

CITY COUNCIL
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

LAND USE SUB COMMITTEE ON ZONING AND FRANCHISES

-----X

March 9, 2009
Start: 10:27am
Recess: 11:15am

HELD AT: Committee Room
 City Hall

B E F O R E: TONY AVELLA
 Chairperson

COUNCIL MEMBERS:
Eric N. Gioia
Robert Jackson
Melinda R. Katz
Larry Seabrook
Helen Sears
Albert Vann
Maria Baez
Alan J. Gerson
Daniel R. Garodnick

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

David Von Sprecklesen
Vice President
Toll Brothers

Mimi Raygordetsky
Environmental Liability Management

Lisa Gomez
L & M Equity

2 CHAIRPERSON AVELLA: We have these
3 new microphones finally, so please bear with us as
4 we learn how to operate them. I'd like to
5 reconvene this meeting of the Sub Committee on
6 Zoning and Franchises. We have a number of items
7 that we will be voting on, and I will go through
8 them. And then one item, the Toll Brothers
9 Project, I'm going to be asking the applicant to
10 come back and give us some further information
11 from the issues that I raised at the previous
12 meeting. First item is the Special Forest Hills
13 District, which is in Council Member Melinda
14 Katz's district. And before I call on her to make
15 the motion, I'd like to recognize the members of
16 my Committee that are here; Council Member Robert
17 Jackson, Larry Seabrook, Helen Sears, Melinda
18 Katz, Eric Gioia, and we're also joined by Council
19 Member Alan Gerson and Maria Baez. And I'm sure
20 some other members may be joining us, because Land
21 Use Committee will be meeting immediately after
22 this Committee. So I'd like to call on Council
23 Member Katz.

24 COUNCIL MEMBER KATZ: Thank you,
25 Mr. Chairman. Today we are voting on a Forest

1 Hills rezoning that has been in the works for many
2 years. Many years ago, probably about two years
3 ago or three years ago, folks in the community,
4 businesses, started coming to me that they wanted
5 to rezone their particular area, that they were
6 probably going to go to the BSA in order to get
7 variances. My area on Austin Street, for those of
8 you that have been there to shop, and a lot of
9 folks have been to my community to shop, you will
10 recall from 30, 40, 50 years ago that it is mostly
11 zoned automotive because it used to be repair
12 shops and gas stations on Queens Boulevard in that
13 area. So there was one variance given a few years
14 ago where a 190-story building went up. My fear
15 is that that would happen to a majority of the
16 applicants coming up. So I am very grateful to
17 City Planning and all the work that they have done
18 over the last few years in order to try to protect
19 our community. I also want to thank the Community
20 Board 6 for their active participation and the
21 many civic associations that I think made this
22 rezoning better, the Women's Club of Forest Hills,
23 Diane; Friends of Station Square, Susannah; Van
24 Court, Steven Reichstein and Juan Reyes. There
25

1
2 are two-- one modification and one agreement that
3 has been made that I would like to read into the
4 record. There was 150 height limitation in this
5 special district. I am requesting an amendment to
6 it to lower the height restriction in the C4-5X,
7 which is along Queens Boulevard, to 120 feet, so
8 that we can have it a little bit better in the
9 community. The highest building is 190 feet now
10 that have gotten the variance, and they will be
11 next door to a 220-foot building, so I think this
12 is a very good compromise. Also in my district,
13 ask you know in Forest Hills, it is a very senior
14 area, and there is a grocery store on the corner
15 of Yellowstone Boulevard and Queens Boulevard, it
16 is a Key Food, and it is absolutely the most
17 important, probably, retail store in that area.
18 My seniors walk to it. And it was imperative to
19 me that they remain, even if they do develop. So
20 I do have a letter, which I will put into the
21 record and not read, from Richard Grobman
22 [phonetic] of Damrick Associates [phonetic],
23 stating and giving their commitment that the
24 15,000 square foot grocery store that is there, no
25 matter what is developed or how they deal with

1
2 this, will remain and will be redeveloped as a
3 15,000 square foot grocery store. And during the
4 process of construction, if they're not able to
5 keep the grocery store there during the process,
6 which I understand, they will arrange an order by
7 phone home delivery program for the folks in that
8 community. So that is my amendment, the 120 feet.
9 I will give this letter for the record, and I
10 thank the Committee for their work on this. And I
11 do want to just once again thank City Planning.
12 They worked very hard on this and negotiated well.

13 CHAIRPERSON AVELLA: Thank you.

14 The next item we will be voting on is the East
15 Windsor Terrace Rezoning, which is in Council
16 Member de Blasio's district. He is in favor of
17 the application. There are two others, but we're
18 going to have further comments on the two others.
19 What I'd like to do is vote at this time on the
20 Special Forest Hills District amendment, with the
21 amendment, and the East Windsor Terrace Rezoning.
22 Chair recommends approval of both items.

23 CHRISTIAN HYLTON: Christian
24 Hylton, Counsel to the Committee. Chairman
25 Avella?

1

CHAIRPERSON AVELLA: Aye.

2

3

CHRISTIAN HYLTON: Council Member

4

Gioia?

5

COUNCIL MEMBER GIOIA: Thank you.

6

Yes.

7

CHRISTIAN HYLTON: Council Member

8

Katz?

9

COUNCIL MEMBER KATZ: I'm going to

10

vote Aye on all. I also would like to disclose--

11

the Counsel wants me to disclose that I am a

12

member of the Forest Hills Jewish Center. I'm

13

there most Sabbaths; you can see me there. I

14

guess I also shop a lot on Austin Street, if that

15

matters. So I vote Aye on all.

16

CHRISTIAN HYLTON: Council Member

17

Seabrook.

18

COUNCIL MEMBER SEABROOK: I vote

19

Aye.

20

CHRISTIAN HYLTON: Council Member

21

Sears?

22

[Pause]

23

COUNCIL MEMBER KATZ: Yes, and I

24

live in Forest Hills.

25

[Pause]

2 CHRISTIAN HYLTON: Council Member
3 Jackson?

4 COUNCIL MEMBER JACKSON: I vote Aye
5 on all items.

6 CHRISTIAN HYLTON: The vote stands
7 five in the affirmative; none in the negative,
8 there's no abstentions. Item is referred to full
9 Land Use Committee.

10 [Pause]

11 CHAIRPERSON AVELLA: We're just
12 going to wait a minute. We have another Council
13 Member next door, and then we will discuss the
14 other two items.

15 [Pause]

16 CHRISTIAN HYLTON: Council Member
17 Sears?

18 [Pause]

19 COUNCIL MEMBER SEARS: I vote Aye.

20 CHRISTIAN HYLTON: By a vote of six
21 in the affirmative, none in the negative, no
22 abstentions, both items are approved and referred
23 to the full Land Use Committee.

24 CHAIRPERSON AVELLA: The next item
25 that is on today's agenda for a vote is the

1
2 Battery Maritime Building. This application is
3 within Council Member Gerson's district and--

4 [Pause]

5 CHAIRPERSON AVELLA: As my
6 Committee Members will recall, I had a number of
7 issues with this application, so I will be voting
8 No on it. The motion to approve will be made by
9 Council Member Katz, and I know Council Member
10 Gerson does want to speak on the item. This is a
11 project that is being proposed by the City to put
12 on top of a New York City landmark a hotel. The
13 issue that I had with the proposal, and only
14 really one issue, is that the addition will be
15 totally out of context with this New York City
16 landmark. And I just felt it was appropriate to
17 raise my objection, given the fact that after
18 years of working on this the applicant and the
19 City could not have come up with a design that
20 matched the historic architecture of the building.
21 So Council Member Gerson, I know you want to speak
22 on the item.

23 COUNCIL MEMBER GERSON: Thank you
24 very much, Mr. Chair. I will synopsise what I
25 stated at the hearing briefly. But I mean, and

1
2 again, I do want to reiterate my appreciation to
3 you for the thoroughness of the fairness with
4 which you conducted the review of this application
5 as well as all other matters on which we've worked
6 together, of which there have been many over the
7 years. That being said, I urge my colleagues to
8 vote in favor of the application. I believe the
9 motion will be made by Chair Katz. And I urge an
10 affirmative vote. The key point that Chair Avella
11 made is that this has been worked on for years.

12 And over the course of the years, there has been a
13 consensus reached by the community, the community
14 board, the Borough President, myself, all but one
15 landmarks or historic preservation organization,
16 and the Landmarks Commission itself. This is a
17 critical component of the effort to reopen and
18 reclaim for public use the waterfront of our City
19 and of Lower Manhattan in particular. We have
20 painstakingly arranged for a significant public
21 space to be included indoors. Many of you are
22 familiar with the Winter Garden; this will be a
23 Winter Garden on a smaller scale for cultural and
24 other public activities, which will be important
25 both for the economy and for the social fabric of

1 the community. On the issue raised by the Chair,
2 the glass structure was designed to comport with
3 the non-glass structure underneath. From the land
4 side it is set back. So the entire original
5 historic structure remains in full view with full
6 effect. And if anything, this project will
7 refurbish that structure. From the water side, as
8 pointed out in the hearing by experts, the glass
9 façade, better than any other façade, enhances the
10 parapets and the other rooftop ornaments, which if
11 there was a non-glass addition, would have become
12 lost and we would have lost that critical
13 component of the historic fabric. This was well
14 thought out. Reasonable people can agree to
15 disagree, as we will, but you should know, this
16 was thoroughly vetted and unanimously supported by
17 a Community Board which has a record of support
18 and concern for historic preservation and
19 landmarking, as well as by the Landmarks
20 Commission itself. I urge you; I implore you to
21 vote in favor of the application. Thank you.

22
23 CHAIRPERSON AVELLA: Thank you,
24 Council Member. Next item we will be considering
25 for a vote is the Bond Street project, commonly

1
2 referred to as the Toll Brothers Project. I'm
3 going to call them back. I understand they have
4 some further information in reference to some of
5 the issues that I brought up. So I'd like them to
6 come up and testify.

7 [Pause]

8 DAVID VON SPRECKLESEN: Did you
9 have specific questions you were going to ask me
10 or should we just follow up from where we were?

11 [Off Mic]

12 DAVID VON SPRECKLESEN: Okay. You
13 had the question with regard to the timing of the
14 remediation and the construction, and Mimi
15 Raygordetsky is here from our environmental
16 advisor to answer that question.

17 MIMI RAYGORDETSKY: I'm Mimi
18 Raygordetsky with Environmental Liability
19 Management. And since we met last week, we've
20 taken a very close look at our remediation
21 schedule and how it will be phased with our
22 construction schedule. And I have more
23 information for you on that. So I'll just step
24 through the phases so it's clear to everyone how
25 we anticipate remediation and construction to

1
2 proceed on this site. As I mentioned, well I
3 guess I'll just go through the phasing. The first
4 thing that will happen is there are a number of
5 existing structures on the site, all of which will
6 be demolished, and any asbestos materials within
7 those structures will be removed from those
8 buildings prior to demolition. All the debris
9 will be removed from the site. After demolition
10 we'll be installing a couple more soil borings and
11 ground water monitoring wells beneath the former
12 footprints of those buildings. This is a-- we're
13 doing this at the request of the City DEP, because
14 we weren't able to get our drill rigs inside those
15 buildings when we did the initial phases of
16 investigation. We are expecting to find
17 constituents similar to those that were identified
18 during the initial phases of investigation during
19 that supplemental phase. And those constituents
20 will be handled in the same manner that the
21 previously identified constituents will be
22 managed. If there is anything new that comes to
23 light during that investigation, we will be
24 working with both the City DEP and the State DEC
25 to address those constituents. Next, the known

1 hot spot locations, containing product saturated
2 soils, and if you'll remember from our
3 conversation last week, there are only two
4 locations that have product saturated soil;
5 they're contiguous to each other and they're
6 basically on the north central portion of the
7 site. Those locations will be physically
8 excavated and removed from the site two feet below
9 the water table, and they'll be disposed of off
10 site in accordance with applicable federal, state
11 and local regulations. After the hot spots are
12 removed, a specialized remediation contractor will
13 be coming to the site to either solidify or treat
14 in place the residual contaminants that would
15 remain within the footprint of the site. One
16 thing that I want to be very clear about, the on
17 site treatment of soils coupled with the
18 protective measures that are going to be
19 implemented on the site, including the sub slab
20 depressurization system and the vapor barrier are
21 just as effective, equally as effective as
22 complete soil removal in eliminating future
23 exposure to any tenants on the site and people
24 that would enjoy the parkland on the site.
25

1
2 Additionally advantages to solidification in place
3 include the fact that you won't be brining
4 thousands of trucks, filling them with soil,
5 disturbing that soil, releasing particulates into
6 the atmosphere and then trucking them through your
7 neighborhoods. Now once these remedial measures
8 are complete, the general construction phase will
9 start, and that will include construction of the
10 building foundation. There are two construction
11 components that also serve remedial measures, and
12 those are the sub slab depressurization system to
13 alleviate or mitigate potential for any vapor
14 intrusion, and the vapor barrier. And because
15 those are construction measures and are part of
16 the building foundation, they really can't be
17 built, it's just you can't do it in advance;
18 they're part of the foundation. So, as I didn't
19 make clear to you when we spoke last week, the
20 bulk of the remediation really is happening in
21 advance of the construction phase, and the only
22 remedial elements that will occur during
23 construction are installation of the sub slab
24 system and the vapor barrier.

25 CHAIRPERSON AVELLA: Well that's

1
2 good to hear. And I hope you've put that together
3 in some sort of, you know, brief description so
4 that the community can be aware of that.

5 MIMI RAYGORDETSKY: Yes. It is
6 included in the package that you all have in front
7 of you; it's one of the final pages on either the
8 right side or the left side of your packet.

9 [Pause]

10 COUNCIL MEMBER KATZ: Is that it?
11 Is that the part?

12 MIMI RAYGORDETSKY: I don't think
13 so.

14 COUNCIL MEMBER KATZ: Can I ask you
15 a question?

16 [Pause]

17 CHAIRPERSON AVELLA: Because there
18 are other issues that I'm sure they're going to
19 tell you.

20 [Pause]

21 CHAIRPERSON AVELLA: Okay.

22 [Pause]

23 COUNCIL MEMBER KATZ: I just-- I'm
24 sorry, Mr. Chair. I just wanted to know if this
25 was the finally summary of what you were talking

1
2 about?

3 MIMI RAYGORDETSKY: I don't think
4 that's what it looks like--

5 COUNCIL MEMBER KATZ: [Interposing]
6 Okay.

7 MIMI RAYGORDETSKY: --in final
8 printed form. It's really the last page on one of
9 the two sides of your packet.

10 CHAIRPERSON AVELLA: Can you point
11 out which one it is, somebody?

12 MIMI RAYGORDETSKY: In the packet.

13 CHAIRPERSON AVELLA: So she doesn't
14 have to go through the whole thing. Don't you
15 have a copy of the package?

16 [Pause]

17 DAVID VON SPRECKLESEN: There was
18 also a question with regard to the affordable
19 housing and our commitment to the affordable
20 housing, and we have today Lisa Gomez with us, who
21 is our partner with L & M Equity, one of the
22 premiere affordable housing developers in New York
23 City, and also our partner in Williamsburg, where
24 we've done affordable with them.

25 LISA GOMEZ: Thanks, David. As

1 David said, L & M is a 25-year old affordable--
2 primarily affordable housing developer.

3 Throughout that time we've developed about 8,000
4 units, most of those in the City and most of those
5 as affordable housing. We are partners on the
6 North Side Piers development, which also contains
7 113 on-site affordable units, which help that
8 project meet its inclusionary housing requirement.

9 Those units were finished and occupied last
10 summer, and we received thousands and thousands of
11 applications for those 113 units, which is pretty
12 typical for affordable housing developments
13 throughout the City. For the Gowanus site we're
14 building 136 units on the two corners of 1st and
15 2nd Street on Bond Street. When completed all
16 those units will be affordable to those earning at
17 or below 80% of area median, which is currently
18 about \$60,000 for a family of four. I know there
19 have been some questions on sort of funding
20 mechanisms, so I'd like to just sort of tell you
21 about a couple of options that we can utilize for
22 this, because having two buildings actually
23 provides us with more flexibility to finance each
24 one separately or both together. But, typically
25

1
2 in the world of affordable housing there are a
3 number of discretionary or as of right subsidy and
4 low interest loan programs. So we would envision
5 using a combination of tax-exempt bonds, tax
6 credits, and low interest loans either through
7 HDC, HPD or the State DHCR through the Homes for
8 Working Families or Housing Trust Fund programs.
9 These are programs that we are very well versed
10 in. We're currently financing four and building
11 four affordable developments in Brooklyn using a
12 variety of these subsidies. And in about the past
13 ten years we've successfully obtained, through a
14 competitive process, ten awards through DHCR. So,
15 we're pretty good at figuring out how to put
16 together financing. And I think one thing that's
17 important right now in this economy is that given
18 our track record; we have been able to finance and
19 close affordable housing projects, even while the
20 financial world is falling apart. And we stand
21 behind our commitment to affordable housing, and
22 we believe that we will be able to successfully
23 finance and build all of these units.

24 CHAIRPERSON AVELLA: But-- and I
25 appreciate your testimony, but it doesn't get to

1
2 the heart of the issue that the community raised
3 is that my understanding from the community board
4 and community representatives, is that they voted
5 in favor of the project with the guarantee that
6 the affordable housing component was going to be
7 built; that if the affordable housing component
8 isn't done, they're not in favor of the project.
9 And what they were looking for is a very firm
10 commitment. Because if you don't do the
11 inclusionary housing component, you can still do
12 the 12 stories, which is not what the community
13 wants. So again, my question is where is the
14 final written in stone commitment? That's the
15 issue that I raised on behalf of the community.

16 LISA GOMEZ: What type of final
17 written commitment would you be looking for?

18 CHAIRPERSON AVELLA: Well if I
19 remember, the community had raised two issues, two
20 things. I think one was a deed restriction in the
21 project or some commitment in the project, in the
22 wording of the project as part of the approval
23 process that the housing component would be built.

24 DAVID VON SPRECKLESEN: We would be
25 developing this pursuant to the inclusionary

1
2 housing program, which is done throughout this
3 city, where there is significant incentives to
4 doing the affordable housing. We've only come
5 across this in one instance before, and we have
6 done it in North Side Piers, with L & M Equity.
7 So with the 421-A and the bulk increases, it makes
8 it very compelling to do these projects. We're
9 batting 1000 and we will continue to bat 1000 as
10 we're planning on doing that in this program.

11 CHAIRPERSON AVELLA: And I don't
12 dispute that. I don't dispute that that's your
13 best intentions. But what the community is
14 saying, they're in effect giving approval for
15 additional density and additional height and only
16 on the, you know, proviso that there is the
17 affordable housing component. What they're saying
18 is they don't want to be in a situation where the
19 project is approved and lo and behold, not because
20 you didn't try, but because the-- for some other
21 economic reason the affordable housing component
22 doesn't get built and then they're going to be
23 sitting around saying, we should never have
24 approved this project in the first place. There's
25 got to be a way that you can commit to doing this.

1
2 And I understand the situation you're in, but you
3 know something, the community has a right, at
4 least in my opinion, to insist on a real, firm,
5 commitment. And you're saying just what you said
6 at the other hearing and I don't-- again, I don't
7 dispute the fact that you're-- it's your best
8 intentions. But that's not what the community is
9 seeking. They want a commitment. They want a
10 real commitment that they can hold up and say, the
11 developer didn't do what he was supposed to do.
12 So far I haven't heard that. And I guess you're
13 not willing to do it. And again, it's not
14 disputing your commitment to do it, but if the
15 economic situation somehow changes or the
16 requirements of the 421-A program get changed,
17 whatever, and it doesn't happen, then the
18 community board, their position was really
19 undermined and they didn't get what they wanted.
20 And they got something that they didn't want in
21 terms of greater density and-- I shouldn't say
22 greater density, but the height of the buildings.
23 So I correct myself. I saw you were going to
24 correct me. Thank you. So, I mean unless you can
25 say something different we agree to disagree on

1
2 that one issue. Okay? Anything-- do you have--
3 have you made any sort of concessions in changing
4 the plans on the height of the two towers since we
5 had the hearing?

6 DAVID VON SPRECKLESEN: We have
7 not.

8 CHAIRPERSON AVELLA: Council Member
9 Gioia?

10 COUNCIL MEMBER GIOIA: Thank you,
11 Mr. Chair. A few questions, and actually I have
12 some questions even following up on your
13 questions, because I think I had a different
14 understanding than what you just articulated.
15 First a few things, as you know I represent a
16 waterfront as well in Queens. And what's exciting
17 to me about projects like this is that for too
18 long the waterfront has been completely neglected
19 and unless you worked in a factory on the
20 waterfront you had little chance of ever seeing
21 the water. It's also exciting to me that in these
22 difficult economic times that someone's coming
23 forward with a rezoning to put shovels in the
24 ground that will provide great construction jobs
25 and also build new housing in New York. And I was

1 talking to some of the community folks beforehand,
2 and the truth is if you live in a neighborhood, no
3 one ever lights height or extra height. And as
4 somebody who's lived in Queens my entire life, I
5 understand that. But I also think that sometimes
6 there need to be tradeoffs. And if we are ever
7 going to solve the affordable housing crisis in
8 New York and allow both working class and middle
9 class people to live within the five boroughs, one
10 of the tradeoffs we can make is through height.
11 And so, while I'm not a huge fan of height and I
12 can understand if people want less, I would be
13 completely willing to concede on that to get
14 affordable housing. But this is where I guess the
15 question becomes, because, and I fully believe
16 that there is no intention on anyone's part to
17 confuse the community or whatever it may be, but
18 there has been some confusion since the past
19 hearing. And I'm reading a letter, not from you
20 guys but from our colleague that says this project
21 provides 460 units of housing, 130 of which will
22 be affordable, etcetera, etcetera, etcetera. And
23 that's where the confusion comes, because I think
24 that's how the project was sold, as-- but now
25

1
2 there becomes a kind of a next clause, a maybe
3 part to it. And so this is what I want you guys
4 to just talk about a little bit in terms of the--
5 and this is where you ask the question,
6 Councilman, if there is no affordable housing in
7 this project, in other words, if you don't get the
8 tax incentive from the City or from the 421-A tax
9 incentive from the State, what will this project
10 be?

11 DAVID VON SPRECKLESEN: It will
12 become a different project. I can tell you I
13 haven't even begun to conceptualize what it would
14 look like or whether the economics would work; but
15 we wouldn't get the FAR bonus and we wouldn't get
16 the 421-A, so it would be a significantly smaller,
17 different project.

18 COUNCIL MEMBER GIOIA: Which is why
19 you guys want to build this exact project?

20 DAVID VON SPRECKLESEN: This
21 project that we have on paper is much more
22 profitable to us than doing something without the
23 affordable housing.

24 COUNCIL MEMBER GIOIA: To clarify,
25 Mr. Chairman, you said that they still would get

1
2 the FAR? That's why I'm asking for clarification.

3 CHAIRPERSON AVELLA: In effect, if
4 they didn't do the inclusionary housing, they
5 would still have the ability to do the 21 stories,
6 the two towers. They wouldn't get additional
7 bulk, but they'd have the ability to do that
8 height.

9 COUNCIL MEMBER GIOIA: Can you guys
10 walk me through that? Because you're saying you
11 wouldn't get the bonus, but you'd still be able to
12 build two towers? Just tell me about the FAR.

13 DAVID VON SPRECKLESEN: Yeah, the
14 FAR, with the bonus the FAR is 3.6. Without it,
15 if we don't do the affordable, it's 2.7. The way
16 City Planning has put together the framework, the
17 way inclusionary programs work everywhere else,
18 the incentives are tied to bulk, not to height,
19 except for in one instance in the Williamsburg
20 Waterfront, where you could go from a 300 story--
21 300-foot tower to a 400-foot tower. Other than
22 that, it's tied to the bulk. So theoretically,
23 yes, we could do 12 stories without the
24 affordable, but the likelihood of that is not
25 great, given that we have so much less FAR.

1
2 COUNCIL MEMBER GIOIA: I mean it
3 seems to me that the community wants the
4 affordable housing. You all want to provide the
5 affordable housing as part of a larger project.
6 The rub here is that we're not in a position to
7 guarantee the tax break; but we are in a position
8 on the density and the FAR. SO is there a
9 compromise to be reached here where the FAR would
10 stay as it is unless they do the affordable and
11 that would be the bonus?

12 CHAIRPERSON AVELLA: There's always
13 a compromise. If we're willing to impose upon the
14 developer that restriction, whether or not the
15 developer agrees to it, and whether or not the
16 Council Member who represents this area agrees to
17 it.

18 COUNCIL MEMBER GIOIA: It just
19 seems to me that the developer in good faith wants
20 to build this project, and we should, you know,
21 help the neighborhood get along especially in
22 these difficult economic times. The only question
23 is something we can't control, and so I'm trying
24 to bring it into something we actually can
25 control, which is the actual zoning.

1
2 CHAIRPERSON AVELLA: And I would
3 agree with you. But I don't know if we can
4 arrange that, and certainly within the next five
5 minutes by which we would take a vote.

6 COUNCIL MEMBER GIOIA: Fair enough.

7 CHAIRPERSON AVELLA: I mean what we
8 could do is lay this item over until Wednesday,
9 because I'm having-- we're having another
10 Committee meeting on Wednesday, to give us, you
11 know, further time to discuss it. Council Member
12 Katz?

13 COUNCIL MEMBER KATZ: We're finding
14 out the drop-dead date.

15 [Pause]

16 COUNCIL MEMBER KATZ: You know, if
17 I may, Mr. Chair, we can actually lay it over. I
18 would just like to point out to the Committee
19 Members and to you as well and to my colleagues
20 that, you know, the Council Member who's district
21 this is in wholeheartedly approves of this
22 project. It is important to him. And I think
23 that that's probably, if I'm not mistaken, the
24 reason that he's not here, is because he sent a
25 letter, and I think that he was under the

1
2 impression that since, you know, nobody sort of
3 beforehand told him there might be a problem, that
4 he is not here. And I have to make the assumption
5 that if he knew that he would be, because he's
6 extremely diligent and it's important to him. The
7 other side of it is that I understand there has
8 been so many different agreements already with
9 labor and so much work that has gone into this.
10 So, I guess I'm just bringing up the fact that I
11 was under the impression also that this is sort of
12 a go. I understand that there are some issues,
13 but I'm willing to make the discussion, if you
14 want to take a break for a second.

15 CHAIRPERSON AVELLA: I have no
16 objections to taking a five-minute break. Let us
17 take a quick recess and then we'll come right
18 back.

19 COUNCIL MEMBER KATZ: Thank you.

20 [Pause]

21 CHAIRPERSON AVELLA: I want to
22 thank you for your additional testimony. Thank
23 you. We're just going to wait for the vote until
24 we get everybody back in the room. So it will
25 just be a couple of minutes.

2 [Pause]

3 COUNCIL MEMBER GERSON: Mr. Chair
4 as we wait one second, I was remiss earlier in not
5 putting on the record a note of appreciation to
6 Paul Nagle, our Director of Cultural Affairs, who
7 worked very hard on the Battery Maritime Building,
8 so I would like the record to reflect his hard
9 work. Thank you.

10 CHAIRPERSON AVELLA: You're
11 welcome.

12 [Pause]

13 CHAIRPERSON AVELLA: All right.
14 Since I will be voting against the Toll Brothers
15 project, Chair Katz will introduce the motions on
16 the two items that remain to be voted on.

17 [Pause]

18 COUNCIL MEMBER KATZ: You know
19 there's such a thing as closing while you're
20 ahead. Let me make two motions if I can, Mr.
21 Chair, and I don't know whether you want to make a
22 motion on the other things first, or are these the
23 only two items now that we're voting on? Okay. I
24 think Councilman Gerson discussed the Battery
25 Maritime Building in quite detailed a motion

1 there, so I will just say, you know, taking all of
2 his suggestions into account-- I also spoke
3 personally to the Borough President who is in full
4 support of the Battery Maritime Building, and I
5 understand the Community Board was as well, and so
6 I will make a motion on the Councilman's
7 suggestion as well, and congratulate him for all
8 the work he did to approve the three items,
9 Battery Maritime Building, LU number 1000, LU
10 number 1002, LU number 1006. The second motion is
11 for the 363-365 Bond Street. I understand the
12 issues that the Chairman and Councilman Gioia have
13 been discussing, and I do think that they are
14 extremely important to the project. However,
15 overall, I believe that this project is a good
16 thing for the district. I believe that in our
17 economic environment today, this will create good
18 paying jobs, and I think that that is extremely
19 important, especially in today's economic
20 environment that is out there. It will create
21 affordable housing. And as you know that we
22 always talk about if you don't have the project,
23 you're going to get zero affordable housing, I
24 guess. And also I just got off the phone, so that
25

1
2 everyone knows, with Councilman de Blasio. He has
3 reiterated to me his extreme support for this
4 project in his district. So with all that said, I
5 will make a motion to approve the 363-365 Bond
6 Street, LUs number 1003, 1005; and I make the
7 motion. Thank you, Mr. Chairman, for your time.

8 CHAIRPERSON AVELLA: Thank you,
9 Chair Katz. And I'll ask Counsel to call the vote
10 on those two items.

11 CHRISTIAN HYLTON: Chair Avella?

12 CHAIRPERSON AVELLA: If I may, I
13 just want to take a moment to explain why I'm
14 going to vote against both items. Without going
15 into great detail, because I did mention it during
16 the discussion on the items, one, I just feel with
17 the Maritime Building that the addition to a
18 landmarked structure is just inappropriate. If
19 they had just done a little bit more work to make
20 the new hotel on top of this building fit in with
21 the architecture, I think it would have been a
22 great project. I just think they could have done
23 a better job architecturally. With the Toll
24 Brothers Project, I happen to agree with the
25 community on a number of levels. One, this

1
2 project probably should not have come forward at
3 this time, because there is a comprehensive
4 rezoning going on in that district, and the
5 developer should have been told by City Planning
6 wait until the rezoning goes ahead. There are
7 still issues about whether the affordable housing
8 component is going to be built; and the Community
9 Board and the Community were very supportive of
10 the affordable housing component, but, and
11 approved of the project only if that actually
12 happened; and there really is no commitment. And
13 there was also a request that the height of the two
14 towers be reduced from 12 stories to eight
15 stories, and unfortunately there's been no
16 movement on that as well. So I vote No on both
17 items.

18 CHRISTIAN HYLTON: Council Member
19 Gioia.

20 COUNCIL MEMBER GIOIA: Thank you.
21 May I have a second to explain my vote?

22 CHAIRPERSON AVELLA: Sure.

23 COUNCIL MEMBER GIOIA: Thank you,
24 Mr. Chair. Chairwoman Katz has a headache, so I
25 will be as brief as possible. Seriously, I want

1
2 to thank the Community members and the Community
3 Board for what they've done on this project,
4 because I think some of the objections we've heard
5 is actually not particular to this project. I
6 actually, I do believe that this developer wants
7 to build the affordable housing at this site as
8 projected. But there's a concern, I think
9 throughout this city, that there-- sometimes
10 people engage in a bait and switch, say one thing
11 and then sign something different. And I think
12 that's something we have to be very cautious of.
13 And when you read some of these documents, not
14 necessarily put forth by the developer, but where
15 it states this will do this, and then you're told,
16 well, maybe it won't do this but for something
17 else, it raises questions. But I really do
18 believe that there is a full intention by this
19 developer to do exactly what they've said they
20 were going to do, which is to build this project.
21 And my hope is that that is what happens. And I
22 do think that we are in desperate need of housing
23 in this city, especially affordable housing. And
24 as the economic slow down seems to continue
25 unabated, we are in desperate need of good jobs,

1
2 and I know that this project will create some
3 strong union jobs. And for that reason I will
4 vote yes; but I do hope that this Committee and
5 Community Boards around this city are more
6 vigorous in terms of getting guarantees in writing
7 about what projects are exactly and not what the
8 hope of the project is. Thank you.

9 CHRISTIAN HYLTON: Council Member
10 Jackson.

11 COUNCIL MEMBER GIOIA: And I vote
12 Yes on the others as well.

13 COUNCIL MEMBER JACKSON: I vote Aye
14 on all.

15 CHRISTIAN HYLTON: Council Member
16 Katz.

17 COUNCIL MEMBER KATZ: I vote Aye.

18 CHRISTIAN HYLTON: Council Member
19 Seabrook.

20 COUNCIL MEMBER SEABROOK: I vote
21 Aye on all.

22 CHRISTIAN HYLTON: Council Member
23 Sears.

24 COUNCIL MEMBER SEARS: Permission
25 to explain my vote, if I may? One of the

1 communities in my district is Jackson Heights.

2 And Jackson Heights is afforded the status of City

3 Landmarks, State Landmark and on the National

4 Registry. So I'm very sensitive to what happens

5 for those areas and those buildings that are

6 landmarked. At the same time, I think what's done

7 here, and I congratulate the Community Board, City

8 Planning, Councilman Gerson, and I can understand

9 the Chair's opposition to it; but I think at the

10 same time, they met the challenge of adding more

11 to the community, of creating jobs, and having

12 that sensitivity for landmarking. And I think

13 that probably as time goes on, more and more of

14 that we will be looking at in coming before this

15 Committee. I also wish to say that for the other

16 project, there seems to be an agreement about all

17 of that, and I think that we should make a note

18 that creating jobs doesn't mean that everything

19 goes by the wayside just to create those jobs; and

20 it's a challenge, and I think that this Committee

21 does it well in recognizing that we must do jobs,

22 we must create them for the economics of this

23 city, and at the same time, preserving the

24 architectural integrity of the city. I vote Aye

25

1
2 on both, but I think that in recognizing the No
3 votes, I can understand why. But at the same
4 time, I think the Yes votes are commendable.
5 Thank you.

6 CHRISTIAN HYLTON: Council Member
7 Vann?

8 COUNCIL MEMBER VANN: I vote Aye on
9 all.

10 CHRISTIAN HYLTON: And previous
11 items?

12 COUNCIL MEMBER VANN: And on
13 previous items.

14 CHRISTIAN HYLTON: Thank you. To
15 recap, by a vote, LU 1001 and LUs 991 and 991 are
16 approved with a vote of seven in the affirmative,
17 none in the negative and no abstentions. LU 991
18 and 992 are approved with modifications. Pre-
19 considered LU 090048, LU 1003 and LU 1005 are
20 approved by a vote of six in the affirmative, one
21 in the negative and no abstentions. And LU 1000,
22 1002 and 1006, also approved, six in the
23 affirmative, one in the negative, no abstentions.

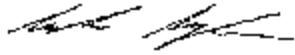
24 CHAIRPERSON AVELLA: Thank you
25 everyone. This closes this meeting of the Sub

1
2 Committee on Zoning and Franchises and I must
3 remember, and Land Use will start immediately, but
4 I must remind my Committee Members that there will
5 be another meeting of the Zoning and Franchises
6 Committee Wednesday morning. It is a separate
7 meeting.

8
9
10

C E R T I F I C A T E

I, Erika Swyler certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature _____

Date March 16, 2009 _____