

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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October 24, 2017
Start: 1:29 p.m.
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HELD AT: Council Chambers - City Hall

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

COUNCIL MEMBERS:

DANIEL R. GARODNICK BRADLEY
JUMAANE D. WILLIAMS
ANTONIO REYNOSO
RITCHIE J. TORRES
VINCENT J. GENTILE
BARRY S. GRODENCHIK
MARGARET CHIN
STEPHEN T. LEVIN

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

Artti Pearson

Director of Land Use from HPD's Office of
Governmental Relations

Ken Spillberg

Director of Mixed Income Programs at New York
City Department of Housing Preservation and
Development

Nick Bradley

Owner of Sidewalk Café, Kio Restaurant LLC

Megan Brosterman

Owner and Manager of Coop at 157 Duane Street,
Resident and Board Member of the Coop

Lisa Orrantia

Attorney at Akerman LLP

Casey Martinez

Director of Development at United American Land,
LLC

Richard Lobel

Land Use Attorney at Sheldon Lobel, P.C.

Justin Sinclair

Member of 32BJ SEIU

Carol Samol

Director of the Department of City Planning's
Bronx Office

Oscar Oliver-Didier

Urban Designer for the Department of City
Planning's Bronx Office

James Power

Kramer Levin Naftalis and Frankel on behalf of
Pantheon Properties

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

Lissa So
Partner at Marvel Architects

Ken Cohen
Founder and President and CEO of Pantheon
Properties

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[gavel]

CHAIRPERSON RICHARDS: Alright, good afternoon. I'm Donovan Richards, Chair of the Subcommittee on Zoning and Franchises and today we are joined by Council Members Gentile, Garodnick, Reynoso, Torres, Grodenchik, Levin and Barron. We have ten applications on our calendar today. We're going to start out with a brief hearing on a tax exemption application then we'll be holding a vote on this and several other applications that were laid over from our last meeting. We will then continue with public hearings on the remaining items on our calendar. Our first public hearing is on the Linden Boulevard Article 11 tax exemption. This application was submitted by HPD and is, is related to the Linden Boulevard rezoning that we held a public hearing on last week. The tax exemption is necessary to facilitate the anticipated affordable housing development on this site. I will now open the public hearing for this preconsidered tax exemption application and I'll call our first two panelists Miss Artti Pearson from HPD and Ken Spillberg from HPD as well. And you'll just state your name for the record and then you may begin.

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2 ARTTI PEARSON: Afternoon Chair Richards
3 and members of the Zoning Subcommittee. I'm Artti
4 Pearson, Director of Land Use from HPD's Office of
5 Governmental Relations. This preconsidered item
6 consists of proposed Article 11 tax benefits for an
7 exemption, area known as Linden Terrace building one
8 which is privately owned land located at 2858 Linden
9 Boulevard that's block 4496 lot 29 in Brooklyn
10 Council District 42. The sponsor for the project
11 currently has before the Zoning Subcommittee a text
12 amendment and establishment of an MIH area, area
13 related to Land Use Item 768 and 769. The Linden
14 Terrace Project includes four buildings, three of
15 which will receive 420-C tax exemptions and are not
16 part of this request. The Article 11 tax exemption
17 will apply to the one building being constructed
18 under HPD's Mix and Match Program. The project will
19 be developed by Canyon Sterling Emerald LLC, a 50/50
20 joint venture between Jake of Rad, Daniel Rad of
21 Radson Development and Peter Levin and David Levin.
22 The MIH building is one building comprised of
23 approximately 212,541 real square feet of residential
24 space. The project will also contain 36 parking
25 spaces as well as 17,214 square feet... square feet of

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2 ground floor retail space. Linden Terrace building
3 number one will contain 235 residential units
4 including an... a superintendent's unit. Of the 235
5 units a total of 94 units will be permanently
6 affordable, 59 units will be required under MIH
7 option one, an additional 36 units which is 15
8 percent of the project total will be required under
9 HPD's Mix and Match term sheet as the sponsor is
10 seeking subsidy for the MIH units. The project will
11 contain a range of incomes including ten percent of
12 the units for formerly homeless households under our
13 space program and units ranging from 30 percent and
14 80 percent of AMI with no more than 40 percent of the
15 units at 80 percent in this building. Overall the
16 fall... four buildings of the project as well as
17 negotiations with the Council Member of no more than
18 25 percent of the units will exceed 80 percent of
19 AMI. Upon completion of Mix and Match building we are
20 expecting 37 studio units, 99 one bedrooms, 72 two
21 bedrooms, and 22 three bedrooms. As mentioned HPD is
22 before the council seeking approval of an Article 11
23 tax exemption for a term of 40 years that will
24 coincide with the regulatory agreement in order to
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assist with facilitating long term affordability of this program. Thank you.

CHAIRPERSON RICHARDS: Thank you, thank you for your testimony. Do you have any testimony, no? I'll go to Council Member Barron, do you have any comments... okay, thank you for your testimony.

Alright, we are now going to hold a vote on recommendation for several applications that we laid over weeks meeting. We will be voting to take the following actions; we're going to vote to approve Land Use Items Number 766 and 767, the Tillary and Prince rezoning. This application would allow the development of two mixed use buildings comprised of 262 apartments on a site currently occupied by a self-storage facility, 25 percent of the residential floor area would be affordable under mandatory inclusionary option number one. I want to thank the applicant in this case for working very closely with the neighboring Ingersoll Houses Tenant Association on this application. We are also going to vote to approve with modifications Land Use Item Number 768 and 769, the Linden Boulevard rezoning and approve the related preconsidered tax exemption. Council Member Barron supports approval with the modification

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2 to remove MIH option two from the application. I know
3 the Council Member was up late last night and also up
4 very early this morning putting the final touches on
5 this project and I want to congratulate her on a
6 really outstanding project. I'll go to Council Member
7 Barron if she wishes for statements on this
8 application.

9 COUNCIL MEMBER BARRON: Thank you to the
10 Chair and thank you to the Committee Members. I just
11 want to say that we have been working very diligently
12 in terms of this project and I'm here today to say
13 yes, I am supporting the project, I do have some
14 reservations, but the overall project is one that I
15 am supporting. This development is going to be much
16 needed affordable housing and when I say affordable
17 I'm talking about affordable to the people who live
18 in my community who have a neighborhood median income
19 of about 32,000 dollars. So, it's going to bring to
20 the community and the developers commitment regarding
21 parking, which exceeds what it is that he's required
22 to do by the regulations limiting the steep... the
23 street wall height to five stories on Warren with a
24 set back and establishing goals for local hiring and
25 involving local minority and women owned businesses

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2 up to 40 percent is his goal which exceeds what it is
3 that the city asked. The project includes a broad
4 spectrum of affordability as you heard in the
5 testimony and it's going to include units reserved
6 for the formerly homeless because we cannot solve the
7 problem of homelessness if we don't provide permanent
8 housing for them, 27 percent AMI which is apartments
9 at 23,000 dollars income, 37 percent AMI which is
10 income bans at 31,000, 47 percent AMI which is
11 incomes at 40,000, 57 percent incomes which is at
12 49,000 and a few that are at the 80 percent AMI
13 because there are people in the community who said
14 you've been focusing on low-income, middle... low...
15 extremely low-income and we need to have an
16 opportunity for housing as well. So, through the
17 course of the discussions we were able to work with
18 the applicant to significantly lower the number of
19 units that was initially planned at 80 percent AMI
20 and therefor increased the affordability of the
21 project and the number of units that are accessible
22 to families that live in East New York because I'm
23 not about providing housing that's going to in fact
24 include increased gentrification. However, I do not
25 offer my support without reservations, I always seek

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2 to support good jobs and I'm here to encourage the
3 developer to work with labor unions to ensure that
4 jobs generated by this development will pay
5 appropriate wages and offer a set of benefits that
6 will support families in my district. So... but, but
7 despite the reservation this is a project that
8 overall will benefit my community for years to come,
9 40 percent of the units are inter-perpetuity and
10 that's important and others in the development will
11 remain protected for up to 60 years so with that I am
12 offering my support for this project, thank you Mr.
13 Chair.

14 CHAIRPERSON RICHARDS: Thank you Council
15 Member Barron. We will... next we will be voting to
16 approve with modifications Land Use Item Numbers 770
17 to 661 8th Avenue Signage Text Amendment. We will be
18 modifying this application to clarify the text so
19 that it applies only to the corner lot portion of the
20 zoning lot which will ensure consistency with the
21 intent in the environment to review. Council Member
22 Johnson supports approval with these modifications.
23 Lastly, we will be voting to approve Land Use Item
24 Number 761 and 762, the Pfizer Sites rezoning
25 application. And I'll... we've been working over the

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2 last couple of weeks to reach an agreement with the
3 developer on this application that would address some
4 of the concerns that were raised at our hearing and
5 have been voiced throughout the public review
6 process. We are voting today with the agreement that
7 the property will be, be developed in a manner that
8 is in... as inclusive as possible. To this end the
9 developer has agreed to include for the affordable
10 units at least 30 percent one-bedroom units, at least
11 30 percent two-bedroom units and to limit the
12 development to a maximum of 20 percent three-bedroom
13 units and a maximum of 20 percent four-bedroom units.
14 This agreement combined with the existing zoning
15 rules on the bedroom mix of MIH units will ensure
16 that we are serving the widest spectrum of housing
17 need in both the community and across the city. This
18 agreement will be memorialized in a restrictive
19 declaration that has been executed and will be
20 recorded on the property. The Deputy Mayor has also
21 provided us a letter stating the administration will
22 monitor this project for compliance with the Council
23 agreement and the restrictive declaration. In
24 addition, the restriction on unit mix, the developer
25 has also agreed to convene a community advisory panel

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2 that will give updates on the development, conduct a...
3 secondly conduct a series of workshops open to local
4 residents on the affordable housing application
5 process and lastly establish goals for local hiring
6 and MWBE contracting. So, this is not the end of the
7 conversation, it is going to be up to the Council
8 Members and the local community to ensure that this
9 continues to be an inclusive project. While the
10 public review process for this application has been
11 contingent I support approval now understanding that
12 we have made every effort to strike a compromise on
13 this application to ensure that the housing will be
14 inclusive of all community groups. We have a lot more
15 work to do in this neighborhood if we're all honest
16 with ourselves, but I also hope we can start to write
17 a new chapter in our history and recognize that we
18 have achieved a middle ground on this project. And
19 this development will produce, and I think a lot of
20 the conversation we've got lost in a lot of other
21 things but it's important to also realize that we are
22 creating 300 units of permanently affordable housing
23 with no funding from taxpayers. It will be affordable
24 for families with incomes ranging from 40 percent AMI
25 to 80 percent AMI and it comes with a commitment from

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2 the administration to ensure ongoing monitoring of
3 the safe guards that the developer has agreed to. All
4 of this represents a difficult step in the right
5 direction. I would like to thank Council Member
6 Reynoso for pushing this conversation far and I want
7 to thank Council Member Levin for his willingness to
8 listen and communicate with everyone from the
9 supporters to the opponents of this project in trying
10 to reach a fair outcome. I will now turn it over to
11 Council Member Levin for a statement before we take a
12 vote, but I just want to underscore that the work
13 continues, that today's vote does not mean that this
14 is over, that the community and the electeds and
15 everyone will have to continue to be diligent in
16 watching this project. I'll go to Council Member
17 Levin.

18 COUNCIL MEMBER LEVIN: Thank you very
19 much Chair Richards. I want to thank you very much
20 for your diligent hearing of this matter and I, I, I
21 thank you for the ultimately very responsible tone
22 that you've taken in looking at the merits of this
23 particular application and looking at the specifics
24 of the application and understanding all sides of
25 this matter. So, I want to thank you very much, I

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2 also want to thank Chair David Greenfield the Chair
3 of the full committee for that very same
4 consideration. I want to thank my colleagues on the
5 Subcommittee, members here on the full committee as
6 well as constituents that are here in attendance. I
7 want to acknowledge everybody who has participated in
8 this process from the outset, so I want to thank
9 Community Board one, all the representatives of
10 Community Board One that participated in this, the
11 Community Board which approved this project. I want
12 to thank Borough President Eric Adams, the City
13 Planning Commission and the Department of City
14 Planning for their diligent work on this application.
15 I want to thank everybody that's here and had.. has
16 testified on this matter and voiced all of their
17 positions forcefully, hopefully continuing to be
18 respectfully in a constructive manner with the
19 objective of ensuring that we have affordable housing
20 for all communities in our neighborhood and, and that
21 we maintain a civil and respectful dialogue moving
22 forward. So, to that end I want to acknowledge Rabbi
23 David Niederman from United Jewish Organization of
24 Williamsburg, I want to acknowledge the Broadway
25 Triangle Community Coalition whose here as well and

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2 who testified, we met yesterday and had I think a
3 positive meeting. I want to thank and acknowledge my
4 colleague Antonio Reynoso for, for, for expressing
5 his concerns on this project but working in a
6 constructive fashion as this process has, has moved
7 forward. This application involves the rezoning of
8 blocks 2249 and 2265 bounded by Union Avenue, Walton
9 Street, Harrison Avenue, and Gerry Street from an M3-
10 1 to an R8A, R7D, and R7A with a C2-4 overlay and an
11 accompanying zoning text amendment to establish a
12 mandatory inclusionary housing area. This development
13 will consist of eight new mixed-use buildings. This
14 development is an MIH project with mandatory
15 inclusionary housing which will be developed under
16 MIH option one which means that 25 percent of the
17 residential floor area will go towards creating 287
18 affordable units at an average of 60 percent AMI or
19 below with ten percent, 115 units required at 40
20 percent of AMI. This project will also create 404
21 parking spaces, 64,000 square feet of local retail
22 space and 26,000 square feet of publicly accessible
23 open space. I was remiss earlier in not acknowledging
24 the developer of this project, Rabsky and their team
25 for coming in with, with an open mind, open ears and

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2 a willingness to talk through any issue at any time
3 if there was an issue that I had that came up at ten
4 p.m. I knew that I can get them on the phone to
5 discuss those issues and talk through them and so as
6 a... as an applicant they have been responsive and
7 responsible. Over the last several weeks we at the
8 council have addressed some of the larger issues that
9 have been discussed throughout this process and the
10 developer to their credit working with this council
11 have agreed to various enforcement mechanisms to
12 ensure that, that this project address some of the
13 concerns that were raised. So, we know that some of
14 the concerns that were raised had to do with
15 potential unit size distribution in making sure that
16 that unit size distribution meets the needs of the
17 greater Williamsburg and North Brooklyn community and
18 even though this is not something that we have
19 required of every private developer or most private
20 developers to be totally candid this developer has
21 agreed to a restrictive declaration on the project
22 which means this is recorded into the deed and it
23 follows the deed and if the developer were to for
24 some reason unforeseen sell the property these
25 requirements stay with the property, they stay with

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2 the deed and as our Chair mentioned the enforcer of
3 that restriction is in fact the Speaker of the City
4 Council and in this deed restrictive declaration the
5 Speaker of the City Council is identified as the, the
6 ultimate monitor and would be allowed under law,
7 under this... under this deed to take action if any of
8 those issues that are... that are addressed here in the
9 deed restriction are not abided by. Now I don't
10 expect that this developer's going to not honor these
11 commitments but in order to assuage concerns that
12 were raised again we don't require in this process
13 developers to enter into deed restrictions normally,
14 but this developer has agreed to do so. So, I'm going
15 to read a portion of that deed restriction, the
16 relevant portions because it is in fact about eight
17 pages long but will say here in the restricted
18 declaration dated on October 24th, of 2017 and
19 effective on the effective date defined herein,
20 Harrison Realty LLC that is the legal name of the
21 applicant, a New York State limited liability company
22 having an address in care of the Rabsky Group 505
23 Flushing Avenue, Brooklyn, New York 11205 and I'm
24 going to be skipping to the relevant portions.
25 Whereas the, the declarant intends to development the

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2 subject property by constructing eight new
3 residential and mixed use buildings on the subject
4 property, skipping ahead, whereas to ensure the
5 development of the subject property and in accordance
6 with the MIH requirements which my statement is the
7 law of the land here in New York City and with a
8 certain mix of affordable housing units here and
9 after defined declarant has agreed to restrict the
10 development on the subject property as set forth in
11 this declaration. Whereas declarant desires on the
12 terms and conditions herein to restrict the manner in
13 which the subject property may develop, maintained
14 and operated now and in the future and intends these
15 restrictions to benefit the all... to benefit the all
16 land owners and tenants including the city of New
17 York owning or leasing property within one half mile
18 of the subject property. Now therefore the declarant
19 hereby declares that the subject property shall be
20 held, sold and conveyed and developed subject to the
21 following covenants which shall run with the subject
22 property and bind the declarant and their heirs,
23 successors and assigns... moving forward... in the sub...
24 in the section development and use of the subject
25 property, subsection 2.01, development of subject

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2 property. If the subject property is developed in
3 whole or in part with the projected... with the
4 projected development or portion thereof declarant
5 covenants and agrees that the affordable housing
6 shall be developed, operated and maintained as set
7 forth in section 2.02 hereof and that's the next
8 section, affordable housing unit mix to... [clears
9 throat] excuse me... 2.02 housing unit mix. The bedroom
10 mix of affordable housing units as provided in the
11 declarant's regulatory agreement and MIH application
12 shall be comprised as follows, the following
13 distribution accounts for 100 percent of the units
14 that are required to be affordable under the MIH
15 program as the Chair had mentioned before. One-
16 bedroom units no less than 30 percent of the MIH
17 portion of the project. Two-bedroom units no less
18 than 30 percent of the MIH portion of the project.
19 Three-bedroom units no more than 20 percent of the
20 MIH portion of the project. Four-bedroom units no
21 more than 20 percent of the MIH portion of the
22 project. Concurrently with its submission to HPD the
23 MIH application shall be submitted to the effected
24 community board and Council Member for review and
25 comment for a period not to exceed 45 days. Two point

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2 zero three, building permits and certificates of
3 occupancy, declarant shall neither request nor accept
4 a building permit from DOB until after a regulatory
5 agreement has been executed and HPD has provided a
6 permit notice to DOB and declarant shall neither
7 request nor accept from DOB a temporary or permanent
8 certificate of occupancy for any dwelling unit other
9 than an affordable housing unit until... a dwelling
10 unit other than affordable housing unit until HPD has
11 assigned a completion notice for the affordable
12 housing developed in accordance with the regulatory
13 agreement and MIH application. There's some
14 miscellaneous points in the following section but the
15 relevant one 3.04, the binding nature, successors.
16 So, this is... this is for anybody who would then
17 purchase the property if this developer were to sell
18 it. the covenant and agreement set forth in this
19 declaration shall run with the land and shall inure
20 to the benefit of and be binding upon any respective
21 heirs, successors, legal representatives, and assigns
22 of declarant including any mortgagee provided that no
23 mortgagee shall have any performance or payment
24 obligations under this declaration unless and until
25 such mortgagee succeeds to a possessory interest

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2 provided that the declarant shall be binding.. the
3 declaration shall be binding on any declarant only
4 for the period during which such declarant or any
5 successor, legal representatives, or assign thereof
6 is the holder of an interest in the subject property
7 and only to the extent of such declarant's interest
8 in the subject property and references to, to
9 declarant shall be deemed to include heirs,
10 successors, legal representatives, and assigns as
11 well as the successors to the interest in the subject
12 property subject to the further provisions of this
13 section. At such time as a declarant or any successor
14 to a declarant no long holds an interest in the
15 subject property such declarant or such declarant
16 successor obligations under this declarant
17 declaration shall holy cease and terminate and the
18 parties succeeding such declarant or such declarant
19 successor shall assume the obligations of the.. of the
20 declarant pursuant to this declaration with respect
21 to actions or matters occurring subsequent to the
22 date such party assumes an interest in subject
23 property to the extent that such party, parties
24 interest in the subject property. For purposes of
25 this declaration any successor to a... to a declarant

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2 shall be deemed a declarant for such time as such
3 successor holds all or any port, portion of any
4 interest in the subject property. That all translates
5 in layman's terms this runs with the deed, if
6 somebody buys the property the subject of, of this..
7 to this subject property the obligations under this
8 declaration go with the property, they succeed this
9 declarant, go to a next declarant and if they sell
10 the property it goes to the next declarant after
11 that, that's what that means. And then lastly with
12 3.09 amendment modification and cancellation, this
13 declaration may be amended, modified or cancelled
14 only with the approval of the Speaker of the City
15 Council, no other approval or consent shall be
16 required from any other public entity, private
17 person, or legal entity of any kind. The
18 enforceability of this declaration, this is different
19 from any other restricted declaration that we've done
20 in this council and we've done... I can think of one
21 other that we did, there was no enforcer. In this... in
22 this restrictive deck the enforcer of that is the
23 City Council's Speaker and that's recorded against
24 the deed. I'll now read the letter from HPD which
25 speaks to HPD's role in the MIH process ensuring that

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2 these provisions are also adhered to with regard to
3 monitoring from HPD. Dear Council Member Levin, this
4 is a letter dated October 24th, 2017, I'm writing in
5 regard to the proposed Pfizer site development, a
6 Land Use application consisting of a change in zoning
7 district and amendment to apply to mandatory
8 inclusionary housing to a site in the Broadway
9 triangle area of South Williamsburg. I'm going to
10 skip ahead because this is all things that we know... I
11 understand that the application, applicant for the
12 Pfizer site rezoning application has made a
13 commitment to you and the City Council to adhere to
14 the following mix of apartment sizes for the portion
15 of the development that satisfies the mandatory
16 inclusionary housing program requirements and that a
17 restrictive declaration will be recorded against the
18 property to require the following distribution for
19 any, any MIH application no less than 30 percent one
20 bedroom, no less than 30 percent two bedroom, no more
21 than 20 percent three bedroom, no more than 20
22 percent four bedroom. As the agency responsible for
23 review of the MIH application and related regulatory
24 agreement HPD will commit to monitor the project for
25 compliance with the unisize... with the unit mix agreed

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2 to between the Council and developer at the point of
3 submission of the MIH application commencement of
4 marketing and conclusion of marketing. HPD further
5 commits to refer a copy of any MIH application to the
6 community board, the Borough President, local Council
7 Member for no less than 45 days for comment and
8 feedback. I look forward to working with you and your
9 community to ensure that these much-needed affordable
10 units are allocated in a fair and equitable manner.
11 That's... these are belts and suspenders, the first the
12 restrictor deck is the belt, this is the suspenders
13 and then the second pair of suspenders which is the
14 letter from Harold... Harrison Realty that delineates
15 all of these in a letter to the Council. I will speak
16 to just a couple of points here that weren't
17 addressed. With regard to administrating agent of
18 affordable lottery to select the... an administrating
19 agent Harrison Realty will issue a request for
20 proposal to qualified organizations that can
21 individually or collectively ensure completion of
22 this undertaking, the final designees will be
23 approved by HPD. Preparing area residents for the
24 lottery, marketing of affordable lottery, to ensure
25 that qualified community residents successfully

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2 compete for available units Harrison Realty will
3 sponsor a series of community workshops produced by
4 the Brooklyn Chamber of Commerce in association with
5 other local community based organizations of its
6 choosing to advise potential occupants how to..
7 applicants how to compete including how to determine
8 if they qualify, the income verifications required..
9 requirements and how to compete... how to complete and
10 submit their applications. Marketing of the
11 affordable units, in addition to marketing activities
12 undertaken by the administering, administering agent
13 Harrison Realty will provide prior notice of the
14 opening of the affordable housing lottery to both
15 community board one and community board three and
16 other area organizations. Harrison Realty will also
17 work with the... with HPD on other options for
18 notifying the public of and educating the public on
19 the housing lottery. MWBE, Harrison Realty has agreed
20 to maximize local participation in the construction
21 and operation of this project and will use best
22 efforts to ensure that a minimum of 25 percent of the
23 contract value of construction of the development be
24 awarded to MWBE firms with employees within Community
25 Board one. Local hiring, Harrison Realty will use

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2 best efforts to ensure that 25 percent of the
3 workforce hired for construction and for building
4 maintenance in service live in Community Board one.
5 Thirty-two BJ, Harrison Realty and 32BJ have reached
6 an agreement, as outlined in the agreement Harrison
7 Realty will not oppose unionization of the service
8 workers for the new development and will pay the
9 prevailing wage to building service workers.
10 Beginning with children's school, Harrison Realty has
11 committed to provide a 12-foot-tall construction
12 barrier along the Southern perimeter of the
13 development site to protect the school against
14 adverse effects from construction and in coordination
15 with the school on truck routing and dust
16 suppression. Harrison Realty also commits to
17 quarterly meetings with school leadership to discuss
18 construction issues. Harrison Realty will provide the
19 school with the cell phone number of the onsite
20 construction manager to ensure that the... that if the
21 school has any construction related issues they are
22 addressed immediately. In addition I had a, a, a
23 telephone conversation this morning with a
24 representative from Harrison Realty who agreed that
25 the school will have access to real time dust

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2 monitoring, air, air sample monitoring that will be
3 required by DEC and OER so the New York State
4 Department of Environmental Conservation because it's
5 Brownsville site, OER because it's under the OER
6 which is the city Environmental Remediation Agency
7 that, that the school will have access to the real
8 time information that, that both the DEC, OER and the
9 applicant have. Community Advisory Board, Harrison
10 Realty will participate in a Community Advisory Board
11 which will be Chaired by myself, Council Member Levin
12 to receive community input and provide progress
13 reports on the project. MTA, Subway Station, Harrison
14 Realty has contacted the Metropolitan Transit
15 Authority to inquire about the possibility of
16 reopening the subway entrance on Union Avenue near
17 Walton Street, the MTA does not intend to open the
18 entrance at this time, that's the MTA's decision.
19 Harrison Realty will coordinate with the MTA on
20 access that they expressed the interest in reopening
21 the entrance in the future. And then lastly on
22 environmental, Harrison Realty is required to
23 remediate the site completely to residential
24 standards if the site is to be developed with
25 residential uses. Other environmentally friendly

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2 sustainable elements are under review and could
3 include such items as green roofs, white roofs,
4 capturing and recycling excess rain water. So, as you
5 can see this application has been thoroughly vetted
6 by this council, by this committee, by myself in
7 addition to the other agencies throughout the ULURP
8 process. We feel strongly that this is not only a, a
9 fair application to approve but is... goes above and
10 beyond what any other application that I have had in
11 my district as a private application when it... when it
12 comes to ensuring that what they say they're going to
13 do that they actually do it and with regard to
14 mandatory inclusionary this is a, a law that we voted
15 on last year, I support mandatory inclusionary
16 housing and this is an application to do development
17 under mandatory inclusionary housing which is the law
18 that this city council passed not 30 years ago but
19 just last year. With that I will turn it back over to
20 my Chair, I thank you very much for the time, I thank
21 you all colleagues for the time, I, I ask that, that
22 you vote yes on this application, this council has
23 done its job here in thoroughly vetting and reviewing
24 this application and I think it's a fair application
25 to approve. Thank you.

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CHAIRPERSON RICHARDS: Okay, we're going to take about a two-minute recess just waiting for one colleague to get... looks like he's coming back in... alright, thank you. alright, we're now going to... thank you Council Member Levin. I'm now going to call a vote to approve Land Use Item Numbers 761, 762, 766, 767 and the preconsidered Linden Boulevard tax exemption and a vote to approve with modifications Land Use Item Numbers 768, 769, and 770 and I'll ask the Counsel to please call the roll.

COMMITTEE CLERK: Council Member Reynoso?

COUNCIL MEMBER REYNOSO: Permission to explain my vote?

CHAIRPERSON RICHARDS: Yes, sir.

COUNCIL MEMBER REYNOSO: This is how segregation happens systematically in the City Council and in the City of New York. In 2009 the Bloomberg Administration rezoned the adjacent blocks of the Broadway Triangle including both private and city owned sites from manufacturing to residential. The city's plan developer of United Jewish Organizations and the Ridgewood Bushwick Senior Citizens Council with no public bidding process favored the construction of low-rise buildings with

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2 large unit sizes this meant that the number of
3 affordable housing units was not maximized, and the
4 planned units were designed to favor those with large
5 family sizes meaning the city community primarily
6 found in nearby South Williamsburg. A coalition of
7 churches, non-for-profit organizations and tenant
8 associations representing the surrounding communities
9 of color in Williamsburg, Bushwick, and Bed-Stuy
10 successfully sued the city over this plan for
11 violating fair housing regulations. The judge found
12 that the city's plan quote, "would not only not
13 foster integration of the neighborhood but would
14 perpetuate segregation in the Broadway Triangle", end
15 quote. In the course of this lawsuit Purnima Kapur
16 then the Head of the Brooklyn Office of the
17 Department of City Planning testified on the record
18 that while developing zoning plans the Department of
19 City Planning does not consider the possibility of
20 racial segregation and does not evaluate whether
21 segregation took place after zoning is implemented,
22 it falls to us then to ensure that discriminatory
23 housing doesn't happen here. Despite ongoing
24 negotiations with the city, the lawsuit still has not
25 been settled, the court issued an injunction on the

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2 development of the two city owned sites, yet
3 development of the privately-owned sites continues
4 unabated and exclusively towards one demographic.
5 Despite the fact that our community has long been
6 advocating that any settlement of the lawsuit
7 includes a commitment from the city to create this
8 truly inclusive community based plan for the entire
9 Broadway Triangle area instead the city is allowing
10 this development to move forward with no meaningful
11 public input. Additionally, it is worth noting that
12 the member deference policy for approval of rezoning
13 has had a devastating effect on North Brooklyn's
14 Latino community already. During the 2005 rezoning of
15 the Williamsburg Waterfront Council Member Diana
16 Reyna did not have the opportunity for meaningful
17 input because of member deference. Despite the fact
18 that she represented an impacted community, yet the
19 council passed it because of support for then Council
20 Member David Yassky who at the time represented the
21 neighborhood district now represented by Council
22 Member Levin. Since then the Hispanic population of
23 Williamsburg has decreased by more than 25 percent.
24 The restrictive declaration is a perfect example of
25 non-legally binding agreement that the city is going

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2 to put on paper that is not worth the, the ink it is
3 printed on... or the paper it is printed on. The reason
4 that getting a guarantee of unitizes from Rabsky
5 Group is so important is that they have proven
6 themselves an untrustworthy developer in the
7 community and others around the city. If we were
8 serious about building affordable housing and locking
9 in this developer, we would have done a deed
10 restriction not a restrictive deck. In 2013 the City
11 Council passed a manufacturing to residential
12 rezoning plan for the former Rheingold Brewery site
13 in Bushwick, a coalition of community based
14 organizations and residents negotiated an agreement
15 with the developer regroup which included a
16 commitment to develop affordable housing at levels
17 and unitizes tailored to meet community needs as well
18 as other community benefits such as regular
19 communication with the coalition and Community Board
20 four, a local hiring program of union jobs, a
21 partnership with a local non-profit to market
22 affordable housing units and mitigation of the
23 construction and traffic impacts. To this day none of
24 these commitments have been followed through by the
25 Rabsky Group. I would like to end by saying that at

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this moment in ten years we will look back on this property and see that it is 90 percent white in a district that is bordered by black and Latinos and white population and we will affirmatory approve this project and continue segregation in this district. I'm letting you know now that we will sue and we'll back in four years and we will win... and we will win again. This council has consistently approved projects within the Broadway Triangle without trying to go above and beyond the call of duty in ensuring integration and I think we're doing... we're making a mistake here today and I hope that my colleagues would vote no on this project and I vote no.

COMMITTEE CLERK: Chair Richards?

CHAIRPERSON RICHARDS: I vote aye.

COMMITTEE CLERK: Council Member Gentile?

COUNCIL MEMBER GENTILE: I vote aye.

COMMITTEE CLERK: Council Member Garodnick? Council Member Williams?

COUNCIL MEMBER WILLIAMS: Pass.

COMMITTEE CLERK: Council Member Torres?

COUNCIL MEMBER TORRES: Permission to explain my vote?

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CHAIRPERSON RICHARDS: You may explain your vote.

COUNCIL MEMBER TORRES: You know the subject of segregation weighs heavily on me, one of the central causes of my brief career in politics has been the desegregation of our public schools which has been found to be the most segregated by a study by UCLA. One of my core criticisms of MIH was the failure of MIH to promote integrated housing and so the concerns about fair housing are not ones that I take lightly. Having said that I do believe that Council Member Levin has made a good faith effort at addressing those concerns, right, that the combination of restrictive deck and a lottery does address those fair housing concerns, but I do vote with some reservations. I have asked what is the enforcement mechanism for the restrictive deck, I've asked five people, I feel like I get five different answers and so that's a source of concern, I feel like we're treading unchartered territory and there's no guarantee that even if we were to sue in court that we would prevail. So, that's a concern that I have, that's a real reservation. I think second if there is a history of fair housing violations in the

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Broadway Triangle the city.. the city should be taking those concerns seriously and closely scrutinizing that site rather than disregarding them. So, as far as I'm concerned there are larger policy questions that have to be addressed but I do vote aye with reservations.

COMMITTEE CLERK: Council Member Grodenchik?

COUNCIL MEMBER GRODENCHIK: Aye.

COMMITTEE CLERK: Council Member Reynoso your vote on other items?

COUNCIL MEMBER REYNOSO: I vote aye on the other items.

COMMITTEE CLERK: All items are, are... Council Member Williams?

COUNCIL MEMBER WILLIAMS: May I please explain my vote?

CHAIRPERSON RICHARDS: You may explain your vote.

COUNCIL MEMBER WILLIAMS: Thank you. There's a lot of things going on here, I think the first of which these communities as a lot of communities across the city are being forced to fight over the leftovers as actually opposed to getting the

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2 whole pie that they deserve so that's number one. And
3 two, I think we'd be remiss if we didn't admit there
4 is racism, anti-Semitism abound through this whole
5 discussion but that's just something that is a fact
6 of life. I believe that all communities including the
7 Latino, black and of course the Hasidic community all
8 need affordable housing, and all have not been
9 receiving that and that's just a problem within the
10 city and the City Council that has to address in, in
11 a better way. I do have to admit based on what I've
12 seen and what history is showing us the, the black
13 and Latino community has gotten the butt end of that
14 and that little bit that's been available. I think
15 the tension here is partly due to conversations that
16 this body has continually kicked down the road and we
17 can no longer kick down the road anymore, we have to
18 have honest conversations about the tools that we
19 have. I did vote against MIH, I said then that it
20 wasn't enough, we are learning now that it is not
21 enough, I have though supported the, the option one
22 which is the, the best option. Also, the
23 conversations about member deference which is
24 uncomfortable but has to happen. I believe that
25 member deference is important, it, it cannot go away

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2 because we do know our districts better than anyone
3 else. There is a time frame, there's a point when
4 member deference runs afoul of what this body says it
5 wants to accomplish that has been happening for some
6 time. So, we have to figure it out or else we are
7 going to continue to push forward projects that are
8 problematic because they're not addressing the issues
9 of deeply income targeted and affordable housing and
10 homelessness in this city. We have... if we're going to
11 be a body that goes in the public, goes in front of
12 cameras and says one thing we should back it up by
13 what we do here. I've been speaking with Council
14 Member Reynoso for some time and the parties who... in
15 the community have issues, I've also been speaking
16 with Council Member Levin, the Rabbi and, and that
17 community as well, I am... I actually believe that
18 Council Member Levin has done a very good job in
19 trying to push forward the best way he can to address
20 the concerns I just want to say I don't think the
21 concerns were ignored here, I'm not sure if they were
22 fully addressed but I just want to credit Council
23 Member Levin in trying his best to address the
24 concerns. The one concern I heard the most from my
25 colleague Council Member Reynoso and from others was

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2 about the unit breakdown and the size of the
3 apartments. From what I understand that has been
4 addressed somewhat, I too have some additional
5 questions, I'm not understanding fully what the
6 enforcement is so for that reason today I'm going to
7 vote no on Pfizer LU Number 76, 762 but I will have
8 to say if my... I, I plan to get some additional
9 information and that vote may change because its,
10 it's important to get this right and to vote for the
11 correct reason. So, I know there's another Land Use
12 vote on Thursday and there's a full vote, I will be
13 trying to get as much information as I can at that
14 point but for now I'll vote no on LU Number 761 and
15 762 and aye on all the rest.

16 COMMITTEE CLERK: Land Use Items 761 and
17 762 are approved with four votes in the affirmative,
18 two in the negative and zero abstentions and let's...
19 and Land Use Item 766, 767, the preconsidered Linden
20 Boulevard tax exemption are approved by a vote of six
21 in the affirmative, zero in the negative and zero
22 abstentions. Land Use Items 768, 769, and 770 are
23 approved with modifications by a vote of six in the
24 affirmative, zero in the negative and zero
25 abstentions.

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2 CHAIRPERSON RICHARDS: Thank you and
3 we're going to move on to the next items on the
4 agenda. I want to thank everyone for coming out who
5 came out and contributed to this conversation and as
6 I've said there's no magic wand in any Land Use
7 application, it's about community input, community
8 accountability and the community holding developers
9 accountable. With that being said I am now going to
10 move onto our next public hearing where we'll be...
11 which will be a continuation of a hearing on the
12 Sendero Verde application. Since closing our last
13 hearing the council has officially called up the
14 discretionary items in this application and has
15 received a related Article 11 tax exemption from HPD.
16 Today we will accept testimony on the discretionary
17 items and hear from HPD regarding the tax exemption
18 application. I will now open the public hearing for
19 Land Use Item Number 776 through 782 and Land Use
20 Item Number 790. Alright and we will hear once again...
21 from Ken Spillberg from HPD, Director of Mixed Income
22 Programs and Miss Pearson I believe, Director of Land
23 Use, HPD. How do I say your first name Arttimeche..

24 ARTTI PEARSON: Arttimeche.
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CHAIRPERSON RICHARDS: Arttimecha, okay..

[cross-talk]

ARTTI PEARSON: Yeah.. [cross-talk]

CHAIRPERSON RICHARDS: ...there you go so I can get right... alright, Miss Arttimeche Pearson.

ARTTI PEARSON: Alright...

CHAIRPERSON RICHARDS: Thank you.

ARTTI PEARSON: Afternoon Chair Richards. Again, I'm Artti Pearson from HPD's Office of Governmental Relations. Land Use Number 790 consists of proposed Article 11 tax benefits for city owned property located within the East Harlem rezoning area at block 17... in block 1617, lots 20, 51, 52, 53, 54 and part of lot 50 in Manhattan Council District eight and is known as Sendero Verde. Land Use Number 790 is currently before the zoning Subcommittee seeking zoning text amendment and establishment of MIH... of an MIH area related to Land Use Items Number 776 to 782. Summarizing the development of the project three mixed use buildings with commercial and community facility uses as well as community gardens will be constructed. The sponsor of the Sendero, Sendero Verde project is proposing to create 674 affordable dwelling units including three

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2 superintendent's units. The project will be marketed
3 towards households with incomes ranging from 30
4 percent to 165 percent AMI and rents ranging from 30
5 percent to 130 percent of AMI. Building A will be
6 comprised of 384 units, building B will be comprised
7 of 211 units and building C will be comprised of 79
8 units. In an effort to facilitate long term
9 affordability of the residential units HPD is seeking
10 an Article 11 tax exemption for a period of 40 years
11 that will coincide with the regulatory agreement.

12 Thank you.

13 CHAIRPERSON RICHARDS: Thank you for your
14 testimony. Thank you. That was easy, you've not going
15 to get off that Scott easy on a lot of other projects
16 but take it while you get it as they say. Our next
17 public hearing is on the Kio sidewalk café
18 application, Land Use Item Number 789. The applicant
19 here is asking for approval of a sidewalk café with
20 three tables and six chairs to be located at 157
21 Duane Street in Council Member Chin's district. I
22 will now open the public hearing for Land Use Item
23 number 789, is Council Member Chin here, I saw her...
24 okay, she's coming up, okay. So, the applicant... I
25 will call the applicant Nick Bradley, come on up.

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Council Member Chin do you want to give any quick comments on the sidewalk café or we could hear from the applicant?

COUNCIL MEMBER CHIN: Yeah.

CHAIRPERSON RICHARDS: Comments?

COUNCIL MEMBER CHIN: Yep.

CHAIRPERSON RICHARDS: I'm going to go to Council Member Chin for comments, also joined by Land Use Chair Greenfield.

COUNCIL MEMBER CHIN: Thank you Chair. I know a sidewalk café that's not as big as those... the big Land Use Item you have but still... [cross-talk]

CHAIRPERSON RICHARDS: They are important.

COUNCIL MEMBER CHIN: I want to make sure that my constituents concerns are taken care of so thank you again to Chair Richard and the committee for holding a hearing on this new unenclosed sidewalk café application at 157 Duane Street for a restaurant so called Kio and the original plan calls for a maximum of six tables and 12 chairs in front of a commercial entrance of a small coop building in my district. Now Community Board one has worked diligently to reduce the allowable number, tables and

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2 chairs to three tables and six chairs and with the
3 applicant to agree to additional restrictions on the
4 allowable hours of operation and... you know this is a,
5 a quiet street so I just wanted to ask the applicant
6 a couple of questions because, you know the
7 residents, you know continue to express their concern
8 for quality of life and the impact on this café, I
9 mean this is not a street where there's a lot of
10 cafes so you're... I mean a sidewalk café, you're going
11 to be the, the first and only one so... what steps have
12 you taken to ensure that the patrons do not become
13 rowdy and loud and disturbing the neighbors and, and
14 do you have plans to sell hard liquors on the
15 sidewalk café and also where are you going to post
16 all the stipulation required by the community board
17 after this hearing?

18 CHAIRPERSON RICHARDS: Alright, applicant
19 you may begin.

20 NICK BRADLEY: Alright, do you mind doing
21 the first question and I'll answer that one first?

22 COUNCIL MEMBER CHIN: What, what steps
23 are you going to take to ensure that the, the patrons
24 of your restaurant do not become loud and rowdy, you
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2 know when they're out there on, on the... at the
3 sidewalk café disturbing... [cross-talk]

4 NICK BRADLEY: Okay... [cross-talk]

5 COUNCIL MEMBER CHIN: ...the, the
6 neighbors?

7 NICK BRADLEY: So, Kio's been in business
8 about four and a half years, we've established a
9 clientele that is as far as we're concerned as
10 business owners respectful of the neighborhood so
11 anybody who does sit outside and this is
12 predominately full, full dinner or full lunch only,
13 you cannot sit in the café and, and have anything to,
14 to drink unless you're having a, a meal because as a
15 business owner we value the, the, the neighbors that
16 are dwelling above us and around us. We manage the
17 environment inside, we do not allow for anybody to
18 create a problem inside via, via... if they're loud or
19 disruptive unfortunately they, they're, they're not
20 welcome to dine at the establishment so we have
21 spoken to the concerns voice by our direct neighbors
22 with CB1 to put in a lot of different regulations to
23 ensure that the clients, the guests in the café
24 respect those that, that live close be it music will
25 not be permitted, we minimize the café to be smaller,

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2 it is three tables and six chairs. The hours are
3 going to be not only visible to the guests as they
4 sit but on each menu, that goes down into the, the
5 guest's hands. We understand that this is... this is
6 not a situation to be taken lightly, we understand
7 that our guests are our responsibility and, and as an
8 owner I take responsibility for their actions and
9 will be available to address any concerns from my
10 neighbors if there are any but as a business owner
11 and an operator for 15 years in New York City I, I
12 know how to create an environment that will minimize
13 any effect on, on our neighbors so that our neighbors
14 continue to come to our space and not be upset by
15 our, our presence.

16 COUNCIL MEMBER CHIN: Okay, I mean there...
17 it's a long stipulation so... [cross-talk]

18 NICK BRADLEY: Uh-huh... [cross-talk]

19 COUNCIL MEMBER CHIN: ...you'll be able to...
20 not just posting it but also hand it to the, the
21 customers so they know... [cross-talk]

22 NICK BRADLEY: Yes, it'll be... [cross-
23 talk]

24 COUNCIL MEMBER CHIN: ...the hours... [cross-
25 talk]

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NICK BRADLEY: ...on the menus themselves that are designed for the café so anybody who gets it will see this, we're not going to make it... we're going to make it very visible so our, our guests understand that this café comes with stipulations if you don't abide by them you can't dine in that café and our management will enforce them.

COUNCIL MEMBER CHIN: Okay, I mean... just one last question, I mean it's a quite block that really does not have sidewalk cafes why do you... if you've been there for a couple of years why do you all the sudden want to have a sidewalk café?

NICK BRADLEY: Being there four and a half years... [cross-talk]

COUNCIL MEMBER CHIN: And how's that going to really help enhance the neighborhood?

NICK BRADLEY: We're in a, a landmark district, we're actually the last building within the landmark district in that region and there really isn't much of a presence of a storefront for Kio by law which we, we understand but with essentially, you know minimum wage going up and, and trying to be a, a business owner that hopefully stays in the neighborhood for a long time as a positive

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contributor to the community we're... we need a... we need a little more visibility or income to make it work and, and in the beginning we didn't plan on doing a, a café but the, the numbers are just as such where this little additional visibility and revenue will, will, will hopefully keep us in that location for, for years to come, honestly.

COUNCIL MEMBER CHIN: Okay, thank you.

Thank you Chair.

CHAIRPERSON RICHARDS: Thank you.

Alright, any other questions from colleagues, no, alright seeing none, thank you. Are there any members of the public who wish to testify on this issue? I think we have Megan Brosterman. Hello and you'll just hit... press your mic and it'll light up red.

MEGAN BROSTERMAN: Okay...

CHAIRPERSON RICHARDS: ...and you'll say your name for the record and who you're representing and then you may begin.

MEGAN BROSTERMAN: Hi, my name is Megan Brosterman, I represent the Coop at 157 Duane Street we're owners and managers of, of the premises. Good afternoon Chairman Richards and the Zoning Subcommittee. Hi, I'm a resident and Board Member of

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2 the Coop located at 157 Duane Street, the building
3 where Kio is located. I live on the second floor of
4 the building with our living room windows opening out
5 to just above where this café is proposed to be
6 located with my husband and four and six-year-old
7 daughters. The café is not just in front of
8 commercial entrance, it is right adjacent to our
9 residential entrance, this is an extremely small
10 patch of sidewalk and I don't know if you've had an
11 opportunity to review the, the map plan that shows
12 where these tables are proposed to be placed but... I
13 mean basically if, if someone pushed their chair out
14 they'd be in front of my doorway. We as residents of
15 the building hear patrons of the restaurant talking
16 in the street all the time, this is not a compliant
17 of ours but just, so you know if I can only hear a
18 patron who just left the restaurant chatting in the
19 street imagine what it's going to be like if there's
20 a sidewalk café there and this is even through closed
21 windows and we like to open our windows in the nice
22 weather which is exactly when the café will be most
23 crowded. I'm not sure how... I'm actually not sure how
24 the sidewalk café application process has gotten this
25 far. Kio never received a valid landowner's consent

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2 which is required to apply for this permit, the theme
3 throughout this entire process has been a lack of
4 transparency, a lack of due process and a lack of
5 attention to the concerns of the community. I sent an
6 email to the City Council on October 5th with
7 relevant documents attached but I'm happy to resend.
8 The restaurant space in my building is governed by a
9 50-year lease that was executed over 30 years ago
10 between my coop doing street park corp. and an
11 association called Duane Street Park Associates. So,
12 the landlord on the governing lease is managed by my
13 coop a four-residential unit building in which all
14 residents are shareholders and each unit has a seat
15 on the board. My Coop bylaws require consent to the
16 board before any major actions affecting our
17 residents take place. My neighbor, one of these four
18 units who is both a Coop member and the only one
19 who's also a member of the Duane Street Park
20 Associates who are the leaseholders on this original
21 lease signs the landholder's consent for this
22 sidewalk café without notifying the rest of the board
23 members or shareholders of the Coop. So, this consent
24 was signed without valid authority and this
25 application should be denied. My fellow Coop members

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2 have contested this application both at the Community
3 Board meeting on April 12th and at the DCA hearing on
4 April 26th. At the DCA hearing we thought this was
5 finished when the judge provided... presiding tabled
6 the application without approving it at that time.
7 Then after months of no news all summer we received a
8 letter dated September 27th out of the blue from a
9 lawyer at the DCA named Eileen Yap saying that they
10 had been convinced by evidence presented by my
11 neighbor, Brad Palace that his landowner's consent
12 that he had signed is valid. Again, Brad did this
13 without notifying the Coop Board, we were never given
14 the opportunity to review or dispute any evidence
15 that he presented so this approval was pushed through
16 without due process. We submitted a FOIA request on
17 October 2nd for the evidence submitted, that he had
18 submitted in, in support of his landowner's consent
19 but we haven't received any documents yet from this
20 FOIA request. The Kio management will tell you that
21 Brad is the manager of their... [cross-talk]

22 CHAIRPERSON RICHARDS: Going to ask you
23 to begin to wrap up.

24 MEGAN BROSTERMAN: Yes.

25 CHAIRPERSON RICHARDS: Yes.

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MEGAN BROSTERMAN: Excuse me?

CHAIRPERSON RICHARDS: Going to ask you
to begin to wrap up.

MEGAN BROSTERMAN: Oh okay... [cross-talk]

CHAIRPERSON RICHARDS: Okay, thank you...
[cross-talk]

MEGAN BROSTERMAN: ...alright... [cross-talk]

CHAIRPERSON RICHARDS: ...no problem. And
then if you could just sum up what are the two things
you're really... want him to focus on changing?

MEGAN BROSTERMAN: I, I, I do not want a
sidewalk café, this has not... [cross-talk]

CHAIRPERSON RICHARDS: Okay... [cross-talk]

MEGAN BROSTERMAN: ...been approved...
[cross-talk]

CHAIRPERSON RICHARDS: Okay... [cross-talk]

MEGAN BROSTERMAN: The sidewalk café...
[cross-talk]

CHAIRPERSON RICHARDS: If it were
approved... [cross-talk]

MEGAN BROSTERMAN: ...application requires
a landowner's consent that's part of the application,
the landowners consent that was signed is not valid,
we... the Coop who is the landowner does not consent to

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2 this sidewalk café. So, this keeps getting pushed and
3 pushed and pushed through, through back channels and
4 every time it goes through a different step of the
5 process we're, we're not given the opportunity to, to
6 dispute it so... at any rate the Associates don't have
7 any authority to extend their premises to the
8 sidewalk, the, the, the original lease does not
9 include this area and so my neighbors and I are at
10 our wits end at this, the City Council is our last
11 line of defense against a major chain store building
12 that is detrimental to the residents use of the
13 premises and enjoyment of our homes and something
14 that has been pushed on us without transparency and
15 without our approval as owners and management of the
16 premises. So, I urge the members of the City Council
17 to deny that... deny this application or at least
18 withhold your approval until we can review the
19 documents that come back from our FOIA request so
20 that we can determine what legal action we can take
21 to deal with this. Thank you very much for your time.

22 CHAIRPERSON RICHARDS: Thank you and
23 thank you for your testimony and I'll... we'll
24 certainly be working with Council Member Chin on
25 this... [cross-talk]

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MEGAN BROSTERMAN: Thank you... [cross-talk]

CHAIRPERSON RICHARDS: ...item so thank you for... [cross-talk]

MEGAN BROSTERMAN: I appreciate it, thank you... [cross-talk]

CHAIRPERSON RICHARDS: ...bringing this up... [cross-talk]

MEGAN BROSTERMAN: ...Council Member Chin... [cross-talk]

CHAIRPERSON RICHARDS: ...thank you... [cross-talk]

MEGAN BROSTERMAN: ...thank you.

CHAIRPERSON RICHARDS: Any other members of the public wising to testify on this issue? Okay, seeing none I will now close the public hearing on Land Use Item Number 789 and we will move on Land Use Items Number... Land Use Item Number 784, the 449 Broadway Special Permit application. The application here is seeking a special permit under Section 74-781 to allow for retail use on the ground floor of an existing five story commercial building located at 449 Broadway, this application is also in Council Member Chin's district. I will now open the public

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hearing on Land Use Item Number 784. And I'll ask the applicants to state their name for the record and who they're representing. I believe we're joined by Lisa Orrantia, Akerman LLP; Casey Martinez, 449 Broadway LLC. With that being said just state your name for the record and you may begin.

LISA ORRANTIA: Good afternoon, Lisa Orrantia from Akerman LLP representing the applicant 449 Broadway LLC and I'm joined by Casey Martinez, Director of Development at United American Land. This is an application for a special permit for ground floor commercial use, ground floor and cellar and the property is on a lot that's 5,000 square feet, it's 200 feet deep, it's got frontage on Broadway and Mercer Streets, it's located in an M1-5B zoning district within the Soho cast iron historic district. The building is a five story with cellar, it's about 8,000 square feet for lease on the first floor and cellar, the building was constructed in 1855 and its original function was as a store on the ground floor. The zoning district has been designated M1-5 in 1961, it was amended M1-5B in 1971 and since '76 commercial uses haven't been allowed below the second floor. The most recent use was for a radio studio and the space

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2 on the ground floor and cellar has been vacant since
3 October of 2010 so vacant for almost seven years.
4 Retail uses, and service establishments are
5 predominant along Broadway and Mercer, there are
6 clothing stores, furniture stores, shoe stores, drug
7 stores and a bank. So, the zoning doesn't allow
8 retail or office uses below the second story, but
9 City Planning Commission can issue a special permit
10 to modify the use regulations to allow this proposed
11 use. A good faith effort was made to secure a
12 conforming tenant in that the properties were listed
13 with two real estate brokers, advertisements were
14 published weekly in the New York Post and in the
15 Villager for a year, letters and phone calls were
16 directed at 12 community local and citywide industry
17 groups and no offers for as of right uses were
18 received. The application receives support from
19 Community Board two and the Borough President given
20 that the good faith effort was made, and the building
21 was originally constructed for commercial use and is
22 not inconsistent with the commercial corridor along
23 Broadway and Mercer.

24 COUNCIL MEMBER CHIN: Chair can I make...
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CHAIRPERSON RICHARDS: Sorry, I'll go to Council Member Chin, okay, that concludes your presentation? Alright, great... [cross-talk]

LISA ORRANTIA: Thank you... [cross-talk]

CHAIRPERSON RICHARDS: Council Member... sorry... [cross-talk]

COUNCIL MEMBER CHIN: Well, I... [cross-talk]

CHAIRPERSON RICHARDS: ...I was getting coffee...

COUNCIL MEMBER CHIN: The reason I call this up because look, this is the second of such application at this location after the good faith marketing permit application was withdrawn I think in 2015 after the applicant did not meet the requirements to market the space to conforming use with a truly good faith effort. As many members of the committee and the public know that Soho has, has seen a slew of these changes, permits and especially both good faith marketing and the 74-711 permit which have amounted to enormous change in the character and quality of life in the neighborhood and before 2010 this building hosted a Chinese language radio station and TV station and, and it's the tenants there they

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2 supported a vibrant community, local community
3 purpose. So, in this hearing today will help us
4 determine whether or not this applicant has met the
5 requirements for the special permit and if their
6 proposal genuinely meets the needs of and fits in
7 with the true character of the neighborhood because
8 one of my questions is that the radio station... radio,
9 TV station left in 2010 so what happened with that
10 vacant space, what was the tenants in the space after
11 2010 and then also what kind of retail are you
12 looking for in the ground floor space, are you
13 looking for eating and drinking establishments, what
14 type of retail are you looking for?

15 LISA ORRANTIA: The, the ground floor..
16 excuse me... and cellar have been vacant since October
17 of 2010 and since then there have been renovations
18 taking place in the building, the upper floors have
19 been consistently occupied for office uses. The
20 former radio station tenant did relocate within the,
21 the community district to a larger space but again
22 since, since they've left the space has been vacant.
23 There's no tenant identified at this time as no
24 marketing efforts have been made to identify a retail
25 tenant and the, the owners are open to any offers

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2 they've received to use this space that... being
3 mindful of, you know the respect due to the neighbors
4 and to the tenants on the upper floors.

5 COUNCIL MEMBER CHIN: Well, I mean some
6 of the concerns that have been raised, you know over
7 and over again is that nighttime delivery, pop up
8 stores, special events and those are the things that
9 have been inundated in this neighborhood with
10 buildings with ground floor retail or even the whole
11 building that's commercial. So, there's got to be
12 some restriction on those and then the other thing is
13 the whole issue with eating and drinking
14 establishment, so I wanted to make sure that the, the
15 retail area can really offer opportunity for business
16 owner or a designer, people who are in the creative
17 industry because that's what Soho is about and we
18 want to make sure that we continue to maintain that
19 character and so I would really encourage that the
20 marketing or the... attracting these type of businesses
21 to be able to use your retail space and to offer, you
22 know that type of services rather than eating and
23 drinking establishment or another sneaker store.

24 LISA ORRANTIA: Yeah, the... so the
25 applicant is amendable to those uses and is willing

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to make efforts to locate those desirable uses that would be a benefit to the community.

COUNCIL MEMBER CHIN: Well I think we will, you know meet with the, the owner before the committee vote to see if we can work in some of these agreements that will benefit the neighborhood. Thank you Chair.

LISA ORRANTIA: Thank you.

CASEY MARTINEZ: Thank you.

CHAIRPERSON RICHARDS: Thank you. Thank you for your testimony. Alright and any other members of the public who wish to testify on this issue? Okay, seeing none I will now close the public hearing on the Land Use Item Number 784 and we will move onto public hearing Land Use Item Number 787 and 788, the 723-733 Myrtle Avenue rezoning. This application would change the existing M1-1 and M1-2 zoning district to R6A and R7D district with C2-4 commercial overlays. The property affected is located at Myrtle Avenue between Nostrand Avenue and Walworth Street. The text amendment would apply the mandatory inclusionary housing program option one to the site. The projected development for the site would consist of 75 residential units with 25 percent affordable to

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2 families making an average of 60 percent of the AMI
3 and commercial and community facility space. This
4 application is located in Council Member Levin's
5 district, he's having a lot of fun today. I will now
6 open the public hearing on Land Use Item Number 787
7 and 788 and I'll go to Council Member Levin if he
8 wants to give opening remarks. I'm going to step out
9 for a second so you're actually going to Chair..
10 [cross-talk]

11 COUNCIL MEMBER LEVIN: Okay.. [cross-talk]

12 CHAIRPERSON RICHARDS: ...for a second so I
13 will go to you for statements first and we have our
14 Housing friend Richard Lobel, who is an applicant of
15 JMS Realty, good to see you Richard.

16 RICHARD LOBEL: It's good to see you
17 Chair Richards and thank you. So, the application
18 today as was stated is for 723 to 733 Myrtle Avenue,
19 if you'll excuse me one moment... great. So, the
20 applicant is JMS Realty which is Scott Fishman along
21 with his family, the owners of the property. And as
22 per the first sheet, the zoning map amendment here
23 would rezone a portion of Myrtle Avenue between
24 Walworth and Nostrand. On the Northern portion of
25 Myrtle to an R7D with a C2-4 overlay and on the

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2 Southern portion to an R6A with a C2-4 overlay
3 between Sanford and Nostrand and this application...
4 this rezoning would also be accompanied of course by
5 a text amendment to appendix F of the zoning
6 resolution which would in, indicate an inclusionary
7 housing designated area to require for mandatory
8 inclusionary housing. The... and this is the zoning map
9 in, in, in whole. The area around this property was
10 prior... was prior... was, was... the subject of a prior
11 rezoning which in 2012 in the Bed-Stuy North rezoning
12 mapped about eight block fronts to the East of this
13 property to an R7D with a C2-4 overlay and so this
14 Land Use and this pattern is very well known to the
15 area. This is why the Department of City Planning
16 echoed that zoning on our blocks to the North of
17 Myrtle Avenue with an R6A on the Southern portion and
18 so when we look at the actual area of the rezoning we
19 have a total of about 60,000 square feet amounting to
20 three block fronts which amounts to about 22 lots.
21 The lots actually controlled by the applicant as far
22 as the development side are concerned are the five
23 lots that are highlighted in red to the... on the
24 Western portion of the rezoning. You can see that
25 Land Use in the area generally reflects residential

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2 and open uses along Myrtle Avenue in this area. In
3 fact, the uses on the lots that are covered by the
4 rezoning 50 percent of those uses are residential
5 with commercial use and about 35 percent are open
6 uses and parking so... most of this property that's
7 part of this rezoning will now become conforming in
8 accordance with the rezoning and this will allow for
9 some additional development, residential development
10 with commercial on the ground floor on some of these
11 vacant and open sites. This is seen to be a desirable
12 land use in the area, the Bed-Stuy North rezoning
13 some of the goals of that rezoning were to allow for
14 development of sites with affordable housing to allow
15 for ground floor commercial use and indeed the choice
16 of zoning district here, the C2-4 with, with over...
17 the over, over the R7D would mandate commercial uses
18 on the ground floor so it's seen as a way of
19 activating the commercial frontage on, on Myrtle
20 Avenue. Again the zoning map amendment would rezone
21 the M1-1 portion to the North of Myrtle to an R7D/C2-
22 4 which echoes the R7D/C2-4 that has been established
23 pursuant to the Bed-Stuy North rezoning and on the
24 South side of Myrtle between Sanford and Nostrand
25 there would be an R6A/C2-4 this was chosen by the

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2 Department of City Planning because the sites on that
3 block front amounts to about six sites all reflect
4 ground floor commercial with residential uses above
5 and so all of them will become conforming pursuant to
6 this rezoning and, and actually as far as soft sites
7 are concerned this will establish the conformity of
8 those sites and will not pursuant to City Planning's
9 review create any soft sites or additional
10 development immediately. We have a, a shot...
11 screenshot, eagle eye view of the rezoning district
12 boundary as well as the development site in green and
13 then some photos of the site which right now the
14 development site is used for open uses including as
15 truck parking. The... to, to kind of summarize the
16 proposal, the proposed R7D/C2-4 would respond to an
17 increased demand for new housing in the area, it
18 would allow for medium density apartment buildings
19 with mandatory affordable of course, would require
20 active non-residential ground floor uses, creates
21 consistency with the R7D/C2-4 to the East, permits
22 mixed use, use development along Myrtle which is of
23 course a major East, West thoroughfare in this area
24 which strengthen the character of Myrtle Avenue as a
25 retail and service corridor and would enliven Myrtle

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2 Avenue and benefit businesses and the community by
3 creating a more engaging pedestrian experience. And
4 to summarize the development site, we'd be looking at
5 a new eight story mixed use building with 66
6 residential units, 17 of these would be permanently
7 affordable and the building in, in total would be 82...
8 approximately 82,000 square feet of which there would
9 be ground floor of 14,000 square feet of commercial
10 use, 14,000 square feet of medical office, community
11 facility on the second floor and then 52,000 square
12 feet of residential floor area with space for a 68
13 space parking garage in the cellar. I would note that
14 since the time of the Brooklyn Borough President's
15 hearing we did update the unit distribution and in
16 accordance with our conversations with Council Member
17 Levin there are now a reduced number of units and an
18 increased number of two and three bedrooms, so this
19 allows for larger units as was requested initially or
20 discussed at the... at the Borough President's hearing
21 and this has been further discussed with Council
22 Member Levin. The building plans round out the
23 presentation and then there's a, a rendering of the
24 site, I would note that we have received tremendous
25 support from the Community Board, Community Board

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2 three voted overwhelmingly by a vote I think of 23 to
3 five in favor of this rezoning, we're very happy to
4 get that support from them and the Brooklyn Borough
5 President although requesting modifications was
6 indeed supportive of the proposal. We've had great
7 outreach as far as the community is concerned and
8 we've also discussed and been, been engaged with
9 impact Brooklyn which is... been designated as the, the
10 registered agent, the administering agent for the
11 affordable housing on the site, this is something
12 that was requested by the Community Board and which
13 Scott and the Fishman family was happy to... happy to
14 comply with. So, that's really the crux of the
15 presentation, I'm happy to answer any specific
16 questions.

17 COUNCIL MEMBER LEVIN: Thank you so much
18 for this presentation. Sorry, can you speak a little
19 bit about the engagement that the applicant has done
20 with Community Board three, how long has that
21 engagement been going on and has there been different
22 iterations that have transpired during those
23 throughout those engagements?

24 RICHARD LOBEL: Sure, so the applicant
25 has had approximately four meetings with the

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2 Community Board. There've been two prior to entry
3 into the ULURP process, there've been... and there've
4 been the ULURP hearing as well as the... as well as the
5 hearing at the Brooklyn Borough President's Office.
6 With regards to the Community Board specifically we
7 were happy to go in at least two times prior to
8 ULURP, we sat down with Miss Penn with the Land Use
9 Committee and modifications were made to the design
10 of the building in that regard, we discussed
11 potential uses on the site, we discussed where they'd
12 like to see the parking located and the entrance to
13 the parking. So, it was a very spirited discussion
14 and a very productive discussion, we were really
15 happy given the history of rezonings in that area
16 with where the Community Board came out on this and
17 the fact that they were very much in support. I'd
18 also note that the Fishman's have been long standing
19 members of Community Board three, I believe as the
20 story goes Scotts grandfather ran a, a butcher shop
21 in the area at which the family was engaged for years
22 and so there... you know the... this establishment and
23 the family is, is known to the Community Board so it
24 was a really... it was just an excellent engagement
25 with the... with the community.

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2 COUNCIL MEMBER LEVIN: And... I'm sorry,
3 the vote again at the Community Board level?

4 RICHARD LOBEL: If you give me one
5 moment... Community Board three voted in favor 23 to
6 five.

7 COUNCIL MEMBER LEVIN: Thank you. There's
8 a couple of other sites that are proposed in this
9 rezoning, I know one of them is a church, one of them
10 is a not-for-profit, do you know of... are you in
11 contact with the other owners within the rezoning
12 area and are there any plans on redevelopment of
13 those sites and do you know if there would be any
14 opportunity for retaining those not-for-profit and
15 ecumenical uses?

16 RICHARD LOBEL: So, the... excuse me, give
17 me a moment... so, the number of... and I'm just trying
18 to page back to the... it's not, not quite working...
19 there's a number of other sites included within the
20 rezoning area so of the 22 sites that would be
21 rezoned the applicant only controls about less than a
22 third of those sites. There has not been a lot of
23 discussion with, with other owners within the area
24 and we, we had a pretty full engagement with the
25 Community Board and the, the truth is that the... most

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of the uses within those 22 lots about 85 percent of them will either now be allowed to do residential where formerly they were only allowed to do manufacturing and so there are vacant and open uses as well as uses which now become conforming so any of the feedback we have gotten from local residents has been positive but we didn't specifically go out door to door and, and engage them the local owner... We're, we're making a strong assumption that they're, they're in favor given the fact that Community Board vote was fairly strong in favor of the rezoning and that there was... proper notice was provided in accordance with Community Board so that's kind of where we sit.

COUNCIL MEMBER LEVIN: Have... we've been

approached by a potential union partners about ensuring that the building service workers be paid a prevailing wage and have the opportunity to unionize if they so wish, has, has the applicant been approached and is there conversations that you could provide, you know an update on to this committee?

RICHARD LOBEL: Council Member I know

that that, that's been a subject of discussion recently and, and we understand that there's members

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2 of the union here today, there have not been any
3 specific conversations with them, I don't think that
4 we're adverse to, to entering into those
5 conversations there... I just know that there haven't
6 been any specific talks but again I... you know
7 obviously this is a process, I would note that, that
8 with regards to the, the size of the building and the
9 number of units it's a... it's a relatively modest
10 building given the, the fact that there's 66
11 residential units so there's a ground floor of 14,000
12 commercial, 14,000 square foot of community facility,
13 the actual... the actual number of residential units
14 is, is relatively low in the... in scheme of some of
15 the rezonings that we've looked at. Having said that
16 again we're, we're happy at your discretion to talk
17 to them but, but as to date that really hasn't
18 happened.

19 COUNCIL MEMBER LEVIN: Is the applicant
20 looking to pursue a 421A?

21 RICHARD LOBEL: They are... they are...
22 [cross-talk]

23 COUNCIL MEMBER LEVIN: They are... [cross-
24 talk]

25 RICHARD LOBEL: So, out of... [cross-talk]

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2 COUNCIL MEMBER LEVIN: There are
3 requirements under 421A... [cross-talk]

4 RICHARD LOBEL: Correct.

5 COUNCIL MEMBER LEVIN: You know I would...
6 I mean I'm, I'm not here to advocate for one specific
7 union or another but good paying jobs are important
8 and job security is important. So, I... you know just...
9 we just obviously voted on the Pfizer application in
10 which that applicant committed to prevailing wage and
11 not opposing any, any move by building service
12 workers to, you know exercise their right to unionize
13 so maybe that's something to explore.

14 RICHARD LOBEL: Yeah, we, we'd be happy
15 to explore that, I mean obviously as far as scope
16 we're, we're, we face a far smaller project having
17 said that though we're, we're... we, we were happy to
18 talk to anybody.

19 COUNCIL MEMBER LEVIN: Okay. And that's,
20 that's all I can ask so... okay, I want to thank you
21 very much for this application, we'll be talking to
22 our Land Use Division staff and communicating with
23 the Borough President's Office and, and the Community
24 Board and, and reviewing all the recommendations and
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the status of the application at this point and we'll be in touch for sure. Great...

RICHARD LOBEL: Great. Thank you, thank you Council Member Levin

CHAIRPERSON RICHARDS: Thank you and just the last two points I think when we met I mentioned, I think the Marcy Houses is close to here, so I wanted to hear a little bit more about outreach strategy on not just good jobs but also figuring out a pipeline for local hiring and with local organizations are in this community you could work with and... a percentage of hires a, a particular percentage that you agree to, I like 30 percent personally and MWBE procurement so can you speak to those things quickly and if you don't have information that's fine just before we vote this item out eventually I would like to hear what's your plan to ensure that individuals in the Marcy Houses have access to jobs?

RICHARD LOBEL: Chair Richards I think that we would elect to provide you with that information prior to the vote, I know that there have been some internal discussions with regards to MWBE and local hiring and that that is a commitment on

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behalf of the owner particularly in light of the fact that they would be seeking some relief through some programs which would be tied to MWBE hiring but we do have a consultant whose specifically working on that so we'd be happy to, to gather that information to send that to you sometime in the next several days.

CHAIRPERSON RICHARDS: Great and also a, a reporting mechanism so a report to the Council Member, perhaps to the Community Board, to the Tenants Association, Association at least bi-annually or something on how that local hiring or whatever framework Council Member Levin comes up with on how that will work.

RICHARD LOBEL: Excellent, thank you.

CHAIRPERSON RICHARDS: Alright, great. Alright, thank you for your testimony. We will now hear from Justin Sinclair from 32BJ SEIU.

JUSTIN SINCLAIR: Good afternoon, my name is Justin Sinclair. I'm here today testifying on behalf of my union 32BJ. 32BJ is the largest property service workers union in the country, 32BJ represents 85,000 building service workers in New York City, nearly 3,000 of us live in community district three and over 35,000 of us work in residential buildings

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like the one JMS Realty is proposing to develop. I'm here to tell you just how important it is that JMS Realty commit to creating high quality jobs at 723-733 Myrtle Avenue. The development at 723-733 Myrtle Avenue should provide the community with high quality building service jobs, these jobs at the building will affect the wellbeing of the community for years to come. Developments that pay building service workers the industry standard prevailing wage and benefits allow workers to stay in the city and support their families. Building service jobs can be jobs that pay 10.50 an hour with no benefits or they can be good quality jobs that pay wages that allow people to afford to put a roof over their head, save for retirement and access health benefits. My union brothers and sisters and I have to... been able to stay in the city and support our families because we are lucky to have those kinds of jobs. We need to make sure that 723-733 Myrtle Avenue is creating good jobs not poverty jobs for Brooklyn residents. This is why I am calling on the Subcommittee to ensure that JMS Realty commits to creating high quality family sustaining jobs at 723-733 Myrtle Ave. Thank you.

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CHAIRPERSON RICHARDS: Thank you for your testimony and I'll go to Council Member Levin.

COUNCIL MEMBER LEVIN: I just want to thank you sir for, for your testimony for advocating for good quality jobs to provide a, a solid career and economic ladder for, for building service workers in the city and I very much appreciate your testimony, for being here today and for calling attention to this issue and we'll be for sure following up as this process continues.

JUSTIN SINCLAIR: Thank you.

CHAIRPERSON RICHARDS: Thank you, thank you for your testimony. Alright, are there any other members of the public who wish to testify on this item? Okay, seeing none I will close the public hearing on Land Use Item Number 787 and 788 and move onto our last hearing for the day which will be on Land Use Item Number 785 and 786, the special Harlem River Waterfront district expansion text amendment application. this application submitted by the Department of City Planning would expand the special Harlem Waterfront district with several blocks bounded by the Harlem River, East 135th Street and Bruckner Boulevard. The text amendment would also

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2 update regulations, address change in resilient
3 building construction, encourage affordable housing
4 development and ensure adequate circulation and
5 waterfront public access. I will now open the public
6 hearing for Land Use Item Number 785 and 786 and
7 we'll go to our first panel; Carol Samol, Department
8 of City Planning; Oscar Oliver-Didier...

9 OSCAR OLIVER-DIDIER: Didier.

10 CHAIRPERSON RICHARDS: Didi... [cross-talk]

11 OSCAR OLIVER-DIDIER: Yeah, yeah.

12 CHAIRPERSON RICHARDS: Alright.

13 OSCAR OLIVER-DIDIER: Correct.

14 CHAIRPERSON RICHARDS: Hopefully I didn't
15 butcher your last name as bad either. With that being
16 said you may introduce yourselves and you may begin.

17 OSCAR OLIVER-DIDIER: Thank you so much.

18 Good afternoon, I'm Oscar Oliver-Didier, Urban
19 Designer for the Department of City Planning's Bronx
20 Office and I'm here today to talk about the Special
21 Harlem River, River Waterfront District amendment and
22 expansion area application. This is a long-term
23 planning effort that seeks to update and, and expand
24 the special district created in 2009. Just a quick
25 overview this application lies in Community district

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2 one of Lower Concourse area in the Bronx and City
3 Planning is looking to both update the '09 Special
4 Harlem River Waterfront district which is the area
5 shown here in orange between 149th Street and Park
6 Ave. and to expand the Special district waterfront
7 access plan to the South between Park Ave and Lincoln
8 Ave. The general goals of these amendments, zoning
9 map and zoning text amendments are to update the, the
10 special district itself to create flexible building
11 forms, to encourage affordable housing, address
12 easement and deliver restrictions, meet flood
13 resiliency needs and the expansion itself of the
14 special district is to... and encompass two waterfront
15 blocks to the South and address any conditions to
16 ensure lively waterfront open space in that area as
17 well. A quick overview of the area, you sort of see
18 to the left the Manhattan side, the Harlem River in
19 the middle and then the special district boundary
20 itself in the Lower Concourse area of the Bronx. When
21 you... when we took a... when we take a look at the area
22 itself on the ground we sort of see the... some of the
23 challenges in terms of infrastructure and
24 connectivity such as the elevated Major Deegan
25 Expressway and the Oak Point Rail Link on the water

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2 side or the shoreline's edge. In terms of resiliency
3 of course we've learned a lot, a lot post-Sandy and
4 it's important to note the majority of the existing
5 and proposed Harlem River Waterfront is in the one
6 percent annual flood zone but there's also
7 opportunities and as we know the Mayor allocated 194
8 million dollars to this area in 2015 as part of an
9 infrastructure investment strategy that looks to
10 create catalysts for affordable housing, improve
11 access and job growth. Jumping back to the 2009
12 special district itself and just keep, keep giving a
13 quick overview, nine parcels were created, a
14 waterfront access plan was put in place, requirements
15 for active uses and rec parking, bulk regulations,
16 tower locations and heights, a Mack Park and then
17 finally a voluntarily inclusionary housing area that
18 was mapped in this area as well. Since 2009 however
19 we have not seen development occur within this
20 special district boundary and even though our overall
21 goals are not changing we're looking to update the
22 district itself to provide building bulk variety and
23 design flexibility to encourage the development of
24 affordable housing, to provide flexibility on parcel
25 one which is the parcel here to the North just South

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2 of 145th Street Bridge to accommodate easement and
3 unbuildable areas there, require ground floor active
4 uses and rec parking only on key locations and allow
5 greater options for resiliency design. It's important
6 to also note that we are not changing the zone
7 districts as part of this process and just a general
8 overview of the bulk in 2009 this is the kind of
9 building form you would end, end up with 60 to 85
10 foot bases with towers above and a required variation
11 of street wall and height and then as part of our
12 updates what we're trying to do is to number one
13 lower height along the shoreline, maximize views of
14 the waterfront and that's why you sort of get the
15 sort of U shaped buildings, provide the flexibility
16 to support the development of affordable housing by
17 providing more options and hybrid scenarios and you
18 can sort of see in this image how it can accommodate
19 for block and plank construction types which are more
20 typical of affordable housing construction. And just
21 generally speaking how we're achieving these
22 different goals fronting the shore public walkway,
23 the base now would range from zero to 85 feet in
24 terms of height a required opening that ranges from
25 zero to 45 feet and then a maximum transition height

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2 of 125 feet all shown here in red and then 50 feet
3 from the shore public walkway or from the shoreline a
4 base height that ranges from 60 to 105 feet and then
5 a maximum transition height of 155 above that you
6 would obviously get your towers so we would end up
7 with a, a development that sort of steps down towards
8 the water and both variety would also be achieved for
9 the sake of visual interest and important... more
10 importantly the flexibility to provide and support
11 affordable housing construction would also hopefully
12 be achieved. In terms of resiliency design measures,
13 the design in this area ranges from two feet to 11
14 feet so it's very likely that developments would
15 raise their buildings for flood protections so we
16 would very likely get blank walls along some of these
17 edges with the... with planting as the only attenuation
18 requirement to sort of minimize that so what we're
19 doing is we're providing room and requiring design
20 elements for blank walls and this would include
21 other, other things other than planting such as
22 seating, lighting, bike racks and urban furniture.
23 So, in the end through these measures we would
24 achieve an active resilient and safe public realm and
25 then moving onto the South sub district or expansion

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2 area which is shown here in red we would address
3 unique conditions to ensure lively accessible
4 waterfront open space. The challenges in terms of
5 infrastructure are very similar to the... district, the
6 Major Deegan Expressway on one side, the Oak Point
7 Rail Link on the water's edge and then the expansion
8 area just to understand a little bit more this
9 general... the, the general vicinity, the expansion
10 area is a large waterfront block composed of multiple
11 independently owned lots, so a waterfront access plan
12 would allow us to customize access and address unique
13 conditions there. So, the waterfront access plan
14 would sort of break up the block to provide proper
15 access, would map up link connections towards an
16 existing inlet and would require active uses on
17 corners to make sure that it feels inviting and safe
18 not only for the residents in the area but for the
19 communities at large. Wrapping up with the Community
20 Board and Borough... Bronx... the Borough President
21 public hearing, the Community Board voted to approve
22 the application and no modifications or conditions
23 were stated and the Bronx Borough President also
24 approved the applications without any mods or
25 conditions. We did put in place City Plan... City

1
2 Planning Commission modifications recently and here's
3 a quick overview of them. First of all, some of the
4 active corners we would be eliminating some of the
5 locations for the required ground floor
6 nonresidential uses in certain areas. The Major
7 Deegan Expressway we would require a setback on
8 parcels two, three, and four along that edge and then
9 finally in terms of grandfathering we would extend
10 the vesting period for filed applications in the
11 expansion area or the South sub district. So, finally
12 the proposed changes to the special district area and
13 its expansion zone to the South will create a
14 welcoming lively area and encourage greater
15 connectivity to the waterfront and the surrounding
16 community. Thank you and I'm happy to answer any
17 questions.

18 CHAIRPERSON RICHARDS: Thank you and
19 thank you for your testimony. A few questions, so
20 let's just get to... was this area hit by hurricane
21 Sandy?

22 CAROL SAMOL: Not this, this direct
23 waterfront, a little further South was affected.

24 CHAIRPERSON RICHARDS: So, a little
25 further South?

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CAROL SAMOL: Yeah.

CHAIRPERSON RICHARDS: Has there been any thought being that we... you know we're going to be developing so close to the waterfront of any resilient measures outside of the plantings and things you've spoken of?

CAROL SAMOL: Yes, those are already adopted and what we're trying to do here... [cross-talk]

CHAIRPERSON RICHARDS: Can you just speak... [cross-talk]

CAROL SAMOL: ...provide... [cross-talk]

CHAIRPERSON RICHARDS: ...to those a little bit so speak to that a little bit?

CAROL SAMOL: Well requiring them to raise livable floor area outside of the flood zone...

CHAIRPERSON RICHARDS: Alright... [cross-talk]

CAROL SAMOL: ...here we're trying to provide measures that allow for cost efficient mitigations for flood zones that can also design the shore public walkway so that it is also resilient so that it can help, you know take some of the, the... [cross-talk]

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CHAIRPERSON RICHARDS: Speak to that a little bit more, so they can design walkways so are you assuming the plantings along the edges and... [cross-talk]

CAROL SAMOL: Correct or they could step, step up, they could raise it, previously we had had a requirement in the special district that the entire shore of public walkway should be raised two feet, that was before Sandy, before we really understand the nuances of the flood zones and... [cross-talk]

CHAIRPERSON RICHARDS: This is in a flood plain, is this... [cross-talk]

CAROL SAMOL: Right... [cross-talk]

CHAIRPERSON RICHARDS: ...FEMA's... [cross-talk]

CAROL SAMOL: Yes... [cross-talk]

CHAIRPERSON RICHARDS: Okay... [cross-talk]

CAROL SAMOL: Yes, and, and it... [cross-talk]

CHAIRPERSON RICHARDS: Do you know which... [cross-talk]

CAROL SAMOL: ...expanded a little bit in, in this area after FEMA came in and remapped the flood zone. So, we're being more nuanced in the

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approach rather than just a flat blanket, you know to... you know raise the shore public walkway two feet we would allow them to do that, we were allowing them to do internal to their buildings... [cross-talk]

CHAIRPERSON RICHARDS: And why only two feet, I'm sorry to cut you... [cross-talk]

CAROL SAMOL: That was quite... I mean this, this was out... is outdated but it was to provide some measure for the flood zone, but it was also to allow visual access over the, the rail line that runs along the waterfront there so when you're standing on the shore public walkway you could actually see the water more easily and, and so forth.

CHAIRPERSON RICHARDS: Right and I'm sure you've seen the reports that we're going to see more of these 500-year storms turn into... [cross-talk]

CAROL SAMOL: Yeah... [cross-talk]

CHAIRPERSON RICHARDS: And I'm not against, you know personally I can say... I can't speak for the committee but certainly not against retreating from the shore line but want to make sure that we're also being responsible... [cross-talk]

CAROL SAMOL: That's right... [cross-talk]

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CHAIRPERSON RICHARDS: ...as we develop along it so... definitely wanted to hear a little bit more about more than just walkways to a great degree, I mean is there like a park feature or something along the edges... [cross-talk]

OSCAR OLIVER-DIDIER: Definitely... [cross-talk]

CHAIRPERSON RICHARDS: ...that you can possibly entertain?

OSCAR OLIVER-DIDIER: Right, I mean in, in the end a Mack park would, would always help you're creating more green infrastructure that absorbs flood water that always helps, in the expansion area we're requiring a supplemental public access area around the inlet which is actually if you look at this map where most of the flood area would occur so that again... [cross-talk]

CAROL SAMOL: In the South... [cross-talk]

OSCAR OLIVER-DIDIER: ...to create that sort of green infrastructure... [cross-talk]

CHAIRPERSON RICHARDS: Right... [cross-talk]

OSCAR OLIVER-DIDIER: ...that helps in absorbing this and just to sort of speak a little bit

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2 more about the shore public walkway requirements and
3 how we're sort of revising it what we're doing is
4 that before you had to build to the CSX Rail Link or
5 the Oak Point Rail Link height and now we are giving
6 a bit more flexibility and in the end, you could
7 raise it two, two feet above base flood elevation or
8 the height of the Oak Point Rail Link whichever is
9 taller. So, you have that flexibility, it's not a
10 requirement, it's sort of... you have that flexibility
11 to implement flood resiliency measures if, if that's
12 a measure that wants to be... [cross-talk]

13 CHAIRPERSON RICHARDS: And this is the
14 city owned site, correct or... I mean... [cross-talk]

15 CAROL SAMOL: No... [cross-talk]

16 CHAIRPERSON RICHARDS: ...not all... [cross-
17 talk]

18 CAROL SAMOL: None of this is... [cross-
19 talk]

20 CHAIRPERSON RICHARDS: ...so, so majority
21 private and I think one... [cross-talk]

22 CAROL SAMOL: Yes, the majority of it...
23 [cross-talk]

24 CHAIRPERSON RICHARDS: ...lot I think...
25 [cross-talk]

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CAROL SAMOL: ...is... [cross-talk]

CHAIRPERSON RICHARDS: Okay... [cross-talk]

CAROL SAMOL: ...there are... there are a couple of city owned sites one North of the Metro North Bridge that's a city owned parcel.

CHAIRPERSON RICHARDS: And I would hope that we're going to push on whomever the developer would be to go as far as possible?

OSCAR OLIVER-DIDIER: Right... [cross-talk]

CAROL SAMOL: Yes, that would be in, in their interest, absolutely and, and these regulations that we're changing now will help them do that.

CHAIRPERSON RICHARDS: And just go through the heights again and how did you arrive at these heights?

OSCAR OLIVER-DIDIER: Right, so in terms of... going the wrong way... in terms of heights we sort of spoke very briefly about the end result of the old rules which again would sort of lead to buildings we feel comfortable with but it didn't give all... options in terms of flexibility to achieve other goals such as block and plank construction and hybrid scenarios where you could have both a tower above a base and also some other portions of the building built on

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2 their block and plank so what we're doing is that
3 again since we, we, we're raising the heights to
4 accommodate that kind of construction type we want to
5 make sure that towards the shore public walkway
6 however it still maintains a human scale. So, again
7 we feel more comfortable with having heights 50 feet
8 beyond the shore public walkway but really, we want
9 to maintain a lower height and scale fronting the
10 water where it really counts.

11 CAROL SAMOL: And, and the tower heights
12 have not changed at all... [cross-talk]

13 OSCAR OLIVER-DIDIER: That's right...
14 [cross-talk]

15 CHAIRPERSON RICHARDS: Okay and are we
16 going to blocking anybody's views who historically
17 may have had views of... okay...

18 CAROL SAMOL: No.

19 CHAIRPERSON RICHARDS: No?

20 CAROL SAMOL: No.

21 CHAIRPERSON RICHARDS: Okay... [cross-talk]

22 CAROL SAMOL: No.

23 CHAIRPERSON RICHARDS: So, there's
24 nothing there?

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CAROL SAMOL: Yeah, yeah, I mean it's, it's warehouses, there's some self-storage... [cross-talk]

CHAIRPERSON RICHARDS: Okay...

CAROL SAMOL: There's a new residential building going up, but it's not occupied.

CHAIRPERSON RICHARDS: Right and how many units are you anticipating, or do you have an idea?

CAROL SAMOL: On the waterfront... [cross-talk]

OSCAR OLIVER-DIDIER: I think it's around...

CAROL SAMOL: 2,000?

OSCAR OLIVER-DIDIER: Yeah.

CAROL SAMOL: About 2,000 permitted on, on those... [cross-talk]

CHAIRPERSON RICHARDS: So, about 2,000 units?

CAROL SAMOL: In the core... in the core of the... [cross-talk]

OSCAR OLIVER-DIDIER: In the core... [cross-talk]

CAROL SAMOL: ...sub district there.

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CHAIRPERSON RICHARDS: Okay and obviously mandatory inclusionary housing would kick in and has there been any further conversations with HPD on what the affordability would look like moving forward?

CAROL SAMOL: No, that, that will come up as each property owner comes up. This is a... just a reminder of voluntary inclusionary housing area in the core sub district... [cross-talk]

CHAIRPERSON RICHARDS: So, this is voluntary, okay.

CAROL SAMOL: Voluntary... [cross-talk]

CHAIRPERSON RICHARDS: When are we going to... well I know there are discussions going on...

CAROL SAMOL: Yeah.

CHAIRPERSON RICHARDS: But are we... when are we going to... [cross-talk]

CAROL SAMOL: I think those are, are happening now, those discussions have... [cross-talk]

CHAIRPERSON RICHARDS: Okay... [cross-talk]

CAROL SAMOL: ...happened... are starting now.

CHAIRPERSON RICHARDS: Okay, because yeah, we would love to see that align closer to MIH or a little further. Alright and can you go through

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transportation a little bit so obviously this area is secluded, what does the transportation look like, I see the Grand Concourse...

CAROL SAMOL: Yeah, go, go to the area map there Oscar, it's helpful. That's one of the benefits of this area is the, the rich transit access along the Grand Concourse with the 25 and the six trains not far away and then express busses along the Grand Concourse itself and then you can easily walk across 145th Street and the 3rd Avenue Bridge to get into Manhattan to get to the three and the... and other trains across the way.

CHAIRPERSON RICHARDS: And so I know the Community Board supported this application, but you did have four against and four abstaining, what were some of the concerns from the members who abstained or voted against?

CAROL SAMOL: I think there was general... Oscar you should... you should testify.

OSCAR OLIVER-DIDIER: I think that most of the concerns were more about citywide policies regarding affordability and, and, and jobs but not necessarily specific to, to the actual application. In the end they, they were heavily involved in this

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2 process, we did a couple of workshops with them, we
3 briefed them multiple times, they were also involved
4 in the 2009 special district, so they were familiar
5 with what we were talking about, but we kept them
6 very much involved in the process itself.

7 CHAIRPERSON RICHARDS: Alright, so we
8 know the conversation eventually will come so I'm
9 hoping that HPD and others are paying very close
10 attention and, you know I mean you sat here today,
11 the questions around affordability and inclusiveness
12 have been something that have continuously come up
13 and not just today but in this committee so I'm
14 hoping that as private developers come online that,
15 that there's a true commitment to reaching a variety
16 and... of depths of affordability.

17 OSCAR OLIVER-DIDIER: Yeah.

18 CHAIRPERSON RICHARDS: Alright, I just
19 wanted to give that message early. Alright, thank you
20 so much for your... [cross-talk]

21 CAROL SAMOL: Thank you... [cross-talk]

22 CHAIRPERSON RICHARDS: ...testimony...
23 [cross-talk]

24 OSCAR OLIVER-DIDIER: Thank you... [cross-
25 talk]

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CHAIRPERSON RICHARDS: ...any of my

colleagues have questions, seeing none I will now move on to the next panel. James Power, I can't make out your handwriting, it looks like mine; Lissa So Pantheon, Pantheon, Pantheon Properties I think I'm reading and Kenneth Cohen and you'll just state your names for the record and who you're representing and then you may begin your testimony and we're going to put a seven-minute clock on... because we've extended our time here way beyond.

JAMES POWER: Good afternoon Chair

Richards, I'm Jim Power from Kramer Levin Naftalis and Frankel on behalf of Pantheon Properties which is the owner of the parcel two development site under the special district regulations. Pantheon is planning on developing parcel two with an affordable housing project. We would write... we would like to raise two issues with the proposed text amendment, first the requirement that a loop road be provided around the Northern and Western perimeter of the property and second, the requirement that the building be set back a full 74 feet from its front lot line with landscaping and other amenities provided in that 74-foot open area as will be

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2 discussed further by Marvel Architects. These
3 requirements severely constrain our client's site and
4 they make it very difficult to develop the site for
5 affordable housing. This property has already been
6 subject to multiple condemnation actions in recent
7 years and is already subject to a requirement that
8 the Western portion be landscaped and be made
9 publicly accessible under the waterfront zoning
10 regulations. We believe that the loop road and 74-
11 foot open area requirements are unfair in light of
12 the other burdens that have been placed on this
13 property and that the 74-foot setback requirement
14 which is intended to preserve land for future state
15 Department of Transportation use would require... would
16 rise to the level of an inverse condemnation and
17 justify additional compensation to our client. That
18 open area requirement is attributable to a
19 hypothetical expansion of the Deegan Expressway in
20 the future but there are significant questions about
21 whether the state DOT is even interested in an
22 easement for that purpose. We ask that you consider
23 removing these two requirements from the zoning text
24 or modifying them so as to provide flexibility to
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achieve a larger building footprint and more affordable housing.

CHAIRPERSON RICHARDS: And you... this is parcel two if you can show... [cross-talk]

JAMES POWER: Parcel two, yes...

CHAIRPERSON RICHARDS: Okay.

JAMES POWER: Yes.

CHAIRPERSON RICHARDS: And I think there had been some conversations going on, is it safe to say?

JAMES POWER: Yes... [cross-talk]

CHAIRPERSON RICHARDS: Around this... okay, got it.

LISSA SO: Good afternoon, I'm Lissa So with Marvel Architects. We were hired by Pantheon Properties in August to design an all affordable housing development on parcel two in 399 Exterior Street. Parcel two is located immediately South of the Mack Parkland in the special Harlem River Waterfront district, the lot area is 56,085 square feet and allows for an FAR of 4 with inclusionary housing. The optimal footprint for the development is approximately 41,000 square feet allowing for a... 40 foot for the shore public walkway to the West and a

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2 14-foot state DOT easement to the East. Since we are
3 designing the building for affordable housing we need
4 to keep the building height to 14 stories allowing
5 the use of a block and plank structure. This optimal
6 footprint allows for a massing of 14 stories allowing
7 323,000 gross square feet and 283 affordable housing
8 units. As Jim stated there are two issues with the
9 proposed text amendment that affect our project, the
10 first is the requirement that the building be set
11 back a full 74-feet from its front lot line with
12 landscaping and other amenities provided in that 74-
13 foot open area, the dashed yellow line represents
14 this set back. The second is the requirement that a
15 fire apparatus access road be provided around the
16 Northern and Western perimeter of the property. There
17 was a requirement for a North, South bi-directional
18 road which will allow for a fire access across all of
19 the parcels once the waterfront is fully developed.
20 Since Pantheon is developing the property in advance
21 of its adjacent sites and, and this road is not
22 created yet they are also required to provide an
23 interim fire apparatus access road at the North side
24 of their site. These two requirements restrict the
25 footprint from 41,000 to approximately 16,000 square

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2 feet designing within the budget and limitations of
3 block and plank construction at 14 stories we are
4 only able to build an FAR of 2.69 and approximately
5 203,000 square feet and that reduces it to 182 units,
6 it's reduction of 101 affordable housing units. To
7 summarize the proposed text amendment would affect
8 our project by creating a less efficient floor plate,
9 21,754 to 12,785, reduce the FAR for a block and
10 plank constructed development from 4 to 2.69, reduce
11 the gross area from 323,000 to 203,000 and reduce the
12 amount of affordable housing units by 101 from 283 to
13 182. As Jim stated in his remarks we ask that you
14 consider removing these two requirements from the
15 text or modify them to allow us to maximize the
16 amount of affordable housing on parcel two and within
17 the special Harlem River Waterfront district. Thank
18 you.

19 CHAIRPERSON RICHARDS: Thank you.

20 KEN COHEN: Yes, my name is Ken Cohen and
21 I'm the President... sorry... My name is Ken Cohen, I'm
22 the President of Pantheon Properties and I'll try not
23 to be redundant just let you know that we at the
24 beginning of this year decided to move ahead with
25 affordable housing project. After analyzing the site

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2 we've engaged our architects, lawyers, consultants
3 all with specialty in affordable housing, names you
4 would probably know, we spent about 200,000 dollars
5 to date in that effort, we've met with HPD and at HTC
6 in August shared our financial modeling developed by
7 Best Development Ron Truman, well known in New York
8 City, affordable housing developer and consultant and
9 we received positive feedback on our preliminary work
10 specifically we are looking at the M-Squared Program,
11 the exact AMI as we will target is still under
12 consideration. We are looking as ranging from 40
13 percent to 110 percent of AMI and you've heard the
14 issue which is... this, this is based on the 2009
15 regulations, we were able to do it and this new text
16 amendment reduces our development by 100 affordable
17 housing units. We'll, we'll... he'll think... hear
18 things... we heard things like just build it taller but
19 as you've heard block and plank the, the economics of
20 block and plank do not pencil out for affordable
21 housing and approximately according to a letter we
22 can... like to put to the record from Best Development
23 a 25 to 30 percent increase in construction costs
24 when you cross that threshold. While the intention of
25 the amendment I hear is to encourage affordable

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housing the impact on our property parcel two is a reduction by 200... by 100 units on a 283-unit development and I will also like to say I like your questions about the waterfront resiliency, I'm a member of the waterfront alliance and we are hoping to follow the wedge guidelines for our development.

CHAIRPERSON RICHARDS: Well thank you, I think we've heard you loud and clear and we'll continue negotiating this and, and we'll get back in touch with you after this but it's well noted, I think you're just looking for a floor plate and I think this if I'm hearing you correctly reduces the possibilities of more units for you and a smaller project in one sense so we'll continue to have conversations, I look forward to working with you through this process.

LISSA SO: Thank you.

KEN SPILLBERG: Thank you.

CHAIRPERSON RICHARDS: Alright, thank you. Alright, are there any other members of the public who wish to testify on this issue? Alright, seeing none we are going to layover all items that we didn't already vote on and I want to thank everyone who came out today. I think today we might have passed around

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800 units I think of affordable housing, I think I'm right. We'll do the calculation and make sure its correct before people actually believe it on TV but I want to thank everyone for coming out today, this meeting is now adjourned.

[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

October 31, 2017