

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND
CONCESSIONS

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September 5, 2017
Start: 1:35 p.m.
Recess: 2:00 p.m.

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

B E F O R E:
RAFAEL SALAMANCA, JR.
Chairperson

COUNCIL MEMBERS:
Darlene Mealy
Ydanis A. Rodriguez
Andrew Cohen
Mark Treyger
Speaker Melissa Mark-
Viverito

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

Jordan Press
Executive Director
Planning and Development
Government Affairs Unit
Housing Preservation and Development

Andrea Kretchmer
Xenolith Partners LLC

1 SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND
2 CONCESSIONS

3

2 [sound check]

3 [pause]

4 [background comment]

5 [gavel]

6 CHAIRPERSON SALAMANCA: Alright, good
7 afternoon everyone. I am Council Member Rafael
8 Salamanca, Chair of the Subcommittee on Planning,
9 Dispositions and Concessions. Welcome everyone to
10 today's hearing. Today we're joined by Council
11 Member Andrew Cohen, Council Member Mark Treyger and
12 Speaker Melissa Mark-Viverito.

13 Today we'll vote on the 126th Street bus
14 application which we heard on August 21st and we will
15 hold public hearings on two additional applications
16 -- LU 742, Small Homes Rehab, will be laid over.

17 The 126th Street Bus Depot development
18 has four related applications -- LU 733, 734, 735,
19 and 736. EDC seeks approval of a zoning map change,
20 a zoning text amendment, and city map change, and a
21 future disposition of city-owned property to
22 facilitate the redevelopment of the 126th Street MTA
23 Bus Depot into a mixed-use project that includes the
24 Harlem African Burial Ground Memorial. This project
25 is expected to result in the development of over 700

3 apartments, approximately 300,000 square feet of
4 commercial space and new open space and indoor
5 memorial.

6 In order to finance the memorial, some
7 market rate units are needed, but the Administration
8 has committed to ensuring that no more than 20% of
9 the projects will be market rate and that 80% of the
10 housing will be affordable, with at least 20% of the
11 project at 30% AMI.

12 Given the difficult history of the site,
13 I want to commend and congratulate The Speaker, the
14 East Harlem Burial Ground Task Force, and EDC for
15 coming together to create a shared vision, and with
16 that; Madam Speaker.

17 SPEAKER MARK-VIVERITO: Thank you,
18 Mr. Chair. Good afternoon to all my colleagues.

19 The project being voted on today is the
20 culmination of almost a decade of work. Reverend
21 Patricia Singletary from the Elmendorf Reformed
22 Church approached my office in 2009 with a mission --
23 to properly memorialize her church's historic African
24 burial ground underneath the 126th Street Bus Depot,
25 which had been forgotten, built upon and disrespected
for almost 200 years. We embraced the cause and

3 formed a group of local stakeholders with her to
4 advocate for the reclamation, preservation and
5 recognition of this sacred cemetery.

6 I want to recognize the tremendous work
7 that has been done by Rev. Singletary and members of
8 the Harlem African Burial Ground Task Force to
9 persevere when no one believed the history that they
10 had uncovered. I'd also like to thank EDC staff for
11 their patience and attentiveness to community
12 concerns, as well as Community Board 11, Manhattan
13 Borough President Gale Brewer, members of the
14 Subcommittee, and others, particularly the staff here
15 at the City Council, my staff in the district office,
16 and the Land Use staff as well, for their efforts in
17 shaping this project in a way that affirms our
18 history and is responsive to the present and future
19 needs of the community.

20 This application has been particularly
21 challenging, as an RFP has not yet been released, and
22 thus there is not a specific developer at the table.
23 However, we worked with EDC and the Administration to
24 develop a thorough Points of Agreement document that
25 codified specific commitments and community benefits
while still allowing enough flexibility to creativity

3 among RFP respondents. I am pleased that the City
4 has committed to a process of ongoing engagement with
5 the Harlem African Burial Ground Task Force
6 leadership and Community Board 11 throughout the RFP
7 process.

8 First and foremost this project delivers
9 an outdoor memorial and indoor cultural educational
10 center that will recognize and celebrate the Harlem
11 African Burial Ground as an important part of the
12 city's cultural heritage. To that end, the Council
13 is modifying the application to ensure that 18,000
14 square feet of publicly accessible open space will be
15 located on the historic footprints of the burial
16 ground. Additionally, we have agreed on a financial
17 framework that will enable the outdoor memorial and
18 cultural educational center to be constructed and
19 maintained in perpetuity.

20 The Administration has agreed to work
21 with the developer to identify funding resources for
22 predevelopment and construction. Further, the
23 developer will be required to provide an annual
24 contribution of approximately \$1 million to support
25 eligible operating costs. The indoor and outdoor
spaces will be provided to the memorial operator free

3 of charge. The commitments being made today will
4 ensure the history that Rev. Singletary and the task
5 force have rediscovered will never be forgotten
6 again.

7 As mentioned by the Chair, the project
8 will also deliver of 700 units of housing, the
9 majority of which will be affordable housing and will
10 target lower AMI tiers. The Administration has
11 committed that 50% of units will be affordable at or
12 below 60% of AMI, with at least 20% of units
13 affordable at 30% of AMI or \$25,770 in annual
14 household income. The Council is modifying the
15 zoning text amendment to eliminate MIH Option 2 from
16 the rezoning area and apply the deep affordability
17 option. The Administration has agreed that no more
18 than 20% of units will market rate, which will be
19 needed to cross-subsidize the financial commitment to
20 the memorial's operation. The project will include a
21 mix of office, commercial and retail uses. The
22 retail component has been capped at no more than
23 138,000 square feet.

24 Finally, the project will advance quality
25 of life concerns, including provisions around local
hiring, pedestrian safety, and streetscape

3 improvements. The developer will be required to
4 contribute to support job training and local outreach
5 efforts. EDC will also require the developer to
6 create a targeted hiring outreach plan and utilize
7 their best efforts to meet local hiring goals.

8 Again I want to commend the Harlem
9 African Burial Ground Task Force, EDC, and the staff
10 here at the Council and Land Use in particular, for
11 their hard work and shared vision and encourage my
12 colleagues to support this project.

13 CHAIRPERSON SALAMANCA: Thank you, Madam
14 Speaker. As The Speaker noted, we will be voting on
15 modifications to require at least 18,000 square feet
16 of outdoor memorial space and to restrict the MIH
17 program to the lower AMI options -- Option 1 and
18 Option 3. Counsel, please call the roll on a vote to
19 approve with modifications LU 733, 734, 735, and 736.

20 COMMITTEE COUNSEL: Chair Salamanca.

21 CHAIRPERSON SALAMANCA: Aye.

22 COMMITTEE COUNSEL: Council Member Cohen.

23 COUNCIL MEMBER COHEN: Aye.

24 COMMITTEE COUNSEL: Council Member
25 Treyger.

1 SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND
2 CONCESSIONS

9

3 COUNCIL MEMBER TREYGER: With
4 congratulations to The Speaker, I vote aye.

5 COMMITTEE COUNSEL: By a vote of 3 in the
6 affirmative, 0 in the negative and 0 abstentions, the
7 item is recommended for approval with modifications
8 and referred to the full Land Use Committee.

9 CHAIRPERSON SALAMANCA: Awesome. Thank
10 you very much Madam Speaker and now we will move on
11 to our public hearing.

12 So the first hearing item is LU 738, the
13 Caton Flats application. This application is for a
14 tax exemption pursuant to Article XI of the Private
15 Housing Finance Law. This approval will facilitate a
16 14-story building that includes 255 affordable
17 residential units, a commercial unit, community
18 facility spaces, and 68 parking spaces. The
19 community facility and commercial spaces consist of
20 Flatbush Caton Market, food incubator and office
21 space for Caribbean American Chamber of Commerce and
22 Industry. The development is located in Council
23 Member Eugene's district in Brooklyn. I am now
24 opening up the public hearing on LU 738, the Caton
25 Flats application.

3 JORDAN PRESS: Good afternoon

4 Mr. Chairman, my name is Jordan Press from the HPD's
5 Government Affairs Unit.

6 Land Use No. 738 consists of proposed
7 Article XI tax benefits for an exemption area known
8 as Caton Flats, located at 794 Flatbush Avenue in
9 Brooklyn Council District 40.

10 On April 25, the Council approved the
11 Flatbush Caton Market ULURP which includes the
12 rezoning, establishment of an MIH area and conveyance
13 of 794 Flatbush Avenue through the Economic
14 Development Corporation's disposition process to the
15 sponsor, BRP Development Corporation, as a mixed-use,
16 mixed-income development. As part of the project, a
17 newly constructed building will consist of 14 stories
18 with 255 residential rental units, a commercial unit,
19 community facility space, and 68 parking spaces that
20 will be developed under HPD's Mixed-Income Program,
21 the M² Program.

22 The unit breakdown of the residential
23 portion is anticipated to be 64 studios, 87 one-
24 bedrooms, 64 two-bedrooms, and 40 three-bedroom
25 apartments, including a superintendent unit. Twenty-
seven of the units will be affordable to households

1 SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND
CONCESSIONS

11

2 earning at or below 40% of AMI with rents set at 37%
3 of AMI; 27 units will be affordable to households
4 earning at or below 60% of AMI with rents at 57% of
5 AMI; 38 units will be affordable to households
6 earning at or below 90% of AMI with rents set at 80%
7 of AMI; 38 units will be affordable to households
8 earning at or below 110% of AMI with rents set at 90%
9 of AMI; and the balance of the residential units, 124
10 of them will have rents set at 130% of AMI. I should
11 clarify that these numbers are consistent entirely
12 with what was agreed to at the time of the ULURP
13 passage earlier this year. The community facility
14 spaces consist of the Flatbush Caton Market, food
15 incubator and office space for the Caribbean American
16 Chamber of Commerce and Industry (CACCI).

17 Currently HPD is before the Planning
18 Subcommittee seeking Article XI tax benefits in order
19 facilitate affordability for the residential units as
20 well as the community facility space for a term of 40
21 years coinciding with the regulatory agreement.

22 CHAIRPERSON SALAMANCA: Thank you
23 Mr. Press.

24
25

2 In regards to the vendors, I know that
3 there was an agreement where the vendors were going
4 to be moved to another location not too far..

5 JORDAN PRESS: Yeah.

6 CHAIRPERSON SALAMANCA: from there while
7 the construction was happening and they were going to
8 be moved back. Where are we with that?

9 JORDAN PRESS: My understanding -- again,
10 HPD is just doing the residential financing, but my
11 understanding is that the developer is prepared to
12 initiate the transfer of the vendors from the current
13 location to the new location and they wanted to just
14 have all of the financing, including passage of the
15 Article XI locked up before taking on that expense.
16 But the site has been agreed to and they are prepared
17 to move them shortly.

18 CHAIRPERSON SALAMANCA: And this site is
19 City land?

20 JORDAN PRESS: The current site is City
21 land, that's right.

22 CHAIRPERSON SALAMANCA: City land.

23 Alright, any questions? Do you have any questions?

24 Alright.

3 So are there any other members of the
4 public who wish to testify? I see none; I am now
5 closing the public hearing on LU 738.

6 The second hearing item is LU 746, the
7 NCP Park and Elton Apartments application. This
8 application is for an amendment of a previously
9 approved Urban Development Action Area Project to
10 approve the disposition of property located at 3120
11 Park Avenue and 451 East 159th Street in my council
12 district in the Bronx. This application also
13 requests approval of a tax exemption pursuant to
14 Article XI of the Private Housing Finance Law to
15 facilitate the development of 38 affordable housing
16 units.

17 I am now opening up the public hearing on
18 LU 746, the Park and Elton Apartments application.

19 JORDAN PRESS: Good afternoon. Again, my
20 name is Jordan Press from HPD's Government Affairs
21 Unit; I'm joined by Andrea Kretchmer from Xenolith,
22 the developer, who would also like to give some
23 remarks and answer any questions you have about the
24 project.

25 Land Use No. 746 consists of two City-
owned vacant lots located at 3120 Park Avenue and 451

2 East 159th Street in Bronx Council District 17.

3 These two lots are designated urban renewal sites
4 within the Melrose Commons Urban Renewal Area and
5 previous to today's Council hearing were included in
6 a ULURP action approved by the City Council on June
7 27, 2007 for new construction. The 2007 project
8 approved the disposition, UDAAP designation, and
9 project approval for five sites that were to be
10 developed through HPD's New Foundations Program.

11 Three of the original parcels have been conveyed and
12 were developed by the selected sponsor as low-income
13 rental housing; however, the two lots under Land Use
14 No. 746 remain City-owned.

15 Currently 3120 Park Avenue and 451 East
16 159th Street are proposed for development under HPD's
17 NCP program and upon construction completion a total
18 of 38 units of rental housing will be provided across
19 the two buildings. There will be no commercial or
20 community facility space in this project.

21 There will be a mixture if unit types,
22 including studios, one- and two-bedroom apartments,
23 with household incomes between 80-110% of AMI and
24 therefore rents will range from \$1,078 to \$1,221 for
25 a studio and \$1,642 to \$1,857 for a two-bedroom unit.

2 Today HPD is before the Planning
3 Subcommittee seeking to amend the project summary,
4 changing from New Foundations to the NCP or
5 Neighborhood Construction Program and to also seek
6 Article XI tax benefits for the 3120 Park Avenue and
7 451 East 159th Street lots which will assist with
8 maintaining affordability for these rental units.
9 The tax exemption will be in place for a term of 40
10 years, coinciding with the length of the regulatory
11 agreement.

12 CHAIRPERSON SALAMANCA: Hey, no worry.
13 [sic] [background comment] Yeah, yeah; go ahead
14 please.

15 ANDREA KRETCHMER: Is that on? Okay,
16 good. So I'd like to just mention a couple things
17 about the project; it has a history that goes back,
18 as you see, ten years, so in 2007 the sites -- all
19 five sites -- were awarded to POKO Partners and they
20 were originally -- the New Foundations Program was
21 affordable homeownership and so when that program was
22 discontinued -- the concept of affordable
23 homeownership after the recession or during that time
24 HPD stopped financing those programs and so the
25 project in particular was converted to rentals

2 instead of homeownership, and POKO developed the
3 first three of the five lots; those were the low-
4 income lots, there were 37 units that were developed
5 there. My partner, Terri Belkas-Mitchell and I
6 started working at POKO -- I went there in 2011 and
7 Terri joined in 2012 -- and we didn't happen to work
8 on that first phase of this project; since that time,
9 the founder of POKO Partners became very ill and they
10 were no longer in the development business and so
11 when Terri and I moved over, started our own
12 enterprise as a woman-owned business, we were able to
13 work with the principals at POKO for the opportunity
14 to develop these two sites; the last two of those
15 sites in particular. The plan was always for the
16 project to be mixed-income; that was a New
17 Foundations mandate, and so while the first three
18 parcels were the low-income, the remaining two would
19 be middle-income.

20 Just a couple of other things to point
21 out: because the project is located on two different
22 sites and they're in two different community boards,
23 we had the pleasure of presenting to the Land Use and
24 Housing Committee of CB1 and CB3 and had a very
25 positive experience there; we had unanimous support

3 from their committees and then from the community
4 board at large for the development of the project,
5 and to note also that because there are two
6 buildings, the per unit costs are slightly higher
7 than you would have if you were building 38 units
8 just on one site alone, so two foundations, two
9 roofs, two building-wide systems -- boilers, windows;
10 all of that.

11 We are working with OER, the Mayor's
12 Office of Environmental Remediation; right now the
13 sites are E-designated, mostly for noise, though
14 we're working with them on sound attenuation,
15 particularly on Park Avenue and some of the
16 Brownfield remediation -- some of the grant money for
17 investigation and cleanup.

18 CHAIRPERSON SALAMANCA: Awesome, thank
19 you.

20 ANDREA KRETCHMER: Sure.

21 CHAIRPERSON SALAMANCA: So I know that
22 we've met in the past and I did follow the e-mail
23 trail -- I'm a big proponent of mixed-income; every
24 project that comes to my council district, I try to
25 get a good mix of incomes. My concern here is that
the AMIs on this particular project are too high for

3 my community. You know there's concerns -- as I'm
4 door-knocking, as I'm speaking to my constituents in
5 terms of housing and if housing's truly affordable to
6 them; again, I ensure that I have units for my low-
7 income families and my working-class families, but I
8 think that 37 units between 80-90% AMI is too high
9 for what my community represents, and so I'm willing
10 to work with you to see how we can go deeper in
11 affordability in this project.

12 ANDREA KRETCHMER: One of the challenges
13 of doing that is the way HPD's termsheets are
14 structured, which means that -- well the New
15 Construction Program is not a tax credit program, so
16 typically the lower AMI units are financed with the
17 low-income housing tax credits and because of the
18 size of the job, those tax credits don't work here
19 and if we lower the AMI below the 80% number it's
20 going to require additional subsidy that at the
21 moment, of course, provides a challenge for HPD on
22 their end. The goal -- we see these RFPs all the
23 time and of course this was, one, many years ago, but
24 staying within the termsheet is a big deal and that's
25 been the goal of the development team and also, of
course, our project managers at HPD. So the thinking

2 has also been that because this was, one; it was seen
3 originally and still is, as five lots in one project,
4 but two phases that those lower-income units, which
5 are at 40-60% of AMI on phase one, that those address
6 that need.

7 JORDAN PRESS: We'll certainly look
8 forward to speaking with your office more about this.

9 CHAIRPERSON SALAMANCA: Now what changed,
10 because originally, when this project was approved,
11 there were 16 units and now you've increased..

12 [crosstalk]

13 ANDREA KRETCHMER: Right.

14 CHAIRPERSON SALAMANCA: your unit size to
15 37?

16 ANDREA KRETCHMER: Right, the unit
17 count's gone up because HPD and City Planning have
18 been through two design revisions to the code that
19 say that the preferred unit sizes are changing over
20 time, so the... [crosstalk]

21 CHAIRPERSON SALAMANCA: Making apartments
22 smaller.

23 ANDREA KRETCHMER: They're making...

24 [crosstalk]

2 CHAIRPERSON SALAMANCA: And I understand
3 they're trying to... they want to create more units,
4 but my confusion is; in the first version of 16
5 units, you were at a 60% AMI and now you're
6 increasing, you're doubling the size of your units
7 and the lowest level of AMI is 80%.

8 ANDREA KRETCHMER: I... right... [crosstalk]

9 CHAIRPERSON SALAMANCA: So you're
10 increasing your unit size...

11 ANDREA KRETCHMER: Right, I hear what
12 you're saying; you're saying we have more units and
13 we're... [crosstalk]

14 CHAIRPERSON SALAMANCA: and you're... and
15 you're... and... and you're... and you're...

16 ANDREA KRETCHMER: increasing the AMI.

17 CHAIRPERSON SALAMANCA: Yes.

18 ANDREA KRETCHMER: So when... So since
19 Xenolith was the designated developer the AMI has
20 always been 80-110%, and actually, HPD mentioned to
21 me earlier that there was a 2013 discussion about
22 lower AMIs, but when we got involved in 2016 we were
23 instructed specifically that we needed to be in the
24 middle-income range, so as Jordan mentioned, we'd be
25 happy to go back and look at it again, but the size

3 of the units and the unit count, those are
4 reflections of the design standards at City Planning,
5 and HPD's goal is always to maximize unit count; of
6 course, they want to be respectful, inhabitable
7 units; we're not saying people should live in
8 substandard apartments, but these are what the City
9 has determined are the proper unit sizes now.

10 CHAIRPERSON SALAMANCA: Can you give me a
11 description of your unit sizes; how many units are
12 studios; one- to...

13 ANDREA KRETCHMER: Sure. According to...
14 yep, it's on the third page. So right now we're at
15 14 studios, 5 ones, and 4 twos, and then the super
16 also gets a two-bedroom unit.

17 CHAIRPERSON SALAMANCA: I'm sorry; can
18 you repeat... [crosstalk]

19 ANDREA KRETCHMER: Oh, sure.

20 CHAIRPERSON SALAMANCA: 14 studios...

21 [background comments]

22 ANDREA KRETCHMER: Okay. So this is the
23 total -- sorry; I was doing the second building
24 first. Well that building -- let's finish that one
25 -- so that's on Elton; that's the 451 East 159th, so
26 this is the bigger building, so 14... [crosstalk]

2 CHAIRPERSON SALAMANCA: So 14 studios..
3 okay.

4 ANDREA KRETCHMER: 5 ones...

5 CHAIRPERSON SALAMANCA: Uh-huh.

6 ANDREA KRETCHMER: 4 twos and then the
7 super for both buildings is also in that building, so
8 that's another two-bedroom. And then on Park Avenue
9 there are 4 studios, 5 ones, and 5 twos.

10 CHAIRPERSON SALAMANCA: And what are the
11 unit sizes, the square footage?

12 ANDREA KRETCHMER: Oh I don't have them
13 in front of me. Terri; do you know them?

14 [background comment] Yeah, we'll have to look... we'll
15 have to look them up, yeah... [crosstalk]

16 JORDAN PRESS: We'll get back to you on
17 it.

18 CHAIRPERSON SALAMANCA: Jordan, when the
19 new termsheets changed, did you just... were the unit
20 sizes decreased as part of the termsheet?

21 JORDAN PRESS: No. What we call our
22 design guidelines changed much earlier this year and
23 maybe last year, so they happened at different times.
24 There was a change, but it happened at different
25 times.

2 CHAIRPERSON SALAMANCA: So in terms of
3 the design guidelines, how much was there a decrease;
4 let's say studio apartments, one-bedroom and two-
5 bedroom...? [crosstalk]

6 JORDAN PRESS: Yeah, I'd... I... I'd need to
7 pull it so I can get that information back to you.
8 Let me just say collectively that the change in the
9 design guidelines for slightly smaller units and the
10 change in the termsheets to increase the subsidy and
11 to target more units at lower AMIs collectively were
12 designed to fulfill the Housing New York vision of
13 getting more units built at lower AMI.

14 CHAIRPERSON SALAMANCA: Alright. Do you
15 have any questions? Yes, go ahead.

16 COUNCIL MEMBER TREYGER: Thank you Chair.
17 I'm just curious if HPD has data on the average AMI
18 of the community board or of that area?

19 JORDAN PRESS: Yeah, we do. Yeah, I'm
20 sorry I don't have it with me, but I have it...
21 [crosstalk]

22 CHAIRPERSON SALAMANCA: It's \$24,500.

23 COUNCIL MEMBER TREYGER: So Chair, if I'm
24 correct, that is not reaching the average AMI,
25 according to what we're hearing so far, from this

2 application; is that correct? So we always defer
3 obviously to the local member, especially to our
4 Chair, who's really championed the issue in the cause
5 of affordable housing, definitely in his community
6 and I would... it seems that the ranges are really out
7 of whack with regard to the average AMI of this
8 community board and so I just want to echo the
9 concerns and comments of my colleague that I think
10 it's important that HPD and the applicant sit down
11 with the local Council Member and really work out a
12 plan that meets the needs of the community. Look,
13 I'm all for workforce housing as well, but I do
14 believe we need to strike a balance that at least
15 meet the needs of the immediate community and create
16 ranges that kind of address a wide universe. So I
17 just want to make sure that the Chair, you know you
18 have my full support on this.

19 CHAIRPERSON SALAMANCA: Thank you Council
20 Member. Alright, are there any more statements? No.

21 JORDAN PRESS: Thank you.

22 CHAIRPERSON SALAMANCA: Are there any
23 more members of the public who wish to testify?
24 Alright, seeing none; I will now close public hearing
25 LU 476.

1 SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND
2 CONCESSIONS

25

3 We will be laying over LU 738, 742, and
4 746, so our business today is concluded.

5 I would like to thank the counsel, Land
6 Use staff for preparing today's hearing, and the
7 members of the public, and my colleagues for
8 attending.

9 This meeting is hereby adjourned.

10 [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 7, 2017