

CITY COUNCIL  
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

----- X

November 21, 2017  
Start: 12:10 p.m.  
Recess: 12:40 p.m.

HELD AT: Committee Room - City Hall

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

COUNCIL MEMBERS: Daniel R. Garodnick  
Jumane D. Williams  
Antonio Reynoso  
Ritchie J. Torres  
Vincent J. Gentile  
Barry S. Grodenchik

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

2 [sound check, pause]

3 CHAIRPERSON RICHARDS: So, I'm going to  
4 ask everyone to please be seated. We're going to  
5 begin. [gavel] Alrighty. Good morning. I'm  
6 Donovan Richards, Chair of the Subcommittee on Zoning  
7 and Franchises and today we are joined by members of  
8 the Committee. I'll acknowledge them first. Vincent  
9 Gentile, Dan Garodnick, Jumaane Williams, Ritchie  
10 Torres, Antonio Reynoso. I did see Council Member  
11 Grodenchik as well. We're also joined by Perkins,  
12 Cumbo. [background comments] Okay, and Kallos and  
13 Lander. Alright, and whoever else comes in. Today,  
14 we will be voting on five applications. [background  
15 comments] Actually, I'm sorry. Four applications:  
16 The East Harlem Neighborhood Rezoning in Sendero  
17 Verde, the Special Harlem River Waterfront District  
18 Zoning Text Amendment, and the East River 50 Sutton  
19 Place Zoning Text Amendment. We'll be voting to  
20 modify the East Harlem Neighborhood Rezoning  
21 Application, Land Use Item No. 773 through 775 to  
22 reduce densities and heights along portions of Park,  
23 Lexington, Third and Second Avenue to better respond  
24 to Neighborhood context and minimize risk of  
25 displacement of rent stabilized units. The Council

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 is also removing Eugene McCabe Field and a church  
3 site from the rezoning area modifying the non-  
4 residential requirements along Park Avenue and  
5 changing the MIH options removing Option No. 2 and  
6 adding the deep affordability option. We'll be also  
7 voting to modify the Sendero Verde Application Land  
8 Use Item No. 776 through 782 to restrict the  
9 disposition of city-owned land to require that a  
10 minimum of 11,460 square feet of lot area be devoted  
11 to a community garden or passive recreation use, and  
12 a minimum of an additional 18,000 square feet to be  
13 devoted to use as publicly accessible open space. We  
14 will be also voting to approve a related tax  
15 exemption for Land Use Item No. 790. So, I want to  
16 welcome the Speaker. She's going to give remarks  
17 and—and congratulate her on a job well done. Not that  
18 we expected anything less and, you know, one of the  
19 things I want to say is, you know, we—we also—often  
20 hear negative stories on a lot of the rezonings going  
21 on around the city, but we—we don't necessarily  
22 always hear the positive stories that are happening.  
23 So, I think between preserving affordability,  
24 creating new affordable—deep affordability options,  
25 and—and major investment, we are striking the right

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

5

2 balance with this rezoning and it could not have been  
3 done with the leadership of the speaker, but more  
4 importantly, as well the community, and I want you to  
5 know that she's taken as much or, there's been a lot  
6 of debate around this rezoning, a lot of controversy,  
7 but she really genuinely listened to each and  
8 everyone of her constituents through this process,  
9 and I'm—I'm proud to serve under her. So, I will now  
10 turn it over to Speaker Melissa Mark-Viverito.

11 SPEAKER MARK-VIVERITO: Thank you, Chair  
12 Richards and good morning or good afternoon at this  
13 point to everyone. Today's vote is a major victory  
14 for the El Barrio East Harlem Community, and the  
15 culmination of a two-year community planning process  
16 that saw thousands of resident, business owners,  
17 local stakeholders and electives come together and  
18 develop a shared vision for the future of this  
19 neighborhood. I want to thank everyone who  
20 participated and devoted their time and energy to  
21 this process, to Council Member Bill Perkins, to  
22 Manhattan Borough President Gale Brewer, Community  
23 Board 11, members of the East Harlem Neighborhood  
24 Plan Steering Committee, and Mayor de Blasio and his  
25 staff. The Steering Committee was formed in 2015

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 when Mayor Bill de Blasio proposed to rezone areas  
3 throughout the city including East Harlem to created  
4 new opportunities for more affordable housing. I've  
5 always been a believer in participatory governance  
6 and inclusive planning, and believed that local input  
7 and vision would be critical in developing a strong  
8 planning framework. The Steering Committee hosted a  
9 series of community visioning workshops, where  
10 residents shared their ideas and concerns on a broad  
11 range of topics including housing, economic  
12 development, arts and culture, health, open space,  
13 education and transportation. This process led to  
14 the creation of the East Harlem Neighborhood Plan in  
15 February 2016, which included over 200  
16 recommendations to guide the future zoning and  
17 community investments for the neighborhood and to  
18 respond to the challenge s facing East Harlem today.  
19 East Harlem is a diverse community where tremens—with  
20 tremendous cultural, social and historic resources  
21 that have positioned the neighborhood for development  
22 and growth. But rather, growth can also threaten the  
23 diversity and affordability that has helped shape and  
24 define the fabric of the community. In recent years  
25 El Barrio East Harlem has lost 360 affordable units

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

7

2 per year due to expiring subsidy programs while  
3 market rate housing is being developed without any  
4 affordability requirements. The loss of affordable  
5 housing is one of the most pressing concerns for the  
6 neighborhood, and requires a policy response using  
7 all the tools available. A strategy to preserve the  
8 affordable housing in a neighborhood that is already  
9 affordable to most of the residents living in it is  
10 critical. Last year this Council passed Mandatory  
11 Inclusionary Housing, a landmark law, which requires  
12 developers to set aside a percentage of new  
13 development as permanently affordable. Today's vote  
14 will apply MIH to East Harlem and insure that at  
15 least 20 to 25% of all new residential units in  
16 private development will be permanently affordable  
17 and available to low-income New Yorkers. Development  
18 on public sites will reach even deeper with 100%  
19 affordability and lower AMI bands. For instance, the  
20 Sendero Verde Project will provide 680 units of 100%  
21 affordable housing, and will have 30% of the units at  
22 30% AMI and below, and will have 80% of units at 80%  
23 of AMI-AMI Or below. The project will also provide  
24 over 100,000 square feet of community facility space  
25 including a new YMCA, a new charter high school run

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2

3 by DREAM, new space for Union Settlement and Mount  
4 Sinai, and nearly 30,000 square feet of publicly  
5 accessible open space and community garden uses.

6 This is the type of project we can see on publicly  
7 owned sites. As we worked with the East Harlem

8 Rezoning, we examined the additional density and

9 height required to trigger MIH, and wrestled with the

10 inherent tension between the scale of buildings and

11 the ability to maximize MIH affordable units. Much

12 of the negotiations over the past seven months have

13 centered around this tension, and I'm happy to

14 announce the agreement we've reached that places

15 density and height in the areas best able to

16 accommodate it, while substantially reducing building

17 scale throughout the proposal, particularly on Park

18 and Third Avenues. The Council modified the rezoning

19 plan to align more closely to the East Harlem

20 Neighborhood Plan triggering MIH while preserving the

21 character of the community and evaluated the location

22 of vulnerable rent stabilized housing to minimize

23 displacement pressure. While many of the

24 conversations during the planning process have

25 focused on housing creation, the plan goes far

beyond—beyond that to include an unprecedented series

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 a

3 of capital and programmatic commitments that were  
4 advocated for by the East Harlem Neighborhood Plan  
5 Steering Committee. I want to thank the de Blasio  
6 Administration for their efforts to address the goals  
7 of the neighborhood plan. These commitments ensure  
8 that comprehensive community development will  
9 accompany the rezoning and includes a historic \$50  
10 million investment in repairing NYCHA public housing  
11 in East Harlem; developing new affordable housing on  
12 City-owned sites identified through the Neighborhood  
13 Planning process; creating a proactive and  
14 coordinated system to preserve affordable housing and  
15 protect tenants; establishing a certificate of no  
16 harassment program to deter tenant harassment;  
17 redeveloping the historic La Marketa (sic); building  
18 new park land at the East River Esplanade and repair  
19 existing sections; and open a new satellite Workforce  
20 center to connect residents to employment services  
21 as well as investing in job training and local  
22 hiring. Those are just some examples of the  
23 community investments. In particular, I want to  
24 thank the staff that has worked tirelessly for the  
25 past 2-1/2 years to get us to today's vote. I want  
to thank George Sarkissian, Raju Mann, Chelsey Kelly,

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

10

2 Rebecca Crimmons, Jeff Linn, Dylan Casey and Joe  
3 Toronto. Again, I want to commend everyone who  
4 participated in this process. I want to invite my  
5 colleagues to join me in supporting these  
6 applications, both the Sendero Verde and the East  
7 Harlem Rezoning as we celebrate a major achievement  
8 for El Barrio East Harlem. Thank you, Mr. Chair and  
9 thank you to my colleagues.

10 CHAIRPERSON RICHARDS: Thank you. We  
11 will next be voting to approve with modifications  
12 Land Use Item No. 785 and 786, the Special Harlem  
13 Waterfront District Expansion. We'll be voting to  
14 modify the test of the Special Harlem River  
15 Waterfront District Expansions to require that some  
16 sites comply with the new rules that would previously  
17 have been applicable to the sites and to introduce a  
18 CPC authorization that would allow for a waiver of  
19 the required setback from the Deegan Expressway on  
20 certain sites. The Speaker left so she won't give  
21 remarks on that, but she urges you to vote yes on  
22 that. We'll be voting to also modify Preconsidered  
23 Land Use Item No. East-Land Use East River 50 Sutton  
24 Place and application for a zoning text amendment by  
25 the East River 50s Alliance. This text amendment

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

11

2 would establish a modified version of the standards  
3 tower on the base regulations for certain zoning lots  
4 in R10 Districts roughly bounded by the Queensboro  
5 Bridge First Avenue, East 51<sup>st</sup> Street and the East  
6 River in Community Board 6 in Manhattan. The Council  
7 will be modifying this zoning text to remove the  
8 grandfathering provision added by the City Planning  
9 Commission to cover a specific development, which is  
10 out of scale and character for this neighbor-  
11 neighborhood. The ERFA (sp?) application was in the  
12 works for many years. It was the subject of  
13 substantial press coverage, and did not take this  
14 development by surprise. The development continues  
15 to have the standard recourse already provided under  
16 the city's existing zoning regulations to appeal to  
17 the BSA for more time to vest. I will now turn to  
18 Council Member Kallos, but I want to thank Kallos and  
19 Garodnick for their support on this application as  
20 well. [door bangs] Council Member Kallos.

21 COUNCIL MEMBER KALLOS: Thank you Chair  
22 Donovan Richards. Good morning. I represent the  
23 densest census tracts in America. For a sense of  
24 density after subway stations at Penn Station in my  
25 district, which is not a transportation hub has the

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

12

2 next busiest subway station in the city. A once  
3 quite Upper East Side filled with brownstone walk-ups  
4 is being raised for taller buildings of 2 to 400 feet  
5 with no affordable housing, three-bedroom  
6 condominiums start at \$5 million on East End Avenue,  
7 and if that wasn't bad enough, I started to see ultra  
8 luxury apartments with 16-foot ceilings coming in at  
9 \$12 million for the same three-bedroom at 180 East  
10 88<sup>th</sup> Street. That's a monthly mortgage of \$50,000 a  
11 month, and not something anyone short of billionaires  
12 and foreign investors can afford. Displacing rent  
13 regulated residents in affordable housing in order to  
14 build super tall buildings for billionaires to use to  
15 store their money is robbing our city of light, air,  
16 and perhaps most valuable the people who made it so  
17 great. As soon as I got elected, I met with the City  
18 Land Use—the City Council Land Use Team, Department  
19 of City Planning, the Borough President, even deputy  
20 mayors asking all of them how can we stop the march  
21 of buildings for billionaires from commercial  
22 districts on 57<sup>th</sup> Street to residential neighborhoods  
23 and actually build affordable housing. In a district  
24 that had already been up-zoned to the limits of the  
25 law, I suggest that trading hyper-affordability

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

12

2 capping as-of-right development at 210 and offering  
3 additional 50 feet of height, and affordable area for  
4 affordable housing and community facilities like  
5 badly needed schools. One year later in April 2015,  
6 as children collected Easter eggs in Sutton Place  
7 Park, I learned that rent regulated tenants were  
8 being displaced and a develop was raising money for a  
9 proposed super tall tower at 950 feet from my  
10 district. The first super tall had started with  
11 many, many more to come. I went right to work  
12 publishing opinion editorials, organizing buildings,  
13 and within 45 days Community Board 6 passed a  
14 resolution calling for a height cap in the mid-block  
15 of the East 50s of 75 as are present everywhere else  
16 in the district. Not one to wait for the Department  
17 of City Planning, on the Community Board 6s request,  
18 we began going to dozens of buildings, raising money  
19 for community led rezoning. We formed the East River  
20 50s Alliance, which has grown to 45 buildings in the  
21 area, 2,600 individuals from 500 buildings all over  
22 the city with support from Friends of the Upper East  
23 Side Historic Districts, CIVITAS and citywide  
24 organizations like the Municipal Arts Society,  
25 Council Member Dan Garodnick, Senator Liz Krueger,

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

1 A

2 Manhattan Borough President Gale Brewer joined me as  
3 co-applicant-applicant and Congress Member Carol  
4 Maloney has joined in support. We worked with the  
5 Department of City Planning on several options  
6 providing for affordable housing as part of a  
7 proposal. DCP has ultimately advised that with the  
8 change to a tower on base zoning, the most effective  
9 way to produce affordable housing was to use the  
10 existing Inclusionary Housing framework, which is  
11 what we have done. I'm pleased that the DCP has  
12 committed to reviewing and making the changes to the  
13 Inclusionary Housing Framework citywide, which will  
14 help us further incentivize affordable housing that  
15 our community is eager to see built in the East 50s.  
16 We would later pass Mandatory Inclusionary Housing,  
17 and the Council tracking closer to my initial  
18 proposal, though it did not include a bonus to build  
19 schools, which we hope we can come back and get. We  
20 spent 18 months in pre-application from 2015  
21 following our pre-application in January of 2016, and  
22 finally receiving permission to file our application  
23 in February of 2017. We filed the Zoning Proposal  
24 with the 210-foot as-of-right height cap, 260 feet  
25 with affordable housing community facilities like

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

15

2 schools. During our pre-application the original  
3 developer never finished raising the money they  
4 needed for this planned development. They declared  
5 bankruptcy and a new developer bought the property  
6 and air rights earlier this year. This 18-month  
7 delay would not be possible under legislation the  
8 Council recently passed, meaning this zoning could  
9 have been over and done with long before the current  
10 developer took position—possession. After months of  
11 review by City Planning, it was finally certified in  
12 June. We had two Community Board hearings, the  
13 Borough President passing resolutions in support.  
14 During the review process the City Planning Chair  
15 wrote a letter opposing our voluntary designated  
16 Inclusionary Housing Proposal, and directed us submit  
17 a proposal or tower on base on the grounds that the  
18 existing Inclusionary Housing Programs will result in  
19 more affordable housing. It is important to note  
20 that the Chair's proposal did not include a  
21 grandfathering position. We submitted the Chair's  
22 recommendation expecting an expedient process. On  
23 November 15<sup>th</sup>, the City Planning Commission voted on  
24 our rezoning with the erroneous inclusion of a  
25 grandfather provision. I'm asking my colleagues to

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

16

2 modify the application as we initially submitted it  
3 and as the City Planning Chair initially recommended.  
4 Your vote today is in support of real housing for  
5 real New Yorkers, and will protect oxygenarians like  
6 Kerns and Worth (sp?) and seniors like Charles  
7 Fernandez, and his sister who faced displacement from  
8 their rent regulated units from billionaires building  
9 buildings for other billionaires. Thank you.

10 CHAIRPERSON RICHARDS: Thank you, Council  
11 Member Kallos. We'll now go to—now go to Council  
12 Member Garodnick.

13 COUNCIL MEMBER GARODNICK: Thank you very  
14 much, Chair Richards for holding the vote on this  
15 rezoning application today, and I also want to thank  
16 everybody who came yesterday to testify on this  
17 proposal to my colleagues on the committee and, of  
18 course, to Council Member Kallos who has been a great  
19 leader in this effort. As he noted, I am co-  
20 applicant on this application as part of it falls in  
21 my Council District, and I'm very proud to have been  
22 part of this community driven effort. I'm not going  
23 to repeat what Council Member Kallos has said other  
24 than to observe that this application is the result  
25 of a Herculean effort on the part of the local

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

17

2 community who feel that they should have a say in the  
3 kinds of buildings that go up around them, and the  
4 kind of neighborhood that they want to live in. They  
5 have brought neighbors together, raised money,  
6 engaged lawyers and planners, and developed a strong  
7 proposal, a plan that preserves the neighborhood feel  
8 of the area while allowing thoughtful contextual  
9 development. This application when it arrived at the  
10 council differed in an important way from the  
11 application that was originally filed. The City  
12 Planning Commission added a grandfathering clause  
13 that would exempt from the rezoning a site in the  
14 heart of the proposed rezoning district. I've heard  
15 the arguments for and against the grandfather  
16 provision and, of course, I'm very familiar with the  
17 application itself, and I support the removal of that  
18 provision from the application as it will be voted on  
19 today. This well considered community plan deserves  
20 to stand as a whole. Again, I thank my colleagues  
21 on the committee. Of course, Council Member Kallos  
22 and Senators Krueger and Borough President Brewer for  
23 their joining us in this application, and I encourage  
24 everybody to vote yes. Thank you.

25

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

1 2

2 CHAIRPERSON RICHARDS: Thank you, Council  
3 Member. Alrighty, do any of the Subcommittee members  
4 have any questions or statements on any of these  
5 applications? Barry.

6 COUNCIL MEMBER GRODENCHIK: [off mic] No.

7 CHAIRPERSON RICHARDS: Okay. [laughs]

8 Alrighty, seeing none okay I will now call on a vote  
9 with the support the local Council Members on Land  
10 Use Items No. 790 and to approve with the  
11 modifications I have described Land Use Items No, 773  
12 through 775, 776 through 782, Preconsidered Land Use  
13 East River 50s Text Amendment, and 785 through 786.  
14 Counsel, please call the roll.

15 LEGAL COUNSEL: Chair Richards.

16 CHAIRPERSON RICHARDS: I want to say  
17 congratulations to all. I'm very proud today to add  
18 East Harlem to the list of neighborhood rezonings  
19 that have been approved by this Council, which are  
20 really going to leverage and preserve new affordable  
21 housing in both old and investment. I think we add  
22 East Harlem to Far Rockaway now and to East New York,  
23 and with that I'm very proud of the work that the  
24 committee has done on these items. With that, I vote  
25 aye.

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

1 a

2 LEGAL COUNSEL: Gentile.

3 COUNCIL MEMBER GENTILE: I also want to  
4 congratulate all particularly Council Members Kallos  
5 and Garodnick. Contextual considerations for a  
6 neighborhood is very important to me, as I've worked  
7 on that in my neighborhood on a totally different  
8 score, but totally in my neighborhood back in 2005  
9 and then again in 2007, and that has worked well for  
10 my neighborhood. So, I congratulate both of you, and  
11 I proudly vote aye on all.

12 LEGAL COUNSEL: Garodnick.

13 COUNCIL MEMBER GARODNICK: Thank you. I  
14 vote aye .

15 LEGAL COUNSEL: Williams.

16 COUNCIL MEMBER WILLIAMS: [off mic] Pass.

17 LEGAL COUNSEL: Pass. Reynoso.

18 COUNCIL MEMBER REYNOSO: [off mic] Aye.

19 [on mic] I vote aye.

20 LEGAL COUNSEL: Torres.

21 COUNCIL MEMBER TORRES: I vote aye.

22 LEGAL COUNSEL: Grodenchik.

23 COUNCIL MEMBER GRODENCHIK: Aye.

24 LEGAL COUNSEL: Williams.

25

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

20

2 COUNCIL MEMBER WILLIAMS: May I be  
3 excused to explain my vote.

4 CHAIRPERSON RICHARDS: Yes, sir.

5 COUNCIL MEMBER WILLIAMS: Thank you very  
6 much. I'll be voting aye on all with the exception of  
7 Preconsidered LU East River 50s and Sutton Place and  
8 I want to explain why. I actually think both  
9 colleagues, and in particular Ben Kallos did a good  
10 job on this, and I'm trying to remain consistent on  
11 the positions I've—I've taken in the past. I think  
12 one Council—the Speaker I think did a fantastic job.  
13 I—I support contextual zoning. I'm going through  
14 some of those in my district as well. My philosophy  
15 generally is if you're going to take away some  
16 height, you need to give some height some place else  
17 because we do need the height to be built and/or at  
18 least if there's a rezoning there should be some  
19 affordable component in there. In the Speaker's for  
20 instance she took away some height some place, and  
21 she gave some height somewhere else in exchange for  
22 affordability. I'm trying to do something similar in  
23 my district. I haven't got a good reason why MIH  
24 hasn't applied here or why we have no component for  
25 affordability. With all the hard work I know that

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 21

3 was put in, I'm going to have to abstain on  
4 Preconsidered LU East River Sutton Place. Thank you.

5 CHAIRPERSON RICHARDS: Thank you.

6 LEGAL COUNSEL: The Land Use Items are  
7 approved by a vote of 7 in the affirmative, 0 in the  
8 negative and 0 abstentions except for Preconsidered  
9 LU East River 50s, which is approved by a vote of 6  
10 in the affirmative, 0 negative and 1 abstention, and  
11 these items are all referred to the Full Land Use  
12 Committee.

13 CHAIRPERSON RICHARDS: Thank you. Thank  
14 you, everyone for coming out. Land Use is following  
15 up. This hearing is now closed. [gavel]

16

17

18

19

20

21

22

23

24

25

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 December 8, 2017