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CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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September 20, 2018

Start: 12:00 p.m.

Recess: 12:26 p.m.

HELD AT: Committee Room - City Hall

B E F O R E: FRANCISCO P. MOYA  
Chairperson

COUNCIL MEMBERS:  
COSTA G. CONSTANTINIDES  
BARRY S. GRODENCHIK  
RORY I. LANCOUNCIL MEMBERAN  
STEHEN T. LEVIN  
ANTONIO REYNOSO  
DONOVAN J. RICHARDS  
CARLINA RIVERA  
RITCHIE J. TORRES

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

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[gavel]

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CHAIRPERSON MOYA: Good morning... oh, I'm sorry. Ready? Good morning, is it afternoon already? It is, good afternoon. One... my apologies on behalf of the members of the Subcommittee for starting late today, there was some last-minute items that needed some attention but thank you for your patience. Good morning and welcome to the meeting of the Subcommittee on Zoning and Franchises, I am Council Member Francisco Moya, the Chair of this Subcommittee. Today we are joined by Council Members Constantinides, Steve Levin, Donovan Richards, Ritchie Torres, Barry Grodenchik, Carlina Rivera, Minority Leader Matteo and Council Member Reynoso. Today we will vote on four applications that were the subject of prior hearings; they are LU 217, the HK Kitchen Corporation application for a revocable consent for an unenclosed sidewalk café at 3599 East Tremont Avenue in Council Member Gjonaj's district in the Bronx. We will be voting to approve this café, the size of which has been adjusted to address the concerns of the community. We will vote to modify LU's 206, the 3122-3136 Victory Boulevard rezoning for property located in Council Member Matteo's

1  
2 district in Staten Island. The applicant C and A  
3 Realty Holding LLC seeks a rezoning to replace an  
4 existing R3X C2-2 district with a C8-1 district to  
5 legalize an existing auto repair establishment and to  
6 increase the size of the facility. We will be voting  
7 to modify this application to move the corner  
8 property from the rezoning. The building on the  
9 corner property, a Tim Hortons was recently built and  
10 conforms and complies with the existing 2-2 zoning  
11 and is not likely to be redeveloped pursuant to the  
12 C8 zoning, this is stated in the EAS however the  
13 adjacent and nearby residential property would be put  
14 at risk of inappropriate illuminated advertising  
15 signs which are permitted under the C8 zoning. To be  
16 clear it would be permissible for these signs to have  
17 nothing to do with the existing or future business on  
18 this corner zoning lot as we are not talking about  
19 accessory signage. The proximity to residential use  
20 of these illuminated advertising signs, which bring  
21 in immense revenue for their owners and operators  
22 makes the rezoning on this corner parcel  
23 inappropriate in addition to being unnecessary and  
24 with that I'd like to turn it over to Council Member  
25 Matteo for his remarks.

1  
2 COUNCIL MEMBER MATTEO: Thank you Chair  
3 Moya. Good afternoon everyone. I just want to begin  
4 by thanking the Chair and my colleagues and the  
5 subcommittee for reconvening this matter. I want to...  
6 I want to thank particularly the Land Use division  
7 staff Raju Mann, Amy Levitan, Julie Lubin and  
8 particularly John Douglas and Angelina Martinez Rubio  
9 for their work with me on... and my staff throughout  
10 the last few weeks especially over the weekend and I  
11 want to thank my Chief of Staff, David Carr. As with  
12 most cases and specifically this matter before us, it  
13 was important to strike a balance to ensure we  
14 achieved the best possible outcome and I think we  
15 accomplished that here. I believe the language in the  
16 restrictive declaration serves the interest of the  
17 surrounding area by prohibiting out of character  
18 billboards from being installed in the relevant tax  
19 lots and allowing the existing non-conforming uses to  
20 be normalized on the site, so they can pursue their  
21 commercial objectives. Additionally, the commitment  
22 on the part of the applicant to widen Victory  
23 Boulevard consistent with the regulations of the New  
24 York City Department of Transportation will give us  
25 an opportunity to significantly improve traffic flow

1  
2 in the area. I want to thank the applicant and their  
3 representatives for, for working with us to reach  
4 this point and I ask my colleagues to vote in favor  
5 of this modified rezoning. Thank you.

6 CHAIRPERSON MOYA: Thank you Council  
7 Member Matteo. We will be voting to disapprove LU's  
8 203, 204 and 205, the 27 East Fourth Street  
9 application, the property in Council Member Rivera's  
10 district in Manhattan. The applicant seeks a zoning  
11 text amendment to a special permit for... a special  
12 permit 74-712 to make the site eligible for a special  
13 permit and seeks two special permits under that  
14 section to allow a transient hotel and retail use at  
15 this project site and to modify bulk regulations to  
16 allow the proposed building to reach a height of 90  
17 feet without setback. Members of the public and  
18 elected officials testified in opposition to this  
19 application primarily due to concerns about the  
20 impact of the proposed construction on the Merchant's  
21 House Museum which is an individual landmark built in  
22 1832. In considering the proposed text amendment in  
23 the... in the context of the risk posed to a very  
24 unique landmark with structural issues which could  
25 benefit from a continued maintenance plan we

1  
2 questioned the policy rational behind the proposed  
3 amendment to 74-712. CPC's rational for the expansion  
4 of 74-712 in 2015 to fill... to fill in gaps along the  
5 mid-block and avenues does not make sense here where  
6 there is an existing building. The Commission's  
7 report on the application before us now concludes  
8 that the text amendment provides a mechanism for  
9 underdeveloped sites to a more full... to more fully  
10 contribute to the neighborhood's context. However, we  
11 note that 74-711 does the same thing but with a  
12 public benefit, landmark preservation. We do not wish  
13 to promote zoning text amendments which  
14 disincentivize the use of an otherwise available  
15 special permit which supports landmarks. Given that  
16 74-711 is available to the developers of 27 East  
17 Fourth Street today, the council believes that the  
18 proposed zoning text amendment is neither necessary  
19 nor appropriate. Because the special permits are  
20 continued upon the new text they will also be  
21 disapproved. I... now I would like to turn it over to  
22 Council Member Rivera for her remarks.

23 COUNCIL MEMBER RIVERA: Thank you Chair  
24 Moya for the opportunity to provide brief remarks on  
25 LU 203-2018, LU 204 and LU 205 which are related to

1  
2 27 East Fourth Street. Thank you to the Committee  
3 members and of course the council's land use division  
4 and Speaker Johnson for your assistance in this  
5 process as well as to my staff. Applicant Kalodop  
6 Park Corporation seeks a zoning text amendment to a  
7 special permit 74-712 to make the site eligible for a  
8 special permit and seeks two special permits under  
9 that section to allow a transient hotel and retail  
10 use at the project site and to modify bulk  
11 regulations to allow the proposed building to reach a  
12 height of 90 feet without setback. At our  
13 Subcommittee hearing members of the public and  
14 elected officials testified in opposition to this  
15 application primarily due to concerns about the  
16 impact of the proposed construction on Merchant's  
17 House Museum which is an individual landmark built in  
18 1832. It was designated a national historic landmark  
19 in 1966, was placed on the national register of  
20 historic places in 1977 and was designated the first  
21 landmark in Manhattan at the first meeting of the  
22 city's Landmarks Preservation Commission in 1965, was  
23 designated an interior landmark by LPC in 1981 and is  
24 one of only 120 interior landmarks and one of only  
25 six residents with unparalleled authenticity serving



1  
2 16,000 visitors annually. There is disagreement about  
3 whether the proposed construction protocols will  
4 protect Merchant's House which is located on city  
5 owned land in the jurisdiction of the Parks  
6 Department. Unfortunately, the city of New York has  
7 not funded the structural upkeep of this  
8 irreplaceable asset and considering this particular  
9 landmark and it's predicament this applicant could  
10 have filed an application under zoning resolution  
11 section 74-711 entitled landmark preservation in all  
12 districts. This section of the zoning is on the books  
13 today, it would have not required a zoning text  
14 amendment and can currently be utilized to achieve  
15 same use and bulk waivers that the applicant seeks if  
16 they meet certain conditions. The first condition of  
17 ZR74-711 is that the landmarks Preservation  
18 Commission have approved the plan for the continuing  
19 maintenance of the landmarked building. Unlike the,  
20 the provisions of 74-711, the proposed text amendment  
21 to 74-712 does not require similar support for a  
22 landmark. The City Planning Commission's report on  
23 this application concludes that the text amendment  
24 provides a mechanism from... for underdeveloped sites  
25 to more fully contribute to the neighborhood context.

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2 However, we note that 74-711 does the same thing but  
3 with a public benefit landmark preservation. While  
4 the council acknowledges that there is precedence for  
5 amendment of section 74-712 by increments based upon  
6 lot coverage, we believe this proposal goes too far.  
7 If the council were to approve this text amendment it  
8 would continue to erode the utility of the 74-711  
9 special permit, the provisions of which benefit the  
10 public by preserving landmarks. Given that 74-711 is  
11 available to the developers at 27 East Fourth Street  
12 today, I don't believe that the proposed zoning text  
13 amendment is either necessary, necessary or  
14 appropriate and I urge my colleagues to deny these  
15 land use applications but I remain committed to  
16 continuing to work with this developer to explore  
17 other approaches and I'm eager to discuss again with  
18 the Parks Department and this administration  
19 strategies for ensuring the ongoing preservation of  
20 this very precious historic resource. Thank you.

21 CHAIRPERSON MOYA: Thank you. we will now  
22 be voting to approve with modifications LU's 192, 193  
23 and 194, the 80 Flatbush application, applications in  
24 Council Member Levin's district in Brooklyn. Alloy  
25 Development is a co-applicant with the New York City

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 Educational Construction Fund seeking a zoning map  
3 amendment from C6-2 to C6-9 and a zoning text  
4 amendment to establish a mandatory inclusionary  
5 housing area, establish applicable regulations for a  
6 new C6-9 district within the special downtown  
7 Brooklyn district and create a new special permit to  
8 permit modification of bulk, MIH ground floor use,  
9 parking and loading regulations for a development in  
10 conjunction with ECF in the special downtown Brooklyn  
11 district. These proposed actions would facilitate the  
12 development of two new schools, two new mixed-use  
13 towers originally proposed at 561 and 989 feet high,  
14 our modifications will be to, to density and building  
15 scale. Instead of the FAR of 18, the site will be  
16 rezoned to allow a 15 FAR upon the provision of  
17 100,000 square feet of, of school floor space. The  
18 height of the taller phase two tower has been reduced  
19 to 840 stories including the bulk... including the bulk  
20 head and the height of the smaller phase one tower  
21 has been reduced to 510 including the bulk head.  
22 These modifications will result in fewer shadows on  
23 the nearby community garden and a more appropriate  
24 urban design with better relations... better  
25 relationships to the surrounding buildings and now I

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1  
2 want to turn it over to Council Member Levin for his  
3 remarks.

4 COUNCIL MEMBER LEVIN: Thank you very  
5 much Mr. Chair. I want to thank you for all of your  
6 patience and support throughout this process  
7 especially with your willingness on scheduling. I  
8 want to also thank Chair Salamanca as well for, for  
9 working so closely with us on this. This, this  
10 project, 80 Flatbush has presented a number of unique  
11 challenges as proposed throughout this entire  
12 process. It... as a... as a proposal it sought to address  
13 certain community needs that have been identified for  
14 a long time so first off the need that we see  
15 citywide for affordable housing that is in line with  
16 our mandatory inclusion housing program that we voted  
17 on at the city council and I voted in favor a couple  
18 of years ago where we allow for some increase in  
19 zoning in order to achieve affordable housing at a  
20 meaningful level for projects in New York City,  
21 that's the first objective that this project was  
22 designed to address. The second objective is school  
23 space, throughout New York City in most school  
24 districts we have a seat shortage that's no different  
25 here in downtown Brooklyn which is on the border of

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 district 13 and district 15, this site being in  
3 district 15 where there's always a need for school  
4 seats and so that's why this project came forward as  
5 an education construction fund project as a  
6 partnership with Alloy as the developer and the  
7 original proposal elicited a, a significant reaction  
8 because as proposed it was a... proposed at a 18 FAR in  
9 order to achieve those benefits on a block that was  
10 identified in 2004 in the downtown Brooklyn rezoning  
11 as being a transitional block with the maximum zoning  
12 in 2004 and downtown being 12 FAR and anything  
13 transitional being transitional down from that. This  
14 is a block that you have essentially three different  
15 zoning contexts converging on a single two thirds of  
16 a block or three quarters of a block where you have  
17 the downtown Brooklyn zoning context coming down from  
18 the North, the, the Boerum Hill context which is a  
19 low rise context of about a two FAR for townhouses  
20 coming down from the South and, and then Schermerhorn  
21 Street coming over from, from the West and, and so  
22 that presented a unique challenge and so we... I think  
23 the community response all along was these benefits  
24 are, are great, we are excited about these benefits  
25 however the density that's proposed is, is higher

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 than, than we're comfortable with and so that was the  
3 message that I received and the message that I  
4 consistently went back to the developer and the city  
5 with. To their credit Alloy had a series of meetings  
6 that... numerous meetings with the community to try to  
7 figure out how to address a lot of these issues that  
8 were raised without doing those things, without  
9 reducing the height of the towers, without reducing  
10 the density of the... of the... of the proposal but doing  
11 so through design and through innovative ways. For  
12 example, get... removing a loading dock which was on  
13 State Street or originally there were two loading  
14 docks on State Street and to their credit a lot of  
15 objectives were achieved over the last several months  
16 through these innovative designs, design solutions  
17 and so I, I just want to acknowledge Jared Della  
18 Valle, A.J. Pires and David McCarty who were again  
19 very involved from, from Alloy and kind of working  
20 with the community on this. With that said we got to  
21 a point where the community was very clear, that the...  
22 that the height of the buildings needed to come down  
23 and the density of the buildings needed to come down  
24 and we were able to achieve both things through this  
25 process and this is... thing... the stuff that is new to

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1  
2 share today. So, the height of the phase two tower  
3 which is... that is the, the larger of the towers has  
4 come down from 986 to 840 feet so there's been a  
5 reduction of almost 150 feet that is... that is  
6 significant, it is... in addition to that it's been  
7 redesigned in way and, and, and I think they're be...  
8 going to be able to share renderings where the  
9 density... because they're able... their, their  
10 redesigned elements of the commercial floor area on  
11 tower two a lot of that density gets shifted down to  
12 the lower portion of the building that is now going  
13 to be able to come over the existing school buildings  
14 that are still going to be preserved in a pedestal  
15 that the tower can rise out of therefore shifting if  
16 you... those of you that know this project well know  
17 that a lot of the density in the tower was at the top  
18 of the tower with a very narrow base and so that's  
19 been shifted so that will have a significant impact  
20 on light and air issues, on overall sense of density  
21 issues in... as it relates to tower two. Tower one  
22 which is over on the corner of Flatbush and State  
23 will be reduced from 561 feet to 510 feet and will  
24 now be lower than the historic Waynsburg Savings Bank  
25 building. Very importantly to me and this has been

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1  
2 the source of a lot of negotiations over the last  
3 several days, the density of the project has been  
4 reduced 2.25 FAR, from 18 FAR to 15.75 FAR and so  
5 that is... that is over 130,000 square feet that is the  
6 reduction in the overall project so out of... out of a  
7 little over a million square feet over 130,000 have  
8 been eliminated from the project entirely. In  
9 addition to how this will all work, the full density  
10 of the project is only achievable if they build  
11 100,000 square feet of schools because the two  
12 schools that are proposed equal more than 100,000  
13 square feet, we want to make sure that all of that  
14 happens in order to unlock the full density that this  
15 project can achieve. A very important concern all  
16 along was protections for State Street which is the  
17 low-rise block here that is directly adjacent and  
18 across the street. Keep in mind by the way that there  
19 was a as of right project that the developer could  
20 build that would, would have a significant impact, a  
21 negative impact on the residents of State Street  
22 including with loading docks and design elements  
23 that, that at it's worst would, would be pretty bad  
24 for State Street. So, the... what we've seen in terms  
25 of protecting State Street; the phase two tower will



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1  
2 be required to set back 30 feet from both State  
3 Street and Third Avenue ensuring that there's a, a  
4 transition to the low rise brownstone context and  
5 this, this... Alloy deserves a lot of credit for,  
6 removed all loading docks from State Street, there  
7 will no longer be a loading dock on State Street  
8 whatsoever, there will be a loading zone and through  
9 a design innovation there will be a passage way or a  
10 gangway that, that goes from Flatbush Avenue to State  
11 Street where all of the garbage will be able to go  
12 out through, in either direction from the school and  
13 from phase one residential towers. Phase one  
14 commercial all the trash is going to be going out and  
15 picked up on Flatbush Avenue and we're working with  
16 the Department of Sanitation to see if we can get the  
17 school garbage to not be picked up on State Street at  
18 all but instead be picked up on Schermerhorn Street  
19 on the Schermerhorn Slip that goes... that's right by  
20 Flatbush Avenue. So, no, no loading dock whatsoever  
21 on State Street so there will hopefully be no beeping  
22 trucks at two in the morning, there will be no... there  
23 will be no... you know amazon or you know UPS or FedEx  
24 backing in and out or any types of trucks with people  
25 moving in and out of the residential building at

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1  
2 Phase one on State Street. Very importantly to me  
3 we're preserving the historic buildings, both  
4 historic buildings, both school building, the 1850's  
5 building and the 1890's building on Third Avenue and  
6 that's a significant achievement because it would  
7 have been a lot easier to tear these down, they're  
8 not landmarked, they don't... they don't have any  
9 landmark protection but to Alloy's credit again even  
10 when we said, you know what maybe that's something  
11 that, that can sacrificed, they came back with a  
12 design that actually maintains those and, and works  
13 around them and actually incorporates them. In  
14 addition, we're seeing that there will still be 200  
15 units of affordable housing achieved so even with  
16 the... with the, the reduction in density we are still  
17 seeing and achieving 200 units of affordable housing  
18 so that's a significant achievement. So, a lot of  
19 work went into this, I do have a lot of people to  
20 thank as I said Jared Della Valle and A.J. Pires and  
21 David McCarty at Alloy, Ahmed Tigani and Jon Paul  
22 Lupo, Emma Wolfe from the administration. I want to  
23 give a special acknowledgment to Deputy Mayor Alicia  
24 Glen who was on the phone with me late last night  
25 negotiating all of these issues. On our side Raju (?)

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 Mann, Brian Paul, Amy Leviton, Julie Lubin who put  
3 countless hours into this; the Speaker, Corey Johnson  
4 who was checking with me daily and Chief of Staff  
5 Jason Goldman, I see Samara Dale and Julie Greenberg  
6 who are here who put a lot of work into this and I  
7 just want to acknowledge the community members that  
8 put a lot of work... we did a lot of meetings, going  
9 through a lot of details on this, Howard Cullins, Ben  
10 Richardson, Darty Carstefen, Linda Rosenberg, Roz  
11 Culpit [sp?], Jonathan Glazier, Peter Selider [sp?]  
12 and, and others as well who, who have put in so much  
13 time and the community has... got so involved in this,  
14 it was really... Henry is here as well, just put in so  
15 work so I want to thank all the community because  
16 this really would not have been achieved all of these  
17 significant gains if it wasn't for the work of the  
18 community and in collaboration with, with the  
19 development team. So, with that I encourage my  
20 colleagues to vote aye, I want to thank you for, for  
21 the opportunity to speak, thank you.

22 CHAIRPERSON MOYA: Thank you. I now call  
23 for a vote to approve LU 217, to approve with, with  
24 the modifications I have described; 192, 193, 194,  
25 and 206; also, to disapprove 203, 204 and 205 and

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1  
2 just for clarification a vote on aye on all is also a  
3 vote to disapprove 203, 204 and 205. Counsel please  
4 call the roll.

5 COMMITTEE CLERK: Moya?

6 CHAIRPERSON MOYA: Aye on all.

7 COMMITTEE CLERK: Constantinides?

8 COUNCIL MEMBER CONSTANTINIDES: Aye on  
9 all.

10 COMMITTEE CLERK: Levin?

11 COUNCIL MEMBER LEVIN: I vote aye on all.

12 COMMITTEE CLERK: Reynoso?

13 COUNCIL MEMBER REYNOSO: Aye on all.

14 COMMITTEE CLERK: Richards?

15 COUNCIL MEMBER RICHARDS: Aye on all.

16 COMMITTEE CLERK: Rivera?

17 COUNCIL MEMBER RIVERA: Aye on all.

18 COMMITTEE CLERK: Torres?

19 COUNCIL MEMBER TORRES: Aye on all.

20 COMMITTEE CLERK: Grodenchik?

21 COUNCIL MEMBER GRODENCHIK: Aye on all.

22 COMMITTEE CLERK: The resolutions are  
23 approved by a vote of eight in the affirmative, zero  
24 negative and no abstentions and referred to the full  
25 Land Use Committee.

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CHAIRPERSON MOYA: This concludes today's hearing. I would like to thank the members of the public, my colleagues of course, Council and the Land Use staff for all the great work that they do. This meeting is hereby 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

September 30, 2018