

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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September 20, 2016  
Start: 10:03 a.m.  
Recess: 10:32 a.m.

HELD AT: 250 Broadway - Committee Rm,  
16th Fl.

B E F O R E:  
DONOVAN J. RICHARDS  
Chairperson

COUNCIL MEMBERS:  
Daniel R. Garodnick  
Jumaane D. Williams  
Antonio Reynoso  
Ritchie J. Torres  
Vincent J. Gentile  
Ruben Wills  
Corey D. Johnson  
David G. Greenfield

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

Antonio Lopez  
Applicant  
Altus Café

2                   CHAIRPERSON RICHARDS: We're ready?

3 [gavel] Alrighty. Good morning, I am Council Member  
4 Donovan Richards, chair of the Subcommittee on Zoning  
5 and Franchises and today we are joined by Council  
6 Member Ritchie Torres, Antonio Reynoso, Dan  
7 Garodnick, Vincent Gentile and Council Member Corey  
8 Johnson.

9                   We have two items for our consideration  
10 today. If you are here to testify on the Barnett  
11 Avenue application, we will not be having a public  
12 hearing on that item; the applicant has withdrawn the  
13 application. Sorry, no fireworks today,  
14 unfortunately.

15                  We will start with Land Use Item No. 458,  
16 Altus Café, an application for an unenclosed sidewalk  
17 café located at 4325 Broadway in Council Member  
18 Rodriguez district in Manhattan. The applicant has  
19 agreed to address some of the community issues with  
20 noise generated by the café and Council Member  
21 Rodriguez now supports approval of the application.

22                  I will now open the public hearing for  
23 Land Use Item No. 458 and I'll call the applicant,  
24 Antonio Lopez from Altus Café to come up. Thank you.

2 Good morning and you'll hit that mic and  
3 just state your name for the record and who you're  
4 representing.

5 [background comments]

6 ANTONIO LOPEZ: Antonio Lopez, uhm  
7 representing Altus Café on 4325 Broadway.

8 CHAIRPERSON RICHARDS: Alrighty, so uh  
9 can you speak to the application and what are some of  
10 the changes that were made, uh can you just state  
11 those on the record and then uh we'll... if any of my  
12 colleagues have questions, we'll...

13 ANTONIO LOPEZ: Uhm at the moment we have  
14 not uhm gotten approved by the Department of Consumer  
15 Affairs; we submitted all the paperwork; we've just  
16 been on standby. Uhm we produced uhm a platform and  
17 we tried it, but it's not really... it's not allowed no  
18 more by the City, from my understanding, so we have  
19 to get another method in order to use the sidewalk  
20 café, 'cause the... the sidewalk is on a slope.

21 CHAIRPERSON RICHARDS: Alright. And were  
22 there any concerns with the community board uh in  
23 your application...

24 ANTONIO LOPEZ: Uh...

2 CHAIRPERSON RICHARDS: and what were the  
3 issues Council Member Rodriguez had, if you can just  
4 speak to some of those and how you're correcting  
5 those.

6 ANTONIO LOPEZ: Okay. Uhm when I... I met  
7 with uh Council... he just requested to close at 12,  
8 uhm Monday to Friday; usually also on the weekend,  
9 uhm Sundays to open uh 12 to 12, uhm and just work  
10 out with the neighbors uhm above me. And basically..  
11 and uh also the... the 34 Precinct, which uh is uh down  
12 the block, it's a block away from us. So the uhm,  
13 the inspector from that precinct is actually uhm, in  
14 good standing with us, or we're in good standing with  
15 the precinct.

16 CHAIRPERSON RICHARDS: Okay. Any of my  
17 colleagues have any questions on this application?  
18 Okay, seeing none. Thank you, sir for your  
19 testimony. Are there any people from the public, any  
20 individuals from the public who wish to testify?  
21 [background comment] Yes, any... Yes and Council  
22 Member Rodriguez supports this application. Okay,  
23 seeing none, I will now close out the public hearing  
24 on Land Use Item No. 458. Thank you, sir for your  
25 testimony.

2                   We will now move on to a vote on Land Use  
3 Item No. 438, a special permit application submitted  
4 under Section 74-711 of the Zoning Resolution that  
5 would facilitate a 17-story building with commercial  
6 and residential use and the restoration of historic  
7 buildings in the Ladies Mile Historic District in  
8 Manhattan. The special permit would allow for  
9 changes in building form that would accommodate the  
10 building design approved by the Landmarks  
11 Preservation Commission.

12                   Over the course of the public discussion  
13 on this application it has been argued extensively  
14 that it is a test case for applying Mandatory  
15 Inclusionary Housing requirements to special permit  
16 applications.

17                   In our public hearing on this application  
18 we listened to testimony arguing both, that MIH  
19 should be applied as a condition of this special  
20 permit and that MIH requirements are not applicable  
21 in this case.

22                   Section 74-32 of the Zoning Resolution,  
23 which was approved by the Council last March under  
24 the Mandatory Inclusionary Housing text amendment,  
25 states that we shall apply the MIH requirements where

1 a special permit approval would allow for a  
2 significant increase in residential floor area. The  
3 application we are now considering involves a series  
4 of waivers to height and setback regulations that  
5 regulate the exterior dimensions of the proposed  
6 building. The waivers they are seeking are partially  
7 a reflection of the fact that they are in an historic  
8 district which constrains their development site.  
9 The public policy goal of the section of the Zoning  
10 Resolution is to provide relief and encourage the  
11 restoration of historic buildings.  
12

13 There are two key considerations, which  
14 taken together are the reasons we don't believe MIH  
15 can be appropriately applied here.

16 First, the maximum floor area permitted  
17 on the site will not change as a result of this  
18 approval; in fact, the applicants are proposing to  
19 build less floor area than what the zoning district  
20 currently permits.

21 Secondly, the applicant has demonstrated  
22 that it would be able to develop as much or more  
23 residential floor area than is being proposed under  
24 the special permit on an as-of-right basis without  
25 needing any zoning waivers at all from us.

1  
2 We are well aware of the need for  
3 affordable housing in the city and I know Council  
4 Member Johnson is well aware of the needs in this  
5 neighborhood in particular. The Council will be  
6 scrutinizing these types of applications very  
7 carefully to ensure that we apply the MIH program  
8 consistently and we'll be looking carefully at the  
9 facts of each application to determine whether future  
10 special permit applications lead to a significant  
11 increase in housing.

12 I'd like to acknowledge the many voices  
13 that urged us to look carefully at this application,  
14 and although we may have reached a different  
15 conclusion than some of you in this case, your work  
16 on this issue helped focus all of our attention on  
17 this critical question on the need of where MIH  
18 should be applied.

19 So with that being said, I wanna thank  
20 Council Member Johnson and the many advocates and  
21 many people and the applicant for really being  
22 thoughtful here and moving this application along and  
23 for also doing something historic and ensuring that  
24 historic buildings obviously are restored and putting  
25 a huge investment in there. So Council Member



2 Johnson, congratulations on hard work and uh allow  
3 you to take it from here.

4                   COUNCIL MEMBER JOHNSON: Thank you Chair  
5 Richards. Good morning Chair Richards; members of  
6 the subcommittee and those in attendance today.

7                   Today we are voting on an application in  
8 my district that has generated a great deal of  
9 attention related to whether the Mandatory  
10 Inclusionary Housing program should be applied to  
11 this development.

12                   After a great deal of consideration, I am  
13 recommending that this subcommittee and the Council  
14 approve this application because the development will  
15 contribute to the character and quality of historic  
16 architecture in the Ladies Mile Historic District and  
17 because the applicant has committed to working with  
18 me and my community to find a way to protect our  
19 limited supply of affordable housing.

20                   Section 74-32 of the Zoning Resolution  
21 states that the provisions of MIH should apply where  
22 a special permit application allows for a significant  
23 increase in residential floor area, as the Chair  
24 said. The creation and preservation of affordable  
25 housing, both in this neighborhood, East Chelsea-

1 Flatiron, and all throughout the city is an utmost  
2 priority and I am glad that despite the impasse at  
3 which we the Council find ourselves, it is a goal  
4 that the applicant shares and is contributing  
5 towards. Furthermore, the application of the Section  
6 74-711 permit, this application will provide a  
7 significant service to historic preservation as well.  
8 74-711's permits were intended to incentivize good  
9 design and restoration of historic buildings in  
10 exchange or flexibility with zoning regulations.  
11 This proposal is a good example of how 74-711 waivers  
12 can result in improved development and restoration,  
13 as a developer is obligated through this permit to  
14 provide extensive preservation services to an  
15 important piece of the Ladies Mile Historic District.

17 I must add that I am disappointed that in  
18 considering this application the Department of City  
19 Planning, who I have a great relationship with,  
20 especially Chair Weisbrod, have made a determination  
21 that if MIH was carried out here, moving forward it  
22 would effectively exempt whole swabs of my district  
23 and others and stronger markets. It's my belief that  
24 it is these very communities that can best afford to  
25 provide affordable housing that is so needed by our

1 city and it is these communities which are most in  
2 need of the economic integration that affordable  
3 housing creates and because of current zoning in  
4 existing development, these communities have too few  
5 opportunities to advance affordable housing under MIH  
6 and ZQA.  
7

8 It is my belief that this City Council,  
9 this municipal legislature, our interpretation should  
10 mean something, yet I regret to say that resolving  
11 the issue of whether or not MIH was applicable in  
12 this circumstance was not left to the Council; it was  
13 left to the Department of City Planning; instead we  
14 must accede to the City Planning Commission's  
15 determination of scope; they ruled that MIH is not in  
16 scope, which limits our ability to effectuate MIH as  
17 intended.

18 But I am pleased that the applicant has  
19 nevertheless committed their financial support,  
20 significant financial support, in encouraging  
21 affordable housing development in this neighborhood  
22 and will also be providing high-road building service  
23 jobs throughout their portfolio; they have signed a  
24 deal with SEIU 32BJ, both for this site on 18th  
25 Street and for an additional site on 92nd Street,

1 where there had been controversy in the past over  
2 what the future was gonna be, and so I am glad that  
3 through this process, this very difficult process, we  
4 have been able, even with MIH not being applied,  
5 we've been able to get a significant contribution  
6 towards an affordable housing fund that will go right  
7 to the local community and provide good, high-quality  
8 jobs and preserve an historic building in a  
9 neighborhood that is seeing rapid development.  
10

11 I lastly wanna thank Manhattan Community  
12 Board 5, which spent an enormous amount of time on  
13 this application. I wanna thank Borough President  
14 Gale Brewer for her hard work and advocacy in trying  
15 to get the best deal possible for the community and  
16 for raising the visibility of this issue and both of  
17 them for their commitment to affordable housing.

18 So I wanna thank you Chair Richards for a  
19 long hearing a couple of weeks ago on this  
20 application and members of the subcommittee for  
21 giving me this opportunity to speak today.

22 Lastly, I wanna say I know that there are  
23 advocates that are disappointed in the fact that I am  
24 recommending approval of this application, with all  
25 the negotiated points that I just mentioned; I will

1 just say that, again, we are constrained in what we  
2 can do; the City Charter provides that the Department  
3 of City Planning and the City Planning Commission,  
4 which has ultimate authority over determining what is  
5 in scope and what is out of scope, the City Council  
6 does not have authority on that; I think we maybe  
7 should have a little bit more authority; that's  
8 something for a future charter revision commission,  
9 but I wanna say that I am committed to affordable  
10 housing on every project in my district; I think I  
11 have shown that over the last two-and-a-half years;  
12 this is a small project, an important project and a  
13 project that we are gonna see some benefit to local  
14 affordable housing in the neighborhood.  
15

16 So thank you for allowing me the  
17 opportunity to speak today and I would ask all of my  
18 colleagues on this committee to please vote in favor  
19 of this application.

20 CHAIRPERSON RICHARDS: Thank you Council  
21 Member Johnson and you did a heck of a job with the  
22 cards you had.

23 Alright, any of my colleagues wanna speak  
24 on this application? Alrighty. Alright, seeing  
25 none, we will now ask to... to call the vote. We will

2   now move on... Oh okay, I will couple on a vote to  
3   approve Land Use Nos. 458, Altus Café and Land Use  
4   No. 438, Adorama Special Permit. Counsel, please  
5   call the roll.

6                   COMMITTEE COUNSEL: Chair Richards.

7                   CHAIRPERSON RICHARDS: Proudly vote aye.

8                   COMMITTEE COUNSEL: Council Member

9   Gentile.

10                  COUNCIL MEMBER GENTILE: Aye.

11                  COMMITTEE COUNSEL: Council Member

12   Garodnick.

13                  COUNCIL MEMBER GARODNICK: Aye.

14   Congratulations Council Member Johnson.

15                  COMMITTEE COUNSEL: Council Member

16   Reynoso.

17                  COUNCIL MEMBER REYNOSO: I vote aye.

18                  COMMITTEE COUNSEL: Council Member

19   Torres.

20                  COUNCIL MEMBER TORRES: I vote aye, but

21   out of deference to the local Council Member, not out

22   of valid... I just wanna be careful; not validating

23   City Planning's interpretation of the text amendment;

24   I continue to disagree with it.

25

1                   SUBCOMMITTEE ON ZONING AND FRANCHISES                   15

2                   COMMITTEE COUNSEL: By a vote of 5 votes  
3 in the affirmative, 0 in the negative and 0  
4 abstentions, Land Use Items 438 and 458 are approved  
5 and referred to the full Land Use Committee.

6                   CHAIRPERSON RICHARDS: Alright, we'll  
7 hold the vote open for 15 minutes? Alright, 15  
8 minutes.

9                   [pause]

10                  COMMITTEE COUNSEL: Continue vote on Land  
11 Use Items 438 and 458. Council Member Williams.

12                  COUNCIL MEMBER WILLIAMS: I vote..  
13 abstaining on Land Use 438 and aye on all the rest.  
14 With that, the hearing is now closed.

15                  [gavel]

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C E R T I F I C A T E

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



Date September 23, 2016