

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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March 11, 2020  
Start: 10:30 a.m.  
Recess: 11:23 a.m.

HELD AT: COUNCIL CHAMBERS - CITY HALL

B E F O R E: Francis P. Moya  
Chairperson

COUNCIL MEMBERS: Francis P. Moya  
Barry Grodenchik  
Rory I. Lancman  
Stephen T. Levin  
Antonio Reynoso  
Donovan J. Richards  
Carlina Rivera

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

James O'Sullivan

Pete Janosek

Lisa Deller

Nick Hawkins

Tom Lieberman

Rachel Scong

Chris Fogarty

Laura Burnback

Amanda Van Duran

Candace Clemmons

Adam Westrick

Richard Lobell



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2 CHAIRPERSON MOYA: Good morning, and  
3 welcome to the meeting of the Subcommittee on Zoning  
4 and Franchises. I'm Council Member Francisco Moya,  
5 the chairperson of the subcommittee. Today we are  
6 joined by Council Members Grodenchik, Lancman, and  
7 Rivera. If you are here to testify please fill a  
8 speaker slip with the Sergeant at Arms, indicating  
9 your full name, the application name or LU number,  
10 and whether you are in favor or against the proposal.  
11 We will begin this meeting with our hearings. We  
12 will now hear LU 645, an application by Sean Og  
13 Enterprises LLC, for a renewal of a revocable consent  
14 for an unclosed sidewalk cafe located at 60-02  
15 Woodside Avenue in Queens in Council Member Van  
16 Bramer's district. The proposed sidewalk cafe would  
17 consist of 15 tables and 30 chairs. I now open the  
18 public hearing on this application. And we will call  
19 up the first panel. Pete Janosek and James  
20 O'Sullivan.

21 JAMES O'SULLIVAN: Correct.

22 PETE JANOSEK: Good morning.

23 JAMES O'SULLIVAN: Good morning.

24 PETE JANOSEK: I'm Pete Janosek.  
25

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2 COMMITTEE COUNSEL: Please state your  
3 name and raise your right hand. Do you swear or  
4 affirm that the testimony you are about to give will  
5 be the truth, the whole truth, and nothing but the  
6 truth and you will answer all questions truthfully?

7 UNIDENTIFIED: Yes.

8 UNIDENTIFIED: Yes, sir.

9 COMMITTEE COUNSEL: Thank you.

10 PETE JANOSEK: Hi, I'm Pete Janosek from  
11 SWA Architects and he is James O'Sullivan from the  
12 restaurant, Sean Og. We're here today to request a  
13 renewal of Sean Og Enterprises doing business as Sean  
14 Og's, an 11-year old unenclosed sidewalk cafe with 15  
15 tables and 30 chairs, located at 6002 Woodside Avenue  
16 in Council Member Van Bramer's district in Queens.  
17 Ah, I just want to make sure that the committee is  
18 aware that the, the restaurant has been around for 21  
19 years. Ah, the cafe has been around for 11 years.  
20 The cafe has grandfathered status after the fact. A  
21 couple years ago the city had installed various other  
22 items on the sidewalk, namely trees, um, bike rack,  
23 um, lamp post, and, um, what was the other thing?

24 JAMES O'SULLIVAN: There was a muni  
25 meter.

2                   PETE JANOSEK: And muni meters. Um, but  
3 the cafe is grandfathered from that, and like we  
4 have, ah, distributed to you like copies of the  
5 plans, showing the original cafe, and we have added  
6 the, um, items that I just mentioned onto the, the  
7 plans just to show, but we just want to make sure  
8 that you are aware that this is a grandfathered  
9 status. Um, and also the bike rack was removed. We  
10 also have like given the committee like copies of  
11 petitions from people in the neighborhood and patrons  
12 supporting the application of this cafe. In  
13 deference to the community board who brought up issue  
14 the sidewalk cafe will willingly close, ah, actually  
15 open, not open until 11:00 a.m. in the morning, which  
16 is like three hours later than they would normally  
17 have been allowed to open up, um, and if there is any  
18 questions, if you want to, James, you want to add  
19 anything?

20                   JAMES O'SULLIVAN: I'd just like to say  
21 that we're a small business. We own two businesses  
22 in Woodside, Queens, like my representative said,  
23 we've been there 21 years and, um, we employee  
24 between 20 and 30 local people and right now we're  
25

2 finding business tough and we, this sidewalk cafe is  
3 a very important part of our business.

4 CHAIRPERSON MOYA: Thank you, thank you  
5 very much for your testimony today. OK, thank you.  
6 I'd like to call up the next panel, ah, Lisa Deller.  
7 Just push the button, no, it's OK, you can just push  
8 the button, yep.

9 LISA DELLER: Oh, OK. Ah, good morning,  
10 my name is Lisa Deller and I am the, ah, chair of the  
11 land use committee of Community Board 2 and our  
12 committee has been working on this application since  
13 December. In December we were notified by the  
14 Department of Consumer Affairs that there was, ah, an  
15 application pending for renewal of the sidewalk cafe.  
16 Ah, we requested that the application come to our  
17 land use committee meeting, which we always do to  
18 discuss the renewal, and they did in December. And  
19 what we noted in December is there were, um, a  
20 significant number of obstructions that weren't noted  
21 on their plan and so there was now, um, you know, a  
22 tree pit, a muni meter, which you can, there's some  
23 photographs in your package on they last page. Um,  
24 you can see the tree and the muni meter right  
25 adjacent to that. And, ah, and then further on down

2 there's a streetlight. But anyway, um, so there were  
3 these obstructions that, ah, weren't noted at the  
4 time on the plan. They just said it was, ah, renewal  
5 of existing condition. And so, um, we asked them for  
6 a revised plan, ah, to make the pedestrian walkway,  
7 ah, wider between the cafe barrier and the tree pit  
8 and the muni meter, um, and we asked them come back  
9 to the land use meeting and January and they said  
10 they weren't ready to come back, and then we invited  
11 them to come in February and they said they had a  
12 family vacation. And in the meantime at the end of  
13 February we received from Department of Consumer  
14 Affairs the revocable consent approval of that  
15 application and so, um, you know, with that, um, I am  
16 grateful for the council person for referring it, um,  
17 to your committee because what we had asked them is  
18 the revised plan, which we never saw. Um, what they  
19 did was, ah, a week or so ago they sent us revision  
20 which increased the number of tables and chairs and  
21 moved them to Woodside Avenue from 60th Street and so  
22 our request for them to come back to the land use  
23 committee community board so the community board can  
24 be in dialogue with them about, you know, making that  
25 area as pedestrian-friendly as they possibly can. So



2 I think with that, um, do you have any questions?

3 Thank you.

4 CHAIRPERSON MOYA: I'd like to bring up  
5 Laura Burnback. Laura? Oh, got it. Ah, are there  
6 any other members of the public who wish to testify?  
7 Seeing none, I now close the public hearing on this  
8 application, and it will be laid over, but I just  
9 want to say that I would recommend to the applicant  
10 that you take the community board's, ah, testimony  
11 and requests here seriously and commit to attending  
12 their next scheduled meeting. Now we will begin with  
13 our votes and I first want to note that LU 626 and  
14 628 and 629 is being laid over. We will also vote to  
15 approve with modifications LUs number 641, 642 for  
16 the 52nd Street rezoning proposal related to property  
17 in Council Member Van Bramer's district in Queens.  
18 The application includes a zoning map amendment to  
19 change a R5B district to an R7A C2-3 district and a  
20 related zoning text amendment to establish a  
21 mandatory inclusionary housing area utilizing options  
22 1 and 2. These actions would facilitate the  
23 development of an eight-story mixed use building with  
24 approximately 61 dwelling units, ground floor  
25 commercial space, and 33 residential and 13

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2 commercial parking spaces. A modification will be to  
3 remove MIH option 2 and retain option 1. Council  
4 Member Van Bramer is in support of this proposal as  
5 modified. Today we will also vote to approve LUs  
6 number 643 and 644 for the 90 Sand Street rezoning  
7 proposal relating to property in Council Member  
8 Levin's district in Brooklyn. The application  
9 includes a proposed zoning map amendment to change an  
10 M1 and M1-6 and an M1-6 R10 special mixed use  
11 district and a related zoning text amendment to  
12 establish a mandatory inclusionary housing area  
13 utilizing options 1 and 2. These actions would  
14 facilitate the conversion of an existing 29-story  
15 building to accommodate approximately 305 supported  
16 units and 202 affordable housing units. Council  
17 Member Levin is in support of this proposal. I now  
18 call to vote to approve LUs 643, 644, and to approve  
19 with modifications that I have described, and now  
20 counsel, ah, I'm sorry, and LUs 641 and 642. Um,  
21 counsel please call the roll.

22 COMMITTEE COUNSEL: Chair Moya.

23 CHAIRPERSON MOYA: Aye.

24 COMMITTEE COUNSEL: Council Member Levin.

25

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2 COUNCIL MEMBER LEVIN: Um, with  
3 congratulations to the applicant, ah, I'm very  
4 excited to be approving this, ah, this application.  
5 Um, 200 supportive, ah, 240 affordable housing units  
6 and 300 supportive housing units is a, will make a  
7 major impact on, um, on our fight to, ah, to address  
8 homelessness here in New York City and provide  
9 affordable housing, ah, for the most vulnerable New  
10 Yorkers and so I'm enthusiastically in support and I  
11 vote aye on all.

12 COMMITTEE COUNSEL: Council Member  
13 Lancman.

14 COUNCIL MEMBER LANCMAN: Aye.

15 COMMITTEE COUNSEL: Council Member  
16 Reynoso.

17 COUNCIL MEMBER REYNOSO: Aye.

18 COMMITTEE COUNSEL: Council Member  
19 Grodenchik.

20 COUNCIL MEMBER GRODENCHIK: Aye.

21 COMMITTEE COUNSEL: Council Member  
22 Rivera.

23 COUNCIL MEMBER RIVERA: Aye.

24 COMMITTEE COUNSEL: A vote of 6 in the  
25 affirmative, zero in the negative, and no

2 abstentions. The items are approved. The vote will  
3 remain open.

4 CHAIRPERSON MOYA: We will now hear a  
5 preconsidered LU item for the 50 Old Fulton Street  
6 rezoning proposal under the ULURP number C190011ZMK  
7 relating to property in Council Member Levin's  
8 district in Brooklyn. The applicant seeks approval  
9 of a zoning map amendment to change an M2-1 to an M1-  
10 5 to facilitate the construction of a five-story  
11 commercial office building within property controlled  
12 by the applicant in the Fulton Ferry neighborhood.  
13 In addition to the applicant's property, the proposed  
14 rezoning would affect, ah, the adjacent lot to the  
15 east and a small portion of the adjacent lot to the  
16 west. The rezoning would increase the maximum, ah,  
17 FAR for a commercial or industrial use from 2 to 5  
18 and would allow greater flexibility with regards to  
19 allowable retail uses. I now open the public hearing  
20 on this application. I will call up the first panel,  
21 which is Rachel Scong, Nick, is it Nick? Hawkers,  
22 Hawkins, sorry. Ah, Tom Lieberman, and Chris  
23 Fogarty.

24 COMMITTEE COUNSEL: Please raise your  
25 right hand and say your name for the record.

2 NICK HAWKINS: Nick Hawkins.

3 COMMITTEE COUNSEL: Do you swear...

4 RACHEL SCONG: Rachel Scong.

5 COMMITTEE COUNSEL: Do you swear or  
6 affirm that the testimony you are about to give will  
7 be the truth, the whole truth, and nothing but the  
8 truth, and that you will answer all questions  
9 truthfully?

10 NICK HAWKINS: Yes.

11 COMMITTEE COUNSEL: Thank you.

12 TOM LIEBERMAN: My name is Tom Lieberman.  
13 I'm one of the principles of Old West Old Fulton LLC,  
14 the applicant for the rezoning. I'm here today with  
15 my partner, Adam Westra, our zoning attorneys, and  
16 our architect. Adam and I own and operate seven  
17 buildings in Brooklyn. They're a mix of residential,  
18 commercial, and industrial buildings. We have  
19 developed and renovated all of these buildings. We  
20 are not mega developers that drop hundreds of units  
21 in one location, but instead are trying to build and  
22 blend into the neighborhood. We purchased 50 Old  
23 Fulton Street in November 2016 with the intention of  
24 developing this site for retail office use. We are  
25 pursuing the rezoning because we know that we can

2 develop something exciting at this site while still  
3 respecting the history of the neighborhood. We want  
4 people coming to the area and to say what a nice  
5 neighborhood instead of a lot cars parked on the  
6 sidewalk. Just personally, I happen to like to walk  
7 through neighborhoods to get the flavor and the  
8 history of each neighborhood. And for years, about  
9 25 years, that I walked past here I always wanted to  
10 be part of, um, helping to improve this site and, um,  
11 I'm happy to be able in the future to have an  
12 opportunity to do that. Thank you very much.

13 RACHEL SCONG: Good morning. My name is  
14 Rachel Scong and I'm an associate at Greenburg Trife.  
15 We represent LS Old Fulton LLC, the applicant seeking  
16 these rezoning, um, a portion of block 202 in  
17 Brooklyn, um, right where Old Fulton Street, um,  
18 meets the BQE and the Brooklyn Bridge, from an M2-1  
19 to an M1-5 zoning district. The current, um, the  
20 current zoning in the area, M2-1 zoning district, um,  
21 as you can see here. The current, um, the current  
22 zoning in the area, M2-1 zoning district, allows for  
23 up to two FAR commercial and manufacturing. Ah, the  
24 proposed rezoning includes our client's site, 50 Old  
25 Fulton Street, shown here in the red outline, um, an

2 approximately 6600 square feet site improved with a  
3 one-story auto body shop. Um, that auto body shop is  
4 still operating and their lease runs through the end  
5 of this year. And the proposed rezoning also  
6 encompasses 60 Old Fulton Street to the east, lot 18  
7 on this map, improved with an auto body shop as well.  
8 The rezoning areas current M2-1 zoning district was  
9 put in place in 1961 when Brooklyn's waterfront was  
10 largely industrial. Since that time this area has  
11 changed significantly and it's now largely commercial  
12 and Old Fulton Street as a main pedestrian connection  
13 between downtown Brooklyn and Brooklyn Heights and  
14 Brooklyn Bridge Park. In addition, the nearby  
15 Watchtower buildings are being converted to office  
16 use and nearby DUMBO has been transformed into a  
17 mixed use area with retail office and residential  
18 uses. And as you can see by these images the auto  
19 body uses that are really a vestige of this old, um,  
20 industrial use of the area just do not mix with the  
21 current pedestrian use of the area. There are a lot  
22 of cars, a lot of cars, that you'll see from the  
23 images, and it's hardly pedestrian-friendly. Also,  
24 what you see in this image, in the left here, you  
25 have the, the Watchtower buildings, um, and then, ah,

2 going through, you have the tall street  
3 infrastructure here, the Brooklyn Bridge, the BQE,  
4 and then in the bottom right there you see the Eagle  
5 warehouse building as well, another, um, building  
6 that's between 88 and 98 feet tall. We worked hard  
7 with the Department of City Planning to propose a  
8 zoning district that could promote appropriate  
9 development here. The proposed M1-5 zoning district  
10 would allow 5 FAR commercial and manufacturing use,  
11 which includes office and local retail uses. It will  
12 not allow big box retail or residential uses and  
13 hotels would only be permitted with a special permit.  
14 We believe that the building envelope which would  
15 allow five stories, two levels of retail and three  
16 levels of office above, ah, permitted by the M1-5  
17 district, would be consistent with the other  
18 buildings in the area like the Eagle loft building,  
19 the Watchtowers buildings, and the surrounding  
20 elevated infrastructure of the BQE and the Brooklyn  
21 Bridge. We believe that the proposed rezoning will  
22 allow for redevelopment of this area for a more  
23 cohesive commercial street frontage stretching  
24 between the Brooklyn waterfront and the Brooklyn  
25 Bridge promenade by activating this portion of Old



2 Fulton Street. Anyone approaching Fulton Ferry from  
3 the east passing under the BQE overpass currently  
4 emerges into what should be a welcoming gateway to a  
5 bustling commercial neighborhood and instead they are  
6 forced to walk through all the cars that are parked  
7 outside of the existing auto body shops. The  
8 proposed rezoning would allow redevelopment of the  
9 development site with active pedestrian uses and a  
10 new building that would fit into its surrounding  
11 context while also bringing new office jobs to the  
12 neighborhood. According to the projections in our  
13 environmental assessment statement and done according  
14 to the Seeker Manual, redevelopment of the two sites  
15 in the proposed rezoning area with three floors of  
16 office each would create 154 new office jobs. Last  
17 week the City Planning Commission approved this  
18 application. However, the community board and  
19 borough president did not. We understand that  
20 remaining concerns fall mainly into two buckets. The  
21 first is, um, that Fulton Ferry historic district,  
22 shown here, does extend to the Eagle warehouse  
23 building two buildings west of the development site.  
24 Um, LPC excluded the, the propose rezoning area and  
25 adjacent building from the historic district when it

2 was created in 1977. As part of our application the  
3 Landmarks Preservation Commission was notified of the  
4 proposed rezoning and reviewed portions of our  
5 environmental assessment statement and we worked with  
6 them on a restrictive declaration for our neighboring  
7 property for archeological reasons, and they have  
8 taken no action to include these sites in the  
9 proposed, err, in the existing historic district.  
10 However, we recognize the development site will be  
11 viewed in the context of the surrounding historic  
12 district and we have brought on a new architect since  
13 the time that we were at the community board and  
14 borough president, um, Fogarty Finger Architects um,  
15 and Chris Fogarty is here and will tell you more  
16 about his redesign of the building in just a minute.  
17 I'd also like to touch on the community's concerns  
18 regarding construction of the BQE. We understand  
19 that this is a pressing issue and we, too, would like  
20 to see a definitive plan for the BQE's  
21 reconstruction. As I'm sure you're aware, at the end  
22 of January the mayor signed an executive order based  
23 on his expert panel's conclusion that immediate  
24 repairs are needed to the existing BQE infrastructure  
25 and there is no time to plan for rerouting of the

2 BQE. Instead, they recommended that these repairs be  
3 done and the 20-mile BQE corridor be looked at  
4 holistically. 50 Old Fulton Street is located more  
5 than 100 feet from the BQE and we believe there is  
6 plenty of public space between the site and the BQE  
7 infrastructure for staging for the immediate repairs  
8 that need to be done. In addition, nothing currently  
9 prohibits these sites from being redeveloped and we  
10 do not believe that a rezoning would change, would  
11 change their effect or would have any effect on the,  
12 on the reconstruction of the BQE or the repairs to  
13 the BQE. Looking at the 20-mile corridor  
14 holistically could take years and we do not believe  
15 that development should be frozen during this time.  
16 In addition, in 2010 the New York State Department of  
17 Transportation as part of the downtown Brooklyn BQE  
18 environmental impact statement studied a  
19 reconfiguration of the BQE that would steer the  
20 highway through the proposed rezoning area and  
21 consequently portions of DUMBO. According to the  
22 findings in the EIS this alignment would not be  
23 feasible or desirable as it would require too high a  
24 design of acquisition of private property and  
25 therefore the alignment was withdrawn from further

2 study. Finally, I'd like to say that we have had  
3 community outreach with regard to a possible give-  
4 back to the local community. Between our community  
5 board and borough president's hearings we spoke with  
6 representatives of the DUMBO Action Committee and the  
7 Fulton Ferry Landing Association. One suggestion to  
8 which we remain amenable would be to replant trees as  
9 needed and maintain two medians on Old Fulton Street  
10 adjacent to the proposed rezoning area. Another is  
11 to support lobbying efforts to add a second stair to  
12 the York Street subway station or with regard to the  
13 future plan for the BQE. Unfortunately, after the  
14 borough president published his recommendation the  
15 Fulton Ferry Landing Association stated that they  
16 were not interested in continuing conversations with  
17 us regarding this application and we have not heard  
18 from the DUMBO Action Committee. However, we remain  
19 open to continuing these conversations or with any  
20 other local community organizations. As you heard,  
21 my client is very excited about, ah, this rezoning  
22 and the opportunity to develop this property and with  
23 that I'm going to turn it over to Chris Fogarty of  
24 Fogarty Finger to tell you more about the building  
25 itself.

2                   CHRIS FOGARTY: Hello. My name is Chris  
3 Fogarty. I am the director at Fogarty Finger  
4 Architects. We are doing a number of office and  
5 residential buildings in Brooklyn. We are just  
6 finishing the, ah, Dime Bank Building, which is over  
7 in Williamsburg, at the foot of the Williamsburg  
8 Bridge. Um, we're about to start a big office  
9 building in downtown Brooklyn on Willoughby Square.  
10 Um, this is an exciting site. Ah, we took a step  
11 back and looked at previous schemes for the site and  
12 felt that what we needed was something a little bit  
13 more, ah, that related to the, ah, warehouse, ah,  
14 look of DUMBO, and looking at some of these buildings  
15 on, ah, Washington Street here and, ah, red brick and  
16 a kind of regular grid of windows and black metal and  
17 how could we reinterpret that using, ah, say a more,  
18 an old material like terra cotta. And if we look at  
19 the next slide, so this is our design for the  
20 building. It's a terra cotta façade that's slatted,  
21 that allows a sort of modern office retail building  
22 behind. It has a black metal base for storefronts.  
23 The storefronts could be divided into three or two or  
24 one, ah, retail units. Um, the office entrance is  
25 closest to the, is to, to the east. And, ah, we

2 think this is a very elegant proportioned building  
3 and ties nicely into the same height as the Eagle  
4 warehouse without being a sort of faux pastiche of  
5 traditional architecture. So we're very excited by  
6 this project and, ah, it's a great, great suited site  
7 for commercial office space. The floor plates are  
8 very regular and nice and, and this boutique office  
9 market has really improved, especially all around  
10 this area and, and the clock tower buildings. Thank  
11 you.

12 RACHEL SCONG: We're happy to answer any  
13 questions.

14 CHAIRPERSON MOYA: Great, thank you.  
15 Let's go back. Could you discuss the rationale, ah,  
16 behind the geography of the proposed rezoning area,  
17 ah, for example, included the BQE and beyond that to  
18 the south and the Poplar Street community gardens?  
19 What are the practical, ah, effects to rezoning this  
20 areas.

21 RACHEL SCONG: So those areas would not  
22 be affected by what you see on the map. The reason  
23 it's drawn this way is that City Planning likes to  
24 keep their maps as neat as possible and they do that  
25 by drawing rezoning boundaries to the middle of

2 streets, and so here where you have this, this  
3 strange street grid with so many streets intersecting  
4 the practical rezoning is really, um, what's on the  
5 block. But you wind up with this big swatch of  
6 rezoning area because you're to the middle of so many  
7 different streets. And we would be happy to work  
8 with you and City Planning to alter that, um, if it  
9 would make people more comfortable.

10 UNIDENTIFIED: Also, streets do not  
11 generate floor area, so there's, and neither do  
12 public parks. So there's, the M1-5 zoning has no  
13 impact on those areas.

14 CHAIRPERSON MOYA: Great. And do you  
15 know of any pending redevelopment plans for the  
16 property immediately to the east?

17 RACHEL SCRONG: We have spoken with them  
18 and they have no plans right now.

19 CHAIRPERSON MOYA: OK, I'm gonna turn it  
20 over to Council Member Levin for some questions.

21 COUNCIL MEMBER LEVIN: Thank you, Chair.  
22 Thank you very much for this presentation. Um, I  
23 want to ask a little bit, what led you to pursue the  
24 rezoning application as opposed to considering, um,  
25 ah, doing a development under the current M2-1

2 zoning? Um, did you, do you have a scenario in which  
3 that was the case, and, ah, why did you decide that  
4 that was not appropriate?

5 RACHEL SCONG: So we felt that there was  
6 a good opportunity for office here in addition to  
7 retail given everything that's going on in the  
8 surrounding area. We are right across, ah, the  
9 Brooklyn Bridge from DUMBO, which has become a big  
10 office community, as well as what you have going on  
11 in the Watchtower buildings behind us, and then over  
12 in downtown Brooklyn, and we felt that this would  
13 give the opportunity to really tie all of that  
14 together.

15 COUNCIL MEMBER LEVIN: And that, and  
16 under the, ah, M2-1 that's not possible because?

17 RACHEL SCONG: Under the M2-1 it's just,  
18 um, it's because of the, there's less floor area. It  
19 wouldn't be, you wouldn't result in a feasible office  
20 space, um, given the size of the site even for  
21 boutique offices we were looking at full floor plates  
22 and to do full floor plates under the current zoning,  
23 it would result in only two floors.

24 COUNCIL MEMBER LEVIN: Um-hmm. Um, so  
25 you mean that that's the entire lot size?



2 RACHEL SCONG: Yeah.

3 COUNCIL MEMBER LEVIN: You have a 2 FAR  
4 and the M2-1, is that right?

5 RACHEL SCONG: Yes.

6 COUNCIL MEMBER LEVIN: Um, and there's no  
7 community facility bonus or any kind of bonus that  
8 goes along with the M2-1?

9 RACHEL SCONG: With M2-1? No.

10 COUNCIL MEMBER LEVIN: Sorry?

11 RACHEL SCONG: No, the M2-1 doesn't allow  
12 for community facility.

13 COUNCIL MEMBER LEVIN: Um, the borough  
14 president's report recommended delaying the  
15 application until the Fulton Ferry historic district  
16 is expanded to include the property. Um, have you  
17 consider the relationship of your proposed building  
18 to the adjacent historic district, um, and do you  
19 support the expansion or extension of the historic  
20 district to include that property?

21 CHRIS FOGARTY: Ah, when we looked at the  
22 building and redesigned it we took that no board. I  
23 think we would end up probably with a very similar  
24 that we're designing now, if it was in a historic  
25 district or not. Um, the, the, the landmarks

2 themselves would not have an opinion about the height  
3 or they would just be concerned about how the  
4 building looked, not [inaudible]. So I don't think  
5 that would, ah, make an difference, and I think we  
6 would probably approach the building in the same way.

7 COUNCIL MEMBER LEVIN: Um-hmm. Um, and  
8 in terms of the BQE, triple cantilever repair  
9 reconstruction work, I mean, it is obviously a  
10 concern, um, because this is a, um, ah, this is a  
11 developing scenario. Ah, we, ah, will have some  
12 short-term mitigation measures in place, but I think  
13 that there's a broad consensus that, ah, there needs  
14 to be a longer-term solution and, ah, what we've  
15 heard from the community is a concern that, um, that,  
16 ah, then any development here would potentially  
17 impede, um, work that may need to be done as part of  
18 that repair, or if the city were to, ah, need to  
19 acquire the property through eminent domain to, ah,  
20 be part of that, ah, repair or reconstruction, um,  
21 then, um, you know, the exercise of, of rezoning  
22 might not have been appropriate at the time because,  
23 um, ah, it would be eventually pre-empted by city or  
24 state action in terms of, um, acquisition of the  
25 properly. Um, have you looked into that and

2 considered that and how you think that that, ah,  
3 would or could potentially impact your site?

4 RACHEL SCONG: Sure. We've, we've spent  
5 a lot of time looking into the different scenarios  
6 that were being proposed for the BQE and ones that  
7 have been proposed in the past. Um, from what we  
8 could tell the scenarios that have been out there and  
9 especially this one that was rejected back in 2010,  
10 what we see is that it would not be desirable for the  
11 BQE to go through this site because it wouldn't mean  
12 just going through this site in order to navigate  
13 this area, especially with the Brooklyn Bridge right  
14 there. What you would see is that the BQE would  
15 curve through DUMBO and so then you have a ton of  
16 takings and it's just not a desirable solution with  
17 the criteria that the state had previously been  
18 working under, and we assume that they still would  
19 not be looking to put the BQE right through the  
20 center of DUMBO as well. Um, we understand that  
21 there are a lot of what ifs, but we think that we  
22 have the opportunity to bring a beautiful building  
23 and a great amenity to this area now and we, we  
24 understand that there is some risk. However, we  
25 believe that risk is low.

2 COUNCIL MEMBER LEVIN: Um, what kind of  
3 tenants do you envision having at this site?

4 TOM LIBERMAN: Ah, the tenants would be  
5 small office, um, um, tenants like architects,  
6 engineering firms, um, there's, there's, there is a  
7 need for this type of office. Instead of taking huge  
8 spaces in, in Manhattan, being in Brooklyn and in a  
9 great area that is nice and it's historical, people  
10 like that, so we hope that we could tap into that.

11 COUNCIL MEMBER LEVIN: In your, I'm, I'm  
12 sorry, the proposed, um, the proposed is to an M1-5  
13 correct?

14 RACHEL SCONG: Yes.

15 COUNCIL MEMBER LEVIN: Um, so an M1-5  
16 full density build out is, what is that?

17 RACHEL SCONG: 5 FAR of commercial...

18 COUNCIL MEMBER LEVIN: 5 FAR, so you go  
19 from a 2 to a 5, there's nothing in between a 2 and a  
20 5, is that right?

21 RACHEL SCONG: There's nothing in  
22 between.

23 UNIDENTIFIED: Not in manufacturing  
24 districts, no.

25 COUNCIL MEMBER LEVIN: Sorry.

2 UNIDENTIFIED: M districts go 1, 2, or 5,  
3 those are the options, or 10.

4 COUNCIL MEMBER LEVIN: Right. Except in  
5 if, if a, a owner were to, um, you know, enter into a  
6 restricted declaration of some kind, ah, to limit the  
7 FAR below what's, um, allowed by, by zoning, is that  
8 correct?

9 UNIDENTIFIED: Ah, yes, you could a  
10 restricted [inaudible], sure.

11 COUNCIL MEMBER LEVIN: Um, now is there  
12 any, ah, in, in, ah, intent to have light  
13 manufacturing of any kind, um, you know, with 5 FAR  
14 that's a lot of, um, that's a lot of floor area and,  
15 um, presumably some of that, ah, could be useful to,  
16 um, light manufacturers that are not necessarily able  
17 to pay a full, um, ah, the full market rent for  
18 office space in a place like Fulton Ferry Landing or  
19 DUMBO. For example, if you look at, um, the IBZ  
20 special permit in, ah, in Williamsburg, Green Point,  
21 that at this point we've approved several of those  
22 special permit applications. Um, there's a set-aside  
23 in a, a 4.8, I believe, that, ah, 0.8 of that is, is  
24 set aside for light manufacturing.

2 UNIDENTIFIED: It isn't something that  
3 we've looked at, but we can look at it.

4 COUNCIL MEMBER LEVIN: Um, and then can  
5 you speak a little bit about sustainability and  
6 resiliency measures, um, as part of this application?

7 CHRIS FOGARTY: Yes. We, ah, have  
8 reviewed, I mean, one of the nice things is City  
9 Council has made it almost, ah, impossible for us not  
10 to do green roofs and solar and so that, ah, by  
11 default becomes the water retention on the floor, um,  
12 minimizing water runoff onto the sidewalk. Ah, we're  
13 certainly excited in looking at how we can work with  
14 all of those, ah, different measures that are out  
15 there, and, and I can't remember where we left it,  
16 but we certainly have been working with the engineers  
17 to make sure that we've minimized all water runoff,  
18 and, and activate the roof as well, which is a great  
19 location for roof activation.

20 COUNCIL MEMBER LEVIN: Um, and what  
21 about, um, ah, net zero measures of any kind...

22 CHRIS FOGARTY: Um, again, the city's  
23 kind of...

24 COUNCIL MEMBER LEVIN: [inaudible] or  
25 [inaudible].

2 CHRIS FOGARTY: ...leading the way there  
3 so we are happily, ah, following those, those  
4 criteria. We would do a zone green building, um, and  
5 be, ah, taking advantage of the zoning to allow us  
6 to, ah, increase the efficiency of the building  
7 envelope and, again, running all the systems, ah,  
8 looking forward to how they're going to be needed to  
9 be done over the next 10 or 15 years anyway to meet  
10 city, city's direction.

11 COUNCIL MEMBER LEVIN: OK. Thank you so  
12 much for the answers.

13 RACHEL SCONG: Thank you.

14 CHAIRPERSON MOYA: Thank you, thank you  
15 for your testimony today. I'd like to now call up  
16 the next, ah, panel. Laura, ah, Burnback.

17 LAURA BURNBACK: Good morning.

18 CHAIRPERSON MOYA: Good morning. State  
19 your name and then you can...

20 LAURA BURNBACK: OK, Laura Burnback.

21 CHAIRPERSON MOYA: Thank you.

22 LAURA BURNBACK: OK, good morning, my  
23 name is Laura Burnback and I'm representing the  
24 Coalition for the BQE Transformation, which is a  
25 group of 12 neighborhood organizations united for a

2 transformative and comprehensive plan for the entire  
3 BQE corridor. Our coalition has been urging the City  
4 Council to reject this rezoning application since the  
5 issue first arose last year. As we heard already,  
6 CB2 agreed with our position and voted to disapprove  
7 on December 11, 2019, followed by the Brooklyn  
8 borough president's office also rejecting this  
9 proposal with conditions in late January. So our  
10 main objections are as follows. The developer has a  
11 right, of course, to develop within the current  
12 zoning and no one is calling for that right to be  
13 taken away. While the rezoning may be appropriate at  
14 some future point, we believe that this is absolutely  
15 the wrong time to allow it. Why? There is a very  
16 strong possibility that this area will be needed  
17 either temporarily or permanently in a pending  
18 reconstruction of the BQE. Approving a change to  
19 zoning for these parcels prior to adoption and  
20 approval of any comprehensive plan for the BQE is  
21 imprudent at best. The proposed rezoning area, as  
22 included in the application, is a much larger area  
23 than just the lots at 50 and 60 Old Fulton Streets  
24 and we just heard includes a small triangular median  
25 at the intersection of Hicks and Old Fulton Street,



2 as well as a portion of the BQE elevated entrance  
3 ramp. The administration should hold off on  
4 approving any change to the area of zoning until the  
5 full scope of the BQE reconstruction is decided,  
6 including any on- or off-ramps, parks, or other  
7 structures which may encroach upon or near the  
8 surrounding properties. We heard the applicant refer  
9 to a 2010 study. 2010 was a long time ago now and a  
10 lot has changed in the thinking around the BQE and  
11 the potential, ah, rerouting, or we heard a tunnel  
12 from the City Council. There have been a lot of  
13 proposals that have come forward since 2010. So I  
14 don't really think that it's that relevant to refer  
15 to a study which is so old. Furthermore, while we  
16 understand that the New York City Department of  
17 Transportation would retain the right to invoke  
18 eminent domain, where is the logic in pushing things  
19 to that point? Council Member Levin, as you yourself  
20 have noted, any rezoning that resulted in an increase  
21 in the value of the property would mean the city  
22 would end up paying much more if it were to need to  
23 acquire the site. And finally we understand the  
24 likelihood probability that the developer could sell  
25 the property once the property is rezoned, meaning

2 that there is no guarantee that the developer seeking  
3 the rezoning today will be the final developer of the  
4 property. This puts motive and benefit to the  
5 community into question. Both the mayor's expert  
6 panel and the City Council [inaudible] report called  
7 for the Atlantic to send section of the BQE to be  
8 included as part of a corridor-wide comprehensive  
9 plan. We should not be taking any actions at this  
10 point that would potentially restrict or put  
11 unnecessary obstacles in the way of that process.

12 Thank you.

13 CHAIRPERSON MOYA: Thank you. Thank you  
14 so much for your testimony. I'll call up the next  
15 panel. Um, Adam Westrick, Candace Clemmons, and  
16 Amanda Van Duran? Did I say it right, Duran? OK.

17 AMANDA VAN DURAN: Hi, my name is Amanda  
18 Van Duran. Um, I've lived in the DUMBO area for over  
19 eight years and, um, I live very near the, ah, 50 Old  
20 Fulton, in fact I live on Washington Street. So I  
21 have spent a lot of time in that area with my kids  
22 and, um, it has definitely been a hard place to  
23 navigate the sidewalks and even when you're driving,  
24 um, because of, ah, Sam's Auto Body Shop. Um, Sam's  
25 body shop is an amazing body shop, I have to let you

2 know. If you ever are in an accident he is the best.  
3 He is absolutely fantastic. I will follow him  
4 wherever he goes. But, um, I definitely think it  
5 would be a huge improvement to the community to be  
6 able to have a small business building up in that  
7 area. And I'm really glad to see that somebody would  
8 be investing in that and making that happen. Um, the  
9 other thing I just wanted to mention was, um, Thomas  
10 Lieberman, and I live in his building, one of his  
11 buildings, and he, um, is someone who really does  
12 care about the community. Um, the diversity in his  
13 building and the people in his building and the way  
14 he has taken care of his buildings and made them fit  
15 within the community are pretty impressive. I've  
16 also found him and his wife one Sunday gardening and  
17 putting flowers outside for all of us to enjoy, and  
18 to me that kind of means a lot. Thank you.

19 CHAIRPERSON MOYA: Thank you.

20 CANDACE CLEMMONS: Hi, my name is Candace  
21 Clemmons and, um, I'm also a resident, um, and I live  
22 in one of Mr. Lieberman's buildings. Ah, first I can  
23 say that, um, being new to New York eight years ago,  
24 I lived in Vinegar Hill and I walked past his  
25 building every day, looking through the windows, and

2 I'm like this is not a typical new development. It  
3 was something that was exciting. You could see the  
4 stairs going down. Um, and just not a cookie cutter  
5 building inside. Finally, five, five years in the  
6 building, as a new parent, um, Mr. Lieberman has, um,  
7 shown me how much of community he, he values. Um, to  
8 his wife planting flowers, but not only that, I was  
9 expecting a child and we had a room built for my  
10 daughter and we hang out with our neighborhoods on  
11 the roof, we have cook-outs, we do movie nights. Um,  
12 so Mr. Lieberman is big on community and, um, I can  
13 definitely say he is a man of his word as far as how  
14 he takes care of his building. One of our  
15 neighborhoods in Vinegar Hill told us that our  
16 current building that we live in now used to be a  
17 chocolate factory. So we can hear all these great  
18 stories about our neighborhood, but you can see the  
19 brick walls, the exposed brick walls that Mr.  
20 Lieberman left in the building and you still get a  
21 presence of like, oh my God, this building is old,  
22 there is something special about it, just being in  
23 the building and, you know, coming, new developers  
24 are putting 600 square feet for a two-bedroom  
25 apartment in our neighborhood versus them, we have

2 almost double that, and just being in, um, in that  
3 neighborhood and understanding that Mr. Lieberman is  
4 respectful of family, he is respectful of community  
5 and, um, keeping certain values and things in the  
6 neighborhood that, um, should stay alive. So, ah,  
7 he's definitely a man of his word. But, um, he's  
8 done a phenomenal job at, ah, respecting what our  
9 neighbors want and, um, just being an excellent part  
10 of the community. Thank you.

11 ADAM WESTRICK: Hi, my name is Adam  
12 Westrick. I am going to be reading a letter drafted  
13 by Darrell Barlow, the CEO of Tillary Park  
14 Foundation, who could not be here. My name is  
15 Darrell Barlow. I'm the current president and CEO of  
16 the Tillary Park Foundation and I have been working  
17 for the past 28 years at the Long Island Brooklyn  
18 campus. I am a community activist, having been  
19 involved with the Community Board 11 parks committee.  
20 I was instrumental in renovating McLaughlin Park.  
21 The Vinegar Hill and DUMBO area is my neighborhood.  
22 I visit Old Fulton Street with my parent and godchild  
23 quite frequently. I am happy to see that the  
24 developer wants to turn 50 Old Fulton Street into an  
25 attractive commercial building. There is a great

2 deal of pedestrian traffic here and the first thing  
3 that they see is a parking lot of cars to be  
4 repaired. For too long these two auto body shops  
5 have been an eyesore and disgrace for this historical  
6 neighborhood. I hope, I sincerely hope the  
7 commission approves the application. Thank you.  
8 Darrell Barlow.

9 CHAIRPERSON MOYA: Great. Thank you  
10 again all for coming today for your testimony. Um,  
11 are there any other members of the public who wish to  
12 testify? Seeing none, I now close the public health  
13 on this application, and it will be laid over. We  
14 will now here a preconsidered LU item for the 364  
15 Avenue of the Americas rezoning proposal under ULURP  
16 number C200149ZMM, relating to property in Council  
17 Member Chin's district in Manhattan. The applicant  
18 seeks approval of a rezoning map amendment to change  
19 an existing C1-5 district to a C2-5 district in order  
20 to propose, in order to purse a BSA special permit  
21 for a physical cultural, ah, culture establishment or  
22 a PCE within the existing building. The proposed  
23 rezoning area is in the block front of Sixth Avenue  
24 between Washington Place and Waverly Place, ah, and  
25 includes two other properties fronting on the side

2 streets, which are not controlled by the applicant  
3 and which would include existing mixed use buildings.

4 I now open the public hearing on this application,  
5 and we will call up Richard Lobell.

6 COMMITTEE COUNSEL: Please state your  
7 name for the record and raise your right hand.

8 RICHARD LOBELL: Richard Lobell, Sheldon  
9 Lobell.

10 COMMITTEE COUNSEL: Do you swear or  
11 affirm that the testimony you are about to give will  
12 be the truth, the whole truth, and nothing but the  
13 truth, and that you will answer all questions  
14 truthfully?

15 RICHARD LOBELL: I do.

16 COMMITTEE COUNSEL: Thank you.

17 RICHARD LOBELL: Chair Moya, council  
18 members, thank you for your time this morning. Once  
19 again, Richard Lobell from Sheldon Lobell PC for the  
20 364 Avenue of the Americas rezoning. Ah, as you can  
21 see from this circled area on the map this rezoning  
22 is located on a portion of, ah, Sixth Avenue, which  
23 is very dense and which is lined with commercial  
24 overlays, more specifically, C1-5 overlays in the  
25 immediate area of the property. Ah, the proposal

2 right now would be to convert this to a C2-5 overlay.  
3 This is reminiscent of other rezonings we've done  
4 where we've gone from a C1 to a C2, as is the case  
5 here, primarily to allow for the use as a physical  
6 culture establishment, or gym or health club. Um,  
7 particularly at the site here there was a, ah, a  
8 facility that was operated as a beauty parlor, a  
9 valid use group 6 under the current zoning. But in  
10 the event that licensed masseuses are requested at  
11 the site you're unable to do that unless you have a  
12 special permit from BSA, and that special permit is  
13 unavailable in the C1 district and is only available  
14 for properties within C2. So similar to the 180  
15 Avenue of the Americas rezoning, which was approved  
16 by the council in or around, ah, December 2018, this  
17 would allow us to locate a PCE at the site. Um, you  
18 can see from the zoning change map this is a  
19 relatively, um, minor rezoning. Again, we're seeking  
20 a C2-5 in the area on the dotted, ah, lines to the  
21 right. Ah, we also notice that there's a C4 district  
22 immediately north of Waverly Place at this location.  
23 A C4 district permits more intense commercial uses.  
24 Um, so the C2 itself is relatively close to a C1. It  
25 permits some additional use groups, primarily the PCE



2 and some things around home improvement and repair.

3 Some pictures of the site. We have an existing five-

4 story building with ground floor commercial. Um,

5 given the commercial activity in the area and given

6 the fact that the, um, area wants to see this as a

7 productive site, we got a unanimous vote from

8 Community Board 2 Manhattan, 38 and nothing. Um,

9 Manhattan Borough President Gail Brewer was also in

10 favor of the application. Um, this is a rezoning

11 which is really, ah, in consideration of a, um,

12 allowing our, ah, landlords, property owners, to have

13 a broader range of commercial uses to prevent sites

14 from losing tenants and allowing them to exist in a

15 robust manner. As you go up and down Sixth Avenue in

16 this area, sadly there are some properties in which,

17 ah, have gone dark and do not have tenants. Um, so

18 here the opportunity to, ah, allow this, ah, existing

19 tenant to remain is, ah, something which is valued by

20 the applicant as well as by the local area. And

21 that's essentially the, the crux of the rezoning.

22 CHAIRPERSON MOYA: Great. Quickly, I

23 might have missed this, but could you just clarify

24 the impetus behind this application, specifically

25 what services does the facility currently, um,

2 provide and does it currently comply with the C1  
3 zoning, ah, or is this a legalization, ah, and if so  
4 how long has the facility been operating, ah, in this  
5 way?

6 RICHARD LOBELL: Sure. So the facility  
7 began operating in October 2019 as a beauty parlor  
8 under use group 6, which is a legitimate use. At  
9 some point they introduced, ah, licensed masseuses at  
10 this location, thereby making this application one  
11 for legalization. Um, so this will be brought to BSA  
12 for a special permit. They were issued violations at  
13 the site, which will now need to be rectified. Um,  
14 sadly, or due to the existing affairs of the city,  
15 many of these applications for PCEs, indeed, close to  
16 half of them, come to BSA as legalizations. The fact  
17 is that, um, many of these applications, um, require  
18 operating capital in order to go through this rather  
19 lengthy and expensive process. In fact, when we go  
20 to the CPC, to the commission, with these  
21 applications oftentimes they talk about the fact that  
22 they would like to see this special permit done away  
23 with. Um, so here the, ah, commercial use was OK.  
24 The masseuses were not. So that's the impetus behind  
25 the application.

2 CHAIRPERSON MOYA: Um, and what other use  
3 is not already allowed under the C1 rule, ah, could  
4 potentially operate here, ah, if the rezoning were,  
5 was approved?

6 RICHARD LOBELL: So we've actually done  
7 some work around this because of the relative  
8 frequency of these applications. Ah, it's  
9 technically use group 7, 8, 9, and 14 which would  
10 additionally be allowed. Um, and so those home  
11 improvement stores, um, plumbing repair shops, um,  
12 there's certain, ah, theaters and other catering  
13 facilities that would be permitted pursuant to this  
14 use group. Having said that, um, when we do research  
15 around this and, for example, if you do look at the  
16 properties immediately to the north, ah, those uses  
17 really don't take advantage of that more intense  
18 commercial zoning. What you end up having really is  
19 a lot of these PCEs, gyms and spas, because those are  
20 really the ones that, um, are frequently tenanting  
21 these spaces. So, um, there are marginally  
22 additional uses, but I would add that the city itself  
23 in many of these current rezonings, ah, I bring up  
24 the example of the East Harlem rezoning, they map C2s

2 on the avenues now specifically to give property  
3 owners this greater flexibility.

4 CHAIRPERSON MOYA: OK, thank you very  
5 much. Thank you for your testimony today.

6 RICHARD LOBELL: Thank you, Chair.

7 CHAIRPERSON MOYA: Are there any other  
8 members of the public who wish to testify? Seeing  
9 none, I now close the public hearing on this  
10 application and it will be laid over. Before we  
11 conclude, I ask the counsel to restate the vote.

12 COMMITTEE COUNSEL: A vote of 6 in the  
13 affirmative, zero in the negative, and no  
14 abstentions. Today's items are approved and referred  
15 to the full Land Use Committee.

16 CHAIRPERSON MOYA: This concludes today's  
17 meeting, and I would like to thank the members of the  
18 public, my colleagues, of course the counsel and land  
19 use staff for attending. Ah, this meeting is hereby  
20 adjourned. [gavel]

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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 March 19, 2020