

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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April 14, 2010
Start: 10:16 am
Recess: 10:30 am

HELD AT: Council Chambers
City Hall

B E F O R E:
MARK S. WEPRIN
Chairperson

COUNCIL MEMBERS:
Leroy G. Comrie, Jr.
Daniel R Garodnick
Robert Jackson
Jessica S. Lappin
Diana Reyna
Joel Rivera
Larry B. Seabrook
James Vacca
Albert Vann
Vincent M. Ignizio
Stephen Levin
Brad Lander
Peter Koo

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

Howard Weiss

Land Use Counsel

Davidoff, Malito and Hutcher LLP

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2 CHAIRPERSON WEPRIN: Good morning
3 everyone. My name is Mark Weprin. I am the chair
4 of the Subcommittee on Zoning and Franchises. We
5 are going to have what we hope is a brief meeting.
6 I am joined today on my far right by Council
7 Member Jessica Lappin. Next to her is Vincent
8 Ignizio. To my left is Larry Seabrook, Council
9 Member Jimmy Vacca and I know Robert Jackson is
10 sitting here in the front row. Charles Barron is
11 here auditing the class. How are you, sir? I'm
12 sure we'll be joined in a few minutes by some
13 other people.

14 Today we are considering the Rose
15 Plaza on the River project. It is Land Use 0051,
16 0052 and 0053. We have with us Howard Weiss who
17 is representing the applicant in this case. He is
18 going to give a statement. Mr. Weiss, why don't
19 you take that third seat in, which I think is
20 Council Member Melissa Mark-Viverito's seat. I'm
21 sure she won't mind. He has a statement. Please
22 state your name for the record and your statement.

23 HOWARD WEISS: Howard Weiss,
24 Davidoff Malito and Hutcher, land use counsel for
25 the applicant. Good morning, Mr. Chairman and

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2 Council Members. I'd like to say first that we
3 want to extend our deep felt thanks to Council
4 Member Levin, to Council Members, to Council staff
5 for bringing us to this day.

6 What I would like to do is take a
7 moment to read into the record commitments that we
8 have made in connection with Rose Plaza beyond
9 that which is already on the record. All of these
10 commitments that I am about to read into the
11 record are going to be memorialized in a
12 restrictive declaration to be signed today and to
13 be filed against the property so it will bind our
14 client and any subsequent owners in perpetuity.

15 The owner covenants and agrees that
16 30% of the total number of apartments comprising
17 the development of the project site pursuant to
18 the application will be permanently affordable to
19 households with incomes ranging from 40% of AMI to
20 120% of AMI, referred to as the affordable
21 apartments with the following breakdown: 40% of
22 AMI will be one-third of the affordable
23 apartments, 60% of AMI will be one-third of the
24 affordable apartments, and 120% of AMI will be
25 one-third of the affordable apartments.

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2 The allocation of the affordable
3 apartments will be in accordance with the plan
4 that will be submitted and approved by the
5 applicable funding agencies all pursuant to the
6 provisions of New York City Zoning Resolution
7 section 23-90 effective on the date hereof.

8 The owner further covenants and
9 agrees that the distribution of apartments,
10 including affordable apartments, will be as
11 follows. Studios there will be a total of 20,
12 four of which will be affordable. One-bedroom
13 apartments, there will be 334, 78 of which will be
14 affordable. Two-bedroom apartments, there will be
15 326, 70 of which will be affordable. Three-
16 bedroom apartments, there will be 60, all of which
17 will be affordable. Four-bedroom apartments,
18 there will be 14, all of which will be affordable.

19 The owner covenants and agrees
20 further that any substantive changes in the design
21 from the plans approved by the City Planning
22 Commission under its decision, any reports
23 submitted to the New York City Department of
24 Environmental Protection concerning remediation at
25 the project site and any further traffic studies

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2 submitted to the New York City Department of
3 Transportation will be provided to a community
4 advisory committee as may hereinafter be
5 established.

6 The owner covenants and agrees that
7 it will improve the water side end of Division
8 Avenue with a design and materials that will
9 extend the treatment of the adjacent portion of
10 the Shore Public Walkway to be developed on the
11 project site for the full width of Division Avenue
12 and consult with applicable city agencies
13 regarding the determination as to any repairs that
14 the city may need to perform for the portion of
15 the bulkhead extending from the northerly property
16 line of the project site for the width of Division
17 Avenue.

18 The owner will coordinate with the
19 applicable city agencies regarding any work that
20 may need to be performed by the city in connection
21 with the repair or improvement of the aforesaid
22 portion of the bulkhead.

23 The owner covenants and agrees that
24 the retail space that was proposed at water's edge
25 within Building A will not be leased for a

1 restaurant use.

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3 The owner covenants and agrees that
4 the open space developed on the project site will
5 not include a beach area although the plans filed
6 with the Department of City Planning denominated a
7 portion of the open space as beach, which is in
8 fact a landscaped area and not a beach.

9 The provisions of this covenant
10 will be binding upon the respective successors and
11 assigns of the owner as may be applicable and
12 references to the owner shall be deemed to include
13 such successors and assigns as well as successors
14 to their interest in the project site. Reference
15 in this covenant to agencies or instrumentalities
16 of the city shall be deemed to include agencies or
17 instrumentalities seceding to the jurisdiction
18 thereof.

19 Lastly, this covenant and the
20 provisions hereof shall become effective as of the
21 day of the final approval of this application
22 pursuant to the provision of New York City Charter
23 section 197C. The owner shall cause this covenant
24 to be recorded in the Office of the County or City
25 Register indexing it against the project site

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2 within ten business days of the date of final
3 approval. Thank you, Mr. Chairman and Council
4 Members.

5 CHAIRPERSON WEPRIN: Thank you, Mr.
6 Weiss. Do any members of the Subcommittee have a
7 question for Mr. Weiss. I know Council Member
8 Barron has a question.

9 COUNCIL MEMBER BARRON: If you're
10 saying it's 30% affordable and then you break up
11 the affordability into three thirds and one of the
12 thirds of the affordability is 120% of the AMI,
13 which is not affordable in that area, then you in
14 fact don't have 30% affordability. If you only
15 have two-thirds, one third is 40% of the AMI,
16 another third is 60% of the AMI and another third
17 is 120% and all of this is in the context of the
18 affordability range which is 30%, then you don't
19 really have 30% affordability if you're going to
20 chunk out 120% of the AMI. What's the area AMI,
21 the neighborhood AMI?

22 HOWARD WEISS: It's \$77,000.

23 COUNCIL MEMBER BARRON: The
24 neighborhood.

25 HOWARD WEISS: This is based upon

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the area AMI.

COUNCIL MEMBER BARRON: Listen to what I'm saying. I know the metropolitan AMI. What is that neighborhood's AMI?

HOWARD WEISS: Mr. Council Member I don't know the neighborhood.

COUNCIL MEMBER BARRON: The neighborhood AMI is probably \$25,000. It's certainly not 120% of the AMI, it's certainly not that. So if the neighborhood AMI is, I'll be generous and say \$30,000 to \$35,000, then how do we have 120% of the AMI be a third of the affordability formula?

HOWARD WEISS: Mr. Council Member, that portion of the affordability range is based upon the community board's resolution, the borough president's request and our discussions over the last two months with various stakeholders.

COUNCIL MEMBER BARRON: I understand how it came and I know you did a lot of work and talk about it. But I want to know how do you justify that a being affordable? I understand all the stakeholders. I understand that this probably is going to move forward. I just don't

1
2 want people to come to this body and push that as
3 affordability when it isn't. What happens when we
4 get a range like 30%, the whole 100% of the 30%
5 should have been 40-60% of the AMI. Not a third
6 of that now is 120%. I don't care if it's Marty
7 Markowitz or anybody else that is not affordable
8 in that area. So you're taking away from the
9 affordability if you have to chop up the
10 affordable which is low enough. In some areas
11 we're getting it higher at 50%, 60% or 70%. So
12 instead of just leaving the 30% really affordable,
13 then you take a third of that out and make that
14 not affordable.

15 HOWARD WEISS: I understand your
16 point, Mr. Council Member.

17 COUNCIL MEMBER BARRON: Did he tell
18 you just to say you understand my point so we
19 didn't have to go back and forth? I heard him
20 whisper to you.

21 HOWARD WEISS: No, no.

22 COUNCIL MEMBER BARRON: Did he say
23 don't argue with me, just let him have his way?
24 Because I know how he does that. He says don't go
25 back and forth with him, just tell him yes.

2 CHAIRPERSON WEPRIN: Mr. Weiss, on
3 advice of counsel, I wouldn't argue with him,
4 okay.

5 HOWARD WEISS: I am not.

6 COUNCIL MEMBER BARRON: I just
7 wanted to make the point that this is no 30%
8 affordability. I think it's more in the range of
9 20%.

10 CHAIRPERSON WEPRIN: Your point is
11 duly noted, Council Member.

12 COUNCIL MEMBER BARRON: Thank you.

13 CHAIRPERSON WEPRIN: I'm sure we
14 will hear it again. Are there any other
15 questions? We are going to couple these items and
16 call for a vote. Once again, it's Land Use 0051,
17 0052 and 0053. I do want to also acknowledge that
18 Council Member Reyna and Council Member Garodnick
19 are here. I didn't mention that before. I don't
20 think I missed anyone else on the committee. So
21 we're coupling these items and we are going to
22 move to a vote. The chair will recommend an aye
23 vote on this project. The counsel will call the
24 roll.

25 CHRISTIAN HYLTON: Christian

Hylton, Counsel to Committee. Chair Weprin?

CHAIRPERSON WEPRIN: Aye.

CHRISTIAN HYLTON: Council Member Reyna?

COUNCIL MEMBER REYNA: May I please be excused to explain my vote?

CHAIRPERSON WEPRIN: To explain her vote, Ms. Reyna.

COUNCIL MEMBER REYNA: Thank you very much. I expect that this developer will be working with local Council Members that represent Community Board 1. I look forward to the development of this project. The affordability obviously in question will all depend on the classification of distribution of units. Obviously this particular growth of 30% affordability on one site and the size of the project where we have given up the studios and have increased the number of four-bedrooms, where four-bedrooms could qualify families under 40% of AMI is extraordinary.

I don't know how viable the project is concerning that, but I am looking forward to housing sponsorship and working with the community

board as far as the marketing process is concerned because that is very, very important in our community so that there isn't a segregation and separation and that there is inclusion in this project. Thank you very much. I vote aye.

CHRISTIAN HYLTON: Council Member Jackson?

COUNCIL MEMBER JACKSON: I vote aye.

CHRISTIAN HYLTON: Council Member Seabrook?

COUNCIL MEMBER SEABROOK: Aye.

CHRISTIAN HYLTON: Council Member Lappin?

COUNCIL MEMBER LAPPIN: Aye.

CHRISTIAN HYLTON: Council Member Garodnick?

COUNCIL MEMBER GARODNICK: Aye.

CHRISTIAN HYLTON: Council Member Vacca?

COUNCIL MEMBER VACCA: I briefly want to commend Council Member Levin who on several occasions reached out to my office and reached out to me to explain this project and to

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2 go over issues of concern to his community. I
3 think he did a very good job. He was
4 conscientious. This is a new member of the
5 Council who really had a major project right at
6 his doorstep and he wanted to do the best he could
7 for his community. I feel he did. I'm proud to
8 vote yes.

9 CHRISTIAN HYLTON: Council Member
10 Ignizio?

11 COUNCIL MEMBER IGNIZIO: I just
12 want to echo the sentiments of my colleague James
13 Vacca. Congratulations to my colleague Councilman
14 Levin. I vote aye.

15 CHRISTIAN HYLTON: By a vote of
16 either in the affirmative, none in the negative
17 and no abstentions, LU 0051, 0052 and 0053 are
18 approved and referred to the full Land Use
19 Committee.

20 CHAIRPERSON WEPRIN: We're going to
21 keep the rolls open until the Land Use meeting
22 starts, which follows this meeting. Without
23 further business, I will now adjourn.

24 [Pause]

25 CHRISTIAN HYLTON: Council Member

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Rivera?

COUNCIL MEMBER RIVERA: I vote aye

on all.

CHRISTIAN HYLTON: Council Member

Vann?

COUNCIL MEMBER VANN: Aye on all.

CHRISTIAN HYLTON: Vote now stands

ten in the affirmative, none in the negative and

no abstentions.

[Pause]

CHRISTIAN HYLTON: Council Member

Comrie?

COUNCIL MEMBER COMRIE: I'd like to

congratulate all the parties that worked so

diligently on this project. I'll say more about

it in the full committee. I vote aye on all.

CHRISTIAN HYLTON: The final vote

is 11 affirmative, none in the negative and no

abstentions. LU 0051, 0052, and 0053 are referred

to the full Land Use Committee.

[Pause]

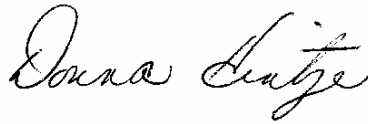
COUNCIL MEMBER COMRIE: I'd like to

close the Subcommittee meeting for today, April

14th.

C E R T I F I C A T E

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



Signature_____

Date April 30, 2010