

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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September 6, 2011

Start: 10:10 am

Recess: 11:10 am

HELD AT: Committee Room
250 Broadway, 16th Floor

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

COUNCIL MEMBERS:

Mark S. Weprin
Leroy G. Comrie, Jr.
Daniel R. Garodnick
Robert Jackson
Jessica S. Lappin
Diana Reyna
Joel Rivera
Larry B. Seabrook
James Vacca
Vincent M. Ignizio
Domenic M. Recchia, Jr.
Margaret Chin
Stephen Levin

A P P E A R A N C E S

Michael Kelly
Urban Rustic, LLC
dba Lodge

Wilson Tsao
Co-owner
Super Noodle, Inc.
dba Old Town Hot Pot

Nick Hockens
R. A. Real Estate

Robert A. Zorn
R.A. Real Estate

Jay Segal
Land Use Counsel
R. A. Real Estate

Melinda Katz
R. A. Real Estate

Lish Whitson
Planner for Boerum Hill
NYC Department of City Planning

Purnima Kapur
Director of Brooklyn Office
NYC Department of City Planning

Dwight Smith
Vice President
Boerum Hill Association

Howard Kolins
President
Boerum Hill Association

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

Betty Cohen
Director of Corporate Relations
Century 21

Richard Lobel
Sheldon Lobel, P.C.
Representing Century 21

Randall Minor
Land Use Attorney
Greenberg Taurig

Deirdre Carson
Shareholder
Greenberg Taurig

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2 CHAIRPERSON WEPRIN: Thank you, Mr.
3 Economou. Ladies and gentlemen, good morning. My
4 name is Mark Weprin. I'm chair of the Zoning and
5 Franchises Subcommittee of the Land Use Committee.
6 I am delighted to be joined this morning by my
7 colleagues Jimmy Vacca, Joel Rivera, Diana Reyna,
8 Jessica Lappin and Dan Garodnick and Larry
9 Seabrook from the committee. Is he still here, he
10 walked out, Domenic. We have a special guest of
11 Domenic Recchia and his lovely daughter, who are
12 here today as well.

13 We're going to get started right
14 away. We have a few cafes we're going to start
15 with first. The first item is Land Use No. 444,
16 it's called Lodge. We'd like to call on Michael
17 Kelly. Right on time there, Mr. Kelly; if you
18 could, please describe the café application.

19 MICHAEL KELLY: Good morning,
20 Chairman, Council Member Reyna and members of the
21 Council. My name is Michael Kelly. I'm
22 representing Urban Rustic, LLC, doing business as
23 Lodge. They are located at 318 Grand Street in
24 Brooklyn.

25 I would like to read into the

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2 record the following. To conform with the latest
3 DCA rules, we agree with Council Member Reyna to
4 submit new sidewalk café plans, showing the metal
5 gratings that are currently on the sidewalk. The
6 café currently consists of 11 tables with 22
7 seats, and has been in operation since the year
8 2005. Thank you.

9 CHAIRPERSON WEPRIN: Thank you very
10 much. Council Member Reyna would like to speak on
11 this matter.

12 COUNCIL MEMBER REYNA: Thank you,
13 Mr. Chair. I just wanted to thank Mr. Kelly for
14 just being able to accommodate what were certain
15 unclear facts as far as this grating is concerned.
16 Normally, a sidewalk café over a grate is not
17 allowed. But there needs to be an explanation as
18 to what this grate is, because it's neither a
19 transformer nor a subway grate. Correct me if I'm
20 wrong.

21 MICHAEL KELLY: It's basically
22 ventilation that leads down to the office that's
23 in the basement.

24 COUNCIL MEMBER REYNA: And the
25 ventilation grate, it isn't reflected in the

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2 architectural plans that are filed with the
3 Department of Consumer Affairs. We have this
4 particular matter that was raised because no one
5 could answer what the grate was for, other than
6 the business owner and yourself, representing the
7 business owner.

8 So we just wanted to make sure that
9 for future clarity that your architectural plans
10 are reflecting that this is not a hazard to the
11 public, that your client, as far as Urban Rustic
12 and the Lodge, or DBA the Lodge, which I am a huge
13 fan and patron of, is able to continue to do
14 business without any liabilities.

15 We want to thank you for just
16 making sure that you were able to reflect those
17 particulars by resubmitting what would be a
18 correction to and design factor with an
19 explanation of what the grate is intentionally
20 for.

21 MICHAEL KELLY: Yes.

22 COUNCIL MEMBER REYNA: Thank you so
23 much.

24 MICHAEL KELLY: Thank you.

25 CHAIRPERSON WEPRIN: Does anyone

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2 else have any comments or questions on this
3 matter. All right, well thank you very much, Mr.
4 Kelly.

5 MICHAEL KELLY: Thank you.

6 CHAIRPERSON WEPRIN: Thank you.

7 The next item on our agenda is Land Use No. 449,
8 which is in Speaker Quinn's district. It is going
9 to be laid over. That's Mezzogiorno Associates.
10 We are going to wait for the next meeting to
11 consider that item.

12 Now, we're going to move on to Land
13 Use No. 450. This is the Old Town Hot Pot, and
14 Mr. Wilson Tsao, I think I pronounced that right.
15 Good morning, sir. I think the mike is on already
16 there. Please state your name again for the
17 record and describe your sidewalk application.

18 WILSON TSAO: My name is Wilson
19 Tsao, actually as a co-owner of the Super Noodle,
20 Inc, dba as Old Town Hot Pot. So I represent the
21 present to show up at this hearing. We agree to
22 reduce our seats and chairs from 13 tables to 12
23 tables, and seats from 25 to 24, and we will
24 especially remove the one chair and the one table
25 at the bottom line of the café. That's the east

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most part, and we agree to do that.

CHAIRPERSON WEPRIN: Thank you, Mr. Tsao. I have a letter that specifies exactly what you just said, from a Tao On [phonetic]. Who is that?

WILSON TSAO: That's the president. I'm the co-owner.

CHAIRPERSON WEPRIN: Okay, great. I know this has been in discussions with Speaker Quinn's office. I'm getting the nod of the head that she is fine with this discussion and this agreement of this letter of limiting the tables by one and the seats by one as well.

WILSON TSAO: Correct.

CHAIRPERSON WEPRIN: Okay. That's great. Peter says we have the plans and everything is fine. That's always a good thing. Does anyone have any comments or questions to disrupt this fine application? No? Great, well thank you much, sir. We appreciate you coming down.

WILSON TSAO: Thank you very much.

CHAIRPERSON WEPRIN: Thank you. Now, we're going to move on to the main card here.

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2 The next item is going to be Land Use No. 451
3 through 455 inclusive. This is in Council Member
4 Recchia's district. It's known as Ocean Dreams.
5 I'd like to call on a group of people: Nick
6 Hockens, Robert Zorn, Jay Segal, and we would be
7 remiss not to acknowledge the presence of our old
8 friend Melinda Katz, former chair of the Land Use
9 Committee of the City Council. It's good to see
10 her here again. Gentlemen, you know the drill.

11 JAY SEGAL: May I start? Thank
12 you. Morning, my name is Jay Segal. I'm the land
13 use counsel for the owner of this property. The
14 property is shown here. It's between Surf Avenue
15 and the Boardwalk on the western portion of Coney
16 Island. It's approximately two and a half acres.

17 You can see immediately to the west
18 is Seagate. There's some city housing over here,
19 and some community facilities that surround it.
20 The property has been unimproved for about 50
21 years.

22 This is an application to enable us
23 to construct the project you see outlined over
24 there, which is approximately 428,000 square feet.
25 There would be three towers: 14 stories, 22

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stories and 18 stories.

Looking at it more closely, from the Boardwalk area, there would be a lot of amenity space between these taller parts of the building. There would be place for parking. These units, there'll be 415 rental units at market rate. There would be a supermarket over here on Surf Avenue that the community was very interested in seeing. There are no fresh food stores in the area. On the Boardwalk, we would have a restaurant and local retail, a total of about 25,000 square feet.

The land use actions that would allow us to construct this building are a rezoning from the current R6A to R7-3 with a commercial overlay and some special permits. The reason for the special permits, are primarily three of them. One is in order to have the amount of parking that the development would require, we've had to put two levels above ground, and that requires a waiver. In order to have retail on the Boardwalk, we need a waiver because it's much higher than Surf Avenue, and you're not allowed to have commercial over the residential. And in order to

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2 move the buildings away from Seagate, we needed a
3 height and setback waiver.

4 Are there any questions?

5 CHAIRPERSON WEPRIN: Before I get
6 to that, Council Member Recchia represents this
7 area in Coney Island and would like to speak and
8 just tell us how dreamy Ocean Dreams is.

9 COUNCIL MEMBER RECCHIA: First of
10 all, I just want to thank the Chair Mark Weprin
11 and all the committee members. This is one of the
12 last actions for Coney Island that we have to
13 take.

14 This project is something that
15 years ago the owner of this property was going to
16 build three and four-family houses. It was the
17 community and the community board and myself that
18 went to the owner of the property and met with
19 him, because it was very important that we needed
20 more rental properties that were going to be
21 affordable, but more importantly, we needed a
22 supermarket and we needed a mechanism to build up
23 the west end of the Boardwalk.

24 As you can see in the photos that
25 you have before you, this end of the Boardwalk was

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2 desolate. There were no stores, no rides, no
3 entertainment. And the people who live in this
4 end of Coney Island for years have been
5 complaining about a supermarket and what about our
6 end of the Boardwalk. So what this developer did,
7 he really went out of his way by addressing the
8 issues that were important to the community.

9 The stores that are going to be
10 placed on the Boardwalk are going to be more
11 employment for the community. The developer has
12 committed to hiring local, the people from the
13 local community. That's very important to the
14 community and to the people of Coney Island that
15 the local people who live there, for the over
16 50,000 residents, that they get the jobs, they get
17 the construction jobs, they get the permanent
18 jobs. We've been meeting with this developer and
19 we've been working everything out.

20 So I strongly support this. It's
21 like I said, it was the community and my idea to
22 build up this high. The original owner, who still
23 owns the property, never wanted to build this. He
24 was happy with three-family houses. It was the
25 community that really needed to build up the west

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2 end of the Boardwalk. Believe it or not, these
3 stores are very important because we don't know,
4 and the owner doesn't know, he's taking a big risk
5 in whether he can rent them out and whether
6 they'll be profitable and businesses will be able
7 to survive. But we have to try it. He's willing
8 to work with the community and try.

9 Again, as you can see by that
10 photo, there is no supermarket in this area for
11 Seagate and everyone else that lives there. Just
12 to answer Vincent Ignizio's question: Yes, this is
13 in Zone A. So everybody was evacuated. That's
14 why we have to build up two stories high for the
15 parking lot, because you can't go under in Coney
16 Island. You can't go down, you could only go up.

17 I just want to give a shout out to
18 Purnima who's here. Purnima, it's always a
19 pleasure to see you. I just want to thank Gail
20 Benjamin and her staff for working with this. So
21 that's all I had to say.

22 CHAIRPERSON WEPRIN: Thank you,
23 Council Member Recchia. I apologize; I forgot to
24 mention the aforementioned waterlogged Vincent
25 Ignizio who joined us some time ago. Just one

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2 question gentlemen. I know that Council Member
3 Recchia kept referring to a supermarket. It's my
4 understanding that the developer does know
5 something about supermarkets. Is he willing to
6 guarantee that in finding a supermarket, if all
7 else fails for other people that he indeed is
8 willing to develop one, put one in there himself?

9 JAY SEGAL: Absolutely.

10 CHAIRPERSON WEPRIN: Okay. Any
11 questions? Mr. Rivera first. We're joined by the
12 chair of the Land Use Committee, Leroy Comrie.

13 COUNCIL MEMBER RIVERA: Thank you
14 very much, Mr. Chair. My question is actually to
15 Melinda Katz. I just wanted to find out on the
16 record, what do you miss most about the Council?

17 CHAIRPERSON WEPRIN: As her
18 attorney, I would advise--

19 MELINDA KATZ: [interposing] You,
20 Councilman.

21 COUNCIL MEMBER RIVERA: Thank you,
22 a very good answer. The next question to Melinda
23 Katz: do you find yourself waking up doing train
24 stops in the morning?

25 MELINDA KATZ: [off mic]

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2 COUNCIL MEMBER RIVERA: We've got
3 to get that on the record. You've got to put the
4 mike on, Melinda. Say that again.

5 MELINDA KATZ: I'm not jealous
6 about all the train stops that I'm missing, no.

7 COUNCIL MEMBER RIVERA: Okay.

8 MELINDA KATZ: But I'm happy to see
9 everyone here again today and thank you for the
10 warm welcome.

11 COUNCIL MEMBER RIVERA: It's a
12 pleasure to have you back, Melinda.

13 MELINDA KATZ: Nice seeing you,
14 Councilman.

15 CHAIRPERSON WEPRIN: Council Member
16 Reyna?

17 COUNCIL MEMBER REYNA: I promise,
18 Melinda, I won't ask you a question. I just
19 wanted to get clarity on the reason for a rezoning
20 on top of a rezoning. Was this available for a
21 BSA variance application?

22 JAY SEGAL: No, it wouldn't have
23 been because the BSA insists that something be
24 special and unique, and you usually need something
25 odd about the property. This property is large,

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2 two and a half acres, and there's nothing special,
3 other than the fact it's close to the water, but
4 every property is close to the water. We would
5 not have been able to make the uniqueness finding
6 that the BSA requires.

7 COUNCIL MEMBER REYNA: So there
8 were no hardships that would have qualified for a
9 variance through the BSA application process?

10 JAY SEGAL: Right, because the
11 hardship has to be unique and not generally found
12 in the area. And if it's generally found, as all
13 properties along the waterfront experience the
14 same issues, there should be a zoning change and
15 not a variance. That's the position the BAS
16 understandably takes.

17 COUNCIL MEMBER REYNA: And is this
18 participating in the Fresh Food program, the
19 campaign for Fresh Food, where supermarkets would
20 be encouraged? Is this considered a food desert?

21 JAY SEGAL: Well, it isn't yet,
22 because it's not yet zoned to a commercial. When
23 this is enacted, it would be zoned for commercial.

24 COUNCIL MEMBER REYNA: Then it
25 would.

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2 JAY SEGAL: And we would hope that
3 the zoning resolution would be amended in order to
4 include this in the Fresh Food. Whether it's in
5 the Fresh Food area or not, we're committed to
6 having fresh foods in the supermarket.

7 COUNCIL MEMBER REYNA: Excellent.

8 JAY SEGAL: Even if we don't get
9 any special benefits for it.

10 COUNCIL MEMBER REYNA: Land is a
11 premium, so to see the upzoning where it's
12 befitted, thanks to the hard work of Council
13 Member Recchia, just to be able to accommodate
14 what is the fastest growing borough, next to
15 Queens I would assume, that we're looking to
16 maximize the density as opposed to just the
17 current zoning from 2005, which limited the number
18 of households and the potential to have density.
19 So thank you very much.

20 JAY SEGAL: Thank you.

21 CHAIRPERSON WEPRIN: Any other
22 comments or questions from the panel? I see none.
23 Great, thank you very much. Thank you. Good to
24 see you again, Melinda.

25 On this same matter, is Natalie

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2 Musumea here? Natalie? Is there a Natalie
3 Musumea here? Someone filled out a ticket. Okay,
4 so we're going to have to close this hearing.
5 She's not here. We're going to close this hearing
6 and move on to our next item.

7 The next item is Land Use No. 456,
8 Boerum Hill rezoning. I'd like to call on Lish
9 Whitson from City Planning and Purnima Kapur.
10 Sorry about that, Purnima.

11 [Pause]

12 CHAIRPERSON WEPRIN: Whenever
13 you're ready, please state your name for the
14 record and describe the application.

15 PURNIMA KAPUR: Good morning
16 everyone, my name is Purnima Kapur. I'm the
17 Director of the Brooklyn office of City Planning.
18 I'm here with Lish Whitson, our planner for Boerum
19 Hill. We are very pleased to present to you the
20 Boerum Hill rezoning.

21 This is something that we undertook
22 at the strong urging and request of the Boerum
23 Hill Civic Association, as well as Council Member
24 Levin and the Borough President. It is a small
25 neighborhood, hemmed in between Carroll Gardens,

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2 Cobble Hill, downtown Brooklyn, and Park Slope.
3 It is one of the few remaining areas in the
4 downtown Brooklyn area that does not have the
5 contextual zoning protections.

6 The rezoning was done in close
7 collaboration with the Civic Association. We are
8 very pleased that both the Borough President and
9 the Community Board have supported this without
10 any conditions. Lish Whitson is going to walk you
11 through the proposal that you have printouts of.

12 LISH WHITSON: Thank you. So the
13 rezoning covers an area of 31 blocks, between
14 Court Street and Fourth Avenue, south of Atlantic
15 Avenue, in Brooklyn Community District 2. It's
16 mostly currently zoned R6, which allows buildings
17 without height limits. The area between Third
18 Avenue and Fourth Avenue was rezoned in 1991 as
19 part of the Park Slope North rezoning. The Boerum
20 Hill Association asked us to take another look at
21 that area and we're proposing some changes to that
22 previous rezoning.

23 There are four key goals. The
24 primary one is to respond to the community's
25 request for height limits in the area--as I

1
2 mentioned, the R6 zoning currently doesn't have
3 height limits--to match the new zoning to the
4 existing character of the neighborhood, to allow
5 for appropriate development and to support the
6 commercial corridors along Court Street and Smith
7 Street.

8 The area includes the Boerum Hill
9 Historic District. There are currently commercial
10 overlays along Court Street and Smith Street and
11 sections of Pacific Street.

12 If you take a look at the zoning
13 map, it's primarily zoned--or the land use map,
14 it's primarily a residential area, mainly row
15 houses, three to four stories. But along Smith
16 and Court Streets you have mixed use structures
17 with ground floor retail. And also, along the
18 north side of Bergen Street and Third Avenue where
19 you don't currently have commercial zoning, you
20 see a mix of uses.

21 There are two areas that have a
22 different character than that area the row house
23 character, and that's between Smith Street and
24 Court Street and near Third Avenue. In those
25 areas you see more multi-family buildings and loft

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buildings.

We've included a number of pictures of the neighborhood. As you can see, looking at the residential buildings, it's mainly a very consistent character. New development has not necessarily matched that existing row house character. There are also areas with larger buildings, converted warehouses and apartment buildings.

Smith and Court Streets have become very popular retail corridors over the last 15 years. The rezoning seeks to continue to support those areas.

There are some more mixed use areas that are currently not zoned for commercial, like Third Avenue, where we want to support the existing businesses that are there and the mixed use character that's there.

So, under the existing zoning, the R6 zoning allow height factor buildings, which allow towers without height limits. The primary purpose of the rezoning is to remove that option, to instead match the current building stock to the zoning. We're proposing R6-B zoning on most row

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2 house blocks, R6-A fro areas where there are more
3 of a mixed character. That allows up to 70 feet.
4 R7-A is proposed on Third Avenue where you have a
5 few large vacant sites and there's an opportunity
6 to really revitalize that street through
7 redevelopment.

8 About two-thirds of the rezoning
9 area is proposed to be R6-B, mostly the row house
10 blocks. Again, near Third Avenue, R6-A is
11 proposed and also between Smith and Court Streets
12 where you have the larger buildings, it's also
13 proposed to be R6-A, and Third Avenue is proposed
14 to be R7-A.

15 We're also proposing changes to the
16 commercial overlays in the neighborhood. We're
17 trimming them back on side streets where you
18 currently have commercial overlays that go 150
19 feet from the main street. We're trimming those
20 back to 100 feet to reflect the current lot size
21 along those main commercial corridors. We're
22 proposing to add new commercial overlays along
23 Bergen Street and Third Avenue where you have a
24 mix of uses today that's not reflected by the
25 current zoning. At the end of your package is a

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map that shows the proposed zoning.

CHAIRPERSON WEPRIN: Great, thank you. Does anyone have any questions on this matter? Nobody? Council Member Comrie?

COUNCIL MEMBER COMRIE: I'll just make a comment. I had an opportunity to look through this and go over it with City Planning. I think it's a good improvement to an area that I actually frequently travel through. Just hopefully they don't mess up my short cut with a bike lane later on. But it is a good proposal, and it will definitely impact and hold that community to a historic level and a level to do proper growth. So I just want to compliment you. Thank you, Mr. Chair.

CHAIRPERSON WEPRIN: Great, thank you very much. Thank you very much. We have a couple of people who are going to be testifying on this matter if you want to stick around for that. We have some people from the community who are here: Dwight Smith and Howard Kolins from the Boerum Hill Association. Gentlemen, thank you for being here. Could you restate your name for the record and tell us what you think?

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2 DWIGHT SMITH: Dwight Smith, the
3 Boerum Hill Association, a vice president. We
4 have worked for about a year and half,
5 exhaustively with the neighborhood residents, with
6 the community board, strong support from the
7 borough president's office and the City Planning
8 folks and very strong support from our City
9 Councilman, whom I see in the back there.

10 We've taken the position that we'd
11 like to continue to be part of that downtown
12 Brooklyn brownstone neighborhood that is
13 protected. We've been the orphans, so we
14 appreciate the willingness of the City Council and
15 the City Planning Commission to include us in that
16 protection.

17 We've done the protections but
18 we've also tried to, as Lish pointed out, in the
19 Third Avenue and the Fourth Avenue corridor,
20 create an opportunity for additional development
21 within the neighborhood to accommodate what we
22 understand will be continued growth over the next
23 10, 20 years. We think that's accommodated there.
24 We believe that additional growth is accommodated
25 by what will happen in the Gowanus Canal

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2 development area, as well as that which is along
3 Fourth Avenue.

4 So I think what our proposal does
5 is balance the need for contextual zoning with
6 what we have today, but allowing for some
7 developmental growth in the future. But which
8 together still gives us the kind of general
9 protections that we need.

10 CHAIRPERSON WEPRIN: Thank you.

11 HOWARD KOLINS: Howard Kolins,
12 Boerum Hill Association President. Everything
13 that Dwight just mentioned, those were our
14 objectives. Just to reiterate that the
15 neighborhood is mostly three and four-story Greek
16 revival and Italian residential buildings,
17 brownstones. This proposal goes a long way to
18 protecting that and encouraging, again, small
19 business growth on the major avenues that have
20 seen it already: Atlantic, and Court and Smith.
21 We want to continue that.

22 Again, I want to thank Brooklyn
23 City Planning for being so patient with us and
24 working so closely along with our elected
25 officials. Thanks.

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2 CHAIRPERSON WEPRIN: Thank you very
3 much. Council Member Levin, who you mentioned, is
4 here, and I didn't acknowledge yet, would like to
5 say a few words about this matter. Would someone
6 lend him a mike there? There we go.

7 COUNCIL MEMBER LEVIN: Thank you,
8 Mr. Chairman. Just very briefly I want to commend
9 and thank the City Planning Commission, the
10 Department of City Planning in Brooklyn for their
11 willingness to work with us over the last year and
12 a couple of months on this rezoning. I think that
13 it's an important rezoning. I want to acknowledge
14 the time and effort that went into this on the
15 part of Dwight and Howard and all of those at the
16 Boerum Hill Association.

17 It's an important rezoning, because
18 as was mentioned, it's kind of the donut hole in
19 terms of contextual zoning in the area and this
20 will fill that in and make sure that development
21 is held in check in perpetuity in the area, and
22 that the historic nature, not just of facades but
23 of the character of the neighborhood, which is a
24 small scale neighborhood that really has a
25 wonderful character. That's why so many people

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2 have invested in it over the last 30 and 40 years.
3 So this rezoning will go a long way towards
4 protecting that heritage and protecting what that
5 neighborhood is. So I want to thank City
6 Planning, I want to thank the Boerum Hill
7 Association for really working together on a very
8 positive, positive process. Thank you.

9 CHAIRPERSON WEPRIN: That's good to
10 hear. Does anyone else want to make a comment or
11 question?

12 [Pause]

13 COUNCIL MEMBER: Yes, I do not want
14 to vote today.

15 CHAIRPERSON WEPRIN: Great. No
16 other comments. Thank you gentlemen very much.
17 Thank you for your good work. Thank you, City
18 Planning. We are going to close this hearing now.
19 We are not going to be voting on this item today.
20 We are going to be voting on it at our next
21 meeting, which I think is in two weeks. The
22 hearing will be closed and we will be voting on it
23 at the next meeting.

24 Now, we're going to move on to the
25 Chin portion of the agenda here. The next item,

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2 we're very excited to have Land Use No. 457, which
3 is the Century 21 text amendment, which I just
4 heard the Mayor describe and talk about downtown
5 at the Abney breakfast. We are joined by Betty
6 Cohen and Richard Lobel. Ms. Cohen or Mr. Lobel,
7 whoever is going to start, please state your name
8 again for the record and describe what it is
9 Century 21, our neighbor downtown here, is hoping
10 to do.

11 RICHARD LOBEL: Thank you, Mr.
12 Chairman. Again, my name is Richard Lobel. I'm
13 from the law firm of Sheldon Lobel P.C. I'm here
14 today to represent Century 21 Department Stores.
15 With me today: Betty Cohen, the Director of
16 Corporate Relations for Century 21.

17 We're very excited to be here today
18 for a proposed zoning text amendment. What this
19 zoning text amendment would do would be to propose
20 an alteration to the Lower Manhattan special
21 district regulations, which would allow in very
22 specific instances a waiver of loading berth
23 requirements. You can see the pictures of Century
24 21 here and you can see of the bottom the Day
25 Street frontage. Everyone, of course, is very

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2 familiar with Century 21, a neighborhood
3 institution which was one of the first businesses
4 to open after the 9/11 attacks. So we hold a very
5 special place in the community.

6 The zoning text amendment would
7 really allow the chairperson of City Planning to
8 waive the requirement for a loading berth in
9 certain instances. This is a good example of
10 where one would be allowed. We're on Day Street,
11 which is a 50-foot wide street. It is an area
12 where trucks have great difficulty passing. It's
13 a narrow street. It's a curb cut restricted
14 street. As an example, we have existing truck
15 traffic which is currently unable to back into
16 existing loading berths.

17 Century 21 was presented with an
18 opportunity to expand in its existing building at
19 22 Cortland Street. They currently have three
20 grounds of above ground level stores. They were
21 presented with an opportunity to expand to an
22 additional three floors. The problem, however, is
23 that since those floors are currently used by
24 offices that the conversion to a department store
25 use would bump up the requirement of loading

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berths.

So we're presented with this position where we have a store which is bringing jobs to downtown Manhattan. We would foresee 300-500 new jobs created. It's obviously a good situation for the community. But because of the existing regulations in Lower Manhattan, we would not be able to do this because of the difficulty in installing a curb cut.

So the fix here is to allow this certification. And assuming you satisfy these four rigorous conditions, the chairperson of City Planning can waive the requirement of the loading berth and you can proceed to add additional department store space without triggering these additional loading berths.

The four qualifications as far as what you need to do would be first that DOT, the Department of Transportation would have to approve a plan for curbside deliveries, which would be based upon a traffic study prepared by a qualified professional. Here in May 2011, we were able to get a letter from the Department of Transportation with this very approval, saying that the measures

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2 that we put in for our curbside deliveries, which
3 involve limiting the number of trucks, the time of
4 deliveries, where they can occupy the sidewalk, et
5 cetera, as well as the plan for getting the
6 pallets into the building, was sufficient on
7 behalf of the city to allow us to get this waiver.

8 The second thing would be that
9 improved goods receiving system is provided,
10 including at least 6,000 square feet of new
11 staging areas within the building, and at least
12 one additional freight elevator is provided.
13 Here, not only are we providing two new high speed
14 freight elevators, we're also providing in excess
15 of 1,000 square feet of additional loading space
16 on each floor. The Manhattan Borough President,
17 when they noted in their approval that they were
18 in favor of this plan, you know they noted that
19 it's very difficult because getting goods into
20 buildings like this on this street system is very
21 difficult.

22 As an example here, if you required
23 Century 21 to add a new loading berth, you
24 basically would be providing a 400 square foot
25 space on the ground floor to get another truck in,

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2 another truck which by the way can't even fit.
3 Here, what we're required to do under the
4 certification is to add internal loading space.
5 So we're ending up with an additional 7,000 square
6 feet inside the building. Because the high speed
7 elevators can get the freight up in a more
8 expedited fashion, we're able to offload things.
9 There's going to be less accumulated goods on the
10 sidewalk. It's really a great situation for
11 everyone.

12 The final two findings in the
13 certification are that there's a plan showing that
14 the former loading berth space exempted from the
15 definition of floor area will be used for an
16 improved goods receiving system. This just means
17 that if you convert any space in the loading berth
18 area which now may be required to be counted as
19 floor area, as long as you're using it for your
20 goods receiving system, and it's an improved goods
21 receiving system, we won't count that against your
22 building. Here, we're taking former loading berth
23 space and we're putting our high speed elevator
24 there. So we're satisfying that finding.

25 Finally, we are required to enter

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2 into a restrictive declaration which includes
3 plans for the building, showing this improved
4 goods receiving system so that we are tied to our
5 plans and we are tied to our curbside delivery
6 schedule. We are doing that. We have a
7 restrictive declaration in place which we intend
8 to execute and record against the property upon
9 the final approval of the Council.

10 So, again, we've received
11 tremendous support on this application from the
12 Community Board, Manhattan Borough President's
13 office, the Downtown Alliance, Council Member Chin
14 as well. We're really excited about the
15 opportunity. Betty and I, of course, would be
16 happy to answer any questions.

17 CHAIRPERSON WEPRIN: Thank you very
18 much, Mr. Lobel. Yes, I acknowledge that the
19 Community Board did unanimously pass this. I know
20 Council Member Chin is supportive. I just want to
21 make my own comment, if I may. This is really a
22 terrific story and I'm really proud to be even a
23 little bit a part of it. Because ten years ago
24 and one week ago, had you told me that Century 21
25 would not only be in business but would be

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2 expanding, I never would have believed it, covered
3 in ashes as it was.

4 Downtown really is a miracle, a lot
5 that's gone on. Because, you know, I often talk
6 to people and I remember how people felt right
7 after 9/11 that downtown would never be the same
8 again. Well, it's not the same, it's better. It
9 really is pretty incredible. Congratulations to
10 you and Council Member Chin, as well as others.
11 Council Member Chin, do you want to speak before
12 we have other people talk? Did you want to make a
13 comment on this?

14 COUNCIL MEMBER CHIN: Yes.

15 CHAIRPERSON WEPRIN: Council Member
16 Margaret Chin.

17 COUNCIL MEMBER CHIN: Thank you,
18 Chair. Finally, I'm so glad that it's finally
19 here. I really urge my colleagues to support it.
20 As you heard, it is a wonderful story for Lower
21 Manhattan and by supporting Century 21. I mean,
22 they're going to expand and it's going to grow
23 even more and create more jobs and businesses for
24 not just Lower Manhattan but for the whole city.
25 I think especially on this tenth anniversary, it's

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2 such a tremendous effort on their part to continue
3 to grow and thrive. We want to be supportive.
4 I'm so glad that it finally is happening. Thank
5 you, Chair and thank you for your support.

6 CHAIRPERSON WEPRIN: Thank you,
7 Council Member Chin. Council Member Reyna I
8 believe has a question.

9 COUNCIL MEMBER REYNA: Thank you so
10 much. I do want to just congratulate, echo the
11 words of Council Member Chair Weprin as well as
12 Council Member Chin, and would love to have you
13 join us telling your story at our Small Business
14 hearing joint with Lower Manhattan Committee,
15 looking at ten years later, small businesses
16 thriving in Lower Manhattan. It's going to be
17 September 15th at 10:00 in the committee room to
18 be announced. Currently we don't have a room
19 assigned yet, but we should shortly. I just
20 wanted to congratulate you on a terrific job. The
21 only complaint I have is that I would love to see
22 Century 21 in North Brooklyn, the district I
23 represent. So if we can have further discussion
24 on expanding in the outside boroughs that would be
25 fantastic.

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BETTY COHEN: [off mic]

COUNCIL MEMBER REYNA: You never know. That's a good answer. Absolutely, I'm volunteering as the next area.

BETTY COHEN: Yes.

COUNCIL MEMBER REYNA: Thank you so much.

BETTY COHEN: It's our pleasure, thank you. We're very flattered.

CHAIRPERSON WEPRIN: Thank you, Council Member Reyna. Do any members of the panel want to say anything? If I stare at them long enough, I feel like I make them speak. We don't need to. I don't see any others, so thank you very much. Congratulations to you and thank you for all you're doing.

BETTY COHEN: Thank you ladies and gentlemen.

CHAIRPERSON WEPRIN: We're going to close this hearing. That's great. We're going to move up to our final item. I do want to acknowledge on our Land Use item before, on Ocean Dreams, Council Member Recchia talked about how the developer was committed to using local

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2 builders and local workers on that project. I
3 have a letter that was submitted for the record
4 from Robert Zorn, executive vice president of Red
5 Apple Real Estate stating such. So we have
6 confirmation of Council Member Recchia told us.

7 Now, we're moving to Land Use No.
8 460, 38-40 Grand Street, also in Council Member
9 Chin's district. Deirdre Carson, I believe it is,
10 and Randall Minor. I got the name right, Mr.
11 Carson, good to see you again. I'd like to have
12 them make the presentation. Restate your name for
13 the record. Describe the application and any
14 discussion you want to share with us.

15 RANDALL MINOR: My name is Randall
16 Minor. I'm a land use attorney at Greenberg
17 Taurig. As the Chair mentioned, I'm here with
18 Deirdre Carson who's a shareholder at Greenberg
19 Taurig.

20 We represent the applicant. This
21 is an application pursuant to permit the use of a
22 portion of the ground floor and cellar of a
23 building located at 38-40 Grand Street. The
24 building, the premises are about 1,300 square feet
25 on the ground floor, 500 square feet in the

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2 cellar. It's located on the north side of Grand
3 Street between West Broadway and Thompson Street
4 in SoHo. It's an M1-5B district which doesn't
5 allow use group 6 uses below the level of the
6 second story.

7 In accordance with 74-781, the
8 applicant engaged a broker that advertised
9 availability of the space for rent in local and
10 citywide newspapers. The applicant also informed
11 citywide and local industry groups of the premises
12 availability. No offers were made for a
13 conforming use.

14 The Community Board recommended
15 that the application be denied unless the
16 applicant agreed to a restriction against eating
17 and drinking establishments. No objections were
18 expressed with regard to other use group 6 uses.
19 The Borough President recommended that the
20 application be approved and the City Planning
21 Commission approved the application last month.

22 Last week, we met with Council
23 Member Chin to resolve the Community Board
24 concerns, and the applicant agreed to the
25 following, and we have a letter embodying the

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2 applicant's agreement. It should be in your
3 packet there, the second document.

4 Number one: all restaurant leases
5 for the premises will contain covenants that will
6 prohibit the operation of a restaurant in a manner
7 that results in the violation of applicable noise
8 standards enforced by the Department of
9 Environmental Protection. If such a tenant
10 becomes a chronic violator of the covenants, the
11 landlord will commence litigation to correct the
12 condition and may, among other things, seek to
13 terminate the lease and evict the tenant.

14 Two: no alcoholic beverages will be
15 served on the premises, except in conjunction with
16 the operation of a table service restaurant with
17 at least a full dinner menu.

18 Third: if the premises is used as a
19 restaurant, the restaurant operator will work with
20 the community to establish standards and methods
21 of operations that will minimize adverse noise,
22 odor and traffic impacts on community residents.

23 One of the things that's not in the
24 letter is that the principal of the applicant is a
25 longtime community resident and he has a vested

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2 interest in making sure that the type of use that
3 goes into this location is not something that's
4 going to be adverse to the community.

5 So, as I mentioned, a copy of the
6 letter is in the packet, and if you have any
7 questions, let us know.

8 CHAIRPERSON WEPRIN: Thank you, Mr.
9 Minor. I think Council Member Chin would like to
10 make a statement for the record.

11 COUNCIL MEMBER CHIN: Thank you,
12 Chair. Yes, last week I did have an opportunity
13 to meet with the owner. I was very impressed with
14 his commitment. I really felt that in our
15 conversation that if he were able to show up at
16 the community board meeting, Community Board 2
17 might not have passed such a resolution. That Mr.
18 Vendome.

19 DEIRDRE CARSON: Vendome.

20 COUNCIL MEMBER CHIN: Vendome,
21 okay. He is a long-term resident and his
22 commitment for the community was truly there. He
23 was also very involved in the 9/11 effort to
24 support responders with his restaurant. He has
25 just a wonderful story for the neighborhood. His

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2 intention is really to try to have something that
3 can meet the general good of the community. But
4 if that doesn't happen, at least he has an option
5 with what he agreed to in terms of if it happened
6 to be a restaurant, at the end these are the
7 agreements that he has made to me. With that, I
8 do urge my colleagues to support it. Thank you.

9 CHAIRPERSON WEPRIN: That's a great
10 story, Council Member Chin. I know just a little
11 bit of talking and look what wonderful
12 accomplishments we can have. I know the Community
13 Board had concerns and Council Member Chin seems
14 to have been satisfied with the discussions.
15 That's great. Does anyone have any comments or
16 questions here? I know Council Member Jackson had
17 stepped out for a second. He had been here. I
18 don't think I ever did mention that, just on the
19 record. Anyone else? Thank you very much then.
20 We're going to close this hearing.

21 DEIRDRE CARSON: Thank you very
22 much.

23 CHAIRPERSON WEPRIN: Thank you.
24 We're going to now move to vote on the items we
25 are considering today. I will recap those in a

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2 second. We are going to be voting on Land Use No.
3 444, which was the Lodge café request in Council
4 Member Reyna's district.

5 We are going to be laying over 449,
6 Mezzogiorno in Council Member Quinn's district.

7 Land Use No. 450 we will be
8 considering today. It will be coupled with these
9 other items. That's the Old Town Hot Pot, which
10 was in Speaker Quinn's district. Then we will be
11 coupling the following other Land Use items, which
12 is Land Use 451 through 455, which was the Ocean
13 Dreams project that we heard about from Council
14 Member Recchia and others.

15 We will be laying over Land Use No.
16 456 until our next meeting also, Boerum Hill
17 rezoning.

18 We will be coupling with these
19 other items number 457, which was the great story
20 of Century 21. And lastly now, the happy ending
21 on Grand Street 38-40, which is Land Use No. 460,
22 will also be coupled. So, the Chair will
23 recommend an aye vote on all these items. All
24 seem to have nice happy endings, so I recommend an
25 aye vote. I'd like to call on Christian Hylton,

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the counsel to the committee to please call the roll.

CHRISTIAN HYLTON: Chair Weprin?

CHAIRPERSON WEPRIN: Aye.

CHRISTIAN HYLTON: Council Member Rivera?

COUNCIL MEMBER RIVERA: I vote aye.

CHRISTIAN HYLTON: Council Member Reyna?

COUNCIL MEMBER REYNA: Aye.

CHRISTIAN HYLTON: Council Member Comrie?

COUNCIL MEMBER COMRIE: I happily vote aye. Aye, aye, aye.

CHRISTIAN HYLTON: Council Member Seabrook?

COUNCIL MEMBER SEABROOK: I vote aye.

CHRISTIAN HYLTON: Council Member Garodnick?

COUNCIL MEMBER GARODNICK: Aye.

CHRISTIAN HYLTON: Council Member Lappin?

COUNCIL MEMBER LAPPIN: Aye.

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CHRISTIAN HYLTON: Council Member
Ignizio?

COUNCIL MEMBER IGNIZIO: Aye.

CHRISTIAN HYLTON: Council Member
Vacca?

COUNCIL MEMBER VACCA: Aye.

CHRISTIAN HYLTON: By a vote of ten
in the affirmative, none in the negative, no
abstentions, LU 444, 450, 451, 452, 453, 454, 455,
457 and 460 are approved and referred to the full
Land Use Committee.

CHAIRPERSON WEPRIN: Thank you very
much, Mr. Hylton. Council Member Jackson, who
stepped out will be back in a few minutes. We're
going to hold the rolls open for a couple of
minutes for him to come back. With that in mind,
we are finished for the day and the meeting is now
adjourned. Thank you.

[Pause]

CHRISTIAN HYLTON: Correction. The
final vote is ten in the affirmative, none in the
negative and no abstentions. Committee of Zoning
and Franchises is now adjourned.

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 *Donna Hintze*

Date September 26, 2011