

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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May 5, 2015
Start: 10:26 a.m.
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HELD AT: 250 Broadway - Committee Rm,
16th Fl.

B E F O R E:
MARK S. WEPRIN
Chairperson

COUNCIL MEMBERS:
Daniel R. Garodnick
Jumaane D. Williams
Donovan J. Richards
Antonio Reynoso
Ritchie J. Torres
Vincent M. Ignizio
Vincent J. Gentile
Ruben Wills

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

Richard Lobel
Sheldon Lobel, P.C.

Samuel Nitka
Cherry Hill Gourmet Market

Ed Jaworski
President
Madison-Marine-Homecrest
Civic Association

Kelly Carroll
Director of Preservation and
Community Outreach
Historic Districts Council

Cliff Bruckenstein
Brooklyn Resident

Steve Barrison
President
Bay Improvement Group

Anthony Kelly
Cherry Hill Gourmet Market

Rabbi Avrohom Hertz
Brooklyn

Elias Abramoff
Maitre d'
Cherry Hill

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

Rabbi Shlomo Cohen
Chabad of Sheepshead Bay

Noah Yevdayev
Employee
Cherry Hill

Raisa Chernina
Resident of Cherry Hill Community

Nick Carcanola
Brooklyn Resident

Alex Rabinovich
Architect
Cherry Hill

Rachel Tagiev
Owner
Red Square Media

Oleg Koshul
President
EcoMeal Organic

Eric Winter
Produce Manager
Cherry Hill

Pedro Guevara
Maintenance
Cherry Hill

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

Gary Silver
Architect
Gary Silver Architects

1
2 CHAIRPERSON WEPRIN: We're gonna be
3 waiting another five minutes just to start; we just
4 had to wait for Council Member Garodnick, who's here
5 for a vote we're taking right off the bat.

6 [pause]

7 CHAIRPERSON WEPRIN: Hi; we ready?
8 Alright, I apologize for the delay. Ladies and
9 gentlemen, good morning, my name is Mark Weprin; I'm
10 Chair of the Zoning and Franchises Subcommittee. We
11 have a number of items on the agenda today; the first
12 two, or the first two subjects, are votes we are
13 gonna be taking at the beginning of this hearing; we
14 are then going to move to having a hearing on the
15 Cherry Hill Text Amendment, which I know most of the
16 people here are here for that topic. We will have
17 that hearing today; everyone who wants to testify
18 will have an opportunity to testify; we will not be
19 voting on that today; we will put the vote off until
20 later in the week so we can digest, since it looks
21 like we're gonna get a lot of information here today,
22 but first we have to take care of voting on a number
23 of items. And before that I want to acknowledge who
24 is here with me today; Councilman Dan Garodnick, who
25 just got here; it is his birthday today, so we

1 forgave him for being a little late, so happy
2 birthday, Councilman Garodnick; [cheers, applause]
3 Council Member Jumaane Williams, Council Member Ruben
4 Wills, Council Member Donovan Richards, who got the
5 gold start today for being early, Council Member
6 Reynoso and... okay, and we're also joined by Council
7 Member Deutsch, who represents the Cherry Hill in
8 Brooklyn site.
9

10 So before we get started, we had a
11 hearing recently on the Vanderbilt Corridor, which is
12 Land Use Nos. 197, 198... [background comment] 199, 200
13 and 201. Right? [background comment] Okay.
14 Council Member Garodnick has been working on this
15 relentlessly for about two years now, believe it or
16 not; he has done an amazing job, there was a press
17 conference across the street where everyone who
18 testified came out and everyone who testified against
19 and for ended up standing there in favor of this
20 rezoning change, so hopefully we can do that and
21 other things as well. But I'm gonna call on Council
22 Member Garodnick, who has a statement to make and
23 then I'm gonna read the modifications that he is
24 proposing into the record; then we will announce one
25

1 more item and take a vote on those items. Council
2 Member Garodnick.
3

4 [background comments]

5 COUNCIL MEMBER GARODNICK: Thank you very
6 much, Chair Weprin and thank you for your patience,
7 not only today, but also in chairing that very, very
8 long hearing on both One Vanderbilt and the
9 Vanderbilt Corridor and I appreciate the opportunity
10 to say a few words about those applications today.

11 As my colleagues may recall, toward of
12 his administration former Mayor Bloomberg proposed an
13 extensive rezoning of East Midtown, and while I
14 shared his concerns about the quality and age of
15 office buildings in the area, the Mayor's proposal
16 left too many unresolved questions of air rights,
17 pricing, public realm improvements and infrastructure
18 deliverables; this was particularly troubling in the
19 context of so much as-of-right zoning. As a result,
20 I ultimately decided to oppose the plan and Mayor
21 Bloomberg withdrew it. Last year, with my support,
22 Mayor de Blasio and City Planning Commission Chair
23 Carl Weisbrod announced a different two-pronged
24 approach to addressing the zoning challenges of East
25 Midtown.

2 The first phase before us today is a
3 rezoning of Vanderbilt Avenue between 42nd and 47th
4 Streets in which applicants can apply for a special
5 permit to build up to 30 FAR in exchange for public
6 improvements or via the purchase of air rights from a
7 neighboring landmark. The second phase covering the
8 rest of East Midtown will follow. It is no secret
9 that the Grand Central area and Vanderbilt Avenue in
10 particular are in need of significant improvements.
11 Grand Central is a mess; it is one of the busiest
12 transit hubs in the world and it has gotten crowded
13 well beyond its capacity. It badly needs upgrades to
14 its infrastructure and pedestrian circulation system;
15 sidewalks in the area are far too narrow and crowded,
16 and Vanderbilt Avenue, a street directly adjacent to
17 one of the most iconic buildings in all of New York
18 City, looks and feels like a back alley. This
19 rezoning will bring some badly needed change to the
20 area.

21 My concerns from last term, which
22 included the fact that so much certainty was afforded
23 to the development community without any real
24 guarantees to the public, do not exist here; that's
25 because the City and the public maintain full

1 discretion to approve or deny each application
2 through a special permit. Any applicant along the
3 corridor will therefore have the burden of convincing
4 the public that the proposed infrastructure
5 improvements are worthy of the additional development
6 rights. We in turn will demand that any improvements
7 to area infrastructure are done and delivered to the
8 public in advance of the occupancy of the building.

9
10 One of the key questions will be for us
11 whether any given site along the corridor deserves
12 the density that it seeks. Of course not all
13 development sites will necessarily go after or be
14 deserving of the maximum 30 FAR. While I believe
15 that this is the appropriate location for the City to
16 encourage high-density development, not every site is
17 going to be worthy of the max.

18 The first applicant at One Vanderbilt is
19 subject to this very question. They have proposed
20 considerable infrastructure improvements, ranging
21 from subway entrances to platform changes, to new
22 public areas and access points to Grand Central,
23 valued at \$210 million in exchange for the density
24 bonuses necessary to build a 1.6 million-square-foot
25 and 67-story commercial building. In addition to

1 those improvements, the Council has negotiated in
2 this process some additional significant changes ton
3 One Vanderbilt to further enhance the benefit to the
4 public in two ways. First, SL Green is now committed
5 to add a second transit hall on 42nd Street at the
6 base of One Vanderbilt; this will create a grand
7 three-story light- and air-filled public transit
8 entrance on 42nd Street at the base of One
9 Vanderbilt. We also are delivering 22 percent more
10 subgrade circulation space for commuters to move
11 underground from level to level. Prior versions of
12 this plan would have required East Side access and
13 subway riders to go up to the main concourse level at
14 Grand Central in order to transfer between them; we
15 have corrected this problem, creating a straight shot
16 on the same level and generations of commuters may
17 not know it now, but they will thank us later. At a
18 cost of \$10 million, these additional improvements
19 will bring SL Green's total public investment to at
20 least \$220 million.

22 It is worth noting that these
23 improvements come out to about \$400 per spare foot of
24 additional density, which means the public is getting
25 more per square foot than they would have under the

1
2 Bloomberg plan. Additionally, the public will see
3 these improvements up front; if there are cost
4 overruns or unforeseen circumstances, the developer
5 is still on the hook to complete the project before
6 moving into their building. And I'm getting close,
7 Mr. chair, but I know that you deferred your remarks
8 for me, so I appreciate it.

9 We are sending to City Planning today
10 several changes to the Vanderbilt Corridor proposal
11 itself. First, we will also further define the site
12 criteria that might entitle a site to get up to the
13 maximum density, such as the size of the lot, whether
14 it has direct access to subway and transit facilities
15 and whether it is directly adjacent to the open area
16 above Grand Central Terminal. One Vanderbilt has all
17 of these characteristics, but not every site will.

18 It needs to be clear to the development
19 community today that 30 FAR is not an entitlement
20 here; it is not a gimme and not all sites may be
21 deemed worthy of such a large density bonus.

22 We also going to add back a requirement
23 that a developer make pedestrian circulation
24 improvements when purchasing air rights from a
25 landmark. We will have the ability to waive this

1 requirement through ULURP, but we believe that the
2 default position should be that any applicant seeking
3 such a large density bonus, even if they are using a
4 landmark's transfer, that they should contribute in
5 some way to the public realm.
6

7 Finally, while any hotel that wishes to
8 build along the corridor will be required to seek a
9 special permit, we do not want to penalize hotels that
10 are damaged or destroyed. In the event that an
11 existing hotel in the Vanderbilt Corridor is damaged
12 or destroyed, we will allow that hotel to be
13 reconstructed without a special permit up to 15 FAR.
14 If they seek to build additional density they will
15 still need to seek a hotel special permit and the
16 special permit for other transfers.

17 I want to commend the Chair of the Multi-
18 Board Task Force, Lola Finkelstein and other members
19 of both Community Boards 5 and 6 and Borough
20 President Gale Brewer for their thoughts and
21 recommendations throughout this process, as well as
22 Chair Greenfield, Chair Weprin and my colleagues.
23 Today we have a much better rezoning and project
24 thanks to their hard work and thoughtful suggestions.
25

1 We still have work to do, not only on the
2 greater East Midtown rezoning, but in pursuit of
3 historic preservation in this area. There are three
4 buildings along the Vanderbilt Corridor that have
5 been identified as potential landmarks -- 52
6 Vanderbilt, The Roosevelt Hotel and the Yale Club.
7 The Landmarks Preservation Commission needs to review
8 and act, as appropriate, all sites in the area so
9 they are not lost due to development pressure.
10

11 In conclusion, this plan gives the public
12 certainty about real improvements to Grand Central
13 which will have positive impact for riders all along
14 the 4, 5; 6 route, as well as for the shuttle and for
15 riders on the future East Side Access. It will, even
16 with the first project alone at One Vanderbilt,
17 create over 5,000 construction jobs, 190 permanent
18 union jobs and create \$50 million in annual tax
19 revenues for the City.

20 I urge my colleagues to join me today in
21 voting to send these changes to City Planning before
22 final approval of the plan and thank you all for your
23 time today.

24 CHAIRPERSON WEPRIN: Thank you Council
25 Member Garodnick and for that description in detail

1 and plain language of the changes that have been
2 made. Congratulations to you; this really is
3 something that will affect the entire City of New
4 York, even those of us in the outer boroughs, in the
5 outer reaches of the city, it means a lot to us as
6 well; people in my district work in Midtown East,
7 Vanderbilt Corridor and that area; this is a very big
8 thing for the future of this city for many years to
9 come.
10

11 I have to read into the record, so you'll
12 have to bear with me, the more legal description of
13 some of the things that Council Member Garodnick
14 spoke about, so it's a couple of pages and I will try
15 to read it as quickly as possible.

16 The Vanderbilt applications are now in
17 front of this Subcommittee for a vote and there are a
18 series of modifications, as described by Councilman
19 Garodnick, recommended for approval consistent with
20 that statement; modifications to the Vanderbilt
21 Corridor Text Amendment, Land Use 197 states these
22 amendments.

23 First, to add language to Section 81-00,
24 the General Purposes of the Special Midtown
25 Subdistrict which makes clear that the additional

1 density which may be followed along the corridor
2 after a public review process must be based on a
3 sound site planning criteria.
4

5 Second is to add an additional finding to
6 the Section 81-641, Public Realm Improvements,
7 Special Permit Bonus provisions which will be
8 applicable to development sites that do not front on
9 too wide streets; the additional finding will require
10 the City Planning Commission to find that the amount
11 [background comment] of the additional floor area
12 sought by a proposed development is appropriate,
13 taking into consideration specific site
14 characteristics, including: 1. the size of the zoning
15 lot; 2. the amount of frontage on the wide streets;
16 3. the development's adjacency to Grand Central
17 Terminal Air Park and the development's direct access
18 to subway stations and other rail mass-transit
19 facilities.

20 Third, with respect to the Landmarks
21 Transfer Special Permit, Section 81-635, the text
22 would be modified to retain the requirement of a
23 major improvement to transit and the public realm in
24 the corridor for a Landmarks Development Rights
25 Transfer, but will allow the City Planning Commission

1 the discretion to waive that requirement where
2 appropriate.

3
4 Fourth, and again, with respect to the
5 Landmarks Transfer Special Permit provisions, the
6 text will be modified to provide that in the case of
7 a proposal that seeks to build to an FAR greater than
8 21.6, that the Commission give in due consideration
9 in its findings to the site characteristics criteria
10 required in the public realm improvements bonus.

11 And lastly, it's recommended that Section
12 81-611 of the text be modified with respect to the
13 new Hotel Special Permit requirement for the
14 development of or conversion to hotels within the
15 Vanderbilt Corridor. It is proposed that the text be
16 modified to allow a now existing hotel within the
17 corridor to have the ability to rebuild in the event
18 of damage or destruction of its building and no more
19 than its as-of-right FAR without having to apply for
20 a new special permit. It is therefore... [background
21 comments] The following modifications are proposed
22 for the One Vanderbilt Special Permits, Land Use 199,
23 200, 2001 [sic]: The plans for onsite public realm
24 improvements at One Vanderbilt as approved by the
25 City Planning Commission has been modified by the

1 applicant through negotiations with CM Garodnick,
2 whose birthday it is today, to further enhance the
3 public improvements that are required for the
4 proposed One Vanderbilt building specifically: a.
5 increase the size, visibility and functionality of
6 the 42nd Street subway entrance, which will include a
7 third escalator directly to the street level to
8 improve accessibility to East Side access; b. an
9 increase to the daylight to the below-grade
10 circulation spaces; c. the creation of a new direct
11 elevator connection from East Side access to the
12 street level, as well as each intermediate level, and
13 d. the addition of a new direct access corridor to
14 connect East Side access to the 4, 5, 6; 7 trains and
15 shuttle subway system lines, and e. the additional
16 improvements will result in a 22 percent increase in
17 public circulation space provided by the project.

18 The restrictive declaration for the special permits
19 would be revised to reflect these modifications, as
20 well create a task force to address any construction-
21 related concerns during development of the project.

22
23 It is therefore recommended that we vote
24 to modify the special permits and restricted
25 declaration to reflect the additional improvements

1 described therein. [background comments] So that's
2 it on Vanderbilt.
3

4 And then we have another item that we're
5 voting on, which we also had the hearing on already;
6 it's a modification to the 3941 West 23rd Street
7 Special Permits. Land Use 209 and 210 concern the
8 3941 West 23rd Street project that was in Council
9 Member Corey Johnson's district and he is supportive
10 of this now; they are special permit applications to
11 modify the use, regulations and permit an automated
12 parking facility in a residential development
13 containing 43 dwelling units, including four
14 affordable units and a ground floor retail.

15 This Subcommittee held a hearing on these
16 items on April 23, 2015 and they are now before us
17 for a vote with the following modifications
18 recommended for approval. CM Johnson supports the
19 project and asks for a modification to modify the
20 area mean income limits of the four units of the
21 affordable housing to be provided on-site;
22 specifically that we approve two of the units as
23 affordable to households with incomes of no more than
24 80 percent AMI and we approve the other two units as
25

1 affordable to households with incomes of no more than
2 130 percent AMI.

3
4 We are gonna couple these votes to
5 approve Land Use 197 through 2001 [sic], the
6 Vanderbilt applications... [background comment] right,
7 197 to 201; don't know what I said, but 201, Land Use
8 209 and 210 on West 23rd Street, with the
9 modifications I described long-windedly just before.

10 I will now call on Ann McCoy, the
11 counsel, to please call the roll.

12 ANN MCCOY: Chair Weprin.

13 CHAIRPERSON WEPRIN: I vote aye.

14 ANN MCCOY: Council Member Garodnick.

15 COUNCIL MEMBER GARODNICK: Thank you
16 again and I vote aye.

17 ANN MCCOY: Council Member Williams.

18 COUNCIL MEMBER WILLIAMS: Pass.

19 ANN MCCOY: Council Member Wills.

20 [background comment]

21 COUNCIL MEMBER WILLS: Aye on all.

22 ANN MCCOY: Council Member Richards.

23 COUNCIL MEMBER RICHARDS: Aye on all.

24 ANN MCCOY: Council Member Reynoso.

25 COUNCIL MEMBER REYNOSO: Aye on all.

2 ANN MCCOY: Council Member Torres.

3 [pause]

4 ANN MCCOY: Council Member Torres votes
5 aye. Council Member Williams.

6 COUNCIL MEMBER WILLIAMS: Abstain on Land
7 Use 209, 210 and aye on all the rest.

8 ANN MCCOY: By a vote of 7... All items are
9 adopted as modified by a vote of 7 in the
10 affirmative, 0 negatives and 0 abstentions, with the
11 exception of Land Use Items 209 and 210, which are
12 adopted by a vote of 6 in the affirmative, 1
13 abstention and no negatives.

14 CHAIRPERSON WEPRIN: Super. Okay,
15 congratulations to those involved in those projects;
16 that was a long time coming. I see Marc Holliday
17 from SL Green is here and we congratulate him; I know
18 he's worked on this long and hard. So thank you.

19 [background comments]

20 We are gonna move on now to the Cherry
21 Hill application, which I know you're all here for
22 and have been very patient and I appreciate that.

23 This is Land Use No. 211, Cherry Hill
24 Gourmet Text Amendment in Council Member Chaim
25 Deutsch's district. I'm gonna call up Richard Lobel,

1
2 and is Avrohom Hertz coming? Okay. Are you gonna
3 testify as well; I don't know, but... [background
4 comments] Did he fill out an application?
5 [background comment] You did. Okay. [background
6 comment] Sorry. [background comments] So...
7 [background comments] Okay. Okay. Alright.

8 So I want to remind everyone; Mr. Lobel,
9 whenever you speak, to please state your name for the
10 record, so if someone transcribes this later on and
11 they're not looking at us, they'll know who's
12 speaking; that's true of everybody, when you're on a
13 panel -- the way this is gonna work, we're gonna have
14 the applicant testify, there'll be questions from the
15 panel; we are then gonna call people up to speak.
16 Due to the large amount of people here to testify, we
17 are gonna limit speakers, after we get through the
18 questioning of the applicant, to approximately two
19 minutes each. So if you could try to take your
20 remarks and boil them into two minutes, if you have
21 other people testifying with you, maybe you could
22 divide the subject matter; there may be some
23 questions afterwards, you know, anyway to further
24 elaborate on your two-minute statement.

2 So Mr. Lobel, whenever you're ready,
3 please describe this application and I'd ask the
4 audience to please be on your best behavior and try
5 not to make any call-outs or noises so we can have
6 decorum here today. [background comments] Thank you
7 very much; Mr. Lobel, whenever you're ready.

8 RICHARD LOBEL: Thank you Chair Weprin
9 and thank you to the members of the Subcommittee.

10 My name is Richard Lobel; I'm from the
11 law firm of Sheldon Lobel, P.C.; I'm joined with Sam
12 Nitka of Cherry Hill Gourmet Market and we're here
13 today for a text amendment application to the Special
14 Sheepshead Bay District Regulations.

15 The history of the property, which is
16 behind us, is that the building was built as the FWI
17 Alumni's [sic] building in or around 1934 and the
18 building housed the Lundy's Restaurant, a treasured
19 local institution for many, many years, which would
20 have upwards of 10-15,000 patrons per day on some of
21 the more active dates that the restaurant was in
22 operation. Sadly, Lundy's went out of business in
23 the 70s, and at that time the restaurant was in
24 trouble and over the intervening 20-30 years was
25 essentially out of business and was in a state of

1 disrepair and the land and the property went into a
2 state of disrepair.
3

4 You can see from the photograph on the
5 top, a 1988 photograph, that the lot itself was
6 overrun with weeds, with vermin; it was a -- from
7 what I understand from others testifying -- was a
8 dangerous place to be.

9 So during that time a number of
10 restaurants came to the property but were unable to
11 operate on the property. The property is subject to
12 the Special Sheepshead Bay District Regulations
13 created in 1973 to revitalize the area and to create
14 a business community which would improve the local
15 area, bring jobs, bring tax revenues to the city and
16 basically have complimentary uses to the waterfront
17 here. So after a number of failed applications in
18 the 70s several things happened. First in 1992 the
19 Landmarks Preservation Commission designed it a
20 landmark building, and then after that, and literally
21 after decades of misuse and disrepair, Cherry Hill
22 Gourmet Market came in around 2007. So the
23 Sheepshead Bay Special District Regulations prohibit
24 a food market in this subdistrict and prohibits a
25 food store greater than 3500 square feet.

1 So just to take a look where Area B of
2 the Sheepshead Bay Special District, Subarea B -- and
3 so really this application affects a very small part
4 of the Sheepshead Bay Special District; it is this
5 one lot; it is 43,000 square feet. The entirety of
6 the Sheepshead Bay Special District consists of
7 Subareas A-H, has over 20 block fronts it in; I show
8 you additional board -- upside down. You can see the
9 extent of the Sheepshead Bay Special District, so
10 this really is only.. this text amendment affects this
11 one lot.

12 So Cherry Hill comes in in 2007, files
13 applications for a food store in the area; those
14 applications were reviewed, there were senior plan
15 examinations; permits were issued by the Department
16 of Buildings. Subsequent to that time in 2010, there
17 was an audit conducted and it was determined that the
18 food store of this size in this building would not be
19 permitted as-of-right.

20 In 2009, Cherry Hill hired counsel to
21 bring an application at the City Planning Commission
22 in order to legalize the food store use of this size
23 in this location; that application was, quite
24 frankly, soundly rejected by the Community Board, and
25

1 so at the time the application was withdrawn, it went
2 nowhere.
3

4 After that application went nowhere,
5 something happened, which was Superstorm Sandy, and
6 at that time Cherry Hill Gourmet reached out to the
7 community, was one of the first businesses to open
8 after Sandy and was really seen as being not only a
9 good community neighbor, but an important asset to
10 the community. And so Cherry Hill hired our firm and
11 basically we approached the Community Board, as we
12 often do in a preliminary way and we spoke to
13 Community Board 15 and they then said, we are not
14 receptive to this application; we understand that
15 this is an important business in the area, that they
16 reached out, that they were important to us in a time
17 of need and so we are going to support their
18 application. So we've gone through the process and
19 where have we come?

20 In February of 2015, the Community Board
21 voted by a vote of 20 in favor and 5 against to
22 support this application to amend the Sheepshead Bay
23 Special District Regulations. The Brooklyn Borough
24 President rejected the application with conditions
25 and those conditions look much like what the

1 amendment now looks like; they wanted to maintain and
2 accessory restaurant use, which we have accessory
3 tables for restaurant use, they wanted to cap the
4 size of the food store there; we've capped the size
5 in the most recent text, and they wanted to maintain
6 the parking at the side, which we've agreed to do.

7 So we then went to the City Planning Commission, who
8 voted unanimously in favor of this application to
9 approve this application. Why? Because community
10 districts understand that special districts are a
11 living thing, they're organic; they don't freeze in
12 1973. Much of what we have now differs greatly from
13 1973 and this lot and this use now reflects that.

14 They tried for years, decades, to have a large
15 restaurant in this property; it didn't work, and you
16 can see what happened to it in the photos from 1988.

17 So now the Community Board, the Borough President's
18 office; City Planning understand that if you wanted
19 the adaptive reuse, if you wanted to give this
20 landmarked building a chance, then you needed to
21 approve this application. So we've gone through the
22 process, we've heard testimony at all levels, from
23 community members and importantly, the Russian
24 community, who have said that they support this
25

1 application. This application and this store
2 provides food, work, an opportunity for literally
3 over 60 local community members, most of them
4 immigrants, and so I wanna be very clear, because
5 there's a lot of discussion for and against the
6 special district and we've been vindicated at the
7 Community Board, we've been vindicated at the City
8 Planning Commission. Make no mistake that if this
9 application is not approved, this store will have to
10 close and we will be putting the store out of
11 business, along with 60 employees from the local area
12 who will have no jobs and nowhere to go. And so when
13 you're looking at the special district and what its
14 intention is, it's really about serving this local
15 community and Sheepshead Bay, and as the Community
16 Board made clear, Sheepshead Bay is best served by
17 keeping Cherry Hill open and so that's the nature of
18 our application. Sam and I are happy to answer any
19 individual questions.

21 CHAIRPERSON WEPRIN: Okay. Thank you,
22 Mr. Lobel. I'm gonna [background comment] just start
23 out and I'll see if anyone wants to join in. Okay.

24 So can you first explain to me -- I know
25 you just said, you know as the special permit that

1 was created, Sheepshead Bay Special Permit...

2 [interpose]

3 RICHARD LOBEL: District.

4 CHAIRPERSON WEPRIN: District, sorry; at
5 the end you said it was really to serve the local
6 community, but indeed, like what was the thinking in
7 the 70s, why they created this in the first place;
8 why did they create the special district?

9 RICHARD LOBEL: I'm happy to answer that.
10 And if you'll excuse me for a moment, I'm just gonna
11 pull out the Sheepshead Bay Special Use Regulations.
12 There were certain conditions set forth in the
13 Special Sheepshead Bay District Regulations as far as
14 why they wanted to create this district: a. to
15 promote and strengthen the unique character of the
16 district area as a prime location for waterfront-
17 related commercial and recreational development and
18 to help attract a useful cluster of shops,
19 restaurants and related activities, which will
20 compliment and enhance the area as presently
21 existing; b. to encourage the provision of housing
22 and applicable; c. to improve vehicular and
23 pedestrian circulation patterns by requiring limited
24 curb cuts and uniform sidewalk widening, etc.; d. to
25

1
2 provide an incentive for redevelopment of the area in
3 a manner consistent with the foregoing objectives; e.
4 to promote the most desirable use of land in this
5 area and thus to conserve the value of land and
6 thereby protect the city's tax revenues.

7 So most of these findings and most of the
8 general purposes were about economic vitality, about
9 the local area, about developing in consistent
10 character with this area [background comment] and the
11 Community Board and the City Planning Commission
12 found that this application, in promoting a use for
13 this property which was going to allow the property
14 to thrive met the majority of those general purposes,
15 and so was consistent with the general purpose of the
16 district.

17 CHAIRPERSON WEPRIN: So originally I
18 guess they were trying to foster waterfront
19 businesses, seafood restaurants.. [interpose]

20 RICHARD LOBEL: Correct.

21 CHAIRPERSON WEPRIN: things related to
22 the fishing industry and other waterfront issues that
23 might be there.

24 You mentioned -- Well first of all, who
25 fixed up the property? You showed the before and

1
2 after, but who fixed that property up and at what
3 time did they do that?

4 RICHARD LOBEL: So the property in
5 disrepair was in 1988; [background comment] there was
6 additional work that was done by the sub landlord,
7 which incurred through the 90s and the 2000s and then
8 immediately prior to the opening of the restaurant,
9 Cherry Hill actually did work in order to improve the
10 building and the restaurant; pursuant to the sublease
11 that they were into, the landlord had to make certain
12 improvements to the roof, so there was work that was
13 done by both Cherry Hill, as well as the sub landlord
14 of the building.

15 CHAIRPERSON WEPRIN: You mentioned
16 earlier that at one point Cherry Hill went for an
17 application... [interpose]

18 RICHARD LOBEL: Correct.

19 CHAIRPERSON WEPRIN: applied for an
20 application for this site; now obviously -- I mean
21 this is more of a market, a supermarket, it's hard to
22 see that this would've fit what the, at the time, the
23 local community was talking about...

24 RICHARD LOBEL: Right.
25

2 CHAIRPERSON WEPRIN: so they went
3 innocently trying to get an application and to...
4 [interpose]

5 RICHARD LOBEL: To Department of
6 Buildings; there was a discussion as to whether or
7 not -- the Zoning Resolution has very broad
8 definitions of primary use, accessory use -- so there
9 was an attempt to try to bring this through as a
10 primary use of a restaurant with the accessory use of
11 a food store, so the application was reviewed, was
12 ruled upon, was approved, construction proceeded and
13 it was three years after bringing the application
14 that there was a decision by Department of Buildings
15 to come back and to issue a violation, which is the
16 sole violation issued against the property right now,
17 against the use, that this use was not permitted. So
18 really it really went for a number of years, the
19 restaurant during that time ope... I mean the food
20 market opened during that time and was operational
21 and it was not until 2010 that they were affected.

22 CHAIRPERSON WEPRIN: So when did they
23 open as the market; when did it first open?

24 [background comments]

25 RICHARD LOBEL: 2009.

CHAIRPERSON WEPRIN: 2009. And when did you ask for this application that you didn't get in the end?

RICHARD LOBEL: Well the original application... [interpose]

CHAIRPERSON WEPRIN: Not you, but them.

RICHARD LOBEL: There were two applications; one was the Department of Buildings...

CHAIRPERSON WEPRIN: Right.

RICHARD LOBEL: and one was at the City Planning Commission in an attempt to do exactly what we're trying to do today.

CHAIRPERSON WEPRIN: When was that?

RICHARD LOBEL: The City Planning application, the prior Council was hired in 2009, immediately prior to the opening of the store.

CHAIRPERSON WEPRIN: So at what point were they denied this ability to do this?

RICHARD LOBEL: Well the... both the... [background comment] In 2010, both Department of Buildings and the Community Board decided that they were against this application; Department of Buildings saying it wasn't consistent with the Special District Regulations.

2 CHAIRPERSON WEPRIN: Right. And so you
3 continued to operate during that whole time though...?

4 [crosstalk]

5 RICHARD LOBEL: Correct. Correct.

6 CHAIRPERSON WEPRIN: as Cherry Hill.

7 RICHARD LOBEL: Correct.

8 CHAIRPERSON WEPRIN: Alright. Council
9 Member Greenfield I know has a question to start, so
10 we'll let him..

11 COUNCIL MEMBER GREENFIELD: I'll actually
12 defer Council Member -- other Council Members if they
13 have questions and I'm happy to pick it up..

14 [interpose]

15 [background comments]

16 CHAIRPERSON WEPRIN: You can go now.

17 [background comments]

18 COUNCIL MEMBER GREENFIELD: So you know
19 I... I'm reading through the testimony, the photos, the
20 information; I'm gonna refer to a letter -- a rather
21 bizarre letter, quite frankly, from an Earl Barrison,
22 and before I get into the contents, just -- I read
23 through the letter and there's actually -- I mean the
24 only legitimate point, I think, that this letter
25 actually has, and I'll discuss later in a moment, has

1
2 to do with the prior use, right, the prior use of the
3 building. So how do you respond to that, from the
4 perspective of, you know this building has not been
5 operating per the zoning regulations [background
6 comment] and now you're coming in here sort of trying
7 to rectify that situation?

8 RICHARD LOBEL: The City Planning
9 Commission commented on that. So basically the City
10 Planning Commission was presented with the same
11 testimony saying that the prior use of this property
12 was not permitted under the Special District
13 Regulations. So they looked at the 2007 application,
14 they looked at the efforts made at Department of
15 Buildings; Department of Buildings actually approved
16 this in error; it was basically determined in 2010
17 that this use was not permitted here. Since that
18 time, they've been making every effort to legalize
19 the use... [interpose]

20 COUNCIL MEMBER GREENFIELD: So counsel, I
21 just wanna clarify... [crosstalk]

22 RICHARD LOBEL: Sure.

23 COUNCIL MEMBER GREENFIELD: it's an
24 important point. You're saying that the original
25

1 application was approved by Department of Buildings..
2 [interpose]

3 RICHARD LOBEL: Correct.

4 COUNCIL MEMBER GREENFIELD: and later it
5 was denied?

6 RICHARD LOBEL: Correct.

7 COUNCIL MEMBER GREENFIELD: Okay. So
8 when you started out and you tried to do this, you
9 tried to do it legally... [interpose]

10 RICHARD LOBEL: Correct.

11 COUNCIL MEMBER GREENFIELD: you reached
12 out to the DOB; the DOB said okay; then they turned
13 around and said not okay, but at that point you're
14 already in operation?

15 RICHARD LOBEL: Correct.

16 COUNCIL MEMBER GREENFIELD: Okay..
17 [crosstalk]

18 RICHARD LOBEL: Correct.

19 COUNCIL MEMBER GREENFIELD: So that's
20 basically the answer to that question.

21 RICHARD LOBEL: Correct.

22 COUNCIL MEMBER GREENFIELD: Thank you; I
23 appreciate that. The reason I brought up that
24 question first is because I wanted for it to be clear
25

1 on the record that I read this letter by Earl
2 Barrison; I have to tell you that in the five years
3 that I've been a council member I've never seen
4 something quite like this; I've never seen something
5 so offensive, honestly; disrespectful to not just the
6 council member who's representing the district, but
7 also to the council's home as a whole and to the
8 individuals; misogynistic and sexist. The reference
9 over here to "a despicable red-haired woman"
10 [background comments] is just shocking and appalling
11 and throwing out things like "rumors of criminal
12 activity," which obviously are not based on any sort
13 of facts, simply just making allegations. And the
14 reason I brought up the first point is because I
15 wanted to be clear that I am objective and I actually
16 read the letter and I wanted to review the only
17 factual point, which was the question of the fact
18 that it was operating based on outside of the zoning.
19 I'm just really amazed, surprised, appalled and
20 disappointed that a letter like this could be
21 submitted to the record and much less, be signed by
22 someone who appears to be an attorney in good
23 standing in the state of New York, and it's just
24 really, really inappropriate and I would just ask
25

1 that today, when we have some conversations here,
2 which I'm certainly happy to partake and to listen in
3 as the chair of the Land Use Committee that we try to
4 show a little modicum of respect when we are dealing
5 with people who we may disagree with; you can
6 disagree with people, you can think that they're
7 wrong; this is not a situation, quite frankly, of
8 life or death, it's a zoning situation; it's a
9 question of proper usage; I will point out there was
10 another factual error in this letter as well, which
11 is that this zoning text amendment, I can tell you as
12 the chair, would only apply to this particular piece
13 of property; is that correct counselor... [crosstalk]

14 RICHARD LOBEL: Yes, that's correct.

15 COUNCIL MEMBER GREENFIELD: and so the
16 allegation in this letter that somehow this would
17 change the entire area is incorrect as well, but
18 that's fine, I don't mind facts; when you start
19 getting into a letter that opens up with misogyny and
20 sexism and seems to make fun of people because of
21 their heritage, I find that offensive as the chair of
22 the Land Use Committee and I will tell you, I will
23 personally hold it in very strong bias against anyone
24 who comes up here today and testifies in a
25

1
2 disrespectful manner towards anyone. You wanna argue
3 the facts, argue the facts. You guys should be
4 ashamed to submit this letter to the City Council for
5 us to review where you insult people based on the
6 color of their hair; you wouldn't do that to anyone
7 else, because she happens to be a woman and happens
8 to have a certain color of hair, to make fun of her
9 in a legal letter to a Council Member; to submit it
10 to the New York City Council is appalling, so I'm
11 gonna ask please, very strongly, that you try to
12 limit your remarks to the facts and not disrespect
13 people here today; that's not something that we're
14 gonna allow here in the Land Use Committee. Thank
15 you.

16 [background comments]

17 CHAIRPERSON WEPRIN: Thank you Mr.
18 Greenfield. I just wanna discuss the application
19 again one more time.

20 So it is somewhat a concern, you know, is
21 it your impression, Mr. Lobel, that the operation of
22 this market was consistent with the Sheepshead Bay
23 Special District as it was originally designed? I
24 know you sort of talked about how it's become, you
25 know more of serving the community, but do you

1 believe that the operation was consistent; that this
2 was a conforming operation?
3

4 RICHARD LOBEL: No. I think that the
5 application at Department of Buildings was a valid
6 application; I think that while it was professionally
7 certified, which basically means that it was entered
8 upon the architect's certification, [background
9 comment] it went through full plan examination and
10 review and so this was something where they were in
11 operation pursuant to valid permits, to build-out
12 [sic] pursuant to valid permits, put hundreds of
13 thousands of dollars of improvements into the
14 property pursuant to valid permits. So several years
15 I was in front of the Council on the... I believe it
16 was the Kingsbridge Mall in Brooklyn, and I had a
17 client who had a property adjacent to that mall and
18 basically the Council approved a zoning change to
19 ratify an architectural error; the mall had built too
20 far into the rail yard, Community Board 15, same
21 community board; Community Board 15 voted against
22 that application. And so I came here as a
23 representative of a private applicant to say, you
24 guys are basically allowing this clear error by an
25 architect to govern land use determinations and so I

1 argued and I said I didn't think that that was
2 appropriate and the Council said you know what,
3 people make mistakes, and so while we're sympathetic
4 with this neighboring owner, the truth of the matter
5 is that from a land use perspective, we think this
6 was a good decision and so they ratified what was an
7 illegal building. And so now we find ourselves here
8 today with the difference being that Community Board
9 15 voted on this twice and by a vote of 20-5 approved
10 this application, saying that, you know what; people
11 make mistakes and land use changes and this is
12 appropriate for these subdistricts now.

14 CHAIRPERSON WEPRIN: So if I could try to
15 paraphrase what you're saying is, you would agree
16 that originally they probably were not consistent
17 with the Sheepshead Bay Special District, but it's
18 your contention that having shown that they are good
19 neighbors, shown that the Community Board now is
20 supportive; initially they were not, that we should
21 sort of take that into consideration and realizing
22 that there needs to be a change to the text in order
23 to incorporate this business that is well-received by
24 members of the community?

2 RICHARD LOBEL: Yes and I would just add
3 that the City Planning Commission commented on that
4 as well, and agreed with that position as well.

5 CHAIRPERSON WEPRIN: 'Kay. I just wanna
6 be clear; what percentage of the food store is a
7 store and what percentage is that accessory
8 restaurant use that you talked about they wanted
9 added?

10 RICHARD LOBEL: More than the current
11 use, and what's reflected in the actual text
12 amendment, which was changed at City Planning, would
13 be to cap the food store at 15,000 square feet, with
14 which we comply, and to cap accessory uses, such as
15 storage, restaurant use; back office, at 6500 square
16 feet, with which we comply.

17 CHAIRPERSON WEPRIN: So can you describe
18 in percentages what you think it'll end up being;
19 what percentage will be retail; what percentage will
20 be this restaurant use?

21 [background comments]

22 RICHARD LOBEL: So there is 15,000 square
23 feet of food store use, there is 2,000 square feet of
24 outdoor café, which in warm weather seats
25 approximately 100 seats, and then there's indoor food

1 -- there's indoor accessory restaurant use, which I
2 think amounts to about 2500 square feet; [background
3 comment] right, [background comment] which is all
4 year round, which is -- my client tells me it's about
5 2,000 square feet. [background comment] And it's...
6 yes... [crosstalk]

8 CHAIRPERSON WEPRIN: Okay. Also, Mr.
9 Lobel, what other businesses are there now? What are
10 the other businesses?

11 [pause]

12 CHAIRPERSON WEPRIN: They gotta hire you
13 an assistant there. Okay. Alright... [crosstalk]

14 RICHARD LOBEL: That's correct. So the
15 technology fails us all. So you can see that there's
16 certain -- in green there's café and restaurant uses
17 on the ground floor, on the remaining portion of the
18 property; the building itself is roughly 51,000
19 square feet; Cherry Hill operates the 15,000-square-
20 foot food store, plus 6500-square-foot accessory, so
21 about 21-22,000 square feet; the remainder of the
22 uses are devoted to eating and drinking, retail and
23 office.

24 CHAIRPERSON WEPRIN: Can you tell me what
25 specific businesses are there now?

2 RICHARD LOBEL: Sure. I would go with
3 the ground floor, which has the -- there's the Momo
4 Ya... [crosstalk, background comment] sorry.. Momoyama
5 Restaurant, which occupies 4,000 square feet; the
6 Masal Café, which is approximately 3800 square feet,
7 and then there's retail of about 2750.

8 CHAIRPERSON WEPRIN: So those restaurants
9 are doing well, they're there, they do well? 'Cause
10 at the beginning you mentioned something, that
11 restaurants had tried to open up.. [crosstalk]

12 RICHARD LOBEL: Right.

13 CHAIRPERSON WEPRIN: in the space at
14 Cherry Hill and just were not successful; how is it..
15 [crosstalk]

16 RICHARD LOBEL: Sure.

17 CHAIRPERSON WEPRIN: that these
18 restaurants are able to survive?

19 RICHARD LOBEL: I think that the
20 restaurants reflect land use patters in the building,
21 which was smaller retail operations, as well as the
22 fact that this is a landmark building, so you're not
23 able to make changes to the exterior of the building
24 and when these occupied this space, so it's basically
25 you're hampered a little bit by your inability to

1 draw attention to separate businesses and so you're
2 really kind of hampered by the building in a sense;
3 it devotes itself to a large space, which is why the
4 other restaurants that went in this space, including
5 ones that were operate by Taam [sp?] Restaurants,
6 which operates the Central Park Boat Café, very
7 successful businesses.. [interpose]

8 CHAIRPERSON WEPRIN: Right.

9 RICHARD LOBEL: despite the fact that,
10 Chair, they put literally over \$4 million into
11 renovations of the space; were unable to make a go of
12 it through 2004, which is when all those restaurant
13 uses ended. I'd also add that while running space in
14 the Sheepshead Bay District generally that there is,
15 as was put on the record, particularly in the
16 Brooklyn Borough President's Office, a tremendous
17 amount of vacancy in the area; there are for let
18 signs, there are businesses that have gone dark; I
19 think one of the concerns of the Community Board here
20 was that if this application fails, that you facing a
21 very real possibility, as can be commented by general
22 counsel to Cherry Hill, that the lease will be
23 terminated and this property will go dark and you
24
25

1 will have much the same condition as existed before
2 with regards to an empty lot.

3
4 CHAIRPERSON WEPRIN: Okay. So just to
5 characterize that now; this is a big space is really
6 what you're saying... [crosstalk]

7 RICHARD LOBEL: Correct.

8 CHAIRPERSON WEPRIN: so if Cherry Hill
9 wasn't there for some reason and a restaurant tried
10 to come in, it would have to be a big chain type
11 place or something like that and those were not
12 successful in... [crosstalk]

13 RICHARD LOBEL: Correct.

14 CHAIRPERSON WEPRIN: in being able to
15 open like that... [crosstalk]

16 RICHARD LOBEL: Correct. Yeah, and we
17 have 30 years of history to prove that.

18 CHAIRPERSON WEPRIN: Okay. Does anybody
19 -- Mr. Greenfield, any other questions or anything;
20 Mr. Deutsch; do you wanna comment at this time; or
21 any... Okay, we're gonna... well alright. Well we're
22 gonna let you guys go... [crosstalk]

23 RICHARD LOBEL: Thank you, Chair.

24 CHAIRPERSON WEPRIN: We are now gonna
25 turn to the public whose here; we have a lot of

1 people here to testify. As I mentioned, we're gonna
2 limit people to two minutes on the clock; there may
3 be some questions, so it could help you elaborate on
4 what your two-minute speech was. Give me one second
5 while I figure out how we're doing this. We're gonna
6 alternate between people opposed and people in favor,
7 for the record, so give me one second.

9 [pause]

10 Oh... [interpose]

11 RICHARD LOBEL: Thank you, Chair; I would
12 just ask one question, which is that... [crosstalk]

13 CHAIRPERSON WEPRIN: Sure.

14 RICHARD LOBEL: Mr. Nitka of Cherry Hill
15 was wondering if he will still have an opportunity to
16 speak on the record.

17 CHAIRPERSON WEPRIN: He can make his...
18 [background comments] you can make a... You have a
19 statement you wanna make; you can... [background
20 comments] Well if you wait, you're gonna have to, you
21 know, we'll come back at a later point; I mean I... I...
22 [background comment] you wanna testify separately as
23 a panel in favor of the project? [background
24 comment] Okay. Okay; wanna add him into the oppo...
25 [background comment] Okay; that's... fine.

2 Alright, so I'm gonna call up a panel in
3 opposition to this project -- Do we have four chairs
4 there, Ray? We good for four? [background comment]
5 Yeah, okay. We're gonna call people up four at a
6 time and like I said, everyone will get a chance to
7 testify who wants to testify. I'm gonna start with
8 Steve Barrison, Cliff Bruckenstein, Kelly Carroll,
9 and [background comments] Ed Jaworski. [background
10 comments] Okay. Should've brought my glasses with
11 me [background comment]

12 So I wanna remind you all to please state
13 your name when you speak. I missed him... You can
14 decide who's gonna testify first, just again, make
15 sure to say your name when you do speak so we can
16 sort this out if we look back at it later. Whenever
17 you're ready. Yeah, just make sure the mics are on;
18 they sometimes have the counterintuitive [background
19 comments] way the light will... yeah. [background
20 comments] Good; you're in good company on that, by
21 the way. 'Kay, you're not confused. Alright.

22 ED JAWORSKI: Good morning, Ed Jaworski,
23 President, Madison-Marine-Homecrest Civic
24 Association.

1
2 A few years ago I was gathering some
3 information about a contentious and abused special
4 permit known at Zoning Resolution 73-622; it's unique
5 to just four community boards. That special permit
6 and CB15's rubberstamp policy is behind the fact that
7 CB15 has more demolitions than neighboring community
8 boards, hundreds of stop-work orders in effect,
9 thousands of violations and millions of dollars in
10 unpaid DOB, ECB fines. If this text amendment before
11 you to legalize Cherry Hill breaking the law is
12 passed, it will be another welcome mat for more
13 illegal work.

14 When I was looking into the abuse of 73-
15 622, I came upon the concept of spot zoning; at one
16 point I wrote to City Planning and I'd like to read
17 part of the response from the legal counsel at the
18 time; you have copies of the full letter in front of
19 you.

20 "Dear Mr. Jaworski, the New York State
21 Zoning Enabling Statues require that the land use
22 regulations be adopted in accordance with a
23 comprehensive plan. The New York State Court of
24 Appeals stated spot zoning is the very antithesis of
25 plan zoning. The Court of Appeals defines spot

1 zoning as the process of singling out a small parcel
2 of land for a use classification totally different
3 from that of the surrounding area for the benefit of
4 the owner of such property. If however an ordinance
5 is enacted in accordance with a comprehensive plan,
6 it is not spot zoning."
7

8 Of course there is no comprehensive plan
9 for this Cherry Hill amendment. If this amendment to
10 legalize the illegal passes, then it will be time for
11 the Assembly and State Cities Committees to examine
12 legalizing the illegal passes like the State Assembly
13 and Zoning Committee did when they looked at the DOB
14 a few years ago, and at that point Commissioner
15 Lancaster was forced to step down.

16 City Planning and Community Board 15
17 deserve scrutiny for allowing spot zoning for [bell]
18 approving a new text amendment when there is so much
19 illegal work under current rules; surely taxpayers
20 will be concerned in a time of tight budgets that
21 illegal work is linked at and approximate a billion
22 dollars is unpaid in DOB/ECB fines citywide.

23 In closing, this is an obvious illegal
24 spot zoning and please tell the public why it's
25

1 acceptable to break the law and be given a free pass
2 for the violation. Thank you.

3
4 CHAIRPERSON WEPRIN: Thank you. Go
5 ahead, next. Great. Make sure to say your name,
6 please.

7 KELLY CARROLL: Yes. Good afternoon, my
8 name's Kelly Carroll [bell] and I am the Director of...
9 [interpose, background comment] okay... I'm with the
10 Historic Districts Council.

11 I just wanna start my statement by saying
12 that the fact that the building is a landmark is
13 completely irrelevant; it's a 100 percent false that
14 you can't change the exterior of a landmarked
15 building; I work with that all day. Landmarks also
16 does not regulate use and Landmarks also does not
17 regulate interior space, so the fact that the
18 building is landmarked, if it's preventing business
19 of any kind; that's what hardship filing is for. So
20 with that I'll proceed with my statement.

21 HDC is opposed to the Zoning Text
22 Amendment proposed for this individual landmark Lundy
23 Brothers building in the Sheepshead Bay Special
24 District and views this amendment as a legalization.

2 The Special District was created in '73
3 to strengthen and protect the unique character of
4 this waterfront community, and like all comprehensive
5 plans, this can only be successful if its special
6 provisions are continuously adhered to, enforcing the
7 plan in the long term. Regardless, Cherry Hill was
8 aware of the building's location within this special
9 district and that is why it was supposed to operate
10 as a restaurant with a small market component; it has
11 been operating as the reverse, an enormous market
12 with a small dining component. The fact that Cherry
13 Hill has survived as a business in this space is also
14 irrelevant, as the allowance of this amount of floor
15 space for an illegal use eclipses the opportunity for
16 other legal uses in the Special District. As long as
17 this store remains open, the community and the city's
18 hard-won vision for the Special District remains
19 flouted.

20 HDC finds a text amendment for special
21 zoning for the benefit of one tenant unacceptable.
22 If the use is determined to be retroactively legal,
23 it will undermine the function of the district as a
24 long-term tool to preserve and protect this historic
25 harbor and will set a dangerous precedent regarding

1 the function of the Zoning Resolution and the law
2 citywide. If approved, the only thing special about
3 this Special District will be the special permission
4 granted to owners and/or developments to ignore the
5 law. Thank you.

6
7 CHAIRPERSON WEPRIN: Thank you.

8 CLIFF BRUCKENSTEIN: Hello, my name is
9 Cliff Bruckenstein; I'm second generation resident of
10 Sheepshead Bay. I live within the Special District;
11 I've worked for the community in many, many different
12 ways and only for the betterment of Sheepshead Bay,
13 in general as a larger component.

14 It seems when people say Lundy's was not
15 in serve, well the building was part of an estate for
16 many, many years; it was one of the largest estates
17 in South Brooklyn to be broken up. When it was
18 reopened as a restaurant I was very happy; many
19 things happened when it was open for a restaurant
20 around the city -- 9/11 happened; we had many
21 different hard times; Sandy hit the neighborhood very
22 hard -- it has, and what I like to see is what's in
23 Lundy's on the other side of Lundy's now; more than
24 half the building is used for restaurant, offices,
25 doctors' offices and other offices and Anthony Weiner

1 had an office in that building at one point --
2 [interpose, background comment, laughter] But I'm
3 just saying that there were many other uses in that
4 building and a restaurant is really what is needed in
5 that area, and I believe it would work well.

6 Just to work on another point; let's say
7 I want to open up an IHOP on Ocean Parkway and Avenue
8 U; could I just open it up and then come here and
9 okay it, have it approved? Could I open up in
10 Manhattan Beach an IHOP and come back years later
11 that everybody likes it and approve it here, to make
12 it zoned right? It's very questionable when a
13 business operates for many years illegally, for
14 whatever reason [bell].

15 [background comments]

16 CHAIRPERSON WEPRIN: Alright,
17 Mr. Barrison. I promise I'll ask you a question, so
18 don't get too upset about the two minutes.

19 STEVE BARRISON: My name is Steve
20 Barrison, President of the Bay Improvement Group; I'm
21 here representing Preserve Our Waterfront, eight
22 organizations; I've been involved in the Special
23 District for over 32 years; I've given my life to
24 this, besides state and city boards. I worked at the
25

1 Landmarks Commission as volunteer for five years, at
2 the 25th anniversary.

3
4 What the supporters don't understand is
5 nobody's against Cherry Hill, nobody; it's a nice
6 store and that's what you're all gonna say, they give
7 donations, they give it to the temple and all the
8 people here have received donations, so it's one big,
9 two rooms full of conflict of interest; even Raisa,
10 who Councilman Greenfield spoke of because he didn't
11 like the letter written by Big Earl; she stood up
12 with signs and said that I'm anti-Russian and anti-
13 Semitic, defamatory, slanderous, libelous, disgusting
14 behavior, considering I'm a Russian Jew, just like
15 you. I've never seen anything like it in my life;
16 all we said was follow the law... [interpose]

17 CHAIRPERSON WEPRIN: Stay on the point;
18 you're gonna lose out on your time... [crosstalk]

19 STEVE BARRISON: Alright, well here's the
20 bottom line; it's right or wrong; this procedure's
21 wrong, okay; that's the bottom line and if you allow
22 this, then you should just forget about the BSA; you
23 really probably don't even need zoning anymore, just
24 open up, create your audience in a special district
25 designed to last hundreds of years and then bring all

1
2 your supporters that love the place and tell them
3 that government's gonna shut you down. The truth is;
4 we are centuries behind the rest of the world on
5 preservation, we only started Landmarks 50 years ago;
6 this is the anniversary this year; special districts
7 were designed to last hundreds of years, and yes,
8 there are many restaurants that wanna come into this
9 place; that's what I do for a living as an attorney;
10 I've gotten calls from national chains, local chains;
11 restaurant operators right in Sheepshead Bay.

12 As far as the building, I'd like to
13 answer all of the things that Council said, but
14 there's not enough time. That picture was taken of
15 the rear of the building when there as an estate
16 battle for 16 years; it was then fixed up in '95, as
17 Cliff spoke about, to a very successful reopening of
18 Lundy's until 9/11, 'cause the same people invested
19 millions of dollars of personal guarantee and 9/11
20 wiped them out, and that's the truth and that's the
21 bottom line; they're opening [bell] more Cherry Hills
22 right now; there's a Cherry Hill opening on Avenue U,
23 they're advertising in the Russian newspaper; I don't
24 read Russian, but all my Russian friends showed me
25 that they're asking for employees. So I'd like to

1
2 answer more questions. By the way, the use is not
3 allowed in the Special District; what was also wrong
4 by the counsel... [crosstalk]

5 CHAIRPERSON WEPRIN: Okay.

6 STEVE BARRISON: it's a Special Use
7 District; it's the only one in the city of its type
8 for maritime use.

9 CHAIRPERSON WEPRIN: Okay, alright
10 Mr. Barrison. First of all, I'm not from Brooklyn,
11 so I apologize, but Big Earl is who; your father...?
12 [crosstalk]

13 STEVE BARRISON: That's... that's...
14 obviously the last name is related, although I did
15 not know he wrote that letter till after, as
16 Councilman Deutsch knows; in fact... [crosstalk]

17 CHAIRPERSON WEPRIN: Big Earl is your
18 father?

19 STEVE BARRISON: Yes, sir.

20 CHAIRPERSON WEPRIN: Okay. Sorry, I... I'm
21 out of the loop, I'm from Queens; what do I know.
22 So you mentioned that no one has a
23 problem with Cherry Hill...

24 STEVE BARRISON: That's correct.

2 CHAIRPERSON WEPRIN: but you have a
3 problem with it being a supermarket, grocery; is
4 that... is that... [interpose]

5 STEVE BARRISON: It's all about use. No,
6 it's if you open up..

7 CHAIRPERSON WEPRIN: Yeah.

8 STEVE BARRISON: and you guys on the Land
9 Use Committee deal with this every single day; if
10 you're in a special district for certain kinds of
11 uses, and this being the only Maritime Special Use
12 District in New York, with the exception of Coney
13 Island, which is for amusements, City Island is a
14 different kind of special district; the idea is to
15 enhance and complement the waterfront and it's
16 working, there are cafés and restaurants up and down
17 the entire strip; the landowner, who owns the most
18 successful block, from Baku all the way to Randazzo,
19 and the Applebee's owner called us and called the
20 councilman and said he's in favor of it; he would
21 love to have, the more the merrier; other restaurant
22 operators said they too, the more the merrier. As
23 far as vacancies, there's something called Hurricane
24 Sandy; it's only two-and-a-half years out; I suggest
25 you go to New Orleans, seven years out; they're still

1 coming back and we had 8-14 feet of water travel six
2 blocks inland; we're doing pretty good. [background
3 comments]
4

5 CHAIRPERSON WEPRIN: You know, I do think
6 some of the rhetoric is over the top in that it is
7 not... it's not like we're putting in something that's
8 a completely use, in my mind; I understand, I agree;
9 I mean... I mean, I think the attorney agreed that at
10 the time that the applicant wanted to go in there
11 that they didn't think it was consistent with the
12 special district, so I may agree with you on that,
13 but there are more extreme [background comment]
14 examples of -- you know, a supermarket that has a
15 café portion is not so different than a restaurant as
16 compared to other businesses that might come in
17 there.

18 STEVE BARRISON: Well that's only in the
19 nice weather; they couldn't open until just a few
20 days ago and you know, that's weather-related, you
21 gotta hope it doesn't rain; not too hot; not too
22 windy...

23 CHAIRPERSON WEPRIN: Well...

24 STEVE BARRISON: so it's a limited amount
25 of time at best during the year and that, you know

1 dozen or so seats inside doesn't qualify as a
2 restaurant and you know that competes with all the
3 other groceries in the neighborhood and they're now
4 hurt.
5

6 CHAIRPERSON WEPRIN: You mentioned that
7 this, you know, this special permit district, use
8 district is unique to this area; granted, passed in
9 the 1970s through the ULURP process by the City
10 Council; it was something that was felt was needed
11 then, but -- So listening to you talk, you act like
12 it's the Constitution of the United States, which by
13 the way has been amended many times, so and...

14 [crosstalk]

15 STEVE BARRISON: No, but it's the intent
16 of it... it's the intent and... and it's in its infancy...

17 [crosstalk]

18 CHAIRPERSON WEPRIN: and but let me say,
19 I... I... and I just wanna be clear; I'm not... [crosstalk]

20 STEVE BARRISON: Sorry.

21 CHAIRPERSON WEPRIN: I'm not being
22 antagonistic [background comment] as much as -- you
23 know, things change; I mean times do change on
24 occasion and as long as you're consistent with what's
25 good for a neighborhood, I think it is, you know,

1 important that there can be changes, but granted,
2 there is a reason we set up districts and rules have
3 to be followed, so I agree with you on that point
4 that this definitely was a questionable use when it
5 was established and we're trying to decide whether
6 circumstances have changed somehow that make it, you
7 know, somehow -- that maybe it isn't as questionable
8 as originally felt, but you know I mean you can't
9 treat it like you know you break the rules, 'cause
10 there is the fear that was mentioned; will anything
11 else go in there; I know you say you have restaurants
12 that would go in there -- the Community Board, some
13 of the information we got from the Community Board is
14 they were concerned that they would have an empty
15 store for a very long time and would hurt the
16 community.

18 STEVE BARRISON: Well it's interesting
19 the Community Board was against it and then once the
20 chairperson of the Community Board and others got
21 donations from Cherry Hill that now they're for it,
22 so... so... [crosstalk]

23 CHAIRPERSON WEPRIN: Well we don't... we
24 don't know that; I mean...

2 STEVE BARRISON: well... it's in your
3 booklet; read their... look at their booklet...

4 [crosstalk]

5 CHAIRPERSON WEPRIN: Okay. But I don't
6 want you to...

7 [background comments]

8 STEVE BARRISON: The book... The book...
9 [background comments] Their own booklet speaks for
10 itself.. [crosstalk]

11 CHAIRPERSON WEPRIN: Just... But Steve
12 Barrison... [interpose, crosstalk]

13 COUNCIL MEMBER GREENFIELD: But Steve,
14 we're gonna ask you to speak to the project itself,
15 [background comments] not to make wild allegations,
16 not to... [crosstalk]

17 STEVE BARRISON: No, I'm not... it's in the
18 book... it's in the book, Councilman Greenfield...
19 [crosstalk]

20 COUNCIL MEMBER GREENFIELD: Steve... Steve,
21 but those... those are... Steve, Counselor, [background
22 comments] that's not appropriate, and once again,
23 we're gonna... honestly, we're gonna ask you to leave,
24 so if you [background comment] want to engage in a
25 back and forth... [crosstalk]

2 STEVE BARRISON: Yes, I...

3 COUNCIL MEMBER GREENFIELD: you have to
4 stick to the merits of the project without making
5 unsubstantiated allegations; this is not the format.
6 If you wanna step on the steps of City Hall
7 [background comment] afterwards and you'd like to
8 have a press conference, you're welcome to do that
9 like every other New Yorker... [crosstalk]

10 STEVE BARRISON: Okay.

11 COUNCIL MEMBER GREENFIELD: in our
12 committee we focus on the merits of the application,
13 so if you can't do that, we're gonna ask the sergeant
14 at arms to escort you out, so... [crosstalk]

15 STEVE BARRISON: Not a problem, I'll just
16 comment on their submission... [crosstalk]

17 COUNCIL MEMBER GREENFIELD: it's your...
18 it's your prerogative, it's your prerogative.

19 STEVE BARRISON: Understood.

20 CHAIRPERSON WEPRIN: Thank you,
21 Mr. Greenfield. So I mean that is -- you know, I
22 just wanna be clear that that is the difference here.

23 Now so when Lundy's reopened, it opened
24 as Lundy's by the... [interpose]

25 STEVE BARRISON: 1995.

2 CHAIRPERSON WEPRIN: same related family
3 or... [interpose]

4 STEVE BARRISON: No. No.

5 CHAIRPERSON WEPRIN: new people came in
6 and said I'm gonna open this store up in 1995..

7 [crosstalk]

8 STEVE BARRISON: Right, the people that
9 ran the... the famous restaurant in Central Park and..

10 [crosstalk]

11 CHAIRPERSON WEPRIN: They took it over as
12 Lundy's and it was opened from '95 till 2001; 2002?

13 STEVE BARRISON: I think four..

14 [background comment] there were two operators at the
15 end; after 9/11 they had to pull out and quickly
16 sell; they were stuck with millions of dollars in
17 personal guarantees and what happened was; like any
18 restaurant business, some are good, some are bad; you
19 don't do a good job, you go out of business;
20 everybody knows it.

21 CHAIRPERSON WEPRIN: So it went out of
22 business in 2004 and then there was how many years
23 where it was vacant?

24 STEVE BARRISON: Well Cherry Hill was...
25 before they opened in 2009, was already battling for

1 several years; you know they were building..

2 [crosstalk]

3 CHAIRPERSON WEPRIN: To get that space?

4 STEVE BARRISON: construction, there were
5 stop work orders, there was all kinds of stuff going
6 on for a few years, so I mean they said that, they
7 admit; there's no debate on that. So it was only a
8 few years before they opened; it's a big project,
9 they had to change the awnings and I'm sure they had
10 to do renovation.

11 CHAIRPERSON WEPRIN: Mr. Greenfield has
12 questions as well, so let me call on Mr. Greenfield.

13 COUNCIL MEMBER GREENFIELD: Thank you,
14 Mr. Chairman.

15 So I think what we try to do here in the
16 Land Use Committee, and this is why we're trying to
17 keep things on track; is we try to argue the merits
18 of every application, which is why, and we're gonna
19 -- just so you are clear, Mr. Barrison, we're gonna
20 hold the people who are pro by the same standard;
21 we're not gonna allow people to hurl insults or to
22 question people's integrity; it's not what we do over
23 here. What we do is we focus specifically on the
24 zoning. I wanna just you know address a few of the
25

1 issues that -- and just to make you aware of how it
2 is that we act here at the Land Use Committee.

3
4 The whole purpose of the Land Use
5 Committee of the New York City Council is in fact to,
6 via the City Charter, which is the equivalent of our
7 Constitution, as the Chair referenced, is for us to
8 actually review zoning; zoning is a living, breathing
9 document, because the reality is that zoning does
10 have to change; that's not to say that zoning here
11 should change; I'm just trying to explain the
12 concept, right. The idea is that the city keeps
13 changing, so for example today, right before you, we
14 had unanimous approval for a zoning application that
15 the zoning on it was actually a lot younger; I
16 believe it was 1982, when there was the East Midtown
17 zoning that restricted the heights of buildings in
18 East Midtown to 15 FAR and today we had unanimous
19 approval of the Subcommittee and I imagine, as the
20 Chair, I believe that we will have unanimous approval
21 of the full committee as well to allow for an area
22 that is 15 FAR to literally double in height and to
23 create a skyscraper in Midtown where in 1982 we said
24 that was not permissible. So what are we doing? So
25 by the standard that you have outlined here today,

1
2 you would say that's outrageous, it's ridiculous, but
3 that's not true, that's what we do. What we do is;
4 we look at the zoning and we try to decide; is the
5 zoning still relevant from 1982; is it relevant from
6 1973; is it relevant from the 1960s when the modern
7 zoning took into effect; sometimes we agree,
8 sometimes we disagree; that's what a democracy is all
9 about. And so I specifically wanna refer to what Ed
10 was referring to; this is not spot zoning either; I'm
11 sorry, but you're misinformed, and I do this a lot
12 because I like to help people understand what goes
13 on; I don't want you to be frustrated when you leave
14 today; I want you to understand what's happening.
15 Spot zoning is exactly what you refer to; I believe
16 your name was Cliff; is that correct? Which would
17 be, on Ocean Parkway, in a residential district to
18 wake up one day and to throw a restaurant there; that
19 would be spot zoning; right? Over here there's a
20 commercial district; there already are commercial
21 establishments; what the application is for has to
22 solely do with what is called the use group, right;
23 it's a question of what can you do in that building.
24 So I'm happy to chat about it; [background comment]
25 let me just finish my point. So my point is, just so

1
2 you understand, we're not engaging in spot zoning;
3 [background comment] this is not spot zoning; this is
4 a question of the use group that is allowed, and to
5 refer back to your point, Mr. Barrison, that is what
6 we do, we have conversations and we're not prejudging
7 it; we're here to hear both sides of the equation;
8 the only thing that we're insisting on is that it be
9 a civil conversation and we focus on the merits. I
10 think a good example of focusing on the merits was;
11 Kelly's testimony very clearly focused on the issues
12 that she was concerned about from a historic
13 perspective, which we appreciate and respect and
14 we're certainly open to having conversations and to
15 hearing feedback when you have questions or concerns
16 about the merits of the application, but just so you
17 understand; this is what we do and we do it every
18 day; we look at the zoning, we tweak the zoning;
19 sometimes we agree, sometimes we disagree; we
20 certainly take into account what the Community Board
21 said; you may not be happy, but the reality is that
22 the Community Board did overwhelmingly vote in favor
23 of it; we obviously take into account what the local
24 council member says; we take into account what the
25 people who come out and testify say, and through all

1
2 that we come to a conclusion, which is what we do and
3 then we make a final determination, but that's what
4 we do; that's our job. So this is not a Q & A, it's
5 just an explanation to understand what it is that we
6 do here today so that you understand and they
7 understand and that's why we're more than happy to
8 hear about the merits of the argument; you've had
9 some arguments, some of the arguments that you made
10 were fair; obviously we objected to some of the
11 statements that you made that were not appropriate;
12 have no relevance to what we're discussing today, but
13 we hear you and we're simply trying to understand
14 what... trying to help you understand what it is that
15 we're trying to do and what the role is, because
16 otherwise, Ed, to come to your contention, there
17 would be no Land Use Committee, right; if everything
18 just stayed the same, we'd have no Land Use Committee
19 and zoning would never change, but that's not the way
20 it's supposed to be. You have an argument, you've
21 made your argument, we've heard your argument; we're
22 gonna hear the other side of the argument; we're
23 gonna make a judgment based on that, just so you
24 understand what's happening today; not looking... I'm
25 not look... sorry Cliff; we're not looking... it's not a

1 debate and we're not looking to get back and forth;
2 I'm simply trying to clarify what is the proper role
3 of the Zoning Committee of the New York City Council.
4 And with that I... I... [crosstalk]

5
6 STEVE BARRISON: Can I give you a point
7 of information?

8 COUNCIL MEMBER GREENFIELD: I... I am done...
9 No.

10 STEVE BARRISON: We are rewriting the
11 zoning; we've been working on it for years...

12 [crosstalk]

13 COUNCIL MEMBER GREENFIELD: That's great.

14 STEVE BARRISON: and it's a use district;
15 not... you're combining it with all the zoning
16 districts; it's a littler different, a special use
17 district... [crosstalk]

18 COUNCIL MEMBER GREENFIELD: We're... We're...
19 But... but... but Mr. Barrison, we have one application;
20 you're a very smart man, you are, it's very apparent,
21 you're a very smart man, and I think you're trying to
22 confuse the issues; we have one question before us
23 today and that is the question on the use group 6B,
24 food store within Subdistrict B of the Special
25 Sheepshead Bay District, which applies solely to

1
2 Block 8775, Lot 4-1; it's a question as to one piece
3 of property and for this piece of property that is
4 allowed to have commercial uses, can we expand those
5 uses to the application that is being requested
6 today, which would be a hybrid of a supermarket and a
7 restaurant establishment as described in the
8 description; that is the only question here today.

9 Now, if you wanna make the argument; it's fully
10 within your right to make the argument; if you do
11 this, other people will come, true... [crosstalk]

12 STEVE BARRISON: How do you say no after
13 that?

14 COUNCIL MEMBER GREENFIELD: and then... and
15 then... we do because we make these decisions every
16 day; that's the point I wanna make. I don't want you
17 to think and no developer should think that simply
18 because we may or may not, because we haven't
19 prejudged this application; we may or may not agree
20 with this or disagree with this; that does not
21 preclude anyone tomorrow, if we vote it down, it
22 doesn't mean someone tomorrow can't come and make an
23 application and if we vote it up, it doesn't mean the
24 next guy's gonna get it either. It's one question
25 having to do with one piece of property, which is one

1
2 issue and it's only this particular Lundy's/Cherry
3 Hill Gourmet Supermarket, that's all we're discussing
4 today; now you're worried about the precedent; that's
5 fair, but let's be clear about the facts, as
6 represented in the letter, which says that it would
7 impact the entire neighborhood, that's just not true,
8 so I just want people to understand what it is that
9 we're discussing, whether you're watching at home or
10 whether you're here today, the only question before
11 us today on this one particular piece of property;
12 whether we can change the use for it. I'm happy to
13 hear from both sides on that and we're [background
14 comment] certainly gonna obviously come to a
15 conclusion... [crosstalk]

16 STEVE BARRISON: Can I ask you a
17 question?

18 COUNCIL MEMBER GREENFIELD: because we
19 have to... No, it doesn't work that way... [crosstalk]

20 STEVE BARRISON: Oh okay.

21 COUNCIL MEMBER GREENFIELD: doesn't work
22 that way. We have to... We have to... We have to wrap it
23 up, but I'm certainly happy to hear you, I'm
24 certainly happy to hear others as well; we will make
25 a conclusion by the time that the full committee

1
2 meets on Thursday, which I chair, and we're happy and
3 welcome to have information and so we're not
4 prejudging it; I just don't -- A lot of times people
5 come in and they're frustrated 'cause they don't
6 understand what's happening; we're focused on one
7 project, the use of that project; [background
8 comment] that's it; you know like it, I respect that;
9 that's fair and [background comment] some of the
10 arguments you've made have been valid, but we're not
11 going to allow obviously to bleed into misinformation
12 or [background comment] personal attacks; we're
13 focusing on the facts of this one application.

14 Thank you very much, Mr. Chair; I'll turn
15 it over to you.

16 CHAIRPERSON WEPRIN: Thank you,
17 Mr. Greenfield. Before you leave -- don't get up
18 yet; I just... I wanna be clear on this. So again,
19 nobody doesn't like Cherry Hill, but there's a
20 problem with this site. Now can you describe for me,
21 what's the problem with this business; is it you
22 don't like the idea of a supermarket in general like
23 there, you know if it was a restaurant it would be so
24 different and things would be so much wonderful or
25 you're more worried about the precedent that if we

1
2 add a supermarket to the use groups that somehow the
3 next group's gonna say, well I can put my business in
4 there; I can put my... you know whatever I wanna put in
5 there?

6 STEVE BARRISON: Yeah, you...

7 CHAIRPERSON WEPRIN: Explain to me what
8 the big issue is.

9 STEVE BARRISON: Okay, you touched upon
10 all three points. Number one, once you allow one,
11 there are many people that have said, well then why
12 can't I open down the street another? Number two,
13 normally you go to the Board of Standards and
14 Appeals, which is the right procedure; not a
15 retroactive text change after you've been operating
16 all this time illegally, and number three, most
17 importantly, is the whole design of the entire area.
18 You have the complimentary use of the shopping
19 districts and to compliment the waterfront,
20 recreation and entertainment [background comment]
21 uses; we are suddenly now creating competition where
22 there never was before; other places in the area
23 looked at Cherry Hill, were gonna open there; found
24 out the zoning didn't allow and went back to the
25 shopping district. So you kinda like, [background

1 comment] this guy created his own customers; of
2 course the people go there. Which one of you on the
3 panel have ever walked into a business in New York
4 City and asked what the zoning is or are they legally
5 operating; nobody does. The truth is; nobody's aware
6 of this stuff... [crosstalk]

8 CHAIRPERSON WEPRIN: Never know, people
9 do some weird stuff; don't worry about it...

10 [crosstalk]

11 STEVE BARRISON: Well you know what I'm
12 saying; nobody knows and we all know and our
13 councilman knows, so the truth is, it's about -- how
14 are we goin' about this?

15 CHAIRPERSON WEPRIN: Alright, Mr.
16 Barrison -- Would you massage his shoulders just to
17 calm him down a little bit? Okay. Mr. Barrison, now
18 so... Alright, so I just wanna... I just... [crosstalk]

19 STEVE BARRISON: I'm not against anybody...

20 CHAIRPERSON WEPRIN: I really... I'm just
21 tryin' to get clear here. So the issues are just
22 sort of on principle that if you, you know we break
23 the rules here, we might have a problem in the
24 future; that seems to be the biggest -- you know, why
25 give these guys a break; they were breaking the

1 rules; now we're rewarding them for breaking the
2 rules, even though we love this -- you know the
3 business isn't a problem, the business itself is not
4 that big a problem except for competition, it's
5 rather a good business [sic], but the supermarket
6 itself isn't creating a traffic nightmare or issues
7 as far as everyone hates it, it's smelly, it's dirty;
8 it's not those issues; it's the idea on principle of
9 they broke the rules; why should we reward them; why
10 should they be allowed to do it; why weren't other
11 people allowed to do it; what about the next guy
12 who's gonna try to do it; is that sort of the big
13 issues?
14

15 STEVE BARRISON: I think I could answer
16 it from somebody else. I got a call from a student
17 in Boston on Friday who saw it on the internet and
18 called me up; I was very surprised, she's at a
19 prestigious school; she said hi, you don't know me,
20 but I read the thing online and I know Sheepshead
21 Bay, but I don't live in New York and she said, I
22 don't understand, there's only one Sheepshead Bay;
23 why can't the store go someplace else; what's the big
24 deal, and they have other stores. And I laughed and
25 I said well that's kinda like what it's all about.

1
2 As far as the precedent, as an attorney; I honestly
3 don't know if any of you are attorneys, but the whole
4 system of laws and democracy's based on -- you can go
5 to court; even if you guys approve or disapprove, and
6 a smart attorney can go into court and say hey..

7 [crosstalk]

8 CHAIRPERSON WEPRIN: Okay. I'm gonna
9 wrap this up; I just wanna one more time on this
10 point, 'cause I wanna just be clear. First of all, I
11 don't know what it was you're referring to that she
12 saw online, the student saw online.. [interpose]

13 STEVE BARRISON: The Cherry Hill debate,
14 you know, the debate over the issue of.. [crosstalk]

15 CHAIRPERSON WEPRIN: Like a video of you
16 at a committee meeting or something or a debate...?

17 [crosstalk]

18 STEVE BARRISON: Well there's... there's
19 lots of stuff online.

20 CHAIRPERSON WEPRIN: That type of thing.
21 Okay. I just wanna be clear how this ruined
22 Sheepshead Bay; like Sheepshead Bay is Sheepshead
23 Bay.. [crosstalk]

24

25

2 STEVE BARRISON: No, you just... you wanna
3 make it a shopping district, okay; then you guys
4 decide that it's a shopping district... [crosstalk]

5 CHAIRPERSON WEPRIN: A shopping district
6 and market and res... a market and restaurant as
7 opposed to just a restaurant?

8 STEVE BARRISON: Well it's not really a
9 restaurant; I mean it's got a few seats and...
10 [crosstalk]

11 CHAIRPERSON WEPRIN: Right; I mean a
12 market...

13 STEVE BARRISON: it's part of the U when
14 the weather's good. It's a grocery store...

15 CHAIRPERSON WEPRIN: a supermarket that
16 has a café section, you know, it's a lot to...
17 [crosstalk]

18 STEVE BARRISON: it's what their
19 application says, grocery store; let's call it what
20 it is.

21 CHAIRPERSON WEPRIN: So that's what's
22 gonna change Sheepshead Bay?

23 STEVE BARRISON: Yeah, if they're gonna...
24 The right way is to go for a variance, so let them
25 follow the regulations the appropriate way; go for a

1
2 BSA variance; that's the normal way you do something
3 when you're... [crosstalk]

4 CHAIRPERSON WEPRIN: Right. And uh...

5 STEVE BARRISON: correcting an improper
6 use.

7 CHAIRPERSON WEPRIN: Right, so you don't
8 like the... But the problem is is that they're
9 violating the rules as they were set and what the
10 purpose of this agreement was and if they wanna try
11 to change that, you think they should go a different
12 way and not violate this district that was set up?

13 STEVE BARRISON: It's why we have laws
14 and procedures.

15 CHAIRPERSON WEPRIN: Right.

16 STEVE BARRISON: It either applies to all
17 of us or none of us, so.

18 CHAIRPERSON WEPRIN: Okay. Right, I just
19 wanted to try to be clear, really, it was just...
20 wasn't comin' from an angle or anything; I know it's
21 hard to imagine. But alright, I don't have any other
22 questions; does anybody else wanna ask anything?
23 Well thank you very much, and we will move on to the
24 next panel; you're all welcome to stick around.

1 I now... [background comments] Yeah, we
2 know there are people in the other room as well...
3 [background comments] so if you are finished and you
4 wanna clear out some seats here, they may wanna move
5 into this room eventually, but if you hear your name
6 in the other room, please come in; you could even try
7 to yell through the wall and we'll hear you; we
8 apologize for the logistics of this building.

9 I'm now gonna call up a panel in favor;
10 we're gonna call up Sam Nitka, Avrohom Hertz, come up
11 for that, Anthony Kelly; I assume no relation to last
12 Kelly, and then Abramoff; I can't read the first
13 name. [background comments] Elias [sp?]. Okay.
14 [background comments] Yes. So that's four.
15 Alright, I will remind you again, when you speak to
16 please say your name; we didn't do as well on that
17 last panel as I probably should have to make sure
18 people kept saying their name when they spoke, but
19 again, we're gonna limit you to two minutes; I do
20 give a little leeway, but I can't do that all the
21 time because then it causes complete chaos, okay. So
22 you decide who goes first. Again, say your name.

23 ANTHONY KELLY: My name is Anthony Kelly...

24 CHAIRPERSON WEPRIN: Perfect.
25

[background comment]

ANTHONY KELLY: A simple question -- Why are we here? I need to correct the record; these are not self-certified drawings; these were signed, sealed by your two Commissioners, Mossad [sp?] and Gallagher; they're not self-certified; this was approved. And I hear Barrison speak, a dozen seats; there's 45 seats in the café; there's more than that outside.

I have no interest in this at all other than I built the place; everything is signed, sealed; built to approval. Our problems came in when Kruger got involved, your Senator Kruger, because we didn't play.. [crosstalk]

CHAIRPERSON WEPRIN: Carl Kruger.

ANTHONY KELLY: 'cause we didn't play ball with him. You know there were so many rumors, there were so.. [interpose]

CHAIRPERSON WEPRIN: I... I'm just gonna caution you now, because this is the same issue that Council Member Greenfield brought up before, [background comment] just be careful not to [background comment] get into stuff that's not related to the land use thing; try not to talk about

1 the people who already spoke; you can talk about the
2 points they made -- hold the clock -- okay, good. We
3 can talk about points people made; don't mention
4 people by name; everyone's emotional on this
5 [background comment]; we don't wanna start trouble,
6 and then when you're gonna mention something, you
7 know, a former elected official, don't make it about
8 someone being corrupt, even though he was, it's not
9 relevant to the land use meeting before us today; you
10 see what I'm sayin'? So let's [background comment]
11 just be careful and that's for everybody.

12 ANTHONY KELLY: So back to my original
13 question -- Why are we here? We have two
14 commissioners, commissioners that signed off on this
15 and approved it, okay; we are 8-9,000-square-foot
16 kitchen, bakery, hot food section; you total that
17 together, there's very little room for the
18 supermarket, as they wanna call it. This is a witch
19 hunt and it needs to stop; it's absolutely... the
20 letter that was written, I mean that's slander,
21 that's ridiculous. [background comment] I'm gonna
22 stay on the subject..

23 CHAIRPERSON WEPRIN: Right.

1 ANTHONY KELLY: but again, nobody here
2 can tell us why we're here, other than the fact that
3 Cherry Hill should not be there. Why? We have a
4 café, we have a restaurant [background comments]...
5 [interpose]

6 CHAIRPERSON WEPRIN: Right.

7 ANTHONY KELLY: we have a bakery, we have
8 everything -- What's this over, apples and bananas?

9 CHAIRPERSON WEPRIN: Alright. Are you
10 done... [crosstalk]

11 ANTHONY KELLY: I'm done. I'm done.

12 CHAIRPERSON WEPRIN: You don't have to
13 use the whole two minutes either; I wanna be clear,
14 you know there's... when you start getting into train
15 of thought, I'm...

16 ANTHONY KELLY: Well I'm clear on the
17 topic [sic]... [crosstalk]

18 CHAIRPERSON WEPRIN: I could tell you why
19 we're here, everyone here, 'cause there's an
20 application before the City, going through the ULURP
21 process to change the use groups and to allow this
22 business to be legal, so that's why we're here;
23 that's why Mr. Greenfield and Mr. Deutsch and Ann
24 McCoy are here to hear this thing; we're gonna give
25

1
2 everybody a chance to be heard and that's why we're
3 here, so... [interpose]

4 ANTHONY KELLY: So I have two
5 commissioners that signed off on this... [crosstalk]

6 CHAIRPERSON WEPRIN: Right; I understand.

7 COUNCIL MEMBER GREENFIELD: So the answer
8 sir to your question is, and just once again, this is
9 just like how we were trying to explain to the last
10 panel, we're trying to explain to you as well, which
11 is that there was a determination made that obviously
12 those commissioners signed off in error and that the
13 use group in fact does not allow a supermarket;
14 that's why we're here, and also just to correct
15 something that was said before; this is in fact the
16 proper jurisdiction, right; so this is not -- this is
17 the ideal way to do it; the ideal way to do it is not
18 in fact to seek a variance; it is in fact, if you
19 want to make something glatt kosher, to use a term
20 from Brooklyn; the way you do it is you actually
21 change the zoning and specifically, you would change
22 the use group. So that's why we're here, we're here
23 to have a conversation about something and I hear
24 your argument, which is that you're saying obviously
25 that when you did this you thought you did it

1
2 correctly and you got the signoff and that's why you
3 went in there; I think it's an important point, but
4 as to the question as to why you're here, the answer
5 is because obviously it appears that those original
6 determinations were made in error, even if though
7 they were made; believe it or not, this happens all
8 the time, our council can tell you, not every
9 government agency's familiar with the rules of zoning
10 and the zoning does not allow a supermarket here and
11 that's what we're discussing, which is whether we
12 should change the zoning to allow a supermarket only
13 for this one location, and if we do that, then all is
14 well and if not, obviously it's pretty clear that the
15 store will have to shut down. So thank you, sir.

16 CHAIRPERSON WEPRIN: Alright. Well let's
17 move on to the next panel and by the way, we use
18 glatt kosher in Queens too. [background comments]
19 Next pa... next panelist, right. Okay, next... sorry;
20 that's what I meant. [background comments]

21 RABBI AVROHOM HERTZ: My name is Rabbi
22 Avrohom Hertz; I'm a Rabbi in the community of
23 Brooklyn, a friend of Cherry Hill... [interpose]

24 COUNCIL MEMBER GREENFIELD: Do you also
25 keep glatt kosher, just so we know? Okay.

2 [background comments]

3 RABBI AVROHOM HERTZ: They are friends of
4 the community; people support it in the community; I
5 just would like to share my observation.

6 I grew up in Brooklyn; for 30 [sic] years
7 pharmacies used to sell only prescriptions; now you
8 walk into Walgreens, they sell more food than
9 medicine. You mentioned before, Chair Weprin, you
10 mentioned constitution; Constitution of America says
11 by the people, for the people; there's no question
12 that the community today does support it and even
13 Mr. Barrison mentioned he has no problem with the
14 actual usage of the place really; it's a problem
15 about how will then buy [sic]. As a Rabbi I would
16 like to say that people do make mistakes, but we
17 focus on the present and the future, and the present
18 is that Cherry Hill is a great asset for the
19 community, it employs many people, it helps the
20 community; involved with supporting different
21 organizations -- the police and charitable
22 organizations. So I'm here just to support it and I
23 know that Councilman Deutsch is a friend of the
24 community; has done wonderful work for our community

and we hope that you will support this project.

Thank you.

[background comments]

CHAIRPERSON WEPRIN: Young man.

ELIAS ABRAMOFF: Hi, my name is Elias Abramoff; I'm the maitre d' of Cherry Hill, in the restaurant; we have over 45 seats indoors and we have about 102 outdoors. And from experience, I have a chance to speak to people who come into the restaurant who haven't been into Lundy's in 30 years; unlike most people in this room, I do have the opportunity to speak to people and they tell me on a consistent basis that this place became much better than it used to be. I mean they tell me that Lundy's was a strictly seafood restaurant that was huge and they enjoyed it and as children or as, you know when they were younger, they remember it differently than now. When they walk in they see it's a beautiful place and it's still an active restaurant; we have full seating indoors full-year round and outdoors is seasonal, depending on the weather; nobody wants to sit outside in the winter. And change is what America's all about and unlike most people also, that seal is -- when the Dutch settlers came to New York,

1 when it wasn't New York, they met with the natives of
2 the land and they settled with them and they
3 compromised on living here and under new rules,
4 compromised rules, that they decided to live here,
5 and that's what Cherry Hill is now under review, is
6 compromising, we're not forcing us to become a
7 strictly supermarket; it's both, we do both evenly
8 and we do both with great pride; we have sections for
9 everything and we enjoy working there. Everybody who
10 works there loves working there, everybody who comes
11 there loves coming there and I think it should stay
12 as is and nothing more, nothing less. Thank you.

14 CHAIRPERSON WEPRIN: Thank you very much.
15 You ready?

16 SAMUEL NITKA: Yes, I am.

17 CHAIRPERSON WEPRIN: Okay.

18 SAMUEL NITKA: My name is Samuel Nitka.

19 I would just like to take a moment of quiet..

20 [crosstalk]

21 CHAIRPERSON WEPRIN: Gotta get close to
22 the mic.

23 SAMUEL NITKA: Yeah. I'd like to take a
24 moment of quiet to honor the fallen officer,
25 Mr. Brian Moore, who passed away two days ago who was

1 tragically killed. We're here for politics and our
2 store, but certain things in life are a little bit
3 more important than just business.
4

5 Let me tell you about Cherry Hill
6 quickly, and I'll try and stay within the guidelines.

7 Cherry Hill today employs people from
8 different walks of life; we employ Iraq war veterans
9 in our store, our produce manager is a veteran of the
10 military, our maintenance man is a member of the
11 military; we have people from Russia, from any
12 country you can think of, speaking any language you
13 want. We carry multiple types of foods, as they
14 stated; bakery and hot food and cold food, etc.,
15 etc., etc. But I'd like to get back to a bigger
16 issue; what was Sheepshead Bay when Lundy's was
17 closed? I grew up there; I grew up in Brighton
18 Beach; Lundy's, when it was closed, was a haven for
19 drugs infestation [sic]; you could go through the
20 parking lot, you'll see the needles, the crack vials.
21 We were told at the City Planning Commission that we
22 had desecrated the building. I don't like the word
23 desecration, I like to leave it for things such as
24 temples and churches and cemeteries. As the son of a
25 Holocaust survivor, we were brought up somewhat

1 different, and I would like to go to the comment of
2 charity. When we donate food to the police officers
3 that are stuck on a Thanksgiving shift, we don't want
4 anything from them, we want them to take it easy for
5 the day and enjoy our food. When we give food
6 donations to different synagogues and churches, we do
7 it because we were brought up that way; 3,000 years
8 ago it was written, you make a buck, 10 percent of
9 your profit goes to charity. Why? It gives life;
10 [bell] this is the way we were told, this is the way
11 we were showed, the old way. To finish my comments,
12 I'd just like to say as follows: We've had a rough
13 fight, we've made mistakes; we've paid for those
14 mistakes in the tens and hundreds of thousands of
15 dollars; we look forward to working with our
16 neighbors. I've only had good things to say about
17 Steve Barrison at the Community Board before the
18 Brooklyn Borough President, before CPC and I
19 understand the hard work they put into Sheepshead
20 Bay; however, in those days you put a nickel or dime
21 into the phone booth; it went to a quarter; we went
22 to a beeper; today's it's a cell phone; things adapt,
23 things change, the world changes. We would like...

[background comment] We would like to change with you and we would like you to change with us. Thank you.

CHAIRPERSON WEPRIN: Okay. I just wanna first figure out who everyone is. Now Rabbi, you are a rabbi from a synagogue in the area or do you just live in the area?

RABBI AVROHOM HERTZ: In Brook... no, in Brooklyn.

CHAIRPERSON WEPRIN: Somewhere else in Brooklyn?

RABBI AVROHOM HERTZ: Yeah.

CHAIRPERSON WEPRIN: And your affiliation with Cherry Hill is you are friends with them?

RABBI AVROHOM HERTZ: Friends with people who work there and friends with many customers who go there..

CHAIRPERSON WEPRIN: Okay.

RABBI AVROHOM HERTZ: come to our synagogue and they are part of the community.

CHAIRPERSON WEPRIN: Okay. Alright, that's true [sic]. And Sam, your title is what with Cherry Hill?

SAMUEL NITKA: My title is problem-solver..

CHAIRPERSON WEPRIN: Uh-huh.

[laughter]

SAMUEL NITKA: and one very interesting point that the Council should be made aware of; our next door neighbor Masal, who is a restaurant, is now in default on \$540,000 in back rent, documented in landlord-tenant court; he cannot pay his rent..

CHAIRPERSON WEPRIN: 'Kay.

SAMUEL NITKA: you've got four Japanese-Chinese stores; one will not be renewing the lease on Sheepshead Bay Road December 2015; you've got four vacant stores; you've got office space vacant now. Half the restaurants do not open during the week, there's not enough... [interpose]

CHAIRPERSON WEPRIN: 'Kay.

SAMUEL NITKA: foot traffic; they open up Thursday night, Friday night, Saturdays and Sundays.

CHAIRPERSON WEPRIN: Okay. So this problem-solver job you have...

SAMUEL NITKA: Yes.

CHAIRPERSON WEPRIN: that's a full-time job for Cherry Hill or you problem-solve privately and they have hired you...? [crosstalk]

SAMUEL NITKA: It's a full... It's a full-time job for Cherry Hill 24/7; I shut down Friday night; I'm back onboard Saturday night.

CHAIRPERSON WEPRIN: Right. Do you have an actual title that isn't problem-solver, like are you... are your... [interpose]

SAMUEL NITKA: It says problem-solver on my desk.

CHAIRPERSON WEPRIN: Okay. Alright. Alright, I... [interpose]

SAMUEL NITKA: It says PS, Problem Solver. I'm being very serious.

CHAIRPERSON WEPRIN: No, I... Alright; it's fine, just wanted to get the affiliation... [crosstalk]

SAMUEL NITKA: I'm not available.

CHAIRPERSON WEPRIN: Alright. Mr. Greenfield, did you have questions?

COUNCIL MEMBER GREENFIELD: No, no; I just... just to clarify on the Chair's point; just to -- I think the Chair asked a serious question. Are you affiliated with the restaurant; are you a partner; do you own a piece of it; are you a consultant... [crosstalk]

2 SAMUEL NITKA: I have no financial
3 interest in Cherry Hill; I am not an owner; I work
4 there full-time helping the owner of the business
5 solving existing problems... [interpose]

6 COUNCIL MEMBER GREENFIELD: Okay. Do you
7 get paid for that work?

8 SAMUEL NITKA: Yes I do.

9 COUNCIL MEMBER GREENFIELD: Okay. So you
10 are an employee of Cherry Hill?

11 SAMUEL NITKA: Yes I am.

12 COUNCIL MEMBER GREENFIELD: Okay; that's
13 all he wants to know. Thank you.

14 SAMUEL NITKA: You're welcome.

15 COUNCIL MEMBER GREENFIELD: Thank you.

16 CHAIRPERSON WEPRIN: Okay. Anybody else;
17 any comments or questions? [background comments]

18 No. Okay. Thank you very much.

19 SAMUEL NITKA: Thank you.

20 [background comments]

21 CHAIRPERSON WEPRIN: Okay. We don't have
22 another panel in opposition at the moment, so we're
23 just gonna continue with people who have signed up to
24 testify who happen to be in favor; I will ask later
25 if there's anyone here that I didn't get that wanted

1 to testify. So I am gonna call... [background comment]
2 I'm gonna call Nick up, Nick P., Nick with a P.,
3 [background comment] there you go, thank you, 'cause
4 that... you could be a doctor with that handwriting.
5 [laughter] Raisy [sic]; have I got that right,
6 Chetinina [sp?]?... [background comments] close? Risa...
7 Raisa; Nameek [sp?]?... it's a combination of my eyes
8 and the handwriting, so I'm gonna -- Yevdaldev [sp?];
9 right? [background comment] Okay, and Rabbi Shlomo
10 Cohen, [background comments] Rabbi Cohen. Okay.
11 [background comments] Whenever you guys can decide
12 who goes first; again, state your name. [background
13 comments] Rabbi, they took a vote; you won, or lost,
14 depending on how you look at it, but whenever you're
15 ready.
16

17 RABBI SHLOMO COHEN: I guess we can still
18 say good morning. [background comment] My name is
19 Rabbi Shlomo Cohen and I am the rabbi of Chabad of
20 Sheepshead Bay, two blocks away from Cherry Hill. I
21 got to know Mr. David Isaev, the owner of Cherry
22 Hill, a few years ago when I needed some food for
23 people, that we gave out to the poor people on the
24 holiday of Passover; someone suggested to go over to
25 Cherry Hill and that was the first time I met

1
2 Mr. David Isaev an don that day he loaded up my
3 minivan full with food without asking anything. And
4 I wanted to point out; I live in Sheepshead Bay with
5 my family since 1992; we enjoy to take a walk down
6 Emmons Avenue, we enjoy the scenery and we have seen
7 the changes; I remember the time when they started to
8 rebuild Lundy's and I wanna tell you that I did not
9 know that there was a supermarket in that place until
10 much later when someone actually told me there's a
11 supermarket, because when you walk outside you don't
12 see any signs of a supermarket; it looks just like a
13 restaurant like any other restaurant from the
14 outside; people sitting outside, it's beautiful.

15 Another point I wanted to make; I resent
16 the fact that it was mentioned that people are being
17 paid off, giving donations; I wanna tell you,
18 Mr. Isaev was very generous way before he opened up
19 Cherry Hill in Sheepshead Bay; as a matter of fact,
20 we get donations from many different organizations
21 and it happens to be that I do get also donations
22 from a competitor of Cherry Hill that would benefit
23 from Cherry Hill closing. So we are here because we
24 think the right thing should be done. Thank you very
25 much.

2 CHAIRPERSON WEPRIN: Thank you, Rabbi.

3 Next please.

4 NOAH YEVDAYEV: Hi. My name is Noah
5 Yevdayev [sp?]; I'm listening for the past few months
6 all this negative comments to the neighborhood; I
7 can't believe this is 2015. I respect the law of
8 hard labor; I understand the zoning issue; however,
9 the time has changed since 1970s. I'm an employee of
10 Cherry Hill and a family man; I can tell you that we
11 made a difference in the neighborhood; speaking with
12 old customers every day standing on the floor.

13 Cherry Hill is a very unique gourmet
14 store and it attracts Sheepshead Bay neighborhood.
15 Cherry Hill was open for business operation from 7:00
16 a.m. until 11:00 p.m.; by getting so many phone calls
17 from all neighborhood, from old customers, we are now
18 open 24/7, just to serve our community. Cherry Hill
19 is a part of Sheepshead Bay community; we're a part
20 of America; we're a part of this community. Can we
21 change the zoning? Yes we can, as our President
22 Obama will say, yes we can. I'm not asking to change
23 the law; we're asking to obey the law. Now it's
24 2015; it's not 1970s.

2 As a tax-paying citizen and a family man,
3 I'm really concerned about my job and my family.
4 Please allow us to stay employed and support our
5 neighbors and families. Just to mention that Emmons
6 Avenue is a commercial area where Cherry Hill is
7 located; it was mentioned about Ocean Parkway; I live
8 right on Ocean Parkway; Ocean Parkway is not a
9 commercial area to open up an IHOP, it was a wrong
10 suggestion; was wrong comments like you know, like,
11 just stick to the point that we are in a commercial
12 area. Thank you for your time.

13 CHAIRPERSON WEPRIN: Thank you, sir.

14 RAISA CHERNINA: Can I collect
15 everybody's time? [sic]

16 CHAIRPERSON WEPRIN: No. Go ahead.

17 [background comments]

18 RAISA CHERNINA: Okay. My name is Raisa
19 Chernina; I am a member of Russian-speaking community
20 and I live around seven or five [sic] blocks from
21 Cherry Hill and I am the despicable woman in the red
22 hair; you see I change my color because of it; it's
23 expensive.

24 Now I want to say about -- not issue of
25 Cherry Hill; for us, for my family, it's very

1
2 convenient; we don't have to drive to Brighton Beach,
3 looking for parking; here we have a parking, 24/7
4 hours that the store is open, and Friday, when I'm
5 doing shopping, you can meet everybody, it's like
6 coming at your home [sic], everybody see each other -
7 - hi, bye or gossip. I want to say time has changed;
8 when never got broken border president gentleman, we
9 never got first black lady, first in the City of New
10 York; time change; we can't stop this train, we have
11 to just sit and go on with this train.

12 I want to say something; I am here for my
13 community, Russian-speaking community; somebody has
14 to say, what people said 1942; first they came for
15 the socialist and I didn't speak out because I was
16 not socialist; then they came for the trade unions
17 and I didn't speak out because I wasn't trade unions;
18 then they came for the Jew; I didn't speak out
19 because I wasn't Jew; then they came for me and there
20 was no one left to speak for me. I speak for my
21 community; I don't want to be last one.

22 CHAIRPERSON WEPRIN: [background comment]

23 Thank you, [background comment].

24 [background comments]

2 NICK CARCANOLA: My name is Nick
3 Carcanola [sp?]; I'm a resident of the neighborhood;
4 long-time shopper at Cherry Hill. I've been
5 listening to all this and you know, Cliff and
6 Mr. Barrison speaking about, you know it'll...
7 desecrating, it's tearing the whole façade apart of
8 the area -- there's a lot of different things on that
9 strip; would it be better if a giant high-rise went
10 up instead; that would create more traffic and more
11 hassle for the older people who live there who can
12 barely get around as it is? I think it would; I
13 think it's well-served in what it is; there's may
14 elderly people; my friends of elderly parents,
15 disabled parents who can't get in a car and drive,
16 but they can take a short walk and go into a market
17 that reminds them of home, that reminds them of what
18 they don't have anymore; they don't live in Rumania
19 anymore, they don't live in Russia, they don't live
20 in Georgia, they don't live in all these places and
21 to keep a place like this open is only doing a
22 service to the community; not tearing it apart and
23 like Councilman Greenfield said, and many others
24 today, you know things change, times change; you go
25 into Williamsburg, it's condos everywhere; I'm sure

1
2 it took something away from it, but then it added at
3 the same time. You know, things have to go with
4 what's beneficial to the area and to have a nice
5 gourmet supermarket that does everything and have a
6 place to sit and eat after you're done shopping,
7 'cause you can get your food delivered, is great.
8 You know I bring my little girl there; she's 15
9 months old, 16 months; she walks around and says hi,
10 hi, everyone knows who she is, you know she's a
11 little busy body; they don't oh, put your kid, grab..
12 no, everyone's friendly; they know it's a family-
13 oriented store; to take it away is like taking a
14 member of your family, just throwing them aside.
15 Thank you.

16 CHAIRPERSON WEPRIN: Thank you.

17 COUNCIL MEMBER GREENFIELD: I have a
18 point of information. Your... Nick is it...? [crosstalk]

19 CHAIRPERSON WEPRIN: Mr. Greenfield, with
20 a point of information.

21 COUNCIL MEMBER GREENFIELD: Yes... your 15-
22 month-old actually walks?

23 NICK CARCANOLA: She's been walking since
24 10-and-a-half months.

COUNCIL MEMBER GREENFIELD: Oh my gosh...

[crosstalk]

[background comments]

COUNCIL MEMBER GREENFIELD: Gonna go home and start talking to my 14-month-old about what's goin' on over here. Thank you.

NICK CARCANOLA: Thank you.

CHAIRPERSON WEPRIN: Come on; you should know that; come on, around one they start to walk, David; you have... how many you have; four; right?
[background comments] How many children do you have?
Three, okay.

NICK CARCANOLA: Yeah, they say girls go quicker than boys... [crosstalk]

CHAIRPERSON WEPRIN: Have I got news for you...

COUNCIL MEMBER GREENFIELD: That's fair; that's a good point. Yes, everybody knows that girls are more advanced than boys... [crosstalk]

NICK CARCANOLA: And she... she's up to about, almost 17, 18 words already.

COUNCIL MEMBER GREENFIELD: Wow, that's great... [crosstalk]

1
2 NICK CARCANOLA: She's quick with
3 everything.

4 COUNCIL MEMBER GREENFIELD: She's not
5 like mountain climbing yet is she?

6 NICK CARCANOLA: She's up on the couch in
7 a matter of a second... [crosstalk]

8 COUNCIL MEMBER GREENFIELD: Wow.

9 NICK CARCANOLA: right up... [crosstalk]

10 CHAIRPERSON WEPRIN: Okay, I'm gonna... I'm
11 gonna ask Mr. Greenfield if he has any questions,
12 besides the ones about Nick's family... [crosstalk]

13 COUNCIL MEMBER GREENFIELD: These are
14 very pertinent questions here...

15 CHAIRPERSON WEPRIN: Yes.

16 COUNCIL MEMBER GREENFIELD: Yes.

17 CHAIRPERSON WEPRIN: No, no questions
18 exactly for this panel? We appreciate them taking
19 the time. Thank you very much for your testimony.

20 COUNCIL MEMBER GREENFIELD: I actually
21 have one question for the panel, actually..
22 [crosstalk]

23 CHAIRPERSON WEPRIN: Oh okay.
24
25

2 COUNCIL MEMBER GREENFIELD: thank you,
3 Mr. Chairman, now that you prodded me; I have a
4 question; you prodded me... [crosstalk]

5 CHAIRPERSON WEPRIN: Okay; I was hoping I
6 was gonna prod you quicker, but okay.

7 COUNCIL MEMBER GREENFIELD: No, no; this
8 actually is an important question.

9 You know, a lot of the conversations that
10 have gone on here and the people who are opposed to
11 it are opposed to it because they believe that this
12 would change, permanently alter the character of the
13 neighborhood; I'm just curious; would you support
14 other changes to this district or is your support
15 just focused on this particular application?

16 RAISA CHERNINA: Excuse me...

17 NICK CARCANOLA: Okay.

18 RAISA CHERNINA: we used to have
19 Loehmann's store... [interpose]

20 COUNCIL MEMBER GREENFIELD: Can we... let's
21 just... [background comment] give you the microphone.

22 RAISA CHERNINA: I'm sorry... [crosstalk]

23 COUNCIL MEMBER GREENFIELD: Yes, thank
24 you.

2 RAISA CHERNINA: I shouldn't speak
3 without... [background comments]

4 COUNCIL MEMBER GREENFIELD: Yes.

5 RAISA CHERNINA: We used to have
6 Loehmann's store and I feel sorry they're out of
7 business, because it's really good for this area;
8 otherwise, I have to drive to Kings Plaza to get
9 something and I'm support for store like that.

10 CHAIRPERSON WEPRIN: Yeah, my mother
11 misses Loehmann's too.

12 RAISA CHERNINA: You see.

13 COUNCIL MEMBER GREENFIELD: Anyone else
14 want to respond to that?

15 NICK CARCANOLA: I mean I think it does
16 add to the, you know, uniqueness of the area. Nice
17 restaurants and whatnot, but then you have this huge
18 gourmet supermarket that you could only find in
19 Manhattan... [crosstalk]

20 COUNCIL MEMBER GREENFIELD: But you're
21 happy with the overall Sheepshead Bay district; you
22 wouldn't [background comment] be looking to change
23 the broader district beyond this?

24 NICK CARCANOLA: If there was something
25 else that was unique to come to the area that added

1
2 to it and didn't take away, like an IHOP would take
3 away or a Chipotle, which you can't turn a corner in
4 Manhattan without finding a Starbucks and a Chipotle
5 next to each other, which to me is... whatever, but you
6 know, that's what it is. If it added to it and gave
7 something that wasn't there already, I would think it
8 would be a good idea.

9 COUNCIL MEMBER GREENFIELD: Got it.

10 Okay. Thank you.

11 CHAIRPERSON WEPRIN: 'Kay, thank you all
12 very much.

13 Alright, we're gonna move to the next
14 panel, [background comment] Raimee Tygive [sp?],
15 George Mankutkin, [background comment] okay; that was
16 close, Oleg... Oleg; you here, Koshul? [background
17 comments] And then... actually two more, but is that
18 Alex, is it Resnogich [sic]; is it Alex, I'm not...
19 [background comments] Yeah, you think so? Is he here
20 still? [background comments] Okay, yeah. Alex;
21 right? Okay. Alright, we'll wait; someone may go by
22 themselves, we'll see.

23 Alright, once again, the same rules
24 apply; please state your name when you speak; try not
25 to make it personal to anybody who spoke before or

1 anything like that, just stay to the merits and we'll
2 all have a good time. Okay. Whenever you're ready.

3 NOAH YEVDAYEV: My name is Alex
4 Rabinovich, and we are the architects and engineers
5 that filed the original plans and the documents for
6 this project.
7

8 This project was standard approved by the
9 Deputy Commissioner and the Commissioner who was
10 involved in the design of our store. We designed the
11 store where the Department of Buildings felt
12 comfortable in approving it, being that we have a
13 restaurant within the store; we have enormous amount
14 of space for made food that you take out, which is
15 allowed; we have a bakery, which is allowed; we have
16 a flower shop, which is allowed. So this store is
17 broken down to many uses and the Building Department
18 was comfortable in approving; we don't have any
19 violations on the use; we are... right now the only
20 violations they have is landmark and there's an
21 argument which part of the building was violating
22 landmark requirements. So basically, we did what the
23 Building Department was comfortable with; we have a
24 problem with some items that are being sold, boxed
25 items that the Building Department was not

1 comfortable with; they wanted to have simply prepared
2 food. So the area that we are trying to get variance
3 or any type of an approval here is a very small area
4 in that store, but the store is not a regular
5 supermarket; it's a market with a restaurant, with
6 prepared food, with bakeries, flower area where you
7 can buy a bouquet of flowers. So the area that we're
8 talking about, it was designed in such a way where it
9 will be comfortable for the community and it's not
10 gonna be a supermarket where it was kinda clash with
11 the [bell] zoning. Thank you.

12 CHAIRPERSON WEPRIN: Thank you, sir.

13 RACHEL TAGIEV: Okay. I wrote it down so
14 I can fit everything in two minutes. [laugh] My
15 name is Rachel Tagiev and I own Red Square Media and
16 I'm an organizer of a Grand International Festival
17 that took place last week. We gather entire
18 community from young to elder and we were nominated
19 as a community supporter by Eric Adams, President of
20 Brooklyn Borough and personally thanked us for being
21 part of the Brooklyn community.

22 Since I am a part of the Brooklyn
23 community, I would like to say a few things on behalf
24 of Cherry Hill.
25

1 Since the Cherry Hill has been around,
2 that's where I buy food for my family; the food is
3 healthy, fresh and homemade. I am a working mother
4 of three children and I make sure my kids are being
5 fed properly. Cherry Hill is the place where I'd
6 rather shop; the place is open 24/7 and I can come
7 shop late if I'm working late. Most of my friends
8 shop at Cherry Hill; my friends come from Jersey,
9 Staten Island, Long Island and they come to Cherry
10 Hill because once again, best take-out food is there.
11 We work a lot and we don't want our kids to eat IHOP
12 and McDonald's when we're not home, so we try to fill
13 up the refrigerators with the proper food.
14

15 [interpose]

16 CHAIRPERSON WEPRIN: IHOP's taking a big
17 hit today; I don't know why, yeah.

18 RACHEL TAGIEV: Yeah, I put it into the
19 speech because I heard it. Cherry Hill has its own
20 bakery and they even make their own bread. Most of
21 the place is take-out -- hot food, salads and much
22 more -- old cultural food that our mothers who did
23 not work made at home; unfortunately, now is not the
24 time for mothers to stay home and be a homemaker; we
25 work a lot, but yet we want our kids to eat healthy

1 food; the place has everything that I need for my
2 family, which is very important I buy good food for
3 my house.
4

5 There are a bunch of stores that are
6 dirty and don't have good food, but yet no one is
7 raising the subject to get rid of them, but yet we
8 have a topic to close the store that feeds an entire
9 neighborhood, plus has hired over 60 people, which
10 gives jobs to 60 families.

11 The place has everything I need
12 personally; I can go park my car, get help with my
13 shopping into my car, 'cause the personnel is very
14 helpful and very nice. The store gives you all
15 [bell]... okay...

16 CHAIRPERSON WEPRIN: Finish up; I
17 interrupted you in one spot.

18 RACHEL TAGIEV: Thank you. Cherry Hill,
19 the personnel is extremely friendly and you can see
20 they care for the business and to me that shows that
21 the boss keeps them happy; they donate to elders, so
22 they do give their share to community. To me it's an
23 asset to community, but yet we're sitting here
24 spending everyone's time trying to close the most
25 amazing store in the neighborhood. The place used to

1
2 be a drug store, 'cause I'm in America for over 28
3 years, and now it's a beautiful place where we spend
4 many days summertime to eat outside in the restaurant
5 and shop for our family, so as part of a community
6 media agency, I want the store to be there to shop
7 and not to create problems for a beautiful and clean
8 place to feed our families. Thank you... [crosstalk]

9 CHAIRPERSON WEPRIN: Thank you. Okay,
10 good. Thank you. Yes, sir.

11 OLEG KOSHUL: Yes, hi. My name is Oleg
12 Koshul, I'm the President of EcoMeal Organic, one of
13 the vendors of the Cherry Hill Market. This is one
14 of the best of my accounts, one of the friendliest
15 customers I ever deal with. Besides that I'm one of
16 the vendors, I live in the area; unfortunately I'm
17 not a second-generation resident of Sheepshead Bay,
18 but I know one thing; 20 years ago I wouldn't take my
19 family to Emmons Avenue; there was drugs, there was
20 rats around; you cannot walk, you cannot sit there,
21 so it was like crazy place to go. Cherry Hill has
22 such a great reputation and I think most of the
23 restaurants who opens right now in the area, they
24 open only because Cherry Hill is there and people are
25 going there having fun and while talking about I'm

1 shaking; you're trying to close the best place in
2 Sheepshead Bay in Emmons Avenue and I hope it's never
3 gonna happen. Thank you.

4 CHAIRPERSON WEPRIN: Thank you, sir.
5 Would everybody just make sure the mic is close to
6 you?

7 GEORGE MANUKEN: My name is George
8 Manuken [sp?] and I came to the United States in
9 1973; I grew up in the neighborhood; I see a lot of
10 changes. In this neighborhood we have on eight
11 blocks, very use [sic], over 40 restaurants, all
12 kinds; none of them is working, so I would like to
13 ask; what really [sic] is going on here; why can't
14 Cherry Hill stay here, you know and it tries to bring
15 everything to a legal zoning? I wanna ask Mr. C;
16 what should trumaty [sic]... [background comments]

17 CHAIRPERSON WEPRIN: Alright... I'm gonna
18 stop on that, but... [crosstalk]

19 COUNCIL MEMBER GREENFIELD: No. No. No.
20 No... [crosstalk]

21 CHAIRPERSON WEPRIN: Thank you.

22 GEORGE MANUKEN: all the papers... all the
23 people here [background comments]... you know I...
24 [interpose]
25

2 COUNCIL MEMBER GREENFIELD: Please...

3 Please... Please give your testimony to the Committee;
4 not to people over there.

5 [background comments]

6 GEORGE MANUKEN: No, no; I'm... what I'm
7 trying to say... [crosstalk]

8 COUNCIL MEMBER GREENFIELD: Yes.

9 GEORGE MANUKEN: it's not really
10 supermarket; there is a difference between
11 supermarkets, A&P and all kind different
12 supermarkets; it's a more sophisticated... it's like a...
13 you know, you buy particular things which you cannot
14 buy in the supermarkets; you can't find... only my
15 hand, like a gentleman says before and accept
16 everything; people work in that and if we try to stop
17 like -- it's very -- market is not that good and we
18 try to stop the unemployment; right, so let's close
19 the Cherry Hill and more people goes on unemployment;
20 in the meantime I'm gonna work 24 hours as everybody
21 else work and we're gonna pay taxes to support people
22 on the unemployment; we try to end that. You know,
23 we've gotta go to the future; we've gotta see the
24 future of the reality in front of us, and that's it.

2 CHAIRPERSON WEPRIN: 'Kay. Thank you
3 very much. Any comments or questions? You've got
4 your finger there; are you ready to push a button?
5 No? Okay, alright. Well thank you very much; we
6 thank this panel. [background comment]

7 I only have one slip of paper left, but I
8 will give the opportunity for other people who had a
9 comment, Eric Wei... is it Weiss? [background comment]
10 Is he here, on behalf of Cherry Hill? No?

11 [background comments] Oh, well is... Okay. Is there
12 anyone else here to testify on this matter? Yes and
13 you didn't... did you fill out a slip? You did it
14 right now? Give that to sergeant of arms; you can
15 take a seat, just give it to us. Eric is here
16 though; right? Eric is here and then this gentleman,
17 you can join Eric. What's his name? [background
18 comment] Gary... [background comment] Is it Gary...
19 Yeah, Gary Silver. [background comments] Yeah,
20 that... that's you? Come on; join us. Come sit here
21 on the panel. Anybody else here to testify on this
22 matter who hasn't been heard already? [background
23 comments] We have one more filling out a slip.
24 Okay, you fill out that slip and then join Eric and
25 Gary. [background comments] No, I just mentioned

1 your name and this gentleman's gonna join you. So
2 you could start and [background comments] I'll call
3 your name for the record here, [background comments]
4 and sir, you can go sit up front there with those two
5 gentlemen. [background comments] Pedro Guevara
6 [sp?] Pedro, you join these guys... [background
7 comments] Eric; you know Pedro? [background
8 comments] Pedro; Eric. [background comments] Gary;
9 Eric; Pedro. Okay. Whenever you're ready, go first.
10 Yeah... [background comment] yes, please.

12 ERIC WINTER: Good morning. I'd like to
13 apologize for my attire; originally I decided to
14 refrain from participating today, but at the last
15 minute realized that the topic truly is so important
16 to me, to my family... [crosstalk]

17 COUNCIL MEMBER GREENFIELD: Sir, please
18 state your name for the record, please.

19 ERIC WINTER: I'm sorry, Eric Winter.

20 COUNCIL MEMBER GREENFIELD: Thank you.

21 ERIC WINTER: Sorry. Me and my family
22 and my... my Cherry Hill family. Yes, I said Cherry
23 Hill family. I am a veteran of the United States Air
24 Force -- Desert Storm/Desert Shield -- I have worked
25 for such companies as Stop N Shop Supermarkets,

1 Waldbaums, Edwards and Whole Foods Markets, which I
2 left just before coming to Cherry Hill as their
3 produce manager. I'm here today to pleas to those in
4 the position to change the land use and rezoning
5 codes to do so. Growing up in Queens/Brooklyn
6 border, I remember eating at Lundy's as a little kid;
7 seeing the deterioration of that same area almost
8 gave me the same feel as being in the South Bronx
9 waterfront as it deteriorated worse and worse. I
10 remember seeing in the late 80s all the drugs that
11 had gone into that area.

12
13 You know the only thing that's constant
14 is change; you can ask the residents of Williamsburg,
15 Fort Greene; Bushwick. As the produce manager at
16 Cherry Hill, I am proud to say I work there and am
17 very proud of the changes that have happened in the
18 Lundy's building and the area surrounding Lundy's in
19 the short time Cherry Hill has even operated.

20 I am... That's about it. I'm sorry.

21 COUNCIL MEMBER GREENFIELD: It's good
22 testimony. Thank you, sir.

23 [background comments]

24 PEDRO GUEVARA: Yes, sir, good afternoon.
25 My name is Pedro Guevara and I am the maintenance guy

1
2 for Cherry Hill facility; I'm a Vietnam Vet, served
3 two tours in Vietnam and last September I couldn't
4 find a job and I came to Mr. Samuel and just when I
5 mentioned I was a Vietnam veteran, I'm in the spot;
6 ever since I've been very happy with my job; I love
7 the people there, customers, I do all around work;
8 when I'm in the parking lot, I don't speak Russian,
9 but the customers are very nice; I'm learning a few
10 words here and there, and it's pretty cool to work in
11 there. Now I have a child going to college; he's
12 gonna be a lawyer, and if the City Council decides to
13 vote against Cherry Hill, I don't think I can find
14 another job so that I can help my son, to put him
15 through college. So I beg the people of the City
16 Council, please consider. I will have no job, my
17 age, I don't think I can get hired again somewhere
18 else in this type of job that I'm doing, it's awesome
19 and I love it.

20 CHAIRPERSON WEPRIN: Okay. Thank you,
21 Pedro; [background comments] thank you both for your
22 service, by the way, thank you; I'm sorry.

23 [background comments] Eric, go ahead.

24 GARY SILVER: This is Gary Silver...

25 [crosstalk]

2 CHAIRPERSON WEPRIN: Oh Gary; sorry.

3 GARY SILVER: Gary Silver Architects; I'm
4 the project architect for the project. And I wanna
5 address quickly some zoning... a zoning issue that
6 hasn't been brought up and the change in character
7 that's been said that this supermarket would bring to
8 the area.

9 So the Sheepshead Bay Special District
10 comprises eight subareas, A-H and the areas F and G..
11 I'm gonna step to the map... [background comments]
12 Okay... [background comments] Can you point to F and G?
13 [background comments] F to G comprises more than
14 half of the area, as you can see on the map and in
15 those areas the supermarket is an allowable use as-
16 of-right, so as far as changing the character in the
17 area, that's something I think that should be
18 considered. And again, something that's been said
19 over and over again, we're talking about one small
20 spot, which is circled, which is outlined in red,
21 Area B. So that's basically the point I wanted to
22 make regarding the zoning. [background comments]
23 Okay.

24 CHAIRPERSON WEPRIN: Mr. Greenfield, do
25 you have any questions? No...? [crosstalk]

2 COUNCIL MEMBER GREENFIELD: I too will
3 thank you folks for your service; we are very
4 [background comments] grateful for that and we
5 appreciate it. Thank you. [background comments]

6 CHAIRPERSON WEPRIN: Thank you very much.
7 I'd like to call on... [background comments] Oh...
8 Before we start, I just wanna make sure; is anyone
9 else here to testify on this matter? I see none.
10 [background comments] 'Kay. So we are gonna close
11 the public hearing portion; I'm gonna call on Council
12 Member Deutsch, who represents this area who wanted
13 to make a comment.

14 COUNCIL MEMBER DEUTSCH: Yeah, I'm gonna
15 make a very brief comment.

16 I just wanna first of all thank everyone
17 for coming out today; I have been listening to the
18 concerns, pros and against this text amendment for
19 months, actually almost since I got elected and have
20 been representing the 48th Council District for a
21 little over 16 months, and I'm always available,
22 listening to the concerns, listening to different
23 ideas based on this text amendment and I think that
24 this hearing was very important to hear the views of
25 each and every one that testified here, and I just

1
2 wanna really, gonna make my decision based on what I
3 have heard today and what I have heard in the past
4 from different parts of the community. And it's not
5 really different parts of the community; I heard
6 someone say this is a Russian store; it's not, I see
7 many non-Russian people using Cherry Hill and this is
8 one community undivided and hopefully it's gonna stay
9 that way. So I'm looking forward to Thursday and I
10 am very fair and I will make a fair decision based on
11 what I have heard. And of course you know, Cherry
12 Hill has been a part and a staple of our community on
13 Emmons Avenue and people do utilize Cherry Hill and
14 I'm looking to make a fair determination of what I
15 have heard and I look forward to Thursday's vote.
16 Thank you so much.

17 CHAIRPERSON WEPRIN: Thank you,
18 Mr. Deutsch. So as I mentioned, the hearing is now
19 closed and this subcommittee will be recessed until
20 this Thursday, that's May 7th, at 10:45 a.m.; it's
21 gonna be in the Committee Room at City Hall; that's
22 right next to the Council Chamber, where we will vote
23 on this amendment; we will deliberate that over the
24 next two days and we will be meeting that day. So
25 it's 10:45; there's an 11:00 Land Use meeting

1 following that, so anyone who's listening to my voice
2 at home or in their offices, remember, if they're on
3 the Zoning Subcommittee, at 10:45 this Thursday be in
4 the Committee Room at City Hall.
5

6 Mr. Greenfield has one statement to make
7 before we adjourn... [crosstalk]

8 COUNCIL MEMBER GREENFIELD: Thank you,
9 Mr. Chairman. I just wanna point out that at that
10 10:45 meeting and at the 11:00 a.m. subsequent
11 meeting, there will be no further opportunities for
12 comments; as per the way we operate the Land Use
13 Committee and Subcommittees, this was the opportunity
14 for comments and feedback and we've received all the
15 feedback and comments, you're welcome to attend, I
16 just don't want people to think that if they come
17 they're gonna be able to speak, because these
18 subcommittee meetings are in fact where we have all
19 the comments and all the feedback and at those
20 hearings we actually vote on the applications...
21 [crosstalk]

22 CHAIRPERSON WEPRIN: Thank...

23 COUNCIL MEMBER GREENFIELD: so just a
24 point of clarification.
25

CHAIRPERSON WEPRIN: Thank you for clarifying that, yes, and that's why I was -- you know, made sure everyone who wanted to speak today was able to speak. So with that in mind, we are gonna recess the Subcommittee on Zoning until Thursday, so we are recessed till Thursday, 10:45 a.m. Thank you.

[gavel]

C E R T I F I C A T E

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



Date May 22, 2015