're making our way. I knew it was going to be a long day for us, so I apologize. So we're going to Waterfront, right? Onto the Waterfront. Revisions to New York City Waterfront revitalization program--I'd like to call up Michael Marella and Jessica Fain. And look at that, right one cue. Jessica, that's you, yes, okay.

1 So this is Land Use 922. We're going to have this
2 testimony. Again, anyone testifying on this matter
3 after this panel, please try to limit your remarks to
4 two minutes. Thank you. Whenever you're ready you
5 can start.
6

7 MICHAEL MARELLA: Thank you Council
8 Members. My name is Michael Marella, and I'm the
9 Director of Waterfront and Open Space Planning at the
10 New York City Department of City Planning, and I'm
11 joined today by Jessica Fain from my office as well,
12 and we are honored to have this opportunity to speak
13 to you today. The Waterfront Revitalization Program
14 is unlike most everything that comes before this
15 committee. It is in fact not zoning. It is not a
16 plan, but it is a program, and it's really a planning
17 tool that helps shape and improve coastal projects by
18 requiring that they reflect the City's long term
19 policies for waterfront planning, preservation, and
20 development. And I'll take a moment to explain how
21 the program works because it is unique in many
22 regards. Projects that are within the coastal zone
23 that require a federal, state, or city discretionary
24 action are subject to WRP review, and the phrase
25 that's used is coastal consistency review. And so if

1 a project requires something more than just a
2 ministerial action and is in the coastal zone, which
3 is roughly outlined in the shaded grey on this image,
4 required to be reviewed for consistency. They're
5 reviewed for consistency with 10 over-arching
6 policies as written into the current WRP, ranging
7 from residential and commercial redevelopment,
8 maritime and industrial development, waterway uses,
9 ecological resources, water quality, flooding and
10 erosion, hazardous materials, public access, visual
11 quality, and historic archaeological and cultural
12 resources. A project is required to be reviewed for
13 consistency with all 10 policy areas. As it's
14 currently written in the WRP, there are two special
15 area designations. If a project is located within
16 one of these special area designations, additional
17 consideration is given to the relevant policies. Let
18 me explain further. If a project is located within
19 the significant maritime and industrial areas shown
20 on purple on this map, those areas are deemed to be
21 prime for waterfront industry, and so additional
22 consideration is given to the policies related to
23 maritime and industrial development. Similarly, if a
24 project is located in the special natural waterfront
25

1 area, those biologically diverse areas require
2 extensive habitat protection and improvement. The
3 policies on water quality and natural resources are
4 given additional consideration. And those are the
5 two special area designations that are currently in
6 the program. We are now updating the Waterfront
7 Revitalization Program for the first time in over 12
8 years. We're doing so because of the extensive
9 attention and increased knowledge we have about our
10 waterfront. That's--and we are advancing the
11 revisions to the WRP to reflect new and important
12 planning and policy documents, including vision
13 20/20, the City's new comprehensive waterfront plan
14 that was issued in 2011. Plan YC, the New York City
15 Green Infrastructure plan by the Department of
16 Environmental Protection, and the Hudson-Raritan
17 Estuary Comprehensive Restoration Plan, which was a
18 document by the US Army Corps of Engineers. We're
19 making several important policy revisions and
20 updates, including requiring that projects assess the
21 vulnerabilities associated with coastal flooding
22 based on climate change projections. This is among
23 the most important changes that we are making.
24 We're also looking to improve the working waterfront
25

1 and strengthen the prioritization of water dependent
2 uses within the significant maritime and industrial
3 areas. We are also creating a new special area
4 designation known as the Priority Marine Activity
5 Zone, and that's segments of the City's shoreline
6 where waterfront and waterborne transportation is a
7 priority. We're designating roughly 10 percent of
8 the City's shoreline to be this category. This is
9 where bulkheads and other hard shoreline
10 infrastructure is appropriate to allow for waterborne
11 transportation. We are also adding a new special
12 area designation on the west shore of Staten Island
13 known as the ecologically significant maritime and
14 industrial area. This area is unique within the
15 City, and so far as it has extensive in tact
16 wetlands, over several hundred acres, as well as
17 being a location that is prime for industrial and
18 maritime development given large tracks of land, key
19 access to both rail and highway, and water to deep--
20 and access to the deep water harbor. And so here we
21 see this unique opportunity to create a process in
22 which process in which projects will be reviewed or
23 required to show how they're both preserving the
24 natural resources while simultaneously enhancing and
25

1 promoting maritime and industrial uses. In addition,
2 we are also adding a new category called a Recognized
3 Ecological Complex. These are smaller sites
4 throughout all five boroughs where protection,
5 remediation, and restoration of smaller areas of
6 ecological significance are also important. And we
7 are increasing public access to, from, and around the
8 water by promoting in water recreation in safe and
9 suitable locations, and describing a set of criteria
10 for evaluating if that site is safe and suitable.
11 We're also incorporating design principles for
12 waterfront public access spaces as described in
13 Vision 20/20. Throughout the extensive public
14 outreach process we heard number of comments from the
15 borough boards and community boards. As you'll see,
16 virtually all approved or approved with comments.
17 But let me take a moment now to describe some of the
18 comments that we received and our responses to them.
19 There were several major topic areas, industrial
20 policies, wetlands, climate change, adaptation,
21 hazardous materials and toxic chemicals, public
22 access and industrial area, and then another category
23 on post Sandy revisions. We received a comment that
24 the policy languages regarding the redevelopment of
25

1 land inadequately protects local industrial jobs and
2 businesses. And so in our proposed language we have
3 now revised that to highlight the relationship
4 between our polices on residential and commercial
5 redevelopment with the policies on maritime and
6 industrial development. We make it clear that
7 redevelopment may be considered where land is vacant
8 and under utilized, but it also must be weighed in
9 relationship to policy two on maritime and industrial
10 development and protection. On the comments on
11 wetlands, we received comment that the WRP should
12 protect other ecologically sensitive areas located
13 within the sunset park, significant maritime
14 industrial area, and or adjacent to the south Bronx
15 significant maritime industrial area, specifically by
16 designating those as ecologically significant
17 maritime and industrial areas. While we don't believe
18 that considering these sites as ecologically
19 sensitive maritime and industrial areas is
20 appropriate given the scale that I referred to
21 before. We do believe that the principles of these
22 ecological sensitive maritime and industrial areas
23 could be applied to natural resources located near
24 the scene of maritime industrial areas. We also
25

1 received comments on the climate adaptation policies.
2 The comment was to require that all projects conduct
3 a "formal risk assessment" by a qualified architect
4 or engineer and that unless proven infeasible, all
5 threats should be mitigated particularly for
6 industrial pollution prevention. And I want to take
7 a moment to explain the rationale behind our
8 revisions here. We are clarifying the language of
9 policy 2.8 to include the identification of
10 vulnerabilities and general consequences, but we do
11 not see the term "risk assessment" as being
12 appropriate given that risk assessment in the context
13 of environmental review means something significantly
14 different than what we intend. We are also
15 incorporating suggestions that the assessment should
16 be undertaken by a licensed architect, engineer or
17 other qualified professional recognizing that the WRP
18 review ranges from everything from shoreline
19 improvements to area-wide rezoning, and so the caveat
20 of other qualified professionals is appropriate given
21 the types of projects that undergo review. And then
22 finally, rather than mitigating all threats, policy
23 six ensures that the design techniques to address
24 vulnerabilities related to climate change are
25

1 identified and incorporated to projects where
2 appropriate and practicable. It may not practicable
3 or appropriate to mitigate all threats as was
4 suggested. And then the comment on hazardous
5 materials. The comment was that the WRP does not
6 adequately address transferring storage or use of
7 hazardous materials particularly in light of climate
8 change. And this in an area where a special needs to
9 be paid for how the WRP works and its limitations.
10 The WRP is not a good vehicle for oversight of
11 ongoing daily operations. As I specified earlier, the
12 WRP review occurs at the time of a discretionary
13 action, and so for many of these things such as the
14 transferring and use of hazardous materials, the WRP
15 has no mechanism for enforcement or oversight. We
16 are retaining the reference to the siting and storage
17 of hazardous materials. On public access the comment
18 was to require an appropriate form of waterfront
19 public access unless proven infeasible and unsafe in
20 the significant maritime industrial areas and the
21 ecologically sensitive maritime and industrial areas.
22 This is again an important point on the limitations
23 of the WRP. This comment would suggest superimposing
24 new public access requirements on those projects
25

1 subject to WRP and contradict established public
2 policy under zoning. We are not seeking to do that.
3 However, we have added language to policy eight to
4 expand the list of types of public access to be
5 encouraged in industrial areas, but not outright
6 requiring it. We also received a number of comments
7 on the maps, some very fine comments. This just
8 being one example; the comment was to expand the
9 priority marine activities zone to include the foot
10 of Manhattan Avenue in Greenpoint, in the proximity
11 of the proposed Greenpoint Boathouse. And then
12 finally, we received a number of comments regarding
13 the modifications to the WRP based on the lessons
14 learned from hurricane Sandy. I should mention that
15 the WRP was in public review well before hurricane
16 Sandy, but we intentionally paused our review so that
17 we could incorporate lessons learned. First and
18 foremost let me say that the proposed revisions that
19 we were making before hurricane Sandy were
20 appropriate and necessary and thinking ahead
21 regarding climate change and potential
22 vulnerabilities. There are some specific additions
23 that we have made, including improving the resiliency
24 of marinas, highlighting the importance of dunes and
25

1 beach renourishment projects, encouraging
2 multifunctional coastal protection infrastructure
3 that has a wide range of code benefits, and
4 incorporating resilient shoreline design into
5 waterfront public access guidelines. We have also
6 taken this as an opportunity to expand the coastal
7 zone boundary that is the area for which the WRP is
8 relevant to include the most current FEMA flood maps,
9 including the 500 year flood zone. The 100 year
10 flood zone is required under federal statute. We are
11 expanding that to include the 500 year flood zone,
12 feeling that this is an important and conservative
13 way of assessing our coastal zone boundary. We're
14 also adding a point as to how the coastal zone
15 boundary can be updated in the future as new FEMA
16 maps become available. With that, thank you for your
17 time, and happy to take your questions.

18
19 CHAIRPERSON WEPRIN: Great. Before I get
20 on, let's see if anyone in the panel has any
21 questions. I know we discussed briefly this issue
22 that the environmental justice advocates, who I know
23 some are here to testify later, the idea that
24 requiring a formal risk assessment and you had said
25 that you didn't think it was appropriate as part of

1 the WRP, but initial drafts supposedly had this risk
2 assessment in there. What changed and why is it no
3 longer in there?
4

5 MICHAEL MARELLA: The--it was simply the
6 matter of the term, and in speaking with our
7 attorneys and attorneys from the Mayor's Office of
8 Environmental Coordination, this brought to our
9 attention that the term risk assessment in--
10 specifically within environmental review documents
11 tends to mean a very detailed numeric analysis
12 regarding and quantifying the types of risks, risks
13 being--the formal definition of risk being the
14 likelihood of an event happening, multiplying that by
15 the consequence of that event happening. And that
16 there's a--there's a mathematics behind all of that,
17 and with the resulting documents, tend to be several
18 hundred pages thick quantifying potential risks.
19 While we use the term risk in everyday life, risk in
20 environmental review has a very specific definition.
21 And so we are suggesting that the term vulnerability
22 assessment be a more appropriate term.

23 CHAIRPERSON WEPRIN: Now, would a
24 vulnerability assessment include the issues that are
25 concern, the idea that you list all hazardous

1 materials you have, things that might be of concern
2 to for health risks in the future?

3
4 MICHAEL MARELLA: That is--that would be
5 the case. Yes, you would be identifying all of the
6 vulnerabilities and we could pull up the text for the
7 vulnerabilities to property, to workers, etcetera, to
8 residents, and the general categories would be
9 included. What we are trying to not imply is that
10 there would be this extensive quantitative analysis.

11 CHAIRPERSON WEPRIN: Right. And I know
12 they're going to speaking later, the environmental
13 justice people, and does that not go far enough for
14 them, and if so, why? I know you do have--I don't
15 want you to necessarily speak on their behalf, but
16 I'm sure you have had these discussions. You can
17 answer it better than--for my sake.

18 MICHAEL MARELLA: That's right. We have
19 had extensive conversations with them, and though
20 I'll refrain from putting words in their mouths, I do
21 believe that--that it's a level of degree, perhaps.
22 But it is--but we are only taking the WRP as far as
23 we believe we legally and practically can. There's a
24 level of practicality when addressing the WRP review.

25 CHAIRPERSON WEPRIN: Uh-hm.

1
2 MICHAEL MARELLA: That because it is a
3 one time review as what is effectively the lead
4 administrator for that--for the Waterfront
5 Revitalization Program, we do not have any practical
6 way of going into the field and assessing current
7 operations risks, and that's one of the big areas--

8 CHAIRPERSON WEPRIN: [interposing]
9 Perhaps there's a way to expand the language that
10 will keep the lawyers happy still. I don't know if
11 that's possible. But I just want to acknowledge that
12 Council Member Lander who was here before was very
13 concerned about this issue as well. He unfortunately
14 had another hearing to go to as well, and just wanted
15 to let him know that we were thinking of him. Does
16 anyone else on the panel have any questions? That's
17 yes, Diana Reyna. Yes, Council Member Diana Reyna.

18 COUNCIL MEMBER REYNA: Thank you Mr.
19 Chair. I just wanted to take a moment to ask
20 regarding the recommendations made as far as
21 comments, in the area of the Newtown Creek there were
22 no changes suggested?

23 CHAIRPERSON WEPRIN: Uh-oh, we have an
24 environmental hazard.

25 [laughter]

2 CHAIRPERSON WEPRIN: See, we didn't have
3 that in our risk assessment. That wasn't even
4 something we considered. There's flooding,
5 everything--

6 MICHAEL MARELLA: We are assuming that
7 was water in there.

8 CHAIRPERSON WEPRIN: No harm, no foul.

9 COUNCIL MEMBER REYNA: And hopefully no
10 circuit there.

11 CHAIRPERSON WEPRIN: Yes.

12 COUNCIL MEMBER REYNA: I wanted to just
13 take a moment to touch base on some of the comments
14 as I'm reviewing them. The no changes suggested by
15 CPC, City Planning Commission, there was a concern
16 that the elimination of areas along the Newtown
17 Creek, SMIA, is going to open the door for a rezoning
18 in the Newtown Creek industrial business zone, and
19 EVICO [phonetic] was pointing out the industrial
20 organization to the local neighborhood pointed out
21 the Red Hook map extraction of 160 MY [phonetic]
22 Street from the SMIA, which received a residential
23 variance. Does it mean that the same for the areas
24 proposed for extraction near the Newtown Creek as far
25 as variances are concerned.

1
2 MICHAEL MARELLA: So to be clear, that
3 residential variance actually occurred while it was
4 still part of and SMIA. That was a BSA action as it
5 was--as it was already within the special area
6 designation of an SMA on MY Street. However, the
7 intention is not to al--to promote or encourage
8 residential development in that area of Newtown
9 Creek. It's simply recognizing the limitations for
10 maritime development on the far eastern extremes of
11 Newtown Creek, beyond the creek itself.

12 COUNCIL MEMBER REYNA: If you can just go
13 to the map and just show me exactly--

14 MICHAEL MARELLA: [interposing] I don't
15 think it's actually--it's not on this individual map.

16 COUNCIL MEMBER REYNA: Okay.

17 MICHAEL MARELLA: This is--this is
18 Hunters Point, just an area adjacent to Hunters Point
19 south. Perhaps offline we can--I can--

20 COUNCIL MEMBER REYNA: [interposing]
21 absolutely.

22 MICHAEL MARELLA: walk through the maps
23 with you.

24 COUNCIL MEMBER REYNA: And I just wanted
25 to understand the--that particular slide that you

1 just showed, the mouth of--the foot of Manhattan
2 Avenue--
3

4 MICHAEL MARELLA: Yes.

5 COUNCIL MEMBER REYNA: And the proximity
6 to Greenpoint boat house. This particular area was
7 modified so that you're just, you're just covering
8 what would be the--where the street meets the river?

9 MICHAEL MARELLA: The street end itself,
10 yes.

11 COUNCIL MEMBER REYNA: And how does that
12 change what would be any uses or monitoring of the
13 program itself?

14 MICHAEL MARELLA: What it--with the
15 priority marine activity zone specifically would do
16 is that it highlight that that's a prime area for
17 boat tie up or boat access.

18 COUNCIL MEMBER REYNA: Okay.

19 MICHAEL MARELLA: And so the Land Use
20 side of that is an entirely separate conversation.
21 It's really focusing on that coastal edge itself.

22 COUNCIL MEMBER REYNA: Okay. And I just
23 wanted to take this moment to really thank you,
24 Michael, and the staff, Carolyn, who have been
25 working on a lot of these comments from the

1 industrial sector who had for over a year, probably
2 18 months, just discussing this plan and making sure
3 that there was a opportunity to discuss what would be
4 measures that would help to clarify one of those
5 examples being heavy industry as opposed to just
6 industry, which I value very much, and I wanted to
7 just share my gratitude in the greatest efforts taken
8 by the City Planning Commission in relationship to
9 this particular program and these boundaries and
10 policy recommendations that have been put forward.

11 So I wanted to thank you and our continued efforts in
12 bringing back Waterfront water uses, activities, not
13 just recreational, residential, but also industry to
14 create jobs. Thank you so much.

15
16 MICHAEL MARELLA: Thank you.

17 CHAIRPERSON WEPRIN: Thank you, Council
18 Member Reyna. Anybody else have any questions here?
19 Okay, great. Thank you. We're going to excuse this
20 panel. We have a number of people who are here to
21 testify with comments in favor of this, but with
22 comments. So I'm going to get right to it. Again,
23 we're going to try to limit people to two minutes,
24 please. If you could please work with us on that.
25 I'd like to call up Eddie Bautista, Juan Camilo

1 Osorio, Eva Hanhardt, and Inusha, yeah, Anusha
2 Bankarahman [phonetic]. Venkataraman, okay, Anusha,
3 sorry about that. I can't imagine I'm the first.
4 Alright, ladies and gentleman whenever you're ready.
5 You can decide who goes first and just try to keep--
6 make sure to state your name and we're going to put
7 you on a two minute clock. So thank you. Mr.
8 Bautista, you're going to start? Okay.

10 EDDIE BAUTISTA: Sure. Chair Weprin,
11 Members of the Comimtte, on behalf of the New York
12 City Environmental Justice Alliance, we thank you for
13 listening to our testimony. First off, I want to
14 begin by acknowledging the great work of the
15 Department of City Planning. They've taken great
16 strides in improving our City's likelihood, at least
17 being more adaptable and resilient for the next
18 severe weather event. Our recommendations are
19 actually small within scope, but critically important
20 given the communities that represent. The New York
21 City Environmental Justice Alliance is a city-wide
22 coalition of community based organizations from the
23 City's most environmental overburdened communities as
24 well as communities that lack equitable access to
25 amenities. When the City began its waterfront

1
2 planning process we started doing our own mapping,
3 and what you see on the screen is a map of the City's
4 significant maritime and industrial areas with
5 overlays from the New York State Office of Emergency
6 Management's storm surge zones. From top to bottom
7 it's the south Bronx, a. B is Newtown Creek. C is
8 Brooklyn Navy Yard. D is Redhook. E is Sunset Park,
9 and F is Northshore of Staten Island. As you will
10 see, every one of these significant maritime and
11 industrial areas are vulnerable to--you know, forget
12 category four--forget category one. They are
13 vulnerable to, you know, tropical storms,
14 nor'easters, stiff wind, I mean the kinds of
15 vulnerabilities that we're talking about are
16 significant. No pun intended. And from our
17 perspective the fact that these are the communities
18 that also have the bulk of the City's remaining heavy
19 industrial and polluting infrastructure uses raise
20 the specter of exposures that we didn't anticipate
21 when the first significant maritime industrial area
22 designation was inserted in the 90's. Next slide. I
23 can do that. Just to give you an example, zoom in on
24 one of the SMIA's, this is the south Bronx. What we
25 did in addition to layering on top of the SMIA

1 contours, we also layers on different data sets. And
2 these are just four data sets. I will wrap up. Two
3 of those are DEC databases for super fund chemical or
4 bulk storage facilities, land based stations and
5 EPA's toxic release inventory. Those are four
6 databases. There are many more. The square that you
7 see in the top is the Hunts Point Food Distribution
8 Center, the largest in the country, and had high tide
9 for Long Island Sound coincided with landfall for
10 Sandy. The Mayor's office has already shown that--
11 has testified or has said publicly that our food
12 supply would have been disrupted. So hazardous
13 exposures are a critical threat that we need
14 additional tweaks and we're asking to restore some of
15 the language that was in the original City Planning
16 WRP draft. And finally, that's just the slide. This
17 is hours before the worst of Sandy hit. This is
18 Redhook. It's in the SMIA, and as you can see where
19 there are a lot of small manufacturer, a print shop
20 on the first floor; these businesses were overrun.
21 Finally, I would just say that, you know, all we're
22 asking for is the City Council to fix what we are
23 small within scope changes. The City Council is
24 always meant to weigh in and not just, you know,
25

1 rubber stamp a city planning, a document. You guys
2 were always intended to weigh in and change if you
3 see necessary. I'll stop there.

4
5 CHAIRPERSON WEPRIN: Thank you, Mr.
6 Bautista. Who's next?

7 JUAN CAMILO OSORIO: Hello, my name is
8 Juan Camilo Osorio and I'm testifying as Director of
9 Research with the New York City environmental Justice
10 Alliance. We have submitted detailed testimony which
11 I'm going to summarize as follows. NEJA endorses a
12 balanced approach to Waterfront Policy that bolsters
13 waterfront communities by promoting economic growth
14 while protecting the environment and advancing
15 equity. While NEJA supports industrial and water
16 dependent uses in the SMAI's, it is concerned that
17 these waterfront industrial neighborhoods are
18 vulnerable to climate change impacts, which post a
19 threat to industrial facilities handling, storing and
20 transferring hazardous substances. NEJA believes
21 that New York City can and must create policies that
22 mitigate climate change impacts, reducing the risks
23 of hazardous exposures in order to foster a healthy
24 working waterfront. NEJA commends the Department of
25 City Planning for the many positive changes in the

1 proposed revisions to the Waterfront Revitalization
2 Program. We are particularly pleased that in
3 response to NEJA's concerns, DCP has integrated many
4 of our recommendations into the proposed WRP.
5 However, a few areas remain where the update still
6 fall short on providing the strongest protection for
7 residents, workers, and local businesses. NEJA urges
8 the City Council to fully address the contamination
9 exposure risks associated with clusters of heavily
10 industrial uses in the SMIA's and supporting the
11 following recommendations. One, require the WRP
12 vulnerability assessment of climate change impacts
13 proposed by DCP to address potential exposures to
14 hazardous substances during extreme weather events
15 and require their mitigation, including the long term
16 impacts of hazardous exposure. Two, mandate safe and
17 responsible use of hazardous materials and toxic
18 chemicals by requiring a plan for emergency
19 preparedness, pollution prevention and control of
20 hazardous substances for any facility, not just
21 handling, but transferring and storing these
22 substances. Three, protect local industrial jobs and
23 businesses by discouraging discretionary actions in
24 the SMIA's that reduce lands owned for manufacturing.
25

1 Four, protect and restore wetlands in industrial
2 waterfront neighborhood. And five, require
3 waterfront public access in the SMIA's and ESMIA's
4 unless proven infeasible. NEJA commends the
5 Subcommittee on Zoning and Franchises for inviting
6 public comments on the proposed amendments to the
7 waterfront revitalization program as we feel that the
8 City Council plays a very important role in
9 increasing that New York City fully takes advantage
10 of using WRP to increase the resiliency and
11 sustainability of the waterfront. Thank you.

13 CHAIRPERSON WEPRIN: Very nice, thank
14 you. Thank you. Ladies, who wants to go first?
15 Okay, please state your name.

16 EVA HANHARDT: My name is Eva Hanhardt and
17 I'm a professor at Pratt Institute in the programs
18 for sustainable planning and development. I'm here
19 today to testify in support of the New York City
20 Environmental Justice Alliance's recommended changes
21 to the proposed Waterfront Revitalization Program.
22 As a former staff person in the Waterfront Division
23 of the Department of City Planning, I worked as a WRP
24 reviewer, was the Principal Author of the Working
25 Waterfront section of the 1992 New York City

1 comprehensive waterfront plan that established the
2 significant maritime and industrial areas and was one
3 of the planners responsible for drafting the
4 waterfront zoning text. In retrospect, I have come
5 to appreciate that when we first established the
6 SMIA's, we did not adequately recognize and mitigate
7 a number of potential community and environmental
8 impacts relating to this concentration of heavy
9 industrial uses. Certainly, we did not even propose
10 consideration of the impacts of climate change and
11 sea level rise in SMIA's, although the potential for
12 both was widely known by 2002 when the WRP was
13 revised to reflect the waterfront comprehensive plan.
14 For these reasons I see the efforts of the Waterfront
15 Division Staff in updating the WRP to address current
16 and future challenges as especially praiseworthy.
17 However there remains several areas as identified by
18 the Environmental Justice Alliance where the proposed
19 WRP could be strengthened. Today, the spector of
20 climate change impacts on SMIA's clearly requires
21 that the WRP adopt a more thorough and comprehensive
22 approach to identifying and mitigating the potential
23 of toxic and hazardous materials exposures resulting
24 from severe weather, including flooding, storm surge
25

1 and high winds. Just as the proposed WRP requires a
2 level of staff expertise on ecological issues in
3 order to review the required natural resources
4 assessment, I believe that WRP staff should be able
5 to review the SMIA provisions relating to potential
6 hazardous exposures recommended by NEJA through the
7 vulnerability assessment that Department has wisely
8 required that be prepared by the applicants architect
9 or engineer and by selecting staff with the expertise
10 and skill to stay abreast of current scientific
11 knowledge. It is not a recommendation of going into
12 the field. It is my hope that 10 years from now we
13 will be able to say that the updated WRP did indeed
14 adequately and with foresight address the critical
15 challenges facing New York City's coastal zone.

17 CHAIRPERSON WEPRIN: Thank you. Inusha?

18 ANUSHA VENKATARAMAN: Sure, thank you.

19 My name is Anusha Venkataraman I'm from El Puente
20 which is a member of the New York City Environmental
21 Justice Alliance. I'm the Director of the Green Light
22 District Initiative, which is a ten year
23 sustainability initiative in the south side of
24 Williamsburg. El Puente has 2,000 members across
25 Williamsburg and Bushwick. We're in Council Member

1 Diana Reyna's District. I'm here to support the
2 revisions that the New York City Environmental
3 Justice Alliance has laid out. Our community is
4 directly impacted by the policies discussed here
5 today because we have two of the six SMIA's located
6 in or immediately adjacent to our neighborhood.
7 Those recommendations that we support are first off
8 to require the detailed and comprehensive assessment
9 of climate change impacts, to address the potential
10 exposures to hazardous substances. This includes
11 long term public health impacts as well as specific
12 guidelines to assess and mitigate those risks or
13 vulnerabilities, excuse me. Second, we support the
14 mandate of safe and responsible use of hazardous
15 materials and toxic chemicals. This is both enclosed
16 and open. Third, we support the protection of local
17 industrial jobs and businesses. As Council Member
18 Reyna pointed out earlier, this important in our
19 community, in particular the under used land
20 designation in the proposed changes is vague and
21 could lead to the introduction of non-industrial uses
22 such as high end residential development, which we've
23 seen way too much in North Brooklyn. Fourth, we
24 support the protection and restoration of wetlands.
25

1 The Newtown Creek is, you know, not seen as an
2 ecologically rich resource, but it is, and we support
3 the further restoration of that resource in our
4 community. Lastly, we support the requirement of--or
5 the requirement of waterfront public access unless
6 proven infeasible and unsafe in the SMIA's. This is
7 an issue not just of recreational access, I think
8 also having visual access helps in the monitoring and
9 enforcement of existing regulations.
10

11 CHAIRPERSON WEPRIN: Okay, thank you.

12 Let me just ask one quick question. So you heard the
13 comments from City Planning about this idea of a
14 formal risk assessment being a problem with the
15 attorneys. Is there language that you could give us
16 that would sort of not trip the lawyers, at the same
17 time address the concerns you have?

18 EDDIE BAUTISTA: A couple comments to
19 that. Yes, I mean I think we--we've been looking at
20 both the original draft that was released to the
21 public for public review as well as the draft that
22 you--that's currently before you, and we believe that
23 there are ways of incorporating. It's not just the
24 risk assessment, it's really the hazardous materials,
25 the storage, the transfer. You know, our--the reason

1
2 why we believe it's a small but critical change is
3 that none of this contemplates City Planning staff
4 going out in the field. This is a disclosure
5 document. It's basically the applicant telling City
6 Planning, "This is what we do in terms of storage and
7 transfer and handling." And City Planning looking at
8 an architect or an engineer's review of that plan.
9 It's merely a disclosure document, but it's one that
10 we think it's critically important, but yeah, we have
11 language that we hope at least or lawyers like.

12 CHAIRPERSON WEPRIN: Alright. Well we
13 won't be voting on this today, so we'll have a chance
14 to try to sort this out if it's possible. Any
15 questions from the panel? Okay, alright. Well we
16 thank you very much. We have two more panels in
17 favor of this item, this matter, and then we'll get
18 to our final item, which I know has the most people
19 here. We're just trying to get there and still be
20 able to hear from everybody. Alright. So I'd like
21 to call up Roland Lewis, Ed Kelly, Kethia Joseph, is
22 it? And I'm sorry, and Nigel Tekensing [phonetic].
23 Teke--what--Tekesing, is that it? Tekasing, okay.
24 Alright. How many I got. There should be four, or
25 maybe more. Didn't I just read four names? Yeah.

1 But five people. What happened. One second. You
2 were the last name I called? I only called four.
3 You guys, that was the four names? Okay, alright.
4 I'll let you guys sort this out. Alright, so
5 whenever you're ready please state your name for the
6 record.
7

8 ROLAND LEWIS: Sure.

9 CHAIRPERSON WEPRIN: Don't know what that
10 means. But--and we're going to give you two minutes,
11 so try to keep in that two minutes.

12 ROLAND LEWIS: Sure thing

13 [crosstalk]

14 CHAIRPERSON VAN BRAMER: Eddie Bautista's
15 panel failed on every one of them.

16 ROLAND LEWIS: Alright, my name is Roland
17 Lewis. I am the President/CEO of The Metropolitan
18 Waterfront Alliance, and alliance over 740 businesses
19 and civic organizations dedicated to an accessible
20 and vibrant waterfront for New York and New Jersey as
21 well. We--this is a--I view this testimony as a next
22 step in a continuum. Starting in 2008 where we
23 testified before the City Council about the need for
24 a new comprehensive waterfront plan, adopted by the
25 City Council, created by City Planning, and now we

1 are talking about the Waterfront Revitalization Plan,
2 a useful tool to move forward many of the ideas that
3 were incorporated into that--in that plan. And we
4 are as, I think Eva said before, it's been a seat
5 change and I think the attitude by the City of New
6 York about its waterfront and we applaud the new plan
7 as a extremely useful tool. We'd like to highlight
8 just two or three areas that have already been
9 spoken, but I think need further attention or further
10 applause. One is the sea level rise. We--the fact
11 that this plan takes into account sea level rise, and
12 before it--in working with them before Sandy and
13 certainly since Sandy--

14
15 CHAIRPERSON WEPRIN: [interposing] We're
16 having problems with the clock. But just try to wrap
17 up, you know, as quickly as you can.

18 ROLAND LEWIS: I will. I will be
19 efficient. Access, the plan calls for and encourages
20 more waterfront access for historic and maritime
21 ships and human powered boating and all kinds of
22 recreational boating, which is starting--we all see
23 starting to happen around our waterfront. And the
24 issue de jour of the SMIA's, which we think--the
25 larger issue here is that the plan encourages these

1 vital industries and these water dependent uses to be
2 fostered and encouraged over time, and again, we just
3 hope that as we move forward specific organization
4 and the City of New York to implement--we will make
5 these areas, SMIA's healthy, environmentally safe and
6 also full with good American jobs.
7

8 CHAIRPERSON WEPRIN: Alright, thank you
9 very much. Alright. We're back on, sorry.

10 UNKNOWN: Okay. I'll be brief. Good
11 afternoon. I thank you Council Member Weprin and all
12 the members for--and also the Department of City
13 Planning for putting such close attention to this.
14 We consider this such a great opportunity to improve
15 our city for everyone. The Point CDC is a non-profit
16 organization located in Hunts Point, and we have lots
17 of youth development programs. We believe in
18 responsible ecology, self investment in the Hunts
19 Point community and we've been a part of the New York
20 City Environmental Justice Alliance as well as
21 Organizations for Waterfront Neighborhoods for a very
22 long time, simply because we serve, you know, over
23 2,000 families living in Hunts Point. I'm just going
24 to sort of take the opportunity to put a little bit
25 of human face. I know Hunts Point is an industrial

1 area. It's also an SMIA and like many Environmental
2 Justice communities that are low income and
3 communities of color, here's why we care about this
4 so much. You know, we have about 46,000 residents
5 that live a stone's throw away and Eddie and Juan
6 showed you guys a map of how Hunts Point, you know,
7 is laid out. WE have over 18 weight transfer
8 stations, and you understand the heavy use of
9 industry in the neighborhood. But there are great
10 things happening also in terms of revitalization
11 efforts, and we have the Bronx River Greenway. We
12 have the South Bronx Greenway as well, which has
13 wonderful parks such as Barretto Point Park, Hunts
14 Point Riverside Park. Brownfield at the Point
15 remediated to turn over to public use, which use to
16 be a fur factory. Now it's an open campus where
17 Rocky and Boat runs boating programs for--an
18 apprenticeship program for young people. So when we
19 talk about these things when we're looking at
20 requiring DCP to have a vulnerable assessment and to
21 really have this disclosure, which might be a little
22 difficult. Here's why, right across the street from
23 Rock and the Boat we have three toxic chemical
24 storage facilities, alright? And we're all in a
25

1 flood zone, and we're doing our part. We use low
2 impact development techniques to remediate that
3 sight, but without further disclosure and a system to
4 really think about how we're going to be prepared for
5 the next disaster. It's not a matter of if, but it's
6 when. We as first responders in our communities want
7 to also assist and be well-prepared. So we do fully
8 support these recommendations and thank you for your
9 time and consideration.

11 CHAIRPERSON WEPRIN: Go ahead.

12 EDWARD KELLY: My name is Edward J.
13 Kelly, and I'm the Executive Director of the Maritime
14 Association of the Port of New York/New Jersey, an
15 organization with over 500 paid members, which sense
16 1873 has been the primary advocate of the port's
17 commercial maritime industry. Maritime commerce has
18 been an essential component to the success of New
19 York City since its earliest history. Currently, our
20 port generates over 280,000 full time job equivalents
21 over 33 billion dollars in business income, over 12
22 billion dollars in personal income and over 5.4
23 billion in federal, state, and local tax revenues.
24 New York City has been blessed by having one of the
25 world's best networks of harbors and estuary systems.

1 Our waterways created over 500 miles of waterfront
2 property which can and should be used for such
3 diverse purposes as residential occupancy,
4 recreational activities, public access, ecological
5 enhancement, and of course, commercial maritime
6 enterprise. The diverse location features and
7 current usages of our waterways and waterfront
8 properties can enable New York City to promote shared
9 and multipurpose usage of these assets in accordance
10 with a plan that recognized the value and beset usage
11 opportunities for each area. In order to accommodate
12 our current and future requirements for waterfront
13 properties, which are situated near existing federal
14 and local navigational channels and that have the
15 necessary hydrologic and hydraulic capabilities. It
16 is imperative that New York City must have a forward
17 looking and publicly approved plan with which to
18 govern, oversee and balance the availability of
19 unique waterfront property with varying, diverse, and
20 legitimate purposes. The primary goal of the members
21 of the Maritime Association is that our waterways are
22 used in a safe, secure, and sustainable manner as
23 possible. We have thoroughly reviewed the proposed
24 revisions to the New York City waterfront
25

1 revitalization plan and we are confident that it's
2 properly incorporated the updates and revisions
3 derived from the vision 20/20 and will seek to foster
4 the optimal usage of waterways and waterfront
5 resources as was envisioned in the federal and state
6 coastal zone management legislations. We are
7 therefore here with offer our support for the
8 proposed revisions to the WRP and look forward to
9 continuing to work and cooperate with the various
10 city agencies that will further the goals of this
11 program. Thank you for your time and attention.

12
13 KETHIA JOSEPH: My name is Kethia Joseph,
14 I'm a fellow for the New York City Environmental
15 Justice Alliance, and I am also here representing The
16 Sustainable South Bronx. We're an organization
17 seeking to address environmental and economic
18 concerns in the South Bronx through community
19 greening, community green job training and social
20 enterprise. As an advocate of Hunts Point and
21 Environmental Justice Community, it is very pertinent
22 for everyone directly or indirectly involved in the
23 Waterfront Revitalization Program to understand the
24 associated ramifications of not properly implementing
25 policy or enforcing regulations. As a mechanism to

1 control the regulations of industrial waterfront
2 vicinities, significant maritime industrial areas,
3 SMAI's were created in six locations along the
4 waterfront, one of them being Hunts Point. This
5 presents a major threat to Hunts Point and other
6 communities located in SMIA's. These designated
7 locations are in zones prone to hurricane storm
8 surge, flooding and other severe weathers associated
9 with climate change. These locations also form an
10 overlap with Environmental Justice and low income
11 communities. What does this mean for New Yorkers?
12 For one, there is 622,604 New Yorkers living in
13 census tracks half a mile of SMAI's vulnerable to
14 storm surge. Of this number, 46,446 are residents of
15 Hunts Point. Consequently, if a storm similar to
16 Sandy were to occur again, these high risk toxic
17 facilities have the potential to release known human
18 carcinogens, agents known to directly cause cancer.
19 These active chemical bulk and major oil storage
20 facilities have the capacity to store 400,000 or more
21 of oil. Eleven percent of these New York City
22 facilities that are vulnerable to storm surge are
23 located within a half mile of South Bronx SMIA's.
24 Over 90 percent of Hunts Point residents are people
25

1 of color, which according to the New York City
2 Department of Health and Mental Hygiene have limited
3 to no access to health insurance. Therefore, I urge
4 you to reform the Waterfront Revitalization Program
5 to fully address the contamination risks of SMIA's.
6 For one, we'd like to assess the impacts of climate
7 change on all projects in the coastal zone and
8 vulnerable areas, mandate the safe and responsible
9 use of hazardous materials, protect and restore
10 wetlands, and lastly, require waterfront public
11 access unless proven unfeasible and unsafe SMIA's.
12 Thanks.

14 CHAIRPERSON WEPRIN: Alright. Well thank
15 you very much. Any questions from the Panel? Diana?
16 Anyone? Alright, Council Member Reyna.

17 COUNCIL MEMBER REYNA: I just wanted to
18 find out if the Maritime Association testimony is
19 available?

20 EDWARD KELLY: Yes, I can make that
21 available.

22 COUNCIL MEMBER REYNA: Thank you so much.

23 EDWARD KELLY: Unfortunately I got the
24 extra copy and I butchered this one up to fit within
25 two minutes.

2 COUNCIL MEMBER REYNA: Understood, and it
3 was a pleasure working with you regarding making sure
4 that your voices were heard on this particular
5 program. Thank you.

6 CHAIRPERSON WEPRIN: Okay. I'd like to
7 thank you very much. Okay. Thank you very much for
8 your testimony. And now I'd like to call up what I
9 think is our last panel, Joaquin Brito, Bonnie
10 Harken, Kelly Terry-Sepulveda, and is there someone
11 else who wanted to testify on this matter that I
12 haven't called? No? Nobody else is here to testify?
13 Alright, so does want to--anybody else? Is there
14 anyone else? Do you want to testify? No, okay.
15 Alright. Alright. Got it down. Sorry about that.
16 Right, I understand. Alright, sorry. Okay. SO we
17 have these two. This is the last two for this item
18 and then we'll get to the next event. Alright,
19 please state your name.

20 BONNIE HARKEN: Thank you. I'm Bonnie
21 Harken. I represent the New York Metro Chapter of
22 the American Planning Association. We are 1,400
23 member chapter of the larger 41,000 member American
24 Planning Association. APA New York Metro chapter
25 strongly supports the proposed revisions to the 2002

1 Waterfront Revitalization Program. They--we believe
2 that they will make the WRP a powerful tool for
3 implementing Vision 20/20, New York City's
4 comprehensive waterfront plan adopted in 2011. Going
5 forward they will advance its widely supported vision
6 of New York City's diverse waterfront as a public
7 resource, one where the needs of our natural habitats
8 and working port are balanced with opportunities for
9 public access, parks, commerce, and housing. Today I
10 will highlight our support for innovations to the WRP
11 in three areas that will expand public access of use,
12 increase the City's resilience to climate change and
13 continue to promote the working waterfront. Public
14 access and use, APA supports the WRP's new
15 requirement that all public waterfront developments
16 which are publicly funded or publicly owned land,
17 even in industrial zones, provide public access
18 wherever is safe and practical. We are also pleased
19 that the WRP requires projects to be reviewed against
20 design principles, because that will help protect the
21 quality of those public waterfront spaces and access.
22 Resilience to climate change, APA supports updates to
23 the WRP that will address increasing climate change
24 vulnerabilities. We agree with the WRP's new
25

1 requirements that all proposed projects identify and
2 minimize potential vulnerabilities and increase their
3 ability to withstand and recover from weather related
4 events. APA especially supports this type of--

5
6 CHAIRPERSON WEPRIN: [interposing] Just
7 wrap up.

8 BONNIE HARKEN: this type of flexible
9 approach in light of the evolving nature of best
10 planning practices and best available science. On the
11 working waterfront, APA supports WRP's provisions
12 that will advance both economic development and
13 environmental sustainability on the working
14 waterfront. We are pleased with the existing SMIA's,
15 have been kept intact and that water dependent
16 industries and maritime support services continue to
17 be priorities. So in closing, we, APA applauds the
18 Department of City Planning for their outstanding
19 work on updating the Waterfront Revitalization
20 Program.

21 CHAIRPERSON WEPRIN: Thank you.

22 JOAQUIN BRITO: Hi, my name is Joaquin
23 Brito, and I'm here on behalf of UPROSE. I'm an
24 organizer. Founded in 1964, UPROSE is Brooklyn's
25 oldest Latino community based organization. As many

1 as--as many of you know, UPROSE is dedicated to the
2 development of southwest Brooklyn and the empowerment
3 of its residents primarily through broad and
4 converging environmental sustainable development and
5 youth justice campaigns. Our mission shifted in 1996
6 to organize an advocacy and developing
7 intergenerational indigenous leadership through
8 activism around a host of environmental justice
9 issues. We aim to ensure and heighten community
10 awareness and involvement, develop participatory
11 community planning practices and promote sustainable
12 development with justice and governmental
13 accountability. Sunset Park is the largest SMIA in
14 New York City. It is also a community with 130,000
15 with the most vulnerable living amidst the
16 environmental burdens. We have an unfair share of
17 environmental burdens such as a waste transfer
18 station, marine transfer stations, power plants, lack
19 of open space, the Gawonitz [phonetic] expressway, a
20 recycling facilities and Brownfields. When plans
21 such as the WRP are put forth, it often seems like
22 the host community's concerns and burdens are not
23 considered, only making the community more of an
24 environmental wasteland. We strongly urge the
25

1 following recommendations. One, require the WRP
2 vulnerability assessment of climate change impacts to
3 address potential exposures to hazardous substances
4 in the event of severe weather. Two, mandate safe
5 and responsible use of hazardous material and toxic
6 chemicals. Three, protect local and industrial jobs
7 and businesses. Four, protect and restore wetlands.
8 Five, require waterfront public access unless proven
9 infeasible and unsafe in the SMIA's and ESMIA's.
10 Thank you for your time.
11

12 CHAIRPERSON WEPRIN: Thank you very much.
13 Is there any questions from the panel? I guess not.
14 Well thank you very much. Anybody else here to
15 testify on this item? Okay, well we're going to
16 excuse this panel. Thank you very much. We're going
17 to close the public hearing on the Waterfront
18 Revitalization Program Land Use 922. Thank you. And
19 we are going to move onto the last item on the
20 agenda, which I know has a large crowd here, and we
21 appreciate everybody's patience. I'd like to call up
22 Jesse Masyr from Related, Jerry Johnson--is it Gary
23 Handle? Okay. And Steven Whitehorse--house--
24 Whitehouse. Okay. Oh, and in the meantime we are
25 going to have Council Member Garodnick, who was

1 across the street at a hearing and missed the last
2 item we voted on, cast his vote on Land Use 934, 935,
3 the East Fordham Road, and Land Use 921, the Flood
4 Resiliency Text. I'd like to have Counsel please
5 call Council Member Garodnick.
6

7 COUNSEL: Council Member Garodnick?

8 COUNCIL MEMBER GARODNICK: Thank you. I
9 vote aye.

10 COUNSEL: Vote now stands on Land Use
11 items 921, 934, 935, nine in the affirmative, zero
12 abstentions, and zero negatives.

13 CHAIRPERSON WEPRIN: Thank you. Thank you
14 very much. Before we get started, I wanted to
15 acknowledge I saw--they're sort of leaving out now,
16 but Council Member Ydanis Rodriguez was here with a
17 group from the Chinese Trade Delegation. We welcome
18 you gentleman to here, to the Council Chambers. I
19 missed most of them, but we welcome you anyway. Thank
20 you. Alright. You can start without me Jesse,
21 alright, I'll be right back.

22 JESSE MASYSR: Good morning Councilmen.
23 My name is Jesse Masyr. I'm a member of the Law Firm
24 of Fox Rothschild and we are a Land Use Counsel to
25 the proposed developer of the project we are

1 discussing today, the related companies. With me
2 are, and you'll hear shortly, are Joe Johnson who is-
3 -Joe Johnson also from Fox Rothschild, Gary Handle,
4 an architect, and Steve Whitehouse our designer of
5 the public open space. I'd like to start my time and
6 just give you some historical background for the
7 matter that is before you today. The Ruppert Urban
8 Renewal area was established in 1968 and it is the
9 four blocks that are up on the screen currently. In
10 the early 1970's, the parcels 4A and 4B, which are in
11 the lower right hand portion of the screen, were
12 designated for school. By the end of the 1970's, the
13 City, through HPD, had determined that the school use
14 was no longer necessary, and HPD had then moved to
15 re-designate the parcels for mixed use development,
16 keeping with the goals of the urban renewal. A re-
17 developer was selected and parcels 4A and 4B was sold
18 to the designated developer. This is now going to
19 the early 1980's. Parcel 4B was developed with a
20 mixed-use, mixed-income development known as Carnegie
21 Park, and Carnegie Park to this date was developed by
22 the same developer, Related, remained a mix-used
23 affordable project even though the requirements of
24 affordability have long expired. It's something that
25

1 this client has been committed to for all of their 40
2 years of developing in New York. At the time of the
3 disposition, 4A which is immediately across the
4 street was required to be improved and maintained as
5 it opened its publicly accessible open space to be
6 developed by the developer, to be paid for by the
7 developer, to be maintained by developer for a term
8 of 25 years. That term ended in July of 2008.

9 Similarly, the Urban Renewal Plan also expired in the
10 same period, in June of 2008. And though the open
11 space was not closed for an additional three years,
12 its obligation was truly ob--fully fulfilled by July
13 of 2008. In 2011 the parcel was closed and
14 development plans began. It should be noted that for
15 25 years that the developer and owner maintained the
16 property and at a high level, paid full real estate
17 tax, paid maintenance and insurance, coming to
18 millions of dollars in anticipation of the time that
19 would come when its obligation would no longer be
20 required. In addition, the developer was obligated
21 for a period of 10 years to pay for maintenance of
22 what you see as site 2A, which is a public park at
23 East 90th and 91st Street. That obligation has long
24 gone. I make these distinctions so we clarify the
25

1 record that while the subject parcel, 4A, was indeed
2 developed as a publicly assessable open space, it was
3 never a park. It was never intended to be a park,
4 and it is not in fact a park. It is owned by a
5 private developer, who in addition to designing and
6 building it out actually paid, as I said before,
7 millions of dollars of maintaining it. What we are
8 here today is to address, and Mr. Johnson will go
9 through the technical aspects, is infirmity in the
10 zoning text, which in essence forgot that the renewal
11 plan ended, didn't leave a plan for how the
12 development should go forward and now requires this
13 text change to allow the owner to be the applicant
14 for his own development. Otherwise, had HPD been
15 still the sponsor and the original plan still in
16 place, that text change would not be needed. This is
17 a problem you've confronted before. You have
18 confronted it more than once in fact, you've
19 confronted in your West Side Urban Renewal Plan and
20 further development at Ballet Hispanico [phonetic].
21 We do these as one by one text changes, so we don't
22 have the environment to review to consider a city-
23 wide problem. With that, I would like Mr. Johnson,
24

1 for your pleasure, to take you through the technical
2 aspects.

3
4 JERRY JOHNSON: The applicant here is
5 seeking three actions to facilitate this proposal,
6 the zoning text amendment of the ownership provisions
7 of zoning resolution 7806, which is before you today.
8 In addition, the applicant is seeking two additional
9 actions should the zoning text amendment be approved,
10 a modification of the Ruppert LSRD Special Permit,
11 and a Plaza Certification for public open space. The
12 text amendment to the ownership provisions ZR7806 is
13 required to permit an individual owner within a large
14 scale LSRD to apply for a modification. Previously,
15 as Mr. Masyr mentioned, HPD is a City agency with
16 jurisdiction over the URA would have been the
17 applicant. However, with the expiration of the URA
18 they no longer have that jurisdiction and without
19 this amendment, all parties and interest as defined
20 by the zoning resolution would be required to sign
21 within an LSRD, occupying several city blocks with
22 numerous development, that task would be impractical.
23 Under such circumstances, an LSRD would become a
24 static community without the ability to adapt with
25 and change over time. The proposed zoning text

1 amendment will permit an individual owner of a parcel
2 within an expired URA in Community Board Eight
3 Manhattan that was used as interim open space for a
4 term of years that is also expired to seek a
5 modification of the LSRD restrictions to permit
6 development pursuant to the underlying zoning. The
7 proposed text amendment limits the development to the
8 subject parcel itself and requires that no
9 distribution of floor area occur within the LSRD and
10 that the development includes a building and public
11 open space. The text amendment will require that the
12 commission find that the modifications result in a
13 site plan that includes a building and public open
14 space appropriately located and oriented with respect
15 to other uses in the area. The second action seeks a
16 modification of the LSRD pursuant to that text
17 amendment. The modification will result in an as of
18 right mixed use residential community facility and
19 commercial building with public open space
20 appropriately cited. The proposed site plan
21 demonstrates just such conditions. The LSRD occupies
22 four blocks between East 90th and East 94th Street,
23 Second to Third Avenues, and as you can see from the
24 Neighborhood Context Plan up above, the LSRD is
25

1 occupied primarily by high rise developments on the
2 avenues with a ribbon of open space threaded
3 throughout. Parcel 4A is located on the western end
4 of block--between East 92nd and East 93rd Streets.
5 The proposed building will be located on the western
6 side of the site, adjacent to low rise commercial
7 structure with the required public open space located
8 on the east adjacent to an existing open space on the
9 neighboring parcel, and keeping the connecting ribbon
10 of open space from the northern block to the south.
11 The third action is a plaza certification pursuant to
12 the pop standards. The proposed building will contain
13 the New York City campus of the Windward School, a
14 private school for children with learning
15 disabilities, a health club, and a 213 unit apartment
16 building containing 46 affordable units developed
17 pursuant to the City's inclusionary housing program,
18 making these units permanently affordable. I'm going
19 to turn it over to the architect now to continue.

21 GARY HANDEL: My name is Garry Handel,
22 architect for the applicant. Garry Handel, architect
23 for the applicant. As you can see on the site plan
24 on the screen, our building is located 80 feet to the
25 east of Third Avenue. The building site is located

1 in the grey and the green is the 63 foot 6 inch open
2 space that Mr. Johnson opened. I'd like to call your
3 attention to two numbers. The first is that the
4 building has been situated as far to the west on the
5 site as is practical, 128 feet three and one half
6 inches from our neighborhood to the east, which by
7 point of reference is substantially larger than the
8 100 feet of Third Avenue. And to the heights of the
9 various building, our neighbor to the east has a main
10 roof of 425 feet. Our neighbor to the south, a roof
11 height of about 420 feet. Our main roof measured the
12 same way is at 408 feet with a bulkhead taking it up
13 to 428 feet. So it sits comfortably within the
14 height established by the existing buildings. The
15 ground floor shows the disposition of the various
16 uses on the site. The entrance--the school would be
17 located on 93rd Street. The entrance to the 231
18 residential unit located on 92nd Street, and the
19 entrance to the health club on 92nd as well. There's
20 also a small retail unit that would front onto the
21 publicly accessible open space. The section shows
22 the organization of those units--those uses again.
23 On the lower left are the five floors occupied by the
24 school. That use would comprise about 46,000 square
25

1 feet. In the green, the health club which would
2 have about 33,000 square feet, and then above that
3 the 26 floors of residential units, which would be
4 the 231 units of which 46 would be affordable located
5 above that. This is a view of our project looking on
6 the 92nd Street elevation showing the composition of
7 glazing and masonry elements. An elevation taking
8 through the publicly accessible open space showing on
9 the left 92nd Street, on the right 93rd, and again,
10 the relationship to existing context. A view looking
11 on the 93rd Street elevation at the school entrance
12 again showing relationship to existing context, and a
13 view from Third Avenue looking towards the east
14 showing the three--the existing three-story
15 commercial structure. Two views of the project, one
16 looking to the northwest and the other looking to the
17 northeast, again, showing the compositional elements
18 of the building. A detailed elevation of the 93rd
19 Street façade showing the park, the clear story
20 windows that go into the school, the school entrance.
21 Elevation detail through the public open space, and
22 an elevation on 92nd Street showing the entrance to
23 the health club and to the residential building. A
24 view looking northwest on 92nd Street with the
25

1 residential entrance in the foreground, the entrance
2 to the commercial health club at the back. And a
3 view of the school showing the park above the clear
4 story windows to the school's gym and the school
5 entrance. I'll turn it over now to my colleague,
6 Steve Whitehouse.
7

8 STEVE WHITEHOUSE: Thank you. I'm Steve
9 Whitehouse, a landscape architect for the project.
10 The public plaza is a 10,600 square feet, just shy of
11 a quarter acre, will be built pursuant to the New
12 York City Planning Plaza Design Standards as to its
13 public amenities, uses, planting, and furnishing
14 requirements pursuant to those regulations. It will
15 be opened 24/7 and maintained by the owner. The
16 project has--the park has a series of strategies to
17 animate all zones of the plaza. At the entrance
18 where there's a very sloping street, there are
19 multiple seating options and planting. It's fully
20 ADA accessible. As you move into the park, the
21 plaza, there is seating. There is as Gary noted the
22 retail area to provide foot traffic on all times of
23 day into the center of the park, and then in the back
24 of the park a interactive fountain with seating and
25 planting as well. So there are a whole series of

1 sort of activated spaces moving from the front of the
2 plaza to the back. The bird's eye view of this with
3 the steps that modulate the slope of the sidewalk,
4 the accessible entrance, and the movement back
5 through the space framed by planting, emerging into
6 the planting on the adjacent lot. The view up those
7 steps from the front. Towards the center of the space
8 with the fountain in the middle background. And
9 that's it. Thank you very much.

11 CHAIRPERSON WEPRIN: Thank you. Okay.

12 Let me start with--you alright? You have anything to
13 add? Okay. Alright. I'd like to start with Council
14 Member Garodnick. I know this is on the border of
15 Council Member Garodnick and Council Member Lappin's
16 district. We're going to start with--they both have
17 questions, so I'm going to start with Council Member
18 Garodnick where the site falls in his district.

19 COUNCIL MEMBER GARODNICK: Thank you, Mr.
20 Chairman, and gentleman, thank you for your
21 testimony. We appreciate it. I wanted to start with
22 the--what I think is really the heart of the question
23 that is before us today, which is the need under the
24 existing rules for related to ask for the permission
25 from the other owners within the former Urban Renewal

1 Area and the large scale plan for permission to make
2 an amendment such as this. It was noted that you
3 believe this to be impractical. Can you explain why
4 you believe that to be the case?
5

6 JESSE MASYSR: Impractical and perhaps
7 unprecedented also, unprecedented, unprecedented.
8 The real problems, you know, is a practicality issue
9 of couple of the--a couple of problems. One, what do
10 we propose would be a matter of shifting a policy of
11 giving a veto power, in essence, to anyone who had a
12 party in interest position into these four blocks,
13 something I think clearly was never intended and is
14 not intended in other instances. One negative brings
15 down the house. There is a issue about whether or
16 not--it's certainly undecided and cautionary that the
17 many many people who have an interest in this
18 property, the number of owners of properties living
19 their residences, whether or not they could exercise,
20 in essence one person, a veto power, which was never
21 intended to be their solution here when this deal was
22 made by the City back in 1980 and put on the
23 developer an obligation for a time period, and then
24 at the end relieved him of that obligation. So, it's
25 kind of impractical to think that you could go out

1 and get literally hundreds upon hundred, perhaps
2 thousands of consents, and if you took a somewhat
3 less cautious approach, which I think would be not
4 sound from a viability that said you only needed the
5 consent of let's say for example the boards of the
6 buildings. Again, you're investing in them the veto
7 power and I think you may be not surprised to hear
8 this, some people would be opposed, and it would in
9 essence transfer what was a policy decision made by
10 the City to an individual property owner.

12 COUNCIL MEMBER GARODNICK: Let's talk
13 about that policy decision for a moment, back--and
14 this was in--you said this came to be at the end of
15 the 1970's when the school use was abandoned and
16 there was a re-designation of these sites. You said
17 that the veto power was not intedened.

18 JESSE MASYSR: Uh-hm.

19 COUNCIL MEMBER GARODNICK: Okay, where--
20 what can we look at that makes it clear that that was
21 the case?

22 JESSE MASYSR: Well, I think you look in
23 the Land Disposition Agreement.

24 COUNCIL MEMBER GARODNICK: And in the
25 land--what would we find in the Land Disposition?

1
2 JESSE MASYSR: You would find in there
3 that there's an oblige--land was sold hold--held in
4 fee ownership, taxed as if it was pure and
5 unencumbered fee ownership, and then a period of time
6 in which its use was restricted. I think we struggle
7 on this question Council Member, is that we are--
8 we're wandering into an area where urban renewal
9 plans expiring and have expired run this problem
10 continually and was not--was not finalized. The
11 paperwork perhaps could have been better in all of
12 their renewal plans throughout the city, and you're
13 going to confront this problem continually, is that
14 had HPD still been the administrator of their renewal
15 plan, had the old renewal plan still be effect, we
16 would not be sitting here today having this
17 discussion.

18 COUNCIL MEMBER GARODNICK: So what you're
19 saying is the Disposition Agreement is silent as to
20 anybody else's rights? It sets forth a fee ownership
21 and a specific period of time of obligation for the
22 public space, but it is the Urban Renewal Plan which
23 is what had required that the owner of 4A seek the
24 approval of everyone else within the--

2 JESSE MASYSR: [interposing] No, not the
3 Urban Renewal--

4 COUNCIL MEMBER GARODNICK: Is that
5 accurate?

6 JESSE MASYSR: Not the Urban Renewal Plan,
7 the large scale permit.

8 COUNCIL MEMBER GARODNICK: Okay. So
9 let's just--let me amend my question then. So it was
10 the large scale plan which had that requirement in
11 it, but not the Disposition Agreement.

12 JESSE MASYSR: But it doesn't have that
13 requirement per say as an affirmative requirement.
14 It's just the way large scale plans are regulated.

15 COUNCIL MEMBER GARODNICK: So as a legal
16 matter, why are we looking to the Disposition
17 Agreement as opposed to they, say the large scale
18 plan for the rules as to what they should be in this
19 context?

20 JESSE MASYSR: I'm not sure I understand
21 your question.

22 COUNCIL MEMBER GARODNICK: Well, the
23 large scale plan says you need to ask permission.
24 The Disposition Agreement says you have fee ownership
25 and therefore can presumably do what you wish. Why

1 should we--and you're coming to the Council to ask
2 for an approval to allow you to take the root of what
3 you perceive the Disposition Agreement to allow as
4 opposed to the large scale development plan. Why
5 should we be looking in that direction as opposed--

7 JESSE MASYSR: [interposing] Because
8 you're--what you're looking at is the practical
9 problem their renewal plan having expired and to use
10 an analogy, it's as if the person who owned something
11 died and didn't leave a will. There was no plan
12 here. I mean, similarly, as an example, there's a
13 large scale plan of this degree, but no building that
14 was built here needed the consent of other buildings
15 to be built. It was HPD that made that decision. So
16 you--the fact pattern changes only because their
17 renewal plan expired without leaving a plan of what
18 to do. This is a problem that we confront, and we're
19 confronting it one by one. You confronted it before
20 on the West Side. So it's not so much the large
21 scale that's the problem. The large scale set a set
22 of rules, it's their renewal plan that expired and
23 didn't allow no longer HPD to be that--the sponsor's
24 applicant in essence. It didn't ask the consent of
25 any other building owners and any other parties and

1 interests as it continued to develop this urban
2 renewal area. Even though you would say large scale
3 plan says that, but it gave in HPD that authority as
4 the sponsor. The sponsor died; didn't leave a will.

5
6 COUNCIL MEMBER GARODNICK: HPD being the
7 sponsor of this--

8 JESSE MASYSR: [interposing] The Urban
9 Renewal Plan.

10 COUNCIL MEMBER GARODNICK: You noted that
11 there were some precedents or a precedent, the Ballet
12 Hispanico on the West Side. Can you tell us why we
13 should view that as a precedent here and also while
14 you're at it, what the--what you expect to be coming
15 to the Council in the future, because if what you say
16 is true that these Urban Renewal Plans will be
17 expiring regularly and we will be facing this
18 question on an ongoing basis, give us a sense as to,
19 you know, what--what we can expect here in the
20 Council and what sort of precedent this would serve
21 if any?

22 JESSE MASYSR: I think the answer to the
23 second question is neither I nor HPD or City Planning
24 knows. One of the reasons this is being done--
25 started out with Ballet Hispanico to be done on a

1 case by case basis, was--and why the text you're
2 seeing today is so limited in its application is so
3 that we don't have to today confront and study, if
4 you will, which will be required by environmental law
5 to study the potential impact of every Urban Renewal
6 Plan as it expires, and there are many and so we
7 don't know. That--City Planning has admitted that,
8 and HPD has agreed that this is an area of law that
9 we will have to handle one by one as they come up.
10 At Ballet Hispanico you had the instance of a case
11 where, again, the Urban Renewal had expired and a
12 private applicant could not be the applicant because
13 of the large scale. So you carved into the zoning
14 resolution in essence, authority for them, and in a
15 single application you're being asked to do the same
16 today. And you might be asked to do it two more
17 times or ten more times. I don't know.

19 COUNCIL MEMBER GARODNICK: Is that the
20 only other example that we have that we have taken
21 that step previously?

22 JESSE MASYSR: It--there is one other in
23 Queens that you did in Board Seven, similarly.

24 COUNCIL MEMBER GARODNICK: This site is--
25 has for years been enjoyed by the residents of the

1
2 Upper East Side as a open space and a valued park,
3 obviously, and I think it is, you know, disappointing
4 to--to all of us that we would even be contemplating
5 putting a building on the site, as opposed to finding
6 ways to maintain what was for many years a public
7 space, a publicly accessible space. It's my
8 understanding that there have been some conversations
9 between related and other members of the community to
10 explore other sites in the area for possibly putting
11 the building on another location. Is that something
12 which is still a possibility? Is that a possibility
13 with or without an approval here? Tell us where
14 things stand?

15 JESSE MASYSR: I don't believe that's a
16 viable and, you know, live possibility. I know there
17 were some discussions early on. There were many
18 elected official such as yourself who tried to offer
19 your offices to find a solution, but none has to come
20 to us.

21 COUNCIL MEMBER GARODNICK: And why do you
22 believe that's not a viable possibility?

23 JESSE MASYSR: Well, to find the amount of
24 land, we're unaware--

25

2 COUNCIL MEMBER GARODNICK: [interposing]

3 I actually really more thinking about the site on
4 Third Avenue which I think that there was some
5 possibility there.

6 JESSE MASYSR: There were discussions.

7 Unfortunately, the discussions extended over a long
8 period of time and we made a decision to move forward
9 after it was seen that we could not come to a
10 resolution. That would similarly require us to go
11 back through this process all over again, and we had
12 made commitments to develop this. We are very proud
13 of our commitments we've made with Windward School,
14 which you'll hear from today. Those negotiations
15 were not fruitful.

16 COUNCIL MEMBER GARODNICK: The space that
17 you have highlighted on the screen here is a--it's a
18 passive space where as this has been obviously an
19 active space for years with--

20 JESSE MASYSR: [interposing] Active and
21 passive.

22 COUNCIL MEMBER GARONICK: Active and
23 passive for years. Why did you land on a design such
24 as this as opposed to say re-creating some of the
25 active space which would be lost as a result of this

1
2 development, and is that something that you would be
3 willing to continue a conversation about with the
4 community and with my office and Council Member
5 Lappin?

6 JESSE MASYSR: Well, before I let the
7 architect answer, always available to have
8 conversations. I will caution you that what we
9 developed is in its type of use and its design as
10 you're about to hear, is that which the zoning
11 resolution requires us to do. But I think they can
12 better answer it.

13 STEVE WHITEHOUSE: As was suggested, the
14 program and uses, allowable uses of this, and extreme
15 specificity as to linear feet of seating, number of
16 cables, number of trees is as laid out in this city's
17 plaza design standards, and it's my belief without
18 looking at it closely, I'm unaware of anything
19 designed under the City's Plaza Design Standards with
20 a program of athletic uses and court uses of the type
21 that existed on the site.

22 COUNCIL MEMBER GARODNICK: Are those
23 waivable requirements by the City? Is that something
24 that City Planning could make a--

2 JESSE MASYSR: No, it's not waverable
3 [phonetic]. We could some day discuss amending.

4 STEVE WHITEHOUSE: I have been told it's
5 not waverable down to the width of a bench.

6 COUNCIL MEMBER GARODNICK: Okay, last
7 question for me. I know that my colleagues have
8 questions too. In 19--in the 1970's when this was
9 re-designated for mixed use, what was the process at
10 that point for the disposition of this property from
11 the City to--was it Related at the time? I guess it
12 was Related at the time.

13 JERRY MASYSR: Actually, it was not
14 related at the time. It was a different--Related
15 came into partnership with then the designated
16 developer. HPD designated the developer and the
17 Board of Estimate authorized the disposition.

18 COUNCIL MEMBER GARODNICK: They
19 designated through what, what project? Was there an
20 RFP? Was there--

21 JERRY MASYSR: [interposing] Oh, no, I'm
22 sorry. There was an RFP.

23 COUNCIL MEMBER GARODNICK: There was an
24 RFP and there were respondents and--

25 JERRY MASYSR: [interposing] Yes.

2 COUNCIL MEMBER GARODNICK: The, I guess,
3 alternate partner of Related was one of--was the
4 designee at the end of the day.

5 JERRY MASYSR: Related came in as a
6 partner after the designation.

7 COUNCIL MEMBER GARODNICK: I see.

8 JERRY MASYSR: And then had to be accepted
9 and authorized by the City.

10 COUNCIL MEMBER GARODNICK: Alright, I'm
11 going to hold for now. Thank you, Mr. Chairman.

12 CHAIRPERSON WEPRIN: Thank you, Mr.
13 Garodnick. I'd like to call on Council Member
14 Jessica Lappin.

15 COUNCIL MEMBER LAPPIN: Council Member
16 Garodnick has already asked a number of my questions,
17 but I want to go back to this concept of how many
18 people you would need to ask permission of and really
19 sort of why you are here, whether or not you should
20 have to do that, and so I think you have said it
21 would be impractical and it would involve thousands
22 of people, whereas the community disputes that and
23 says really it would just be a handful of permissions
24 you would need to go after, and I wanted to give you
25 the opportunity to answer that.

2 JERRY MASYSR: Okay. Well one, it
3 wouldn't be a handful. It'd be a little bit more
4 than a handful. If you just spent only buildings and
5 buildings acting through their boards, I assume is
6 what--is what you're questioning.

7 COUNCIL MEMBER LAPPIN: Yeah, the concept
8 being that certainly a co-op board could vote for the
9 shareholders, and that a condo would also have a
10 board and that the condo board could act on behalf of
11 the owners.

12 JERRY MASYSR: I could tell you in similar
13 cases not going to--not wanting to go too much into
14 this, unless you want to, it is a bit of a slippery
15 slope as to whether or not a board would actually
16 have the authority to grant this power. It's not
17 something that is normally contemplated in creating a
18 board. It's the thing that boards could do. So we
19 run the risk of a potential shareholder in a
20 condominium bringing a lawsuit claiming the authority
21 was not there and putting the financing of our
22 project in serious jeopardy and probably it's very
23 extreme jeopardy. But even if you took the more
24 conser--the less conservative approach, the more
25 radical approach in saying I just need the ownership

1 of buildings, again, that invests in any one building
2 a veto power and would lead to a very impractical
3 discussion in our discussion.
4

5 COUNCIL MEMBER LAPPIN: So, I--but I
6 guess what I don't understand is, I mean, why? And
7 wasn't it really that--that was what was contemplated
8 as part of the Urban Renewal Plan, that either HPD
9 would decide or once it expired that everybody would
10 decide, that you're all in this together on that big
11 Urban Renewal plot.

12 JESSE MASYSR: I don't think--I don't
13 think that was ever contemplated at all. There's
14 nothing in any documents that would indicate that,
15 and as you learned and as you all got involved, as an
16 example, in the previous amendments to the zoning
17 resolution is just because of that. I mean, these
18 are unanticipated problems that we solve now one by
19 one. They were not--it wasn't contemplated that when
20 the Urban Renewal Plan expired, well then everybody
21 gets a veto power. I don't believe that's practical--
22 -

23 COUNCIL MEMBER LAPPIN: [interposing]
24 Well is that because it was assumed that you would
25 have developed this property or you had time--

JESSE MASYSR: [interposing] I think--

COUNCIL MEMBER LAPPIN: restrictions on
the property?

JESSE MASYSR: I think the truthful answer
is it was--nobody thought it through. No one thought
what to do, 'cause had they the documents would have
been clearer. I mean, HPD, as I'm sure you're aware,
well aware, has expressed their opinions that they
believe this is a developable site. It's just the
infirmity of being the applicant that we are here
today on. And I don't think anyone contemplated and
probably the next round of Urban Renewal documents,
if you ever do another round of them, will probably
have this issue addressed.

COUNCIL MEMBER LAPPIN: And when did your
obligation to maintain it as a park expire? I think
you addressed this, but if you could--

JESSE MASYSR: [interposing] In July.
The end of June 2008.

COUNCIL MEMBER LAPPIN: Okay. And when
did the Urban Renewal document expire?

JESSE MASYSR: The same time. It's not a
coincidence by any means.

1 COUNCIL MEMBER LAPPIN: Okay. And--I
2 don't have any further questions. Thank you.

3 CHAIRPERSON WEPRIN: Jessica, is that
4 your heart beating? Any idea what that is?
5

6 UNKNOWN: The apple phone.

7 CHAIRPERSON WEPRIN: Let's just ignore it
8 for now. We'll see if we can find out what it is.
9 Someone's banging at something.

10 JESSE MASYSR: Morse code.

11 CHAIRPERSON WEPRIN: Call on Council
12 Member Comrie, Comrie. Sorry about that.

13 COUNCIL MEMBER COMRIE: What is this
14 school that's proposed for this site?

15 JESSE MASYSR: The school is a Windward
16 School. You'll be hearing from them, Council Member,
17 later. The name of the school is Windward School.
18 It's a school that specializes in dealing with
19 children with learning disabilities, and as I think
20 you're about to hear is rather an exceptional school
21 in every respect.

22 COUNCIL MEMBER COMRIE: Okay. And the
23 open space that you're proposing, have you gone over
24 this review or design with the community or Community
25 Board or any entities, any community entities?

2 JESSE MASRY: It was shown to the
3 Community Board, but the design is done through the
4 rigorous review of the Department of City Planning
5 for compliance with what are a rather extensive set
6 of regulations as Steve said, down to the width of
7 the bench.

8 COUNCIL MEMBER COMRIE: And I see that
9 the Community Board disapproved it? I would--I guess
10 they had a comment. The Borough President didn't
11 submit any recommendation as well. And you're saying
12 that this site, you talked about the, the fact that
13 the Urban Renewal expired and that the site--the
14 inability to get all of the parties to sign or the
15 difficulty in making that happen, but will this site
16 be--is this site contextually from what you're saying
17 it's contextually as high as some of the buildings,
18 but is it as--seems to be more dense than other
19 buildings in the area. Can you give me a break down
20 that, a little bit more detail?

21 JESSE MASRY: It's actually less dense,
22 Councilman. I mean, we can give you the zoning
23 analysis and have that sent over to you.

24 COUNCIL MEMBER COMRIE: And--
25

2 JESSE MASRY: One of the reasons it's
3 probably--you'll find it's less dense in terms of
4 population is that the unit sizes are larger than
5 what had previously been developed surrounding it.
6 There are also a number of affordable units here that
7 will be provided not for term of years, but in
8 perpetuity. The length of the building.

9 COUNCIL MEMBER COMRIE: And how many
10 affordable units will that be out of total units?

11 JESSE MASRY: There'll be 46 units
12 affordable. Again, you know, not termed, but for the
13 life of the structure.

14 COUNCIL MEMBER COMRIE: And those units
15 will be mixed sizes or just studio?

16 JESSE MASRY: Yes.

17 COUNCIL MEMBER COMRIE: And they'll be
18 placed throughout the building or?

19 JESSE MASRY: Yes, they've become
20 regulated by the City's inclusionary program. So
21 it's the size, location, and quality. This is being
22 developed by somebody, a company that has done more
23 of these than everybody else, and has a commitment to
24 affordable housing that goes back 40 years now. As I
25 said previously, the building immediately across the

1 street which was part of the disposition--our
2 requirement to maintain affordability has long
3 expired. And none the less we are committed to
4 maintaining the affordability in that building, even
5 though our tax abatement has long expired and our
6 regulatory agreement has very long time gone away. We
7 have never put a affordable unit back into market
8 rate in the company's history.

10 COUNCIL MEMBER COMRIE: I see. So you're
11 saying you're doing this out of respect for the
12 company's history, but not because it's a necessary
13 item to be--

14 JESSE MASRY: [interposing] Affordable
15 mix use projects are something that is what this
16 company is about. I'm not suggesting that we do that
17 because it doesn't make economic sense. It does make
18 economic sense to us. There are a lot of people in
19 the marketplace who take these units and bring them
20 to market; we don't. We have a business plan and a
21 commitment to the City that allows us to do that.

22 COUNCIL MEMBER COMRIE: And to--the site
23 2A is still a park--

24 JESSE MASRY: [interposing] Yes.

25 COUNCIL MEMBER COMRIE: existing today?

2 JESSE MASYSR: Yes, it is a map city park.

3 COUNCIL MEMBER COMRIE: And you said
4 earlier that right now there's no access to the
5 property at site 4A, correct?

6 JESSE MASYSR: 4A has been closed since
7 2011 and is not open to anyone.

8 COUNCIL MEMBER COMRIE: Okay, thank you.
9 Thank you.

10 CHAIRPERSON WEPRIN: Thank you. Mr.
11 Gardonick, did you want to go back again? Okay,
12 gentleman. You're getting off easy, but we have a
13 lot of people to testify, and I'm sure you'll be
14 fascinated to hear everything that's said. So we're
15 going to excuse you guys, gentleman, and then I'm
16 going to call up--so again, we're going to call up
17 panels. We have a lot number of people here. We're
18 going to try to alternate as one panel in--I think
19 only one panel in favor, well a big panel, but we'll--
20 -they'll be the second group. We're going to start
21 with a panel in opposition. We'll alternate as long
22 as we have people for both panels. We're going to
23 limit people to two minute clocks. Obviously there's
24 a little leeway there, but we do have a lot of people
25 to testify, so if you could please try to respect the

1 clock. As soon as they clear out I'm going to call
2 up the first panel in opposition, Howard Goldman,
3 Oscar Fernandez, Geoff Croft, and Shannon O'Connell--
4 Sharon O'Connell. Sorry. I think those four.

5 [off mic conversation]

6 CHAIRPERSON WEPRIN: Okay. Okay. You guys
7 will sort out. I want to remind everybody when you
8 do speak please state your name and if by some chance
9 they come back to you for a question try to state
10 your name if you're the one answering it, so our
11 record will be clean if someone was reading it and
12 not watching it. Okay? So you guys can decide who
13 goes first. Mr. Croft? No? And state your name and
14 start when you're ready.

15 GEOFFREY CROFT: Good afternoon. My name
16 is Geoffrey Croft. I'm President of New York City
17 Park Advocates. I can assure you that this proposed
18 project is a nightmare for people who live in this
19 community, a community that for the record has the
20 least amount of active open space than any Community
21 Board in the entire city, the entire city. This is
22 not an as of right [phonetic] project. As the
23 Related Company is fully aware, they have no legal
24 right to build on this desperately needed open space.
25

1 That is why they are coming before you today. The
2 use of the playground cannot be changed unless a
3 previous approved large scale residential development
4 plan under the Ruppert Brewery Urban Renewal area is
5 amended, which they are attempting to do now. The
6 law currently states that any proposed development on
7 the park requires the consent of surrounding
8 buildings in the original Ruppert Urban Renewal area.
9 The Related Company is attempting to take away that
10 right by applying for a "text change" without getting
11 the consent of the other property owners within the
12 boundaries of the original large scale plan with the
13 support of our elected officials. This text change
14 must be denied. Related initially misrepresented the
15 project saying that it would not need a Land Use
16 change in order to develop it. Clearly, they do.
17 Related disgracefully got away with claiming their
18 massive development and the resulting dramatic change
19 in Land Use from a community park to a 35-story tower
20 complete with a school among other things required
21 only a minor modification, which City Planning
22 Commission irresponsibly agreed. As expected and as
23 usual City Planning rubber stamped it and approved
24 it. The Related Company unveiled their irresponsible
25

1 development plan on June 12th which Community Board
2 Eight promptly voted almost unanimously against. It
3 is very easy to figure out why. Council Member
4 Comrie, you had asked them if they had done that, and
5 unfortunately they were not--they did not represent
6 that adequately or responsibly. Ruppert playground
7 is a unique public space where teenagers,
8 preschoolers, adults and seniors co-exist, and one of
9 the more successful democratic park spaces in New
10 York City. Before Related disgracefully locked the
11 gates, the park was used 365 days a year. The small
12 heavily utilized park is a respite for many and
13 provides desperately needed recreational and green
14 amenities. It is a haven not only for New York for
15 the working class that dominates the area, but also
16 for individuals and families from the neighborhood's
17 full socioeconomic range. The community fought hard
18 to get this park. Residents came together in the
19 70's, including myself, to remove rubble left over
20 from the old Ruppert Brewery in order to clear a
21 space for children to play. They attended meetings
22 with city agencies to advocate for the creation of a
23 proper park. These efforts were successful. The
24 former trash strewn garbage dump was converted into a
25

1 rich community asset. Rupert playground was
2 constructed in 1978 using federal community
3 development block grants. The playground officially
4 opened in October of 1978 with great fanfare. The
5 parks' basketball, tennis courts, hand ball courts,
6 talk lot and sitting areas service a wide variety of
7 intergenerational and multi-ethnic park users.
8 Allowing this heavily used park to be developed will
9 have serious impacts on the quality of life for tens
10 of thousands of residents. And this part I think it
11 very important and it speaks to some of the questions
12 that have already come up.

14 CHAIRPERSON WEPRIN: I'm going to ask you
15 to make the important part now, Mr. Croft, and then
16 wrap up.

17 GEOFFREY CROFT: Sure, you got it. It is
18 important to note that the original 1966 Ruppert
19 Urban Renewal Project Plan and subsequent revisions
20 including City Planning recognized that the area
21 suffered from a severe lack of park and open space.
22 The plan noted that "inadequate recreational and
23 community facilities were contributing to the
24 unsatisfactory living conditions to the immediate
25 area and in the general neighborhood." It does not

1
2 take a whole lot of intellectual capacity to
3 comprehend that 40 years of unrelenting development
4 in the area since has dramatically increased the need
5 for parks and open spaces.

6 CHAIRPERSON WEPRIN: Okay.

7 GEOFFREY CROFT: The solution is
8 obviously not to take away an acre of park land as
9 Related has irresponsibly proposed, but instead to
10 protect it.

11 CHAIRPERSON WEPRIN: Alright. I'm going
12 to cut you off there Mr. Croft. There may be some
13 questions, so you might be able to get some other
14 points in as you answer them, but let's keep moving
15 so we can **[inaudible 2:57:35]** to our time limits.

16 OSCAR FERNANDEZ: Good day, my name is
17 Oscar Fernandez. I'm a long time resident of the
18 Yorkville Community as well as one of the organizers
19 for the Campaign to Save Ruppert Playground. Over the
20 past five years I have heard from thousands of my
21 fellow residents, loud and clear that they for a
22 variety of reasons would like this open space in
23 question today preserved at all costs. As a great
24 science fiction character once said, "The line must
25 be drawn here." But I do not speak of fiction today.

1 I speak of facts, the fact that this valuable open
2 space needs to be preserved because it is as badly
3 needed as that Saturday afternoon when it was opened
4 on October 28th, 1978. I hold here a piece of
5 history, a community flyer announcing the opening of
6 Ruppert Playground. Let's honor the people who
7 worked so hard to open this park and vote not the
8 text change before you. The reasons to vote no are
9 so numerous that I will not get into them all, but
10 here are a few that are both just and legal. And this
11 justification is right in the City Planning
12 Commission Report from February 2nd, 1983 that I hold
13 here as well, which originally approved the
14 development. Its clear intent in approving the
15 development in disposition of the land was for this
16 parcel of land to remain an open space to balance the
17 bulk and the density of the building being built at
18 Carnegie Park. This is a fact that has not changed.
19 In fact, a special permit was granted to make this
20 possible as documented in the report. The lo--I
21 quote "The location of this building will not unduly
22 increase the bulk of buildings to the detriment of
23 the occupants of buildings in the block or nearby
24 blocks. This text change before you is basically a

1 request to do just that. This project is not only
2 detrimental, it is devastating to the surrounding
3 area. More importantly, the findings of the
4 commission in this report pursuant to section 78-31
5 of the zoning resolution and part D state that the
6 proposed location of the building will not affect
7 adversely any other zoning law outside the
8 development. By restricting access to light and or
9 by creating traffic congestion. However, this
10 unanticipated proposal on the site does exactly this.
11 Therefore, on this legal merit alone the Council
12 should vote no to the text change as proposed, as it
13 is a clear violation of the original special permit.
14 The last set of facts that this report reveals are
15 indisputable. In the very first paragraph it is
16 stated that site 4A, Ruppert Playground, directly
17 across the street from 4B is to be improved and
18 maintained as an act of recreational open space, open
19 to the public and owned and managed by the sponsor
20 and developer. Again, it can be no clearer that
21 why this proposal in violation of the very tenants of
22 what was originally planned and foremost anticipated
23 for the ongoing future of this area. This is where
24 the Council's responsibility now lies, and I look to
25

1 the mission of the Council which I found on their
2 website for guidance. The Council is charged with a
3 duty to protect the growth and development of our
4 great city. So today, I ask the subcommittee to pass
5 a resolution to vote no to this text change and
6 rightly protect the community. Some may argue that a
7 subsequent land disposition agreement put a time
8 limit on the open space. However, that is in correct.
9 The limit was on the property owner's responsibility
10 to maintain the park. The open space had no time
11 limit and infact the original proposal and standing
12 large scale plan demands that the open space must
13 remain. Others say that it is not reasonable to gain
14 consent from the entities in this Urban Renewal Area,
15 however, I put forth that this was by design in order
16 to preserve the original plan for this area,
17 including the open space.

18 CHAIRPERSON WEPRIN: [interposing]

19 Alright, I'm--

20 OSCAR FERNANDEZ: [interposing] It is
21 logical that--

22 CHAIRPERSON WEPRIN: I'm going to have to
23 cut you off.
24
25

2 OSCAR FERNANDEZ: all parties must agree
3 on any changes.

4 CHAIRPERSON WEPRIN: Hold on.

5 OSCAR FERNANDEZ: It's the only way that
6 the Ruppert Urban Renewal area can be protected.

7 CHAIRPERSON WEPRIN: Okay.

8 OSCAR FERNANDEZ: So please do not take
9 away this right.

10 CHAIRPERSON WEPRIN: Got it, Mr.
11 Fernandez.

12 OSCAR FERNANDEZ: Final, my final point,
13 just in closing.

14 CHAIRPERSON WEPRIN: Alright. Mr.
15 Fernandez, we'll have questions after so you--fi you
16 have another point you might be able to get it in, in
17 that point. Let me just move on, only 'cause I
18 can't--I can't let everyone go too far over.

19 HOWARD GOLDMAN: Howard Goldman
20 representing Ruppert House. A few comments on the
21 testimony we heard from the applicant. Number one,
22 the applicant blamed essentially the situation on
23 what they called an infirmity in the zoning
24 resolution. I haven't heard anything from City
25 Planning or any other public official saying that

1 "Oh, this was all a mistake. We didn't mean it to
2 operate this way." I don't believe it's based on an
3 infirmity. I think this is how it was intended to
4 work, point one. Point two, question was, "Well, why
5 not do single text change and fix the situation?"

6 And the answer was somewhat shocking. The answer
7 was, as I heard it, to avoid environmental review of
8 the impacts of such a text change. Well, that's--if
9 that's the answer, that's totally inappropriate. The
10 public policy is not to avoid environmental review by
11 segmenting a project into discreet pieces. It's to
12 do the broadest possible environmental review. So
13 that's--that's a disturbing answer. Number three,
14 we've consulted attorneys who do nothing but condo
15 and co-op law, who have been doing this for a long
16 time, and they are very clear that the Board of
17 Managers or the equivalent board in the co-operatives
18 do have the authority to act for the buildings, in
19 which case if that's through--if that's true we have
20 five unrelated owners that--who's consent would be
21 required here as opposed to a lot on the Upper West
22 Side. And then last point, the intent of these
23 controls that were put on this in the--in the early
24 80's. I think there were two intents. There was a
25

1
2 ulerp [phonetic] which imposed the open space
3 requirement and then there was a business terms
4 agreement, a business agreement which put a limit, a
5 term limit, on the maintenance obligation, and the
6 ulerp I maintained was never intended to go away,
7 because it mitigated the impact of the building that
8 was disposed of together with the playground. As long
9 as the building is there, the mitigation should be
10 there, and whether it's an active space or whether
11 it's just an open space without active recreation.
12 It's still mitigation for the building that was
13 originally improved.

14 CHAIRPERSON WEPRIN: Thank you, Mr.
15 Goldman. Ms. O'Connell?

16 SHARON O'CONNELL: Thank you. My name is
17 Sharon O'Connell. I'm a resident at 222 East 93rd.
18 I'm aware I don't get 21 hours or the chance to read
19 Dr. Seuss, but the predicament regarding Ruppert
20 Playground is a situation that deserves plenty of
21 time and attention. There has been coverage by the
22 media and elected officials, some of whom are present
23 here today. The proposal for yet another luxury high
24 rise on this open site is just hideous. Ross Related
25 does unrelated to what and to whom by the way, has no

1 need to take away the space. Their assets and
2 holdings are beyond vast. There is nothing more than
3 unadulterated greed being displayed here. Greed is
4 not good. It is wrong. Related closed and chained an
5 installed guards in this playground on the 10
6 anniversary of September 11th two years ago. It is
7 filthy and decaying and access has been prohibited
8 for two years to a basketball court, tennis court,
9 toddler play area and other viable space. Besides
10 taking away this precious open breathing space, this
11 building this size would smother the others in the
12 immediate area. There's already a controversy up
13 town of the private school Dalton on 89th Street
14 wanting to extend vertically their school. Never
15 mind another 35-story building and who is going to
16 support the infrastructure for all this over
17 development, AMT, DMT, so forth. Related is just a
18 big bad wolf wearing a granny hat trying to devour
19 little red riding hood, which happens to be Little
20 Ruppert Playground. Councilman Garodnick, you live
21 and grew up where I did in Stuyvesant Town, one of
22 the great urban living spaces in this city and
23 working hard to keep that a viable neighborhood.
24 Please to you and Members of the Council do what is
25

1 right for our neighborhood, save Ruppert Playground.
2 On a day when the federal government may implode, God
3 help us all, being able to participate in this
4 meaningful chamber und the gaze of our forefathers,
5 we the people must reinforce that our government
6 officials are elected and hold position to represent
7 us. A small step, saving this playground, is a giant
8 step for preserving democracy. Thank you.

9 [applause]

10 CHAIRPERSON WEPRIN: Thank you. Can we
11 please try to keep the applause or any other reaction
12 to a minimum. I appreciate that. I'd like to call on
13 Council Member Garodnick, the aforementioned Council
14 Member Garodnick.

15 COUNCIL MEMBER GARODNICK: Thank you very
16 much--

17 CHAIRPERSON WEPRIN: [interposing] You
18 can stay up there. He may have a question for you.

19 COUNCIL MEMBER GARODNICK: I wanted to
20 thank you for your testimony, and obviously many of
21 us have stood with you all for years now in asking
22 Related to consider other possibilities for the
23 reasons that Mr. Croft stated about our concerns for
24 open space in this neck of the woods. We do have a
25

1 specific legal question before us today which is a
2 challenging one, and there's no question that no
3 matter how presented by any side this is a difficult
4 legal question that we should all acknowledge is just
5 that. So let me just pose the threshold question
6 because it sort of piggy backs off of the last
7 testimony which is, if we were to vote down this
8 proposal, it would, at least as far as I can tell,
9 would not open Ruppert Playground again. So have we
10 accomplished the goal that we are after?
11

12 HOWARD GOLDMAN: I'll take a crack at
13 answering that.

14 CHAIRPERSON WEPRIN: Make sure to state
15 your name when you speak.

16 HOWARD GOLDMAN: Okay, Howard Goldman.
17 It would not open Ruppert Playground, that's correct.
18 It would however, maintain the status of Ruppert
19 Playground as an open space, whether it's publicly
20 available or not. You know, zoning has always
21 recognized open space is not necessarily publicly
22 available. The purpose of the playground originally
23 in the ulerp back in the 80's was to offset the
24 height and set back waivers that were granted to
25 Carnegie Tower. In other words, Carnegie Tower took

1 up more of the sky than it was allowed, and in
2 exchange for that, this open area on the ground was
3 set aside. So even if it was not publicly available,
4 it would still serve a very important purpose. That
5 was the intention of City Planning and the Board of
6 Estimate when the project was originally approved.
7 And then of course, secondly, we would hope Related
8 would continue to look for an alternative site. We'd
9 be very happy to continue discussions with them, and
10 hopefully they could find a better site for the
11 building than this mid-block location.

13 GEOFFREY CROFT: I just want to kind of
14 dove tail on that. Certainly having an open space,
15 actually most of our parks and open spaces are just
16 that open spaces. They're actually very small
17 percentage, probably five percent is actually
18 programmed in the way that his playground is. So
19 just having it is a wonderful asset. There are many
20 trees there. There are, you know, flora and fauna
21 and birds and wildlife. The other thing, which I
22 don't think there is a real estate company in the
23 world that would want to allow a piece of property
24 that they bought to lay fallow. So I think--and we
25 feel that we have the legal and moral argument on our

1 side, obviously we feel that way, but again, if you
2 do vote, which we hope you do to vote down this, I
3 think that would certainly help Related come to their
4 senses and try to figure something out. Right now,
5 you know, again they're--you know, up until now they
6 have been--you know, they've pretty much done what
7 they've wanted to do.

9 HOWARD GOLDMAN: I would just add,
10 Councilman, that an owner has an obligation to
11 maintain their property in the city. So the idea of
12 this becoming some horrible trash strewn, you know,
13 rat infested property, that would not be legal. The
14 building's department would be issuing violations
15 that it be properly maintained.

16 COUNCIL MEMBER GARODNICK: That's fair,
17 although we do see that regularly even though it is
18 not legal, we see it all the time. Let's just talk
19 about the core issue about this so called infirmity
20 and the zoning resolution and whether this how things
21 were in fact intended when this was conceived.
22 Related, a moment ago, testified that it would not
23 be--it would be both impractical and unprecedented to
24 require the other or to allow the other owners in the

1 area to essentially have a veto power over what they
2 do in this context. Why is that--why is that wrong?

3 HOWARD GOLDMAN: Well, it's wrong because
4 number one, we think there are only five owners they
5 would have to deal with. The precedent the Ballet
6 Hispanico precedent I believe dealt with scores of
7 owners, which is much--a much larger problem than is
8 the case here. And it could in fact result in a
9 mutually agreeable compromise.

10 COUNCIL MEMBER GARODNICK: Or it could
11 result in a veto?

12 HOWARD GOLDMAN: Or it could result in
13 the veto, which is what the zoning resolution
14 provides.

15 COUNCIL MEMBER GARODNICK: So why--at
16 what point does it become unreasonable, I guess is my
17 question for you. Maybe you might say, look, asking
18 for five, feels like you could get them all in room,
19 you roll up your sleeves, you come up with a
20 solution. Is it a number of ten, hundred, a
21 thousand, because it's not totally clear. It sounds
22 Related would argue that in an abundance of caution
23 they should not just be relying on five boards, but
24 rather they should be going to all of the residents.
25

1 Put aside for a second, at some point it does become
2 impractical and unreasonable. I'm sure you would
3 agree. I don't know what point that is. Maybe it's
4 five. Maybe it's 10. Maybe it's a 100.

6 HOWARD GOLDMAN: Or maybe it's one.

7 COUNCIL MEMBER GARODNICK: Or maybe it's
8 even one. So what, from your perspective where is
9 that? Where is that line fairly drawn?

10 HOWARD GOLDMAN: As long as the way this
11 process works is one application at a time for one
12 piece of property at a time. I think the Council's
13 going to have to look at each application on its
14 merits and look at the particular facts and
15 circumstances of that application, unless there's a
16 text change that fixes the situation. For example,
17 in this case, as opposed to Ballet Hispanico or the
18 one in Queens, we have a site that was intentionally
19 set aside as a mitigation to offset height and set
20 back waivers. That's a unique factor that the
21 Council can take into account here. So I think the
22 whole thing, it's a case by case.

23 COUNCIL MEMBER GARODNICK: Thank you, Mr.
24 Chairman.

1
2 OCSCAR FERNANDEZ: Dan, I'm sorry. One
3 more point on the veto power question. I think as
4 Council Member Lappin indicated, it's not so much a
5 veto power, but it's the power of those entities to
6 jointly make that decision on this Urban Renewal
7 area, so why couldn't these folks get together. I
8 think one of your questions, Council Member Lappin,
9 was to that point to Related, well maybe that it's
10 that it was by design, this Urban Renewal Plan, that
11 these parties, since this open space was set aside
12 that impacts every other party and balances the bulk
13 and density for many of the buildings that they get
14 together and figure out what should be done. So I
15 don't think it's so much a veto power, but I think
16 it's the existing powers of a Urban Renewal.

17 CHAIRPERSON WEPRIN: Question?

18 COUNCIL MEMBER LAPPIN: Sure. I really--

19 CHAIRPERSON WEPRIN: [interposing]

20 Council Member Lappin.

21 COUNCIL MEMBER LAPPIN: Before you get up
22 and go, I'm not going to put you on the hot seat.

23 HOWARD GOLDMAN: Sorry.
24
25

2 COUNCIL MEMBER LAPPIN: I just--I really
3 wanted to thank Oscar and Geoff for all of your work
4 as volunteers over the last few years.

5 [applause]

6 CHAIRPERSON WEPRIN: Alright, could you
7 please hold the applause. I'm sorry, 'cause they
8 don't really want us to do any of the applause. I
9 usually am a little more forgiving than most, but if
10 you continue that, the Sergeant in Arms will stop it.
11 So, please.

12 HOWARD GOLDMAN: And on behalf of our
13 group, we want to thank you and Council Member
14 Garodnick for the time and the good sense you've put
15 in to this.

16 GEOFFREY CROFT: I appreciate that.
17 Mark, I mean, Mark I just want to say one thing just
18 to the Council Members. It's interesting that Jesse
19 Masyr is offering this when to the best of my
20 knowledge he has not--none of the buildings have been
21 approached. I mean, obviously we--we have. So I
22 guess it's his theory. So, you know. And we--you
23 know, one thing that's very frustrating to us is that
24 Related has gone on the record saying that they will
25 continue to keep that playground locked regardless of

1 the--if this gets voted down, and I just think that's
2 so reprehensible and it's just type of business we
3 want doing business in New York City and especially a
4 company that has been the beneficiary of so many
5 lucrative land deals, you know, from--you know, from
6 Columbus Circle to the Bronx Terminal Market to
7 Willet's Point, and unfortunately the list goes on
8 and on. So I think, you know, we really would
9 appreciate some sensitivity on this issue because it
10 really does impact so many human beings. And Mark,
11 we never get--

12
13 CHAIRPERSON WEPRIN: [interposing] Thank
14 you.

15 GEOFFREY CROFT: applauded over here, so.

16 CHAIRPERSON WEPRIN: Pardon me?

17 GEOFFREY CROFT: I said we never get
18 applauded, so.

19 CHAIRPERSON WEPRIN: Okay. Thank you.
20 Well, if it makes you feel any better, well neither
21 do we. Okay, thank you. Okay, I'd like to call up
22 our panel in favor. I think I have five. I'm not
23 sure if they're all here yet. So we'll call
24 everybody up and one can sit on a white chair while
25 they're waiting. Devin Fredericks? Jay Russell?

1
2 Gina Switzer? John Russell? Oh wait, those are
3 repeating names. And then Devin Frederick. So we
4 repeated those names. So we will be fine. I think,
5 right? I think Devin was twice. So good. Anyone
6 who's here in favor of this project? Is there three
7 of you? There's nobody else who's here still, right?
8 Okay, thank you. The young lady who had the baby,
9 she left? Yeah? She was here to speak or just to
10 watch? Okay. Alright, okay. I felt bad because it
11 was a long day and we tried to talk to her. Okay.
12 Alright, thank you. Whenever you're ready.

13 JOHN RUSSELL: Good afternoon. My name
14 is John Russell. I'm the head of the Windward
15 School, and I'd like to begin by thanking you for
16 giving me the opportunity to tell you a little bit
17 about the school and why we think being in Manhattan
18 is so critically important for the children we serve.
19 Our school was founded in 1926, and for the last
20 almost 40 years we've been educating exclusively
21 students with language based learning disabilities,
22 students who have been told in no uncertain terms
23 that they're incapable of learning in other
24 institutions, students who have met failure in other
25 institutions. And who students who despite no

1
2 problems of their own just weren't given the right
3 education. We've had a tremendous success with these
4 students. When they arrive, most of the students are
5 not reading at grade level, they're reading
6 significantly below the average range. When they
7 leave--for the last eight years we've tacked all of
8 the students who have left the school. Ninety-eight
9 percent of our students are leaving reading in the
10 average to above average range. They go on to
11 success in mainstream schools and again, that number
12 98 percent of them successfully performing two years
13 after they leave Windward at mainstream schools.
14 Because of that success rate, our school has been
15 besieged by parents and applicants to a degree that
16 we are unable to fill--to provide them with seats,
17 Kids who desperately need to be in school. The
18 program is unique. It's unique because of its
19 success, because of our methodology, and we're
20 turning away literally two to three times the number
21 of students who we grant seats to, simply because we
22 don't have the room. Our Board of Trustees in an
23 effort to serve more students took on as part of
24 their mission an expansion of our school so that we
25 can in fact accept more students who desperately need

1 to be there. One of the aspects that I would
2 emphasize is our school has a teacher training
3 institute and we share our method. It's part of our
4 mission to share our methodology with other teachers.
5 WE particularly want to be a good neighbor to all of
6 our colleagues in New York City, and would provide
7 teacher training courses there. I thank you for this
8 opportunity, and I'll turn it over to Ms. Fredericks.

9
10 CHAIRPERSON WEPRIN: Thank you. Thank
11 you.

12 DEVIN FREDERICKS: Thank you for giving us
13 this opportunity to testify today. My name is Devin
14 Fredericks. I am a long time resident of the Upper
15 East Side with my husband Neil Azabar [phonetic]. We
16 employ over 500 people in businesses on the Upper
17 East Side. I know how strongly my neighbors feel
18 about changes to our community, and I'm usually on
19 the barricades with the underdogs. I'm--this is not
20 where I usually am, but today I'm here in my capacity
21 as a trustee of the Windward School. I've been Board
22 Chair for the last six years, and my time and efforts
23 have been spent trying to make this program more
24 accessible to the children who desperately need it.
25 Our partnership with the Related Companies represents

1 350 more seats for children with language-based
2 learning disabilities and greater access to our
3 teacher training program for New York City teachers.
4 I feel it's very important that we have an
5 opportunity to serve these children in New York, and
6 I think New York City will be very proud to say it's
7 the home to the prominent school for children with
8 language-based learning disabilities. Thank you.

9
10 CHAIRPERSON WEPRIN: Thank you. Thank
11 you very much.

12 GINA SWITZER: Hello, thank you for
13 having me. My name is Gina Switzer and I'm a Windward
14 parent and I'm also a resident on the Upper East Side
15 where I live with my husband and our three children
16 Reid, Clay, and Tye. Eight years ago our son Reid in
17 his kindergarten year was diagnosed with dyslexia.
18 After a long year of tutoring we knew that we owed it
19 to him to find a school that could teach him the way
20 he learned. The options in New York City were slim.
21 We had to make a tough decision when we found
22 Windward in White Plains. We had to make the
23 decision to subject our seven year old son to a two
24 hour commute each day. That was the best decision we
25 ever made. Windward saved Reid. Windward took care

1 of all our son's educational needs, and in doing so
2 allowed us for the first time in years to just be
3 parents. His self-esteem flourished. The code was
4 cracked, and he felt like the smart kid that we knew
5 he was. After witnessing Reid's success at Windward,
6 my husband and I didn't think twice about sending our
7 other two children there as well. Reid attended
8 Windward for four years and he has transitioned
9 beautifully both academically and socially to a main
10 stream school where he continues to receive A's and
11 B's and he even made the honor roll. His teachers
12 state that he is the most organized student and the
13 strongest writer in their class, all skills and
14 strategies learned while attending Windward. Clay, a
15 sixth grader and Tye a fifth grader continue to
16 succeed at Windward and happily wake up each and
17 every day at 6:00 a.m. to make the long commute to
18 the school they love so much. Having a Windward
19 School in New York City would have been an easy
20 solution to our family, and one that we would have
21 welcomed with open arms. Some may say that we were
22 smart, others say that we were lucky to make that
23 decision, but there are many families not willing to
24 make that decision and will--to commute, and thus
25

1
2 except schools for their children that are not able
3 to unlock their child's personal learning code. I
4 have never known another school to have the same
5 success rate and knowledge as the highly trained
6 Windward team of teachers and staff. It's a well-
7 oiled machine. I know many families that wish that
8 they could go back in time and send their children to
9 Windward regardless of the distance. Yes, it's
10 convenient to have Windward in our community,
11 however, more important than the convenience, having
12 a Windward School at 93rd street would make Windward
13 available to 350 more students each year. With a
14 building on 93rd Street, 350 children each year will
15 smile again when they wake up to go to school, where
16 they will learn to love learning. And having a
17 building on 93rd Street will allow 700 parents to
18 breathe sigh of relief and just be parents again. I
19 would like to make a quick mention of the Windward
20 Teaching Training Institute, which is the core of the
21 Windward program. This program will be more
22 accessible to all of New York teachers and thus have
23 a tremendous impact throughout New York City and
24 beyond. I am 110 percent in favor of having a school
25 like Windward in our community for many families. I

1 rarely meet a family that doesn't know the Windward
2 reputation. Windward saves lives and does so with
3 such professionalism and integrity that anyone would
4 admire. Thank you.

6 CHAIRPERSON WEPRIN: Thank you very much.
7 I just want to compliment you. I don't think anyone
8 here questions Windward's reputation for the great
9 work you do. It is well-known and we appreciate you
10 all coming here today and for your patience in
11 waiting this long. So thank you very much. I don't
12 think there's any questions from the panel, but thank
13 you very much. For the record, I know they mentioned
14 that someone was here had to leave. I understand
15 people do have other things going on in their lives
16 and this has been a very long day, and it continues
17 to be a long day. So if--we're going to read off
18 every name I have here and state that they were from
19 now on in opposition to this matter. If by some
20 chance you weren't able to say, we will read your
21 name into the record, and of course, we'll accept
22 testimony into the record for anyone who had to
23 leave. We understand that that is sometimes
24 uncontrollable, even though that baby was incredibly
25 well-behaved. However, if there really was a baby in

1 there, 'cause I didn't hear a peep. I didn't hear a
2 peep from that baby. Alright. So I'd like to call
3 up a panel of four people and see if they are still
4 here. And Howard Zivotodisk? What is it? If's,
5 yeah, that's what I said. Zivotoski, yes, Howard
6 Zivotoski if he's still here. These are all people
7 in opposition to the plan. Elizabeth Rieman? Please
8 come up, Ms. Rieman. Carol Uziak? [phonetic] Mark
9 Somerstein or Somersteen? We got three? Alright.
10 Lori Boyce? That four? Well I guess--alright.
11 Let's--we'll stop there. And we'll place that in
12 this pile so I don't mess it up. Alright. So
13 whenever you're ready. Just a reminder, we're going
14 to try to keep you to two minutes please. I know I
15 have been a little lenient on that, and I'm going to--
16 --so try to keep it at two minutes. Make sure to
17 state your name when you speak and if you're asked a
18 question to repeat your name at that time. Okay.
19 Alright, so go ahead please.

21 HOWARD ZIVITOSKI: My name's Howard
22 Zivitoski [phonetic] and I oppose the project. I
23 live in the neighborhood. I'm one of the people who
24 have for many years played tennis there. We've ran
25 the park quite well between us with the hundreds of

1
2 people, thousands of people that were there, little
3 children from the area using the park, helping people
4 out at the tables, people coming through with their
5 babies, making sure everyone was protected. I don't
6 think anyone has ever been robbed there all because
7 of us being in that area, loving the area and
8 maintaining it, and I'd like to know if the
9 construction company or the owners of the property--
10 I'd like to know why didn't approve of the other site
11 that was offered to them on Third Avenue, I believe
12 it was. No one ever answered that. They just said
13 it wasn't viable, and I don't know where it is, but I
14 hope it is viable, because they really shouldn't be
15 taking this.

16 CHAIRPERSON WEPRIN: Thank you. Next
17 please.

18 ELIZABETH RIEMAN: My name is Elizabeth
19 Rieman [phonetic]. I want to thank you for your
20 patience you had to listen to me. I have been on the
21 sponsoring board of Ruppert House. When the issue of
22 the empty lot came up, it was a smelly lot. It was
23 horrible. HPD never respond. Suddenly they came to
24 us, they wanted our help for maintaining another
25 park. I say charity starts at home. You never

1 responded. As a consequence, suddenly money fell
2 from the sky from the City fund, the federal fund
3 that was like miracle. So on the--they say you need
4 to have community approval, what you want to do? The
5 need for young people to have an open space instead
6 of chasing them from one corner to another was
7 crucial. So they put a survey in the building to ask
8 what do you like to see. Tennis court was the first,
9 and so--so I took of the teenager to HPD to discuss
10 the plan with HPD. It was a miracle. Henry Stern
11 was invited to inaugurate the park, but now the issue
12 is more than just to--at the time. For years it has
13 been a success, but you have to think about the
14 future. I know a lot of you--there will be a lot of
15 change. Overcrowding, overbuilding is a real threat
16 to the City of New York. As I mentioned, the
17 Community Board or the Planning Board, we are
18 surrounded by water. How much do you think you can
19 even help people to be evacuated if there is another
20 storm? You need--you will have more car, more--
21 sewage system, sanitation, electricity, water--who in
22 the right mind will think about the future for the
23 people, the quality of life of the people. So I
24 really think you are in the cusp in making decision.
25

1 At least wait until it has been presented more
2 thoughtfully.

3
4 CHAIRPERSON WEPRIN: Thank you. Thank
5 you very much and thank you for being so polite.
6 Yes.

7 CAROL UZIAK: Hi, my name is Carol Uziak,
8 and I'm a resident of the Ruppert House, which is
9 Mitchellama [phonetic] development of over 650
10 apartments. I have had three grown children and
11 grandchildren play in the park along with all of the
12 other people in the building and in the area from all
13 of the surround areas. The site of the park, if we
14 were to allow the park to the be lost, there is
15 nowhere else to put a park. There is opportunity for
16 a building and a school, a very valued school, to be
17 built somewhere else. In hoping that they do find a
18 place for the Windward School, it should also be
19 noted that it is a private school, and while it
20 serves many students and it serves them well, it has
21 tuition upwards of 35,000 dollars a year, which
22 limits it, and it's not exactly the school for the
23 residents in our area. So along with the school and
24 the buses that will come with hit, we're an area
25 that's facing the Second Avenue Subway, the asphalt,

1
2 the transfer station. We are also the block that is
3 the emergency route to--for the emergency vehicles,
4 the access to the East River Drive, and all of these
5 things losing park space will definitely impact on
6 the pollution. So not only will the children lose
7 this space, they will also now be suffering from air
8 quality that is not what you would want any child to
9 be in. I really as that the original text agreement
10 be stuck to and that you really look carefully at the
11 amendment. Thank you.

12 CHAIRPERSON WEPRIN: Thank you very much.
13 Thank you, sir.

14 MARK SOMERSTEIN: Good afternoon. My
15 name's Mark Somerstein [phonetic]. I appreciate the
16 opportunity to address you on this. I can't speak to
17 the legal issues, unfortunately. I just like to
18 represent it in personal terms. As my neighbors have
19 already expressed. I've lived there for 30 years.
20 Children grew up there. They played in Ruppert Park.
21 If they bring their grandchildren they'll be able to
22 play in Ruppert Park. They've already done it. I
23 hope they continue to do it. In the time that I have
24 lived in this area it has--in a word, it is becoming
25 less and less breathable. It's much more congested.

1
2 There used to open space across the street. It's no
3 longer there. There was an old A&P, there was a
4 fallow space. It's no longer there. So this attempt
5 to put yet another building in this space simply
6 makes--I get the sense that you can't breathe
7 anymore. Let me just say one other thing as Mr.
8 Zivitoski said, I'm retired from the Department of
9 Education and I've gotten into tennis, and I'd like
10 to play tennis. And I talked to my friend, and I
11 said you'll never believe this, right in my building
12 we have an opportunity to play tennis, and if Related
13 goes through with that I will not be able to do it.
14 That's a personal comment. Thank you very much.

15 CHAIRPERSON WEPRIN: Thank you. Have you
16 ever played with Mr. Zivitoski?

17 HOWARD ZIVITOSKI: I just wanted to add
18 one more thing. Did you--

19 CHAIRPERSON WEPRIN: [interposing] Just
20 very briefly.

21 HOWARD ZIVITOSKI: Yeah, very briefly.
22 There used to be the asphalt--as part of the asphalt
23 green, there used to be more courts.

24 CHAIRPERSON WEPRIN: Right.

25

1 HOWARD ZIVITOSKI: In other areas, walls
2
3 to play and so on, and that was taken away when they
4 built the swim center with the permission, I guess of
5 the City.

6 CHAIRPERSON WEPRIN: Right.

7 HOWARD ZIVITOSKI: So there was no other
8 place left. I mean, you have Central Park, but
9 that's a way away from where we are.

10 CHAIRPERSON WEPRIN: Right.

11 HOWARD ZIVITOSKI: There's nothing else
12 that we can do. I mean, now I play all the way down
13 in Houston Street, 'cause it's the only place I can
14 find a hard court.

15 CHAIRPERSON WEPRIN: Okay. Well thank
16 you. Maybe you guys can set a game now. So at least
17 something was accomplished for the long wait you had
18 to have. I'd like to call on Diana Cabrera, Sylvia
19 Larkin--these are all people in opposition who are
20 coming up. Sidney Trubowitz [phonetic]? Jillian
21 Besselman [phonetic]? Sorry. Judith Phillips?
22 Excellent Ms. Phillips, come on up. That's one, two,
23 three. Bruce Fromerman [phonetic] Catherine
24 Fromerman? Did they leave together? Look at that.
25 Robert Hoffman? What's that? Okay, there. Okay.

1 Did I go over? Let's stop. Are you Mr. Hoffman?

2 Okay. Alright, so that was Hoffman. Right. Okay.

3 Did I go over? How many did I end up with? There
4 was a--is that the cane that was left here? No.

5 There was a black cane that was left somewhere.

6 That's not the one, right? Okay. So if anyone does

7 hear someone missing a black cane, we did find one,

8 and it is up front somewhere and we'll have it at the

9 Land Use division if it ends today without anyone

10 claiming it. Alright, so I think I got more than I

11 was supposed to get, but we'll work in shifts here.

12 Okay. So whenever you're ready make sure to state

13 your name, and we'll go through you on the clock,

14 since we don't have to alternate with the other

15 groups, so we'll be okay. Thank you.

16 SYLVIA LARKIN: Good afternoon Council

17 Members or what's left. I'm Sylvia Larkin, and I'm

18 here to say claustrophobia, another 32-story building

19 in our area. My lovely street, my small lovely

20 street is just more than I can bear. Please, the

21 Windward school can find another spot. It would be

22 lovely to have them nearby to address the issues that

23 our own school system has failed miserably at, but

1 once again, please keep the area as open space. I
2 plead with you, and that's my position.

3 CHAIRPERSON WEPRIN: Thank you. Thank
4 you very much. I just want to acknowledge that there
5 are lot of committee meetings today, a lot of things
6 going on. Everything we are saying now is still
7 being televised and it's all going to be part of the
8 record. So the other Council Members may actually
9 have staff or themselves watching on computer. We
10 are being shown live on compu--you can watch it
11 online as well. So yes, sir, go ahead.

12 SYDNEY TRUBOWITZ: My name is Sydney
13 Trubowitz. I walk past that open space almost every
14 day, and I have the feeling I'd like to have 9-1-1
15 for environmental crime, because to have that place
16 close for two years, I don't know why it couldn't
17 stay open while the consultation was going up and
18 back, but for two years to have that place closed
19 where teenagers and kids and toddlers and senior
20 citizens in the neighborhood could make use of it
21 it's beyond me. And the thought of it being closed
22 and to have a high rise replace it just sounds like
23 an abomination to me. And the thought also,
24 something about the Windward school, I think it's a
25

1 great place and they were to find a place for it, but
2 I also think about the education of all the other
3 children and young adults in the neighborhood.
4 Education demands space, and the kids need the space
5 to grow. So we fight things like obesity and
6 addiction to video games and the like, and so I make
7 the please, please, please keep that open space so
8 the community can breathe. Communities are living
9 organism and it needs space to breathe.
10

11 CHAIRPERSON WEPRIN: Thank you sir.

12 Ma'am?

13 JUDY PHILLIPS: My name is Judy Phillips.
14 I've lived in the neighborhood since 1987. I was a
15 Special Ed. Guidance Counselor as well as a Special
16 Ed. Teacher in Harlem and East Harlem. All you need
17 is a hip lawyer to go to the Board of Education and
18 the get the Board of Ed. to pay for your little kid
19 with disabilities to go to a private school. So
20 forgive me, I'm not that sympathetic to the idea of a
21 school taking the place of a wonderful mixed
22 playground. The other thing there's--this is the
23 invasion of the private schools. The Trevor Day
24 School on 95th between 1st and 2nd says on their
25 website 12-stories. I live on the 26th floor on 2nd.

1
2 It's up to me, and they've gotten permission
3 according to Mr. Garodnick's office and Jessica
4 Lappin's in '09. The Dalton School, it's
5 unforgivable. This space is beautiful and this space
6 had a tennis court with a soccer player from Brazil
7 playing every day who gave this old battle axe a
8 thrill. They whistled when I went by, and that's
9 another reason self--

10 CHAIRPERSON WEPRIN: [interposing] This is
11 a family audience. I just want to warn you.

12 JUDY PHILLIPS: I want this park to stay.

13 CHAIRPERSON WEPRIN: Next please.

14 [laughter]

15 BRUCE FROMERMAN: I'm Bruce Fromerman
16 [phonetic]. This issue was so important that my wife
17 and I who run a small business had the doors to our
18 business shut today. We have no income. We're not
19 responding to client phone calls because we're
20 waiting to be able to speak to you folks, to you let
21 you know how important this is. As a resident of the
22 neighborhood for over three decades, I realize
23 something that the architect commented on when he was
24 responding to a question you asked to day about the
25 playground. As he put it, "The playground is

1 unique." It's not just a matter of open space in
2 park. The fact that there are athletic facilities
3 there make it completely different from any space
4 that can simply have chairs, benches, and a chess
5 table. The fact that children were able to play in
6 slides in an area, and that young adults were using
7 the courts as these folks pointed out. It's just not
8 a matter for retired folks. Younger kids, instead of
9 hanging out on the streets, were there on the courts
10 regularly, and I know because I look out the window
11 and see them. If this city wants to be supporting
12 planting millions of trees and supporting to try to
13 fight obesity, this--the freest way to do it is go
14 find some land swap, tax swap or something else.

15 About the proposed school, it's a non-issue, because
16 the school can be built anywhere in Manhattan, and of
17 course, last time around with this project Related's
18 proposed anchor tenant was a so-called first of its
19 kind Cancer facility, whose company on its website
20 was promoting selling US citizenship to foreign based
21 investors who funded their facilities. So do please
22 look to do something so that Related will pause, step
23 back and take another tax abatement or some other
24 compromise and leave the property. Thank you.
25

1 CHAIRPERSON WEPRIN: Thank you. If we
2 could just make room. I don't know. Are you going--
3 Ma'am, are you going to testify separately, or?

4 KATHERINE FROMERMAN: Yes.

5 CHAIRPERSON WEPRIN: Okay, so let's just--
6 -alright. Boy they're all clearing out as fast as
7 they can. It's okay. Sorry about that. I brought
8 too many people up at once.

9 KATHERINE FROMERMAN: That's alright.

10 CHAIRPERSON WEPRIN: But whenever you're
11 ready we'll let you guys get back to the store.

12 KATHERINE FROMERMAN: My name's Catherine
13 Fromerman. I'm at Ruppert House also. I overlook
14 the playground which has been a beautiful place. You
15 see the seasons pass by there, the trees, the birds,
16 everything happening. My fellow speakers are very
17 eloquent, so I'm going to keep it brief and just
18 mention that our neighborhood is undergoing a
19 terrible change with the subway that's happening, and
20 we're going to have a subway station right on the
21 corner. So our streets, 92nd, 93rd Street are going to
22 be hosting an awful lot of fellow citizens in the
23 coming years as they make their way back and forth on
24 the subway. So that's why it's so important that we
25

1 had just this little sliver of park that we have
2 right now with the trees and the little place for
3 people to rest every once in a while. And in closing
4 with that, I just want to say that if something gets
5 build there, then that space is gone forever and
6 that's really something very important to keep in
7 mind. So I'd like to thank the members of the
8 Council for their graciousness, and let's hope for
9 the best.

11 CHAIRPERSON WEPRIN: Thank you. Thank
12 you very much. Yes, sir. Thank you for your
13 patience.

14 ROBERT HOFFMAN: No worries, thank you
15 having me. My name is Robert Hoffman, Bobby Hoffman
16 to the community. I am the Executive Director of
17 Manhattan Youth Baseball. There are 1,500 children
18 in our leagues of 900 different families that all
19 gather in the Yorkville Upper East Side community.
20 In fact, Mrs. Frederick's children grew up in my
21 league from the Windward School. Now I also am
22 dyslexic and feel very strongly for these children,
23 but the school has its own issues. It has no place
24 for athletic fields for their students. In fact,
25 they came to me asking me to help advocate for field

1 space for them within the Randall's Island and
2 Central Park infrastructures. So now along with the
3 bus structure of getting children to and from the
4 school because they will have bussing from the lower
5 and the West Side, they also will have buses there
6 idling during the day to take their children to
7 Central Park or to Randall's Island for their
8 athletic periods. Now, it's good to note that East
9 Harlem, another place where I'm very active in
10 working with the schools there in their enrichment
11 programs, that they have the highest rate of asthma
12 in the country because of the bus facilities that are
13 on 125th and 103rd and the pollution that happens in
14 the constant traffic areas of Lexington, 2nd, and 1st
15 and 3rd going uptown. And it's a--a lot of that is
16 attributed to that. So I'm very concerned with the
17 high traffic now that's going to be coming to our
18 neighborhood. The park is a park. It walks like a
19 park. It talks like a park. It is a park no matter
20 what they call it at Related that it was an open
21 space. We--the history in our neighborhood is to of--
22 -all our Mitchelama [phonetic] is being overturned
23 and turning private, and our neighborhood is
24 disappearing, and this is just another part of all
25

1
2 these fine families that fought for 30 years to keep
3 that neighborhood safe losing their homes, and this
4 park is part of our home. Thank you.

5 CHAIRPERSON WEPRIN: Thank you and thank
6 you for your work on behalf of the community. Alright
7 I'd like to call up what I think will be our last
8 panel of the day. Renee Ennis? Shiro Day, is it?
9 Okay. She left him. Dianne Stafford? Teri--is it--
10 I can't really read this. My eyes are going. Is it
11 Croft also? Ashcroft? I don't know. Is anyone else
12 who came to testify who I have not called their name?
13 Anybody? You had--did you fill out a slip? Okay.
14 Well come up to the panel. Go ahead, just go right
15 up there if you're here to testify. You're here to
16 testify against the proposal? Okay. Okay. Just
17 come and join us on the panel, and I think is going
18 to be the last panel. Just get her information. We
19 may--it's possible. We had a lot here, so it's
20 possible it got tied up with something else. So we
21 apologize for that. I always like to say--'cause I
22 was a "W", they use to always say, "Mark--last not
23 but not least, Mark Weprin." You know, and I was--so
24 I like to express the same for you. What is--ma'am,
25 what's your name?

2 LORI BOYCE: My name?

3 CHAIRPERSON WEPRIN: Yeah.

4 LORI BOYCE: Lori Boyce, B o y c e, you
5 got it.

6 CHAIRPERSON WEPRIN: Alright, we have you
7 already, sorry. Okay, so whenever you're ready, my
8 last but not least panel.

9 DIANNE STAFFORD: Hi, my name is Dianne
10 Stafford and I'm a resident at 1779 2nd Avenue. I
11 want to thank you for listening to us today. The
12 issue of the school is really a non-issue. We are
13 under siege on 92nd and 93rd, and between the 2nd
14 Avenue subway, which in itself has decimated our
15 neighborhood. It's unbelievable the possibility of
16 the transfer station coming in even further down, but
17 what's most disturbing is the school really is a non-
18 issues. That's not what we're talking--that's not
19 what we're talking about here. It's the buses, the
20 parking, the lack of parking, the lack of space for
21 people to walk around. I mean, and even those--we're
22 not all fortunate enough to be able to afford
23 parking, so we're dependent on street parking,
24 dependent, you know, just that in itself really can
25 set the tone because they've taken everything away

1 from 2nd Avenue, and now you want to clog us even
2 more with buses, with school buses on a daily basis.
3 We're going to have more buses because of Trevor Day
4 School on 95th Street. It just--where does it stop
5 for us? It just, you know, and what are we supposed
6 to do. And the other thing that caught my attention,
7 Carnegie Park has--is also an integrated housing, but
8 yet their integrated housing has a separate entrance.
9 They're not part of Carnegie Park. Pardon? Well, be
10 that as it may, so when they say that it's all going
11 to be together, I'm not really sure how it's all
12 going to be together or are they going to
13 discriminate against the housing the City is going to
14 be doing. Anyway, thank you.

16 CHAIRPERSON WEPRIN: Alright, thank you
17 very much. Ms. Boyce?

18 LORI BOYCE: Hi, my name is Lori Boyce.
19 From the very beginning I touched on this subject,
20 and I don't know probably through the year or so
21 somebody else did, but I'd like to reinforce it.
22 Health, health-wise it's going to be--and these
23 children can't go home like the children that she was
24 saying, her children, they are there to live. They
25 play there. They go, you know. The park, and it's

1 the young children, that's--it'd be impossible, and
2 you're going to have--and this sounds gross, but it
3 is. You're going to have mice, bugs, all kinds,
4 filth. You're going to have a lot of filth. And I--
5 my children are all grown and my grandchildren are
6 too, so but I can't understand why they can't find
7 another spot. You're cramming us in like squatters.
8 There's no room for anything. And then school busses
9 are going to come and also--the private school
10 children. What about the children that live there
11 now? The quality of life is going to go right down
12 the totem pole, okay? Thank you.

14 CHAIRPERSON WEPRIN: Thank you. Thank
15 you.

16 TERI ASHCROFT: Teri Aschcroft, and
17 thanks very much for all your time and effort to have
18 this hearing, and thanks also for these terrific
19 people who are opposed as I am to this proposal. I
20 don't want to put Related down. They build
21 beautiful--well, anyway, big buildings the build, but
22 they don't need to live where they build, and what
23 they're doing to our neighborhood would be a
24 nightmare. I believe in air rights, but I don't
25 think that developers just have the air rights. I

1 think that the human beings should have air rights of
2 all ages. This is a very unique little park, and in
3 the big scheme of things, it might not mean a whole
4 lot, but it is human oriented. Every age is able to
5 use this space, both as a sitting area and in all the
6 activities, it's amazing, that can be done in that
7 space. So again, thanks for listening to us and
8 please, please do the right thing and also the best
9 thing. Related and the school have all the rest of
10 New York to build. They don't have to take away our
11 air rights. Thank you.

13 CHAIRPERSON WEPRIN: Thank you. Now you
14 really are last but not least.

15 RENEE ENNIS: And short. Renee Ennis
16 [phonetic] is my name and I'm a Yorkville resident of
17 20 years. I live in the Yorkville Towers, and my son
18 since he was a baby has utilized the park. I
19 personally love the park, I think it's great. We
20 have had open space and it's important that it's kept
21 for our community. As all of my neighbors have
22 spoken today they've all hit on all the points that I
23 think are very important. We have private schools.
24 We have a health club, and we have a lot of buildings
25 in our area, but we don't have a place for them to

1 play, and my son's age 10. He couldn't wait to play
2 basketball. He couldn't wait to have a spot to go,
3 and now that's being taken away. And I do wonder,
4 like what are the young people? You know, it was
5 fine when they were babies, but what does the 10 to
6 15 year olds going to do on the Upper East Side. So
7 I think we need a park, and the school is great, the
8 buildings are great, the health clubs are great, but
9 they can be anywhere in our city.

11 CHAIRPERSON WEPRIN: Thank you very much.

12 I want to thank everybody for their time and
13 patience. I know it's been a very long day. We had
14 a number of items on today. I want to thank Council
15 Member Garodnick for hanging in with me here and the
16 other members of the Committee who are paying
17 attention. Is anyone else here who wanted to testify
18 on this item? So--thank you. I'm going to close
19 this hearing now. We are not voting today as you
20 know. Alright, one second. Just one second. I
21 agree. So we're done for the day. We're going to
22 adjourn this meeting. The Zoning and Franchises
23 Subcommittee will be meeting again on Wednesday.
24 Today's Monday. Wednesday, 9:30 in this room. With
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that in mind, the meeting is now adjourned. Thank
you.

[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 there is no relation to any of the parties to this action by blood or marriage, and that there is no interest in the outcome of this matter.



Date 10/15/2013