

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

LAND USE SUBCOMMITTEE ON ZONING AND FRANCHISING

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March 18, 2009
Start: 1:25pm
Recess: 2:20pm

HELD AT: Council Chambers
City Hall

B E F O R E:
TONY AVELLA
Chairperson

COUNCIL MEMBERS:
Simcha Felder
Julissa Ferreras
Eric N. Gioia
Melinda R. Katz
Helen Sears
Albert Vann

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

John Young
Director
Queens Office of the Department of City Planning

Helen Marshall
President
Borough of Queens

Arthur Tyler
President
Jackson Heights Elmhurst Kehillah

Marta Lebreton
Community Board Member, Resident
Community Board Three, North Corona

David Rosario
Community Board Member, Real Estate Investor
Community Board Three, North Corona

Art Aguilar
Senior Planner
New York City Economic Development Corporation

Ethan Goodman
Attorney
Wachtel and Masyr

Ava Harel
Owner
Olive Tree Café

CHAIRPERSON AVELLA: Good

afternoon, everyone, I'd like to call this meeting of the Zoning and Franchising Subcommittee to order. And this is one of the few times I say, "Good afternoon," as opposed to "Good morning." And I appreciate my colleagues accommodating the time change. I'm joined by members of the committee, Council Member Simcha Felder, Al Vann, Helen Sears, Melinda Katz; and also we're joined by our newest, one of our newest Council Members, Julissa Ferreras. The first item on the agenda is the North Corona 2 Rezoning, C090112ZMQ. And we have City Planning to make the presentation. The application is within our newest council member's district. And I know we also have Borough, Queens Borough President Helen Marshall to testify immediately after City Planning gives its report.

JOHN YOUNG: Good afternoon, Chair Avella, Chair Katz, council members, ladies and gentlemen. I'm John Young, and I'm the Director of the Queens Office of the Department of City Planning. And on behalf of City Planning Director Amanda Burden, I'm pleased to be here this afternoon to present the Department's efforts to

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2 update zoning designation for nearly 100 blocks,
3 generally located between Roosevelt Avenue,
4 Northern Boulevard, in the north corner
5 neighborhood in North Central Queens. I'm joined
6 by Fred Lee, who is the Project Planner for this
7 important rezoning proposal. And we're handing
8 out to you a package that includes a summary of
9 the proposal, and maps of the existing and
10 proposed zoning changes. The North Corona 2
11 Rezoning Proposal that is before you today,
12 culminates a more than three year effort to work
13 with a broad spectrum of neighborhood residents
14 and stakeholders, to develop a zoning framework
15 that closely matches building patterns and will
16 ensure more orderly development. The Department
17 initiated this rezoning as a follow up to zoning
18 changes for North Corona that the City Council
19 adopted in September 2003. The 2003 rezoning
20 sought to direct development pressure to major
21 thoroughfares in the area, such as Junction and
22 Northern Boulevards, and away from local side
23 streets. At the time of the Council's adoption of
24 the 2003 rezoning, the Department promised to
25 monitor resulting new developments and recommend

1 additional zoning changes, if warranted, to
2 prevent out of character development. The current
3 rezoning proposal fulfills that promise, as it is
4 intended to even more closely reflect the lower
5 density and one-and-two family contacts along side
6 streets, and ensure a more predictable scale of
7 development along portions of Northern and Astoria
8 Boulevards. The rezoning area is bounded by
9 Roosevelt Avenue on the south, portions of
10 Northern and Sawyer Boulevards on the north, and
11 by 114th Street, Grand Central Parkway, on the
12 east, and variously 89th, 90th and 92nd Streets on
13 the west. It's composed of two components: a
14 lower density rezoning to rezone residential side
15 streets, to acquire lower building heights and
16 implement side and front yard requirements by
17 changing 68 blocks from R5 and R6B zones to lower
18 density R5 and R5 districts. This latter zoning
19 category, R5A, was not available in 2003. The
20 second component is a contextual corridor rezoning
21 to rezone 34 block fronts along portions of
22 Northern and Astoria Boulevards, from R6 zoning to
23 a contextual R6A district, to establish a firm
24 building height limit of 70 feet, with a maximum
25

1 street wall height of 40 to 60 feet. Let me
2 briefly review the basis for making these changes.
3 The map on the right shows that on lots within the
4 R6B district, new developments have generally
5 lacked front and side yards, and have been four to
6 five stories in height. While nearby buildings
7 are predominately two and three stories. And we
8 have examples from 37th Avenue, on the western end,
9 and all the way over on 93rd and 92nd Streets, on
10 the western end of the neighborhood. But
11 predominately, throughout the R6B district today,
12 which extends from 34th and 35th Avenues, down to
13 Roosevelt Avenue, and then blocks to the west of
14 Junction Boulevard, we're proposing six areas of
15 R5 and six areas of R5A, R5A in the northern,
16 eastern, central, and some of the western areas,
17 and then R5 in the remaining ones; which will
18 require front yards of at least ten feet, and one
19 or two side yards totaling eight to ten feet.
20 Building heights would be reduced from 50 feet in
21 the R6B district, to 40 feet in the R5 district,
22 and 35 feet in the R5A district. Overall building
23 bulk would be reduced from a maximum floor ratio
24 of two in the R6B, to 1.25 in the R5 zones, and
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1.1 in the R5A districts. In particular, the area where R5A zoning is proposed would restrict housing to detached structures occupied by one or two households, to match the predominant character of these areas. And some of the photos on the board here show that the portions of 34th Avenue, where R5A is proposed, as well as the section on 91st Street, where again the wood frame houses are predominately detached structures on their own lots. Along Northern Boulevard, construction is currently being completed on a new seven story building at the southeast corner of 112th Street, that used quality housing provisions available in the R6 zoning, but R6 zoning also allows taller buildings, since it does not have a fixed height limit. The R6 district is a height factor zone, where residential or community facility uses are allowed with heights defined by a flexible sky exposure plane. The maximum floor ratio for residential uses is 2.43; while the maximum floor ratio for community facilities is 4.8. Under the proposed change from R6 to R6A on Northern and Astoria Boulevards, a consistent maximum FAR of three would be established for both residential

1 and community facility uses, and a maximum
2 building height of 70 feet would provide a
3 consistent scale along this corridor. The
4 proposal would extend an existing R6A district
5 along, at Junction Boulevard, along Northern
6 Boulevard, and up at Astoria Boulevard, in order
7 to curb out of character and haphazard development
8 that is possible under the current zoning.
9

10 Following the 2003 changes, a new seven story
11 building has also been completed within the R6A
12 district, on Junction Boulevard, that has ground
13 floor retail space and six floors of apartments
14 above. And similar density and scale would still
15 be allowed on Northern and Astoria Boulevards.

16 The North Corona 2 Rezoning Plan has been shaped
17 by numerous participants during its development.

18 I want to thank the area's dedicated residents and
19 civic advocates that have taken the time to
20 provide input into this important zoning
21 initiative, especially the members of community
22 board three Zoning and Land Use Committee.

23 Following the October 6th certification of the
24 proposal, we're very pleased with the support we
25 receive from Community Board Three, which requests

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2 that City Planning consult with the operators of
3 the McGrath Funeral Home on 37th Avenue and 96th
4 Street, 92nd Street, to assure that the operations
5 of businesses on the Avenue would not be adversely
6 affected. On December 17th, Borough President
7 Helen Marshall recommended support of the rezoning
8 on one condition: asking City Planning to
9 reevaluate the proposed zoning on 37th Avenue in
10 the vicinity of 92nd Street, again to assure that
11 the operations of businesses here would not be
12 adversely affected. The Planning Commission
13 carefully considered these recommendations, as
14 well as testimony from its January 21st public
15 hearing, and voted on February 18th to approve the
16 proposal with a modification to retain R6B zoning
17 on four block fronts on 37th Avenue. That was the
18 change that had been requested by both the
19 community board and the Borough President. And
20 now we hope that you, too, will support this well
21 considered initiative to reinforce the build
22 character and development patterns in North
23 Corona.

24 CHAIRPERSON AVELLA: Thank you.

25 Any questions from committee members, council

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2 members, before we go into the public testimony?
3 Council Member Sears.

4 COUNCIL MEMBER SEARS: I just
5 wanted to make a comment, thank you, that I really
6 appreciate City Council's efforts, and our Borough
7 President, in really looking at this. It's a good
8 rezoning, and also recognizing, maintaining the
9 other areas. So, I personally want to thank you
10 because it affects our whole area there, and I
11 thank you for doing that.

12 CHAIRPERSON AVELLA: Council Member
13 Ferreras.

14 COUNCIL MEMBER FERRERAS: Thank you
15 and good afternoon. Actually, this is my first
16 time speaking as a council member, so--And I think
17 it's, it's no better time or place than to be
18 doing it in this particular. I grew up in this
19 area, Corona's my home, and I'm very excited to
20 see a lot of our community members here that are
21 going to also be speaking at his hearing, in
22 reference to this kind of down zoning. And
23 something that many, often many of the members,
24 while I'm out at the district, have said that it's
25 very important. So I thank you for taking the

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2 time out and meeting with me earlier, but also in
3 coming out today. Thank you.

4 CHAIRPERSON AVELLA: Council Member
5 Katz.

6 COUNCIL MEMBER KATZ: I just want
7 to comment on, this may be the Council Member's
8 first time speaking, but you know, this came at a
9 very unusual time, which was that she had just
10 gotten elected, and was coming to the council.
11 So, I just would like her community to know how
12 much, you know, the minute she got in, she asked
13 about this rezoning, and met with City Planning,
14 and wanted to really get a handle on the details.
15 So I'm glad that we're working on this today.
16 Clearly the contextual zoning is something that
17 the community I believe wanted, and we had redone
18 this rezoning many, many years ago, and the
19 corrective action I think is a good one. So, I
20 thank City Planning for being on top of that, as
21 well.

22 CHAIRPERSON AVELLA: Thank you. We
23 will now move to the public testimony and I'd like
24 to call upon our esteemed Queens Borough President
25 Helen Marshall.

HELEN MARSHALL: Good afternoon, and I would frankly like to welcome our new City Council Person, Julissa, who I've known for many, many years, and we're very optimistic that we're going to have a wonderful, wonderful council person who is going to really represent our borough. And she started working even before she certified. Would you guys hurry up and give them their checks? [laughs] Good afternoon, and Councilman Avella, thank you for bringing this up on the agenda, and I appreciate the opportunity to sit here and talk. Good afternoon, I am Queens Borough President Helen Marshall. The proposed rezoning is a follow up of the previous rezoning of North Corona, that was approved in 2003. Very shortly after that approval it became clear that the intention to protect the interior lower density areas from out of context development, were not fulfilled in all areas. After approval of the rezoning in 2003, out of character buildings that loomed over neighboring one and two and, two family homes, was still being constructed. Today, the City Council is considering a proposal that makes its use of

1 zoning tools that were not available over five
2 years ago. The new contextual zoning districts do
3 much better, do a much better job of controlling
4 the building heights and matching densities that
5 would result in new buildings, more in character
6 with the buildings that exist today. The Queens
7 Office of the Department of City Planning, over
8 the course of several months and meetings in
9 neighborhoods, has worked tirelessly with
10 Community Board Three area elected officials, and
11 community groups to discuss and fine tune this
12 rezoning proposal. I'd like to add here one
13 comment. The City Planning Commission is around
14 the corner on my same floor. They have really
15 gone out of their way to meet the approval of the
16 citizens of our borough in all areas, and they're
17 to be commended for that. At the borough hall
18 hearing, the testimony received was overwhelmingly
19 in favor of the proposal; however, there was one
20 long term property and business owner at 37th
21 Avenue and 92nd Street who raised concerns that the
22 rezoning as proposed would jeopardize the
23 continuing operations of an existing business, one
24 that had been there for many years. Upon
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2 investigation of this concern, it became apparent
3 that the business was, has a, was a legal,
4 nonconforming, using data back to 1930. In my
5 recommendation, I asked the City Planning
6 Commission to take another look at the zoning
7 proposal for that area, and to consider if there
8 was a modification that could be reasonably made
9 to address this concern. The City Planning
10 Commission reconsidered the zoning proposal for
11 that area, and modified the proposal that would
12 allow the existing business a modest expansion.
13 Aside from the concerns just, just mentioned, the
14 borough president believes the proposed rezoning
15 currently before the City Council is reasonable
16 and appropriate for North Corona, where I live,
17 too. It does, it does address the concerns about
18 the effects of building heights and densities on
19 surrounding lower density areas that were raised
20 about, about the 2003 rezoning. The Borough
21 President commends the Queens Office of the
22 Department of City Planning for their diligence
23 and hard work in crafting the North Corona 2
24 Rezoning. Community Board Three by a vote of, a
25 vote of 28 to 0, and for abstain, overwhelmingly

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2 approved this proposal. And I and the City
3 Council, and the City Commission, Planning
4 Commission, have recommended approval of this
5 application. I strongly urge the Land Use
6 Committee and the full City Council to approve
7 this thoughtful proposal as amended by the City
8 Planning Commission. Thank you for your
9 consideration. And if there are any questions, I
10 don't know.

11 CHAIRPERSON AVELLA: No, I think
12 you covered it, Borough President Marshall.

13 HELEN MARSHALL: Thank you.

14 CHAIRPERSON AVELLA: Thank you for
15 your testimony.

16 HELEN MARSHALL: There are other
17 members of the board that would like to speak.
18 They've registered.

19 CHAIRPERSON AVELLA: Yes, I know,
20 we have a number of people signed up to speak.

21 HELEN MARSHALL: Okay. Alright,
22 thank you very much.

23 CHAIRPERSON AVELLA: I have one
24 panel in favor, and then I have two speakers
25 signed up to speak in opposition. And I believe

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2 they both represent the same interests. But the
3 first panel will be Arthur, is it Teller?

4 ARTHUR TYLER: Yes.

5 CHAIRPERSON AVELLA: Tyler? Is it-
6 -Is it Martha or Marth, because there's an A left
7 over.

8 [off mic]

9 CHAIRPERSON AVELLA: Okay, Marta
10 Lebreton. And David Rosario. [pause] As is the
11 usual custom with public testimony, it's three
12 minutes per person. We ask that you keep within
13 the timeframe. I'm not going to necessarily cut
14 somebody off in the middle, but I ask you to sort
15 of keep in with the three minutes. You can start.

16 ARTHUR TYLER: Thanks.

17 CHAIRPERSON AVELLA: Push the
18 button.

19 ARTHUR TYLER: Alright. Is that
20 working? Good. I can do that much. Well three
21 minutes is probably twice as much as I need. I'm
22 Arthur Tyler. I'm the President of the Jackson
23 Heights Elmhurst Kehillah. And we are just inside
24 the zoning area. And the nature of Jackson
25 Heights really should be preserved in Corona, and

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2 we think the zoning would accomplish that. You
3 know, the one thing that we've been designated a
4 NORC, Naturally Occurring Retirement Community,
5 and you know, the older people do not need more
6 congestion. And parking is hard enough. And as
7 you may know, Jackson Heights is known as one of
8 the first communities that has had, you know,
9 parks around their buildings. And you know, we
10 think this would be destroyed if, you know, if the
11 zoning is not redone. Thank you.

12 CHAIRPERSON AVELLA: And you did do
13 it in under three minutes.

14 ARTHUR TELLER: Yeah, right.

15 CHAIRPERSON AVELLA: Please sit
16 down just in case.

17 ARTHUR TELLER: Do I invite
18 questions? Alright.

19 CHAIRPERSON AVELLA: Yeah, just in
20 case there are any questions. Go ahead.

21 ARTHUR TELLER: Alright.

22 MARTA LEBRETON: Good afternoon, my
23 name is Marta Lebreton, and I am a community board
24 members as well as a long time resident of North
25 Corona. Over the years, I have seen, through

1 zoning, the destruction of the neighborhood.
2 Buildings have gone up that really have destroyed
3 the entire character. The houses are gone, you
4 have these apartment buildings. They go up too
5 fast, which makes it seem that they're not stable,
6 and they're not structurally sound. And then, the
7 rent is too high. So, the local residents cannot
8 afford to pay what they're asking out there. Case
9 in point, this down zoning would do tremendous
10 good in the neighborhood. It would preserve a lot
11 of homes. My neighbor decided to destroy his home
12 by adding a third story, and destroys the
13 character, the entire character. So I am in favor
14 of down zoning and to assist the residents of 37th
15 Avenue/92nd so that that could be preserved over
16 there. So I agree with that. Thank you.

18 DAVID ROSARIO: Good afternoon, my
19 name is Dave Rosario. I'm a community board
20 member, number three, and also I'd like to speak
21 on behalf of myself. I am a small real estate
22 investor, and I have real estate assets in that
23 community. I work with the community board very,
24 very lot, I put so many hours, start with the
25 first rezoning that was actually in 2003, and it

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2 was residential, and the people, you're realizing
3 all this illegally, because it was conducting
4 businesses out of residential. Mrs. Marshall
5 understood the situation, i.e., she help us to
6 come up. And the community came up so strong that
7 everybody start to invest in Corona. And but,
8 actually the, as of right to start to invest so
9 much, and it scare residential development. Even
10 though there were as of right, it was too much to
11 support. The, actually the, all the sewer lines,
12 like policing schools and so on, it start to get
13 so crowded. So, we have to make a new rezoning to
14 alleviate these problems. And I, as a land use
15 member, and as a landlord, and real estate owner
16 in that community, I understand pretty much what
17 we need and what we don't. And I'm here to
18 support this. Thank you.

19 CHAIRPERSON AVELLA: Seeing no
20 questions, I appreciate your testimony.

21 MARTA LEBRETON: Thank you.

22 CHAIRPERSON AVELLA: The, I have
23 two people signed up to speak in opposition, but
24 they both represent the same, I guess, business.
25 So, Sam Liebowitz and Adam Rothkrug. However,

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2 since you both represent the same business, you
3 have three minutes, you'll be counted as one.

4 [pause]

5 ADAM ROTHKRUG: No. Good
6 afternoon, Chairperson Avella, members of Council.
7 I'm here today on behalf of the owner of the
8 property at 10402 Northern Boulevard, located on
9 the south side of Northern Boulevard, at 104th
10 Street, proposed to be included within the North
11 Corona rezoning, which will change the zoning of
12 the property from R6 to R6A. We believe that this
13 rezoning as it applies to this property is
14 mistimed and ill advised for a number of reasons,
15 including planning and economic reasons, but also
16 in recognition of the unfair procedural history
17 and dramatic impact on owners such as Mr.
18 Liebowitz here. In April of 2003, the Commission
19 filed the original North Corona rezoning, which
20 was a joint effort of the community board borough
21 president and the community board. In approving
22 it, the Commission found that there were no
23 residential uses fronting on wide streets in
24 Corona, and the Commission stated that the
25 rezoning was needed to support future residential

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2 and mixed residential retail developments along
3 these corridors. The proposed R6 zoning along
4 Northern Boulevard was designed to encourage
5 residential towers on large lots, and to foster
6 new opportunities for residential community
7 facilities and mixed use developments. The result
8 of the rezoning expectedly led to increases in
9 real estate values and asking prices. And of
10 course transactions of, in the real estate market
11 take time to put together. In the case of the
12 property in question, contracts for the two
13 parcels in questions were executed in April of '06
14 and June of '07, and closings took place
15 thereafter, without any knowledge of this follow
16 up. To the shock of the owner in the fall of
17 2008, the CPC announced certification of the North
18 Corona 2 rezoning, a substantial overhaul of the
19 original zoning within a very brief span of five
20 years with no advance notice to affected property
21 owners, and no availability or relief for property
22 owners who purchased land in the interim based on
23 the new zoning and without knowledge. On top of
24 the rezoning, of course, are the general market
25 conditions, which caused a decrease in the value

1 as well as an inability to obtain financing. Mr.
2 Liebowitz actually has a full set of approved
3 drawings and was ready to proceed, but the
4 financial markets locked up. The impact of the
5 proposed rezoning is a decrease in the permitted
6 floor area from 4.8 to 3.0, a decrease of almost
7 40 percent. The, interestingly a lot of the
8 arguments about the zoning along Northern
9 Boulevard have to do with the height limitation
10 that will be imposed by the R6, but Mr.
11 Liebowitz's building, as well as other buildings
12 planned on Northern Boulevard, actually meet the
13 R6A height regulation, but they can accommodate
14 the extra floor area. At this time, we're
15 requesting that the current proposal be modified
16 to retain an R6 district along the southerly side
17 of Northern Boulevard, between 104th Street and
18 112th Street. This area's marked by underdeveloped
19 properties and vacant lots, with little to no new
20 residential commercial construction. Development
21 will take place within the bulk allowed by the
22 existing R6 district. And there's no evidence to
23 support the notion the R6 zoning would lead to
24 towers, which don't appear to be economically
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2 viable in this area. Limiting the R6 to the south
3 side of Northern Boulevard makes sense from a land
4 use perspective in that buildings on the south
5 side of the street will have, not have substantial
6 shadow impacts on the surrounding residential
7 community, and the proposed R6 will be adjacent to
8 an existing R5 district, which is a predominant
9 district along the southerly side of Northern
10 Boulevard, as opposed to the lower density R4
11 district which predominates along the north side
12 of Northern Boulevard. From an economic point of
13 view, the R6 zoning is required to spur investment
14 along Northern Boulevard. We had tried to reach
15 out to Councilman Ferreras. I'm sure she has a
16 lot to do as being a new council person, but we do
17 hope to meet with her before this comes to a vote
18 before the full Committee.

19 CHAIRPERSON AVELLA: Did you, I
20 assume you gave this same sort of testimony before
21 the Community Board and City Planning?

22 ADAM ROTHKRUG: Actually, by the
23 time it got to the Community Board, my, my client,
24 who is a active real estate broker in this area,
25 was not even aware of it. So, we weren't even on

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2 board until afterward. We did, we did testify at
3 the City Planning Commission hearings, and did
4 approach, did meet with some of the council people
5 individually to, to make our case. I'd just like
6 to add that I respect and understand a lot of the
7 rezoning proposed along the midblock areas, which
8 is consistent with keeping scale of buildings in
9 the midblocks. But again, in 2003, and even at
10 the current time, I would argue that the R6 zoning
11 and, is needed to encourage development in this
12 area. Not inappropriate along a major
13 thoroughfare like Northern Boulevard.

14 CHAIRPERSON AVELLA: Thank you.
15 Seeing no one else signed up to speak on this
16 item--

17 SAM LIEBOWITZ: May I--

18 CHAIRPERSON AVELLA: I think I
19 extended you, you know, more than enough courtesy.
20 He actually spoke for six minutes.

21 ADAM ROTHKRUG: Thanks. I did read
22 as fast as I could. [laughs] Thank you very
23 much.

24 CHAIRPERSON AVELLA: But you got
25 your whole testimony in, you know.

ADAM ROTHKRUG: I did. Thank you.

CHAIRPERSON AVELLA: Seeing no one else signed up to speak on this item, we'll close the public hearing and move on to the next item. Which is the Broadway Plaza applications, C080014MMX, C090146ZMX, and C090147PPX. Call up the applicant to make the presentation. This project lies within Council Member Koppell's district. [pause] Right?

ART AGUILAR: Good afternoon, council members. My name is Art Aguilar for the New York City Economic Development Corporation. I'm going to give just a quick introduction before the team members--

SERGEANT-AT-ARMS: [off mic] Can I have your [tapping] - - conversations with [blank] out there to the members of the Council [blank]

ART AGUILAR: Okay, I'm just going to give an introduction before the team members describe the project in more detail. We're here for the approval of discretionary actions under ULURP, to allow for the proposed retail development at 230th Street on Broadway in the Kingsbridge neighborhood of The Bronx. There are

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2 three discretionary actions before you, one's an
3 amendment to the City zoning map, to change the
4 existing zoning district from R6, with a C23
5 commercial overlay, to C44; an amendment to the
6 City map to demap and permanently close the 100
7 foot long segment of Kimberly Place, east of
8 Broadway; as well as the disposition of City owned
9 property at block 3266 Slot 13. Kingsbridge 230th
10 LLC was identified as a result from a request for
11 proposal that was issued by EDC. We feel that
12 this project is going to be a great addition along
13 the Broadway commercial corridor, and will improve
14 shopping options for local residents. I'll now
15 turn it over to the team members to get details on
16 the proposed project.

17 ETHAN GOODMAN: Good afternoon,
18 Council Members, Chair Avella. My name is Ethan
19 Goodman, I'm with the firm of Wachtel and Masyr.
20 We represent the applicant Kingsbridge 230th LLC.
21 I'm joined with, joined by John Clifford, from
22 Greenberg Farrow Architecture. He's the architect
23 for the project. Kingsbridge 230th is a joint
24 venture of Ceruzzi Holdings and the Blumenfeld
25 Development Group. As Art mentioned, we're before

1
2 you seeking approval for three actions.
3 Disposition of the city owned property--the
4 property you see there before you is currently a
5 city run parking lot. It's used--

6 COUNCIL MEMBER KOPPELL: Mr.
7 Chairman, could I interrupt for a moment? Is
8 there a printed--Do you have a written statement?

9 ART AGUILAR: I do have. I don't
10 have multiple copies, but I do have some--

11 COUNCIL MEMBER KOPPELL: Okay.
12 Well, it'd be use, it'd be useful, Mr. Chairman,
13 to have a, a copy. I mean, if we can't have it
14 now, we can't, but--

15 CHAIRPERSON AVELLA: Did you--

16 ART AGUILAR: There's a package in
17 front of you, that, that has a number of
18 materials, including a fact sheet, that talks
19 about the project.

20 CHAIRPERSON AVELLA: Did you get
21 this?

22 COUNCIL MEMBER KOPPELL: No.

23 ART AGUILAR: Oh.

24 COUNCIL MEMBER KOPPELL: I didn't
25 get, I didn't get anything. [laughter]

ART AGUILAR: Sorry, I--

COUNCIL MEMBER KOPPELL: The reason for my interest is this is in my district, a very important project for me, so that's why I'm fussy.
[laughs]

ART AGUILAR: I'll just briefly, in front of you, you do have a package that contains a fact sheet, a letter outlining and reaffirming our commitment, floor plans, and some renderings.

COUNCIL MEMBER KOPPELL: Thank you.

ART AGUILAR: So, the, as I was mentioning, there are three actions. It's a city owned parking lot now. One approval's for the disposition of that parking lot. Second approval is for the demapping of a dead end portion of Kimberly place, approximately 100 feet deep, 50 feet wide, to the east of Broadway, that dead ends at the parking lot. And the third is to rezone the block. The block is currently zoned R6, with a C24 commercial overlay; we're proposing to rezone to C44, which is essentially a slight upzone in the commercial floor area from 2.0 to 3.4, to facilitate this project. The actions will facilitate development of an approximately 166,000

1 square foot retail development, on two levels,
2 with approximately 168 parking space in the
3 basement level. Project's gone through many
4 iterations over the years, and today we're proud
5 to present a projects that's garnered the
6 unanimous support of the community board, the
7 borough president and the City Planning
8 Commission. Project is somewhat smaller than was
9 originally, originally proposed started a few
10 years back. It then included a health club and a
11 cinema on a third and fourth levels. Those have
12 now been eliminated. Good news is that the
13 project will now substantially generate less
14 traffic than was originally proposed.
15
16 Nonetheless, we understand this is a congested
17 stretch of Broadway, and traffic flow was
18 something we focused on closely when designing the
19 project. I'll briefly walk you through the floors
20 of the project. And as I mentioned before, I'm
21 joined by John Clifford who can talk more in
22 detail about the design. Basically, as you see on
23 the drawing to the left, there will be two ins and
24 outs to the project. One will be an entrance
25 only, and that'll be right off 230th Street. And

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2 you see that on the left of the screen, or the
3 board. That's an entrance only. After looking at
4 traffic very closely, we decided traffic would
5 flow smoother if we made that just an entrance and
6 not also an exit. There will be an entrance and
7 exit to the below grade parking on Vervilon
8 [phonetic] Place. That'll also serve as the
9 loading area for the site. We've looked very
10 closely at traffic flows in and out, and we are
11 proposing an additional traffic signal on Vervilon
12 at the intersection of Vervilon and Broadway. One
13 concern that was raised at the level of the
14 community board and borough president was traffic
15 flow and whether it would back up coming off the
16 throughway exit ramp, trying to get into the
17 property. We looked closely at the traffic
18 volumes here. The volumes we're looking at are
19 essentially about somewhere between 80 and 120
20 cars in the peak hour coming into that entrance on
21 230th. So we're only talking about--and that this
22 entrance here--so we're only talking about two or
23 three cars every light cycle. So we're looking at
24 no, no substantial backup that will come off the
25 exit ramp of the, of the Deegan. In closing, I'll

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2 just tell you that we've been having a lot of
3 discussion with the community board, the borough
4 president, and of course the local council member.
5 There's a letter in your packages that outlines
6 some commitment that the applicant has made with
7 regard to local hiring, job fares, and also
8 revisiting the concept of traffic and how the
9 site's working, once it's open and operational.
10 And coordinating with DOT to do any additional
11 work that they believe needs to be done to answer
12 any issues that may come up.

13 CHAIRPERSON AVELLA: Thank you.

14 Council Member Koppell, you'd like--

15 COUNCIL MEMBER KOPPELL: Thank you,
16 Mr. Chairman. First of all, I would like the
17 letter that was addressed to me to be kept with
18 the records of the Committee, the letter of
19 commitment by the developer, with respect to
20 certain steps. I think it should be part of the
21 record of this hearing. So, and I appreciate the
22 letter being prepared and the commitments that
23 were made. That's very important to me, and the
24 to the community. What is the status at this
25 moment of the ownership of the land? Has the

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2 developer acquired the land from the City?

3 ART AGUILAR: The developer has not
4 yet acquired the land. In fact, one of, one of
5 the actions is actually approve--that's before you
6 is approval for the City to sell the land, to
7 approve the disposition to the developer. So we,
8 we can't buy the land until the action goes
9 through.

10 COUNCIL MEMBER KOPPELL: Is there a
11 contract for the purchase?

12 ART AGUILAR: There is a contract
13 for the purchase.

14 COUNCIL MEMBER KOPPELL: And does
15 that allow the developer to cancel its commitment
16 at this point?

17 ART AGUILAR: I'm not sure I
18 understand the question.

19 COUNCIL MEMBER KOPPELL: Are we
20 assured that the deal is going through?

21 ART AGUILAR: You want to answer
22 that? [laughter]

23 JOHN CLIFFORD: I can get back to
24 you. I'm speaking on behalf of the Project
25 Manager, who's not here, so I'll have to get back

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to you on that. I don't--

ART AGUILAR: The developer has put up substantial money, as far as down payments, that would be forfeit if the deal didn't go through. There's nothing binding the developer to, you know, to buy the land and not walk away from the money they've put up already, but they've put up a lot of money and it's in their interest not to, not to, to give up that money.

COUNCIL MEMBER KOPPELL: So, if they, if they didn't go through with it, they would forfeit a substantial deposit, is that what you're saying?

ART AGUILAR: You're correct, yes.

COUNCIL MEMBER KOPPELL: And, and what is the plan for the commencement of construction? I note that the parking lot that was there, that was in fact used, has been closed, so we're anxious to move ahead.

ART AGUILAR: Right. As soon as the approvals go through, we're going to work on getting Kimberly Place actually closed, making sure it's closed off to traffic. And then, at the approval of the Board of EDC to dispose of the

land, we plan on taking down the land as soon as we can. The preliminary schedule calls for construction to begin somewhere around this fall.

COUNCIL MEMBER KOPPELL: So, aside from our approval, and the Council's approval, what other approval do you need?

ART AGUILAR: There's no discretionary approval that needs to take place after that goes through the ULURP process.

COUNCIL MEMBER KOPPELL: Just the closing?

ART AGUILAR: Just the closing. And I believe EDC's board has to adopt a resolution to sell, to dispose of the land to the private developer. But there's not, no zoning, no zoning approval or other, other mapping action.

COUNCIL MEMBER KOPPELL: Is, is, you talked about the traffic coming off Vervilon Place, and the traffic signal there. Is that going to prohibit left turns off, coming out of Vervilon Place?

ART AGUILAR: Right now, no, it does not, the, the studies we did showed that the traffic exiting didn't warrant a left turn

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2 prohibition. That was one thing that was raised
3 as a possible issue. What, that, basically one of
4 the reasons we agreed to come back and revisit to
5 see if there are any other issues. The other
6 thing is the, the, as DOT has approved the traffic
7 signal, it doesn't have a left turn phase for
8 traffic going southbound on Broadway that wants to
9 make a left into Vervilon. They also demonstrated
10 that there wouldn't be enough traffic to, to
11 warrant a left turn phase. Those are two things
12 we've talked to them about. We would have no,
13 necessarily, no opposition to modifying that
14 signal, if conditions warranted, but right it
15 doesn't, it doesn't plan for it.

16 COUNCIL MEMBER KOPPELL: I think, I
17 know the letter includes looking at the traffic
18 flow again, and my own feeling is that probably
19 both left turns should be prohibited. In or--
20 because that Broadway corridor is very congested,
21 it has several bus routes on it, trucks go on it,
22 and I'm, my biggest concern about this project is
23 that, that the traffic's going to get terribly
24 fouled up there. I know that's a community
25 concern, and while we did get unanimous report,

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2 support, Mr. Chairman, from the Community Board,
3 it took some twisting of arms because of concerns
4 over this traffic issue. So, I think that, I
5 think that's something, and, and your letter
6 indicates that there'll be further study. And we
7 look forward to working with you. This is a
8 project that's been long discussed and I'm
9 hopeful, Mr. Chairman, that it's ultimately, that
10 it's now going to be built. And please keep us
11 informed if there are any hitches, any more
12 hitches.

13 ART AGUILAR: Certainly will, thank
14 you.

15 COUNCIL MEMBER KOPPELL: Thank you,
16 Mr. Chairman.

17 CHAIRPERSON AVELLA: Council Member
18 Helen Sears.

19 COUNCIL MEMBER SEARS: Sorry. It's
20 just a comment, Mr. Chair, and thank you. To my
21 colleague, I know Blumenfeld Development, I have
22 the pleasure of having them in my district. And I
23 can assure you they are most honorable, they are
24 so involved with the community, they're very
25 sensitive to the surrounding communities, and

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2 working with the community boards. So, I, I just
3 think you're very fortunate that you're going to
4 have some good development in your district.

5 COUNCIL MEMBER KOPPELL: Well, I'm,
6 I, I had that impression, and I appreciate your--

7 COUNCIL MEMBER SEARS: Really?
8 Mhm.

9 COUNCIL MEMBER KOPPELL: --your
10 comments, and I'm looking forward to a very
11 successful development. We have another
12 development just about two blocks south of there,
13 the target development that's turned out to be a
14 great success. I hope that this will be equally
15 successful.

16 COUNCIL MEMBER SEARS: Mhm, good.
17 It probably will be. Good, thank you.

18 CHAIRPERSON AVELLA: Thank you,
19 gentlemen. I see no one signed up to speak on
20 this item? Is that correct? Seeing none, I will
21 close the public hearing on this matter, and we
22 will move to the last item, which is an
23 application to continue, maintain and operate an
24 unenclosed sidewalk café at 117 McDougal Street,
25 by Dynamic Music Corporation. 20085633TCM. And

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2 call up the applicant. [pause] Hi. [laughs]
3 Push the button.

4 [off mic]

5 FEMALE VOICE: You have written
6 testimony?

7 AVA HAREL: Yes.

8 FEMALE VOICE: Can I have it?

9 AVA HAREL: Sure. I have one. I
10 don't know how many they need.

11 FEMALE VOICE: That's okay.

12 AVA HAREL: I have, okay. That's
13 probably enough. Okay, thank you. I'm here to
14 renew my sidewalk café license, and yes, I think
15 I'm quiet. Okay, okay. I'm here to renew my
16 sidewalk café license.

17 CHAIRPERSON AVELLA: Introduce
18 yourself.

19 AVA HAREL: My name is Ava Harel.

20 CHAIRPERSON AVELLA: Okay.

21 AVA HAREL: I'm the owner of the
22 Olive Tree Café. Okay. And it, it's Dynamic
23 Music Corporation. Okay, 117 McDougal Street. I
24 have a letter here which I, an agreement which I
25 made with the City Council, and I guess I'll read

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it into the record, if that's okay?

CHAIRPERSON AVELLA: Mhm.

AVA HAREL: Alright. This letter should serve as our agreement with your district office and Community Board Two, that we will commit to the following prior to any approval vote on our sidewalk café application, before the City Council. As a requirement for operation of a sidewalk café, we will one, consistently set up the sidewalk café furniture with the June 5th 2005 submitted plans that were approved by the Community Board and Department of Consumer Affairs. Two, that we will make visible a working copy of the sidewalk café plan for wait staff to routinely follow in setting up café tables. If there are any questions, please call me at any time, I'm happy to take care of anything needed immediately. Thank you very much for your consideration. And then I listed all my contact information, my cell phone, my email, my office number. And thank you.

CHAIRPERSON AVELLA: Let me tell you, they should all be like yours. [laughs]

AVA HAREL: Thank you. [laughs]

CHAIRPERSON AVELLA: With this letter, Council, the Speaker has, which his in her district, has approved this application.

AVA HAREL: Thank you.

CHAIRPERSON AVELLA: Seeing no questions, thank you.

AVA HAREL: Thank you very much.

CHAIRPERSON AVELLA: Seeing no one else lined up to speak on this item, that correct? I'll close the public hearing. And while we take just a minute break, we will be proceeding to a vote in just a minute. [blank] I'm also told by staff that Ms. Harel, you're still here? That your architect's plans were the best that staff has seen in a long time.

AVA HAREL: Thank you.

CHAIRPERSON AVELLA: And I got to tell you, we come into a lot of problems with some of those plans. So, you're to be commended.

AVA HAREL: Thank you very much.

CHAIRPERSON AVELLA: Okay. [off mic] Should I start calling? We got enough? We got enough. Okay. I'll ask counsel to call the vote. Chair recommends approval on all items.

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COUNSEL: Chair Avella.

CHAIRPERSON AVELLA: Aye.

COUNSEL: Council Member Felder.

COUNCIL MEMBER FELDER: Yes.

COUNSEL: Council Member Jackson.

COUNCIL MEMBER JACKSON: Yes.

COUNSEL: Council Member Katz.

COUNCIL MEMBER KATZ: Aye, aye on

all.

COUNSEL: Council Member Sears.

COUNCIL MEMBER SEARS: Aye.

COUNSEL: Council Member Vann.

COUNCIL MEMBER VANN: Aye.

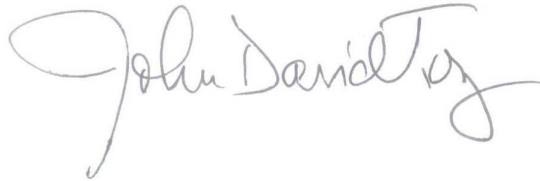
COUNSEL: Vote stands at six in the
affirmative, none in the negative, no abstentions.

[blank, background noise]

CHAIRPERSON AVELLA: This closes
this meeting of the Subcommittee on Zoning and
Franchises.

C E R T I F I C A T E

I, JOHN DAVID TONG 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.

A handwritten signature in cursive script that reads "John David Tong". The signature is written in dark ink and is positioned above a horizontal line.

Signature _____

Date APRIL 3, 2009