

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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October 16, 2024
Start: 11:12 a.m.
Recess: 12:57 p.m.

HELD AT: COUNCIL CHAMBERS - CITY HALL

B E F O R E: Kevin C. Riley, Chairperson

COUNCIL MEMBERS:

Shaun Abreu
David M. Carr
Francisco P. Moya
Lynn C. Schulman

OTHER COUNCIL MEMBERS ATTENDING:

Crystal Hudson

A P P E A R A N C E S

David Rosenberg, Rosenberg and Estis, P.C.

William Wallace, IV, Continuum Company

Kyle Bragg, 32BJ SEIU

Kathryn Glass, Brooklyn Botanic Gardens Chief
Public Affairs Officer at Brooklyn Botanic Garden

Rowan Blaik, Vice President of Horticulture at
Bronx Botanic Garden

Kevin Elkins, Carpenters Union

Tony Agasto, DC9 Painters and Allied Trades

Jennie Encalada-Malinowski, providing testimony
on behalf of Lowell Barton who is the Vice
President and Organizing Director of Laborers
Local 1010

Ari Espinal, member of Local 79, in behalf of
Gary LaBarbera, President of the Building and
Construction Trade Council of the Greater New
York and Vicinity

Anthony Williams

2 SERGEANT-AT-ARMS: Good morning. Mic
3 check, mic check, on Zoning and Franchise. Today's
4 date is October 16, 2024, located in the Chambers,
5 recorded by Walter Lewis.

6 SERGEANT-AT-ARMS: Quiet on the floor,
7 please.

8 Good morning and welcome to today's New
9 York City Council hearing for the Subcommittee on
10 Zoning and Franchises.

11 At this time, we ask that you silence all
12 electronic devices, and at no time is anyone to
13 approach the dais.

14 If you would like to sign up for in-
15 person testimony or have any other questions during
16 the hearing, please see the Sergeant-at-Arms.

17 Chair, we're ready to begin.

18 CHAIRPERSON RILEY: [GAVEL] Good morning,
19 everyone, and welcome to the meeting of the
20 Subcommittee on Zoning and Franchises. I'm Council
21 Member Kevin Riley, Chair of the Subcommittee, and
22 I'm joined today by Council Member Schulman and
23 Hudson.

24

25

2 Today, we are scheduled to hear one
3 hearing concerning a residential rezoning proposal
4 known as 962-972 Franklin Avenue.

5 Before opening this hearing, I will first
6 go over the hearing procedures. This meeting is being
7 held in hybrid format. Members of the public who wish
8 to testify may testify in person or through Zoom.
9 Members of the public wishing to testify remotely may
10 register by visiting the New York City Council's
11 website at www.council.nyc.gov/landuse to sign up. If
12 you are here in person, please see one of the
13 Sergeant-at-Arms to prepare and submit a speaker's
14 card. Members of the public may also view a
15 livestream broadcast of this meeting at the Council's
16 website.

17 When you are called to testify and you
18 are online, you will remain muted until I recognize
19 you to speak. Please take a moment to check your
20 device and confirm that your mic is on before you
21 begin speaking. We will limit public testimony to two
22 minutes per witness.

23 Members of the public can also submit
24 written testimony to the following email address,
25 landusetestimony@council.nyc.gov. Written testimony

2 may be submitted up to three days after the hearing
3 is closed. Please indicate the LU number and/or the
4 project name in the subject line of your email.

5 We request that the witnesses joining us
6 remotely remain in the meeting until excused by
7 myself as Council Members may have questions.

8 Lastly, for everyone attending today's
9 meeting, this is a government proceeding and decorum
10 must be observed at all times. Members of the public
11 are asked not to speak during the meeting unless you
12 are testifying.

13 The witness table is reserved for people
14 who are called to testify, and no video recording or
15 photography is allowed from the witness table.
16 Further, members of the public may not present audio
17 or video recording as testimony, but may submit
18 transcripts of such recordings to the Sergeant-at-
19 Arms for inclusion in the hearing record.

20 We've been joined by Council Member Abreu
21 and remotely by Council Member Moya.

22 I will now open the public hearing on LUs
23 161, 162, and 163 relating to the 962-972 Franklin
24 Avenue Rezoning Proposal, located in Council Member
25 Hudson's District. This Rezoning Proposal has

2 received a lot of attention because Applicant is
3 seeking to build a new residential building close to
4 the greenhouses in the Brooklyn Botanical Gardens.
5 The first version of this proposal was disapproved by
6 the City Planning Commission back in 2021 because the
7 proposal would have cast a significant shadow on the
8 greenhouses.

9 Applicant has since changed his proposal
10 and is seeking to build a development that will rise
11 to about 14 floors. The development will contain
12 approximately 475 apartments, of which about 119 will
13 be permanently affordable. Although CPC did approve
14 the second proposal, CPC modified it because the
15 proposed development would still cast a shadow on the
16 greenhouses. Today, we will discuss whether CPC's
17 modification is sufficient to protect the
18 greenhouses.

19 For anyone wishing to testify on these
20 items remotely, if you have not already done so, you
21 must register now, and you may do that by visiting
22 the Council's website at council.nyc.gov/landuse and,
23 once again, for anyone with us in person, please see
24 one of the Sergeants to prepare and submit a
25 speaker's card.

2 If you prefer to submit written
3 testimony, you can always do so by emailing it to
4 landusetestimony@council.nyc.gov.

5 We've been also joined by Council Member
6 Carr, and I would like to yield the floor to Council
7 Member Hudson for her opening remarks.

8 COUNCIL MEMBER HUDSON: Thank you, Chair
9 Riley, for the opportunity to make a statement on the
10 962-972 Franklin Avenue Rezoning.

11 First, I'd like to read a brief excerpt
12 from What If We Get It Right? Visions of Climate
13 Futures by Ayanna Elizabeth Johnson, who's a world-
14 renowned marine biologist, policy expert, writer,
15 native Brooklynite, and constituent, and I quote, "we
16 find ourselves in a time of reckoning, at an
17 inflection point for humanity. What we will inflect
18 toward is not clear. It has not yet been determined
19 how much global temperature will increase, how much
20 sea levels will rise, how we will adapt to the
21 inevitable and prevent the worst, or how we will
22 treat each other amidst it all. Set aside your
23 resignation and nihilism. There is a wide range of
24 possible futures. Peril and possibility coexist. A
25 few things feel clear about this world we must build

1 together. There can be enough for each of us. There
2 can be a home for each of us. There can be a role for
3 each of us. The imperative is transformation, and the
4 goal is to thrive. Even if that's all we know for
5 sure, it's enough to get started. Now, will we get it
6 right? I have no idea. It's a long shot, but we
7 could."

9 Good morning, Members of the Subcommittee
10 and members of the public. My name is Crystal Hudson,
11 and I'm the Council Member representing the 35th
12 District in Brooklyn, where this project is located.
13 I'm sure everyone has followed this project and its
14 various iterations over the years, but I want to
15 speak specifically about where we are as of this
16 moment. As approved by the City Planning Commission,
17 the applicant could build an 11-story mixed-use
18 building with 355 residential units, including a
19 range of 91 to 106 affordable units with ground floor
20 commercial space. Even with this modification, I
21 continue to have concerns about the proposal.
22 Throughout this process, I've made my position clear.
23 We must ensure that unique open spaces and cultural
24 assets like the Brooklyn Botanic Garden are not
25 unduly harmed by shadows from development, and the

2 shadows we speak of are not simply shadows that
3 reduce the light beaming into one's bedroom window
4 for a few more minutes on most days during the
5 winter. The shadows we speak of would impact the
6 light required for the Brooklyn Botanic Garden to
7 quite literally provide the very plants for a garden
8 that not only Brooklynites enjoy, but for one that is
9 treasured by the entire city. Any development in this
10 area must prevent harmful shadows from being cast
11 onto the garden, and while the applicant has proposed
12 changes that would lessen the impact and duration of
13 shadows on the garden, I still have concerns.

14 Additionally, the applicant is requesting that the
15 Council revise the required MIH affordability on the
16 site, which would minimize the number of units priced
17 below market rate for those in greatest need.

18 Outstanding issues remain concerning the detrimental
19 effect of shadows cast onto the Brooklyn Botanic
20 Garden, lack of community services, and the number
21 and depth of affordable units under MIH.

22 I look forward to the applicant's
23 presentation and hearing the public testimony on this
24 rezoning, and thank you again, Chair Riley, for the
25 opportunity to speak.

2 CHAIRPERSON RILEY: Thank you, Council
3 Member Hudson.

4 I will now call the applicant panel for
5 this proposal, which consists of David Rosenberg and
6 William Wallace IV and also Kyle Bragg.

7 Counsel, can you please administer the
8 affirmation?

9 COMMITTEE COUNSEL VIDAL: Please raise
10 your right hand and state your name for the record.

11 DAVID ROSENBERG: David Rosenberg.

12 WILLIAM WALLACE IV: William Wallace IV.

13 COMMITTEE COUNSEL VIDAL: Can you please
14 turn on your mic?

15 WILLIAM WALLACE IV: William Wallace IV.

16 COMMITTEE COUNSEL VIDAL: Thank you.

17 KYLE BRAGG: Kyle Bragg.

18 COMMITTEE COUNSEL VIDAL: Do you swear to
19 tell the truth and nothing but the truth in your
20 testimony here today and in response to Council
21 Member questions?

22 WILLIAM WALLACE IV: Yes.

23 DAVID ROSENBERG: Yes.

24 KYLE BRAGG: Yes, I do.

25 COMMITTEE COUNSEL VIDAL: Thank you.

2 CHAIRPERSON RILEY: Thank you. For the
3 viewing public, if you need an accessible version of
4 this presentation, please send an email request to
5 landusetestimony@council.nyc.gov, and now the
6 applicant team may begin.

7 I just ask that you please restate your
8 name and organization for the record. You may begin.

9 DAVID ROSENBERG: Good morning, Chair
10 Riley, Council Member Hudson, Members of the
11 Committee. My name is David Rosenberg, counsel with
12 Rosenberg and Estis, and the attorney for this
13 project. Thank you for allowing me the opportunity to
14 present the 962-972 Franklin Avenue Rezoning today.
15 If approved, this rezoning would facilitate the first
16 residential union BFO project in New York City. This
17 is a win/win for New York, hundreds of new homes,
18 including affordable homes, hundreds of new good-
19 paying union jobs, and all of it supporting union
20 pension funds. Next slide, please.

21 Just giving an overview of the
22 development, as modified by the City Planning
23 Commission, would yield approximately 284,947 square
24 feet of mixed use, 355 dwelling units, of which 106
25 would be permanently income-restricted per the MIH

2 workforce option through a modification that we are
3 requesting from the City Council, approximately 8,500
4 square feet of retail space, parking for 20 percent
5 of market rate units per a special permit, which
6 would result in a 10-story building with a stepdown
7 in the rear along a 15-degree plane per a zoning text
8 amendment that's proposed with this and, of course,
9 this would be union-built, union-financed, and union-
10 operated. Skip two slides, please.

11 Just an overview of the zoning actions.
12 This would be a rezoning from the existing R6A zoning
13 district to an R7D/C2-4 district as well as a text
14 amendment to designate MIH for Option 1 as well as
15 the workforce option, specifically the workforce
16 option being a modification requested now from the
17 City Council that was not before the City Planning
18 Commission. It would also include a special permit to
19 reduce parking to facilitate affordable housing and a
20 text amendment to modify height and setback
21 regulations for developments east of the Brooklyn
22 Botanic Garden on the immediate block that utilize
23 the MIH height allowances. Next slide, please.

24 This is the first time that this Council
25 is being asked to approve a union BFO project and has

1 the potential to set a new standard for responsible
2 housing development in the city. Looking at this
3 project, with the rezoning, we get 355 units of
4 mixed-income housing, 106 of which would be income-
5 restricted pursuant to workforce housing in
6 perpetuity, binding enforcement mechanisms to protect
7 the Brooklyn Botanic Garden from shadow impacts,
8 developer-funded improvements for both the Brooklyn
9 Botanic Garden and for the Jackie Robinson Playground
10 across the street, and would be fully union. As we've
11 said, without this rezoning, the future of this, much
12 as like what happened to the site immediately
13 adjacent to this, is market rate, luxury housing,
14 likely condos, without any mandated affordability,
15 without any developer-funded public improvements,
16 without any guaranteed union jobs, and no protections
17 for the Brooklyn Botanic Garden from new shadows.
18 Next slide, please.

19
20 During a robust public review process, we
21 introduced a novel text amendment that would create
22 unprecedented protection for the Brooklyn Botanic
23 Garden through fully enforceable height restrictions.
24 We further committed to mitigation measures that
25 protect neighboring buildings from construction

1 impacts, committed more than a million dollars' worth
2 of capital improvements to the Jackie Robinson
3 Playground, and agreed to provide 500,000 dollars to
4 the Brooklyn Botanic Garden to develop artificial
5 lighting systems and other infrastructure
6 improvements at the direction of the Garden's expert
7 staff. Each of these commitments today are recorded
8 against these properties and are fully binding and
9 enforceable against the developer, subject only to
10 the City Council's final approval of this rezoning.
11 Despite this and despite all these commitments and
12 the desperate need for new housing and good jobs in
13 Crown Heights, the City Planning Commission chose to
14 further reduce the height and density at the behest
15 of the Brooklyn Botanic Garden. Next slide, please.

17 On paper, these changes reduce the
18 overall unit count by about 25 percent, or 120 units,
19 from 475 to 355 but, in practice, this reduction
20 makes it impossible for us to deliver on the promises
21 we've made to the community during ULURP. The math
22 simply does not add up. Since the CPC vote, we've
23 worked tirelessly with our partners to find a way
24 forward that could bridge the gap between maximum
25 affordability and project viability. We are grateful

1 to the AFL-CIO Housing Investment Trust for their
2 support throughout this process, but especially for
3 stepping up with unprecedented investment to get us
4 closer to meeting the project's original goals. We
5 also need the City Council to step in. While we had
6 initially proposed mapping MIH Option 1, we are now
7 asking the Council to approve the rezoning with the
8 Workforce Housing option. This option would ensure
9 that 30 percent of the units, approximately 106 in
10 all, would be permanently income-restricted for low-
11 and middle-income families. It would also ensure that
12 these units would be available to the hardworking
13 people who are building, operating, and investing
14 their pension funds in this project. We initially
15 proposed MIH Option 1 because we felt it struck the
16 right balance between much-needed low-income housing
17 as well as a strong workforce housing component.
18 However, as a result of City Planning's decision to
19 reduce the density by 25 percent, the project is
20 simply not viable with anything but the Workforce
21 Housing option. Even the most well-intentioned
22 project will not be built if it cannot be financed.

24 Before I start taking questions from
25 Members of the Committee, I want to make one point

1 about the Brooklyn Botanic Garden's public request of
2 this Council to reduce the height and density of the
3 project even further. As was quoted in this morning's
4 New York Times, the Brooklyn Botanic Garden is a non-
5 profit that is not in the business of addressing the
6 City's housing crisis and they might be fine with a
7 development here of 165 or 168 condos, but the City
8 Council is in a different spot. We're in a housing
9 crisis with a city of a 1.41 percent vacancy rate and
10 a desperate need for housing of all types across the
11 city. While the Garden's request to reduce this from
12 a 15-degree angle to a 10-degree angle, an R7D to an
13 R7A, sounds like a minor change, the proposal in
14 reality would reduce density by 36 units, more than
15 10 percent on top of what has already been reduced by
16 the City Planning Commission, and would effectively
17 guarantee that the site is developed as market-rate
18 condos with non-union labor. Now, publicly, the
19 Garden has couched this request under the guise of
20 further mitigating shadow impact, but we believe that
21 facts matter. Looking at the single most impacted
22 resource that has been brought up again and again by
23 the Garden during public review, the Hardy Plant
24 Nursery Yard, where the Garden cultivates many of its
25

2 sensitive plant collections, and you look at it on
3 the most impacted day, which is the June 21st
4 analysis day, which is when there's the most
5 sunlight. The difference between the R7D that was
6 approved by the City Planning Commission and the R7A
7 that the Botanic Garden is now requesting is a grand
8 total of three minutes between the shadow impacts of
9 the R7D versus the R7A. We have already committed to
10 a half million dollars for artificial lighting and
11 other infrastructure improvements at the Garden. As
12 between three minutes of sunlight or 355 new mixed-
13 income homes for New Yorkers, or three minutes of
14 sunlight versus hundreds of good-paying union jobs,
15 we think the choice is clear.

16 And with that, I'm happy to take
17 questions from the Committee.

18 CHAIRPERSON RILEY: Thank you. I'm going
19 to ask a few questions, then I'm going to turn it
20 over to Council Member Hudson to ask some questions
21 as well then see if the Committee Members have any
22 questions.

23 The proposal that was accepted by CPC is
24 based on the revision you made after certifying your
25 application and after Community Board 9's review.

2 Have you kept in touch with Community Board 9 and
3 have you received feedback from them based on your
4 revisions?

5 DAVID ROSENBERG: Yes. So, to walk back
6 about the design, when we first presented the
7 original R8A development scenario with the stepdown
8 design, we had first presented that to Community
9 Board 9 in April pre-certification. At the time, as
10 we said to the Community Board, we were still in
11 discussions with City Planning about what a legal
12 mechanism might look like that would lock in that
13 building massing with the stepdown. At the time, the
14 intention was to do it through a restrictive
15 declaration as part of the parking reduction special
16 permit that is also part of this application. As we
17 got closer to certification and City of Yes was
18 certified into public review, that avenue became
19 impossible, and so the project that was certified by
20 the City Planning Commission showed a full build-out
21 of the R8A massing in the back, even though we had
22 already shown the Community Board that we wanted to
23 do this stepdown with the stepdown massing. At the
24 time, we had not found a mechanism with City Planning
25 that we could lock in that mechanism. During the

2 public review process and through discussions, we
3 introduced this idea of a text amendment that
4 introduces the solar plan that you can see on the
5 image on this slide, and we took that, we modeled
6 that from the way that zoning treats the areas around
7 airports. That creates this kind of an inclined plane
8 that sets firm height limits, no permitted
9 obstructions, no funny business about what can and
10 cannot do it. It's an absolute height limit that, the
11 way we proposed it, guarantees that the garden
12 maximizes sunlight and also does not sacrifice
13 density. And ultimately, at the City Planning
14 Commission, they modified the angle of it, which has
15 the effect on density, but it has the effect of
16 allowing sunlight to go through but, throughout the
17 process, we've been in touch with the Community Board
18 about this, even before certification, is that this
19 was the building we wanted to get to, and we would
20 figure out what the mechanism would be to get there.

21 CHAIRPERSON RILEY: You made a very public
22 threat to withdraw the application and build as-of-
23 right unless your revived proposal is going to be
24 approved. Now that you are before us, are you

2 committed to pursue this application? If not, why are
3 you presenting this project to us today?

4 DAVID ROSENBERG: So, Mr. Chairman, I
5 don't think it was a threat. It was a statement of
6 just the project reality, which is that my clients as
7 developers and with investors have a responsibility
8 to ensure that the equity that they have in this and
9 all the work that they've put in is protected and
10 that the project that was approved by the City
11 Planning Commission is not viable, it's not
12 financeable, and then puts the property in a worse
13 position than the as-of-right development would be.
14 And what we said at the time, separate from how media
15 may have reported it, is that absent a significant
16 change to the project to let us find a way to make
17 the project work, we would be left with no choice but
18 to withdraw. But immediately after the City Planning
19 Commission vote, we got together with our partners,
20 with the AFL-CIO Housing Trust, to see if there is a
21 way that we could make this work, and we believe that
22 there is a way to do that. That is through mapping
23 the Workforce Housing Option on this project, which
24 is why we're here requesting that the Council modify
25 the project to do the Workforce Housing project.

2 We've been at this now in different iterations, as
3 you mentioned in your opening remarks, for, you know,
4 over six years at this point. I think the development
5 team's commitment to this project is clear, but it
6 needs to be able to work and, after looking at it
7 every which way, we believe the Workforce Housing
8 Option with the R7D that was approved out of the City
9 Planning Commission can work, and that is a project
10 that we would pursue.

11 CHAIRPERSON RILEY: Have you filed any
12 plans to date with DOB to build under as-of-right
13 scenario?

14 DAVID ROSENBERG: So, plans were filed
15 back in 2022 to install a single footing to preserve
16 the project's eligibility for the old 421A program,
17 which has been done. No other plans. The plans that
18 are there for the as-of-right building are still
19 under plan review and have been for a couple of
20 years.

21 CHAIRPERSON RILEY: So the plans that are
22 currently filed was because of the old 421 tax
23 abatement program.

24 DAVID ROSENBERG: Yes, it was.

2 CHAIRPERSON RILEY: No other reason why,
3 and you guys are fully committed to going forward
4 with this plan today, pending approval.

5 DAVID ROSENBERG: Absolutely. And I think
6 Mr. Wallace...

7 WILLIAM WALLACE IV: Yes, we are, and I
8 just want to be clear, because many times statements
9 can be misinterpreted. William Wallace IV from the
10 Continuum Company, no threat here at all. You know,
11 if I warn you about a Category 4 hurricane, it's not
12 to threaten you. It's to protect you from the
13 consequences. We had two sites originally proposed
14 for development that would have had a 50/50, no
15 gentrification, mixed-income development. The other
16 site is now being built, as predicted, as a non-union
17 luxury condo. With the restrictions placed at the
18 last CPC certification, it is impossible without the
19 modification from the original MH1 to Option 4
20 Workforce to move forward, and we wanted everyone to
21 know, we can't do this. You know, the good news is
22 that we finally have union pension funds investing in
23 affordable housing in New York. The bad news is that
24 we finally have union pension funds. This is not play
25 money. This is real money. This is your retirement

2 income so, if it doesn't pencil out, we have to
3 withdraw. We don't want to. I've been at this
4 forever. I had a full head of hair when I started
5 this project. We want this to move forward, and we
6 want to be reasonable. We made an 82 percent
7 reduction from the original piece. We further reduced
8 it. We tried to get all of the shadows out of the
9 way. We now left with something that doesn't work
10 without Workforce Housing, and now we're being asked
11 by BBG to even have further reduction, so all we're
12 saying is with that, it's going to be an impossible
13 project to pencil out.

14 CHAIRPERSON RILEY: Well, first I need you
15 to present evidence that you had a full head of hair
16 when this project was happening before we could
17 approve anything.

18 But going into the Workforce Housing, why
19 are you requesting Workforce Housing now when it
20 wasn't proposed during the earliest stages of this
21 ULURP project?

22 DAVID ROSENBERG: So at the earlier stages
23 with 475 units, we looked at MIH Option 1. We looked
24 at the demographics for the area, the income numbers,
25 and that MIH Option 1 allowed us a good mix of both

2 having affordable units at 40 percent AMI, a little
3 bit, right, still I believe the mix was some at 80
4 percent AMI or 100, and then some of it at Workforce
5 at 130 percent AMI, which would also meet the goals
6 for us here, which is also that the unions that are
7 investing in this project, the building, should be
8 able to have their members eligible for the housing.
9 That mix worked with MIH Option 1, which is why it
10 penciled out with 475 units at R8A density. The City
11 Planning Commission's reduction from R8A to R7D
12 reduced the density by 25 percent, and that's 25
13 percent purely at the unit count, not in terms of the
14 value of units, bringing down a 14-story building to
15 a 10-story building has a tremendous impact on the
16 value where MIH Option 1, just simply, it's not that
17 we don't want to do it. We still think that that kind
18 of housing is important, but it just does not work at
19 this project anymore.

20 CHAIRPERSON RILEY: What happens if the
21 Council does not map the Workforce Housing Option?

22 DAVID ROSENBERG: Then we would likely
23 then proceed to withdraw the application, because we
24 would not be able to afford having the other
25 restrictions that have been codified as part of this

2 that would be stuck with the property as part of any
3 rezoning, whether it's R7D, 7A, or anything else. It
4 just would not work, so we would have to withdraw the
5 application before there's a vote and then proceed on
6 an as-of-right basis. The as-of-right basis, as was
7 brought up at the City Planning Commission hearings,
8 today as-of-right, under today's zoning, there is a
9 scenario, admittedly not the most likely scenario,
10 but in the realm of possibilities that would have a
11 significantly greater impact on the Brooklyn Botanic
12 Garden than the application that's now in front of
13 the City Council, and that impact expands by
14 magnitudes if City of Yes for Housing Opportunity is
15 adopted, where the impacts get even more significant
16 on an as-of-right basis with R6A. The R7D, through
17 this rezoning, and particularly with the sloping plan
18 that we're proposing as a text amendment, provides
19 unprecedented protection for the Garden and is only
20 possible if the rezoning moves forward.

21 WILLIAM WALLACE IV: I just want to
22 reiterate, Mr. Chairman, we're only doing this
23 because, if we have to, because we simply can't
24 finance it. There is not any one traditional lender
25 in the current capital markets that would give us the

2 financing terms that the pension fund is giving us,
3 in large part because these are the members'
4 contributions so, if we are further reduced and
5 remain where we are without the Workforce Housing
6 Option, as David said, we have to withdraw. Not
7 because we don't want to, but because we have to.

8 CHAIRPERSON RILEY: Can you explain the
9 difference between the 15-degree angle approved by
10 CPC and the 10-degree angle requested by the Garden,
11 and what does that do to the project?

12 DAVID ROSENBERG: Yeah, and if you look at
13 slide 9 in the presentation, you can see here how all
14 of this comes together, both in what was originally
15 certified in the City Planning, what we had proposed
16 through our text amendment, what City Planning
17 ultimately approved, and what BBG is now requesting
18 with the R7A and the 10-degree angle. What it comes
19 down to, so the angle is the thing that ultimately
20 controls how much density we can put onto the site.
21 So, we had initially proposed a 26.83-degree angle,
22 which allowed us to maximize all of the floor area
23 available with R8A, 475 units. That now is off the
24 table. So, with City Planning, reducing that to 15
25 degrees, what that did was effectively max out the

1 amount of floor area that we could fit into the
2 envelope, which puts us at about a 5.35 FAR, which is
3 an R7D density, and what that did, compared to what
4 we were proposing, was reduce the longest shadow on
5 the Brooklyn Botanic Garden from 1 hour and 29
6 minutes on the Hardy Plant Nursery Yard on that June
7 21st analysis day to 1 hour and 9 minutes so a total
8 reduction of 20 minutes. The reduction from R7D to
9 R7A would knock off an additional 10 percent of the
10 units, about 36 units. We would be capped out at 4.81
11 FAR. So, at R7A, that assumes that City of Yes is
12 adopted, which would raise the R7A FAR to 5.01.
13 Otherwise, with R7A, it would be 4.6 without it so
14 potentially even a further reduction of another 15 or
15 20-so units, and all of which the shadow impact would
16 go from an hour and 9 minutes on the longest shadow
17 in the R7D to 1 hour and 6 minutes with the R7A so
18 three minutes of shadow differences, but what it does
19 by knocking down the unit count even further than
20 where it's now, the project would be entirely not
21 viable, even with Workforce Housing, and there would
22 be nothing to do but to move forward on an as-of-
23 right basis.
24
25

2 CHAIRPERSON RILEY: All right. I mean,
3 look, this is a very unique development site in terms
4 of proximity and potential impact on the Botanical
5 Gardens, which is a very important staple within the
6 New York City community, which will have great assets
7 to future residents, projected this project is built.
8 What I don't understand is why you have not been more
9 proactively, and I do appreciate the 500,000
10 commitment, the 1-million-dollar commitment that you
11 guys have given to the Park and other commitments,
12 but being more proactively, trying to protect the
13 greenhouses from the impact from the start so I
14 believe there is a solution here to be found, but you
15 just need to fully commit with all the local
16 stakeholders within the community to do so because I
17 do believe that a deal can be met.

18 And with that being said, I'm going to
19 yield the floor to Council Member Hudson.

20 COUNCIL MEMBER HUDSON: Thank you so much,
21 and good morning. How long have you owned this
22 property on Franklin Avenue?

23 DAVID ROSENBERG: Since 2017.

24

25

2 COUNCIL MEMBER HUDSON: And did you
3 purchase the property with the intent to rezone for
4 higher density?

5 WILLIAM WALLACE IV: Yes.

6 COUNCIL MEMBER HUDSON: The former Spice
7 Factory site next door decided to proceed with as-of-
8 right development under R6A at seven stories, as
9 you've mentioned. Can you just explain why increasing
10 density is important to you all?

11 DAVID ROSENBERG: So, the increasing
12 density is important here because that is what
13 enables the permanent income restrictions of MIH to
14 work without public subsidy. Obviously, the City has
15 capacity to fund affordable housing in certain
16 circumstances which, for the record, we've had
17 extensive discussions with the City about being able
18 to work to increase affordability here, and the
19 Administration has told us that such funding is not
20 available for this project but, overall, the thinking
21 of MIH back when it was introduced now eight, nine
22 years ago was that the increase in density, of market
23 rate density, is what offsets the carrying costs for
24 the affordable units, and so to build this thing
25 entirely market rate, at 2016 when land values are

2 high and construction costs are high, the only way to
3 do it is to develop market rate because there's just
4 nothing there that accounts for that the cost of
5 building the affordable units is higher than the
6 rents you can generate from those units.

7 WILLIAM WALLACE IV: Which is exactly why
8 we sought the upzoning Councilwoman. We do not want
9 to be the bringer of non-union market rate luxury
10 condos in a community that is suffering enormous
11 gentrification and needs affordable housing so the
12 purpose was to purchase it and build something that
13 addressed that versus as our neighbors next door are
14 doing just do market rate condos. I don't think
15 anyone on the Council wants market rate condos, which
16 is why we're trying to salvage the project.

17 COUNCIL MEMBER HUDSON: But so just to be
18 clear, you all as the current owners and in this
19 current iteration of the project, you would develop
20 the market rate condos if you don't get the rezoning
21 that you want or would you sell the property to
22 somebody who you...

23 WILLIAM WALLACE IV: We are hoping that
24 that is not a reality we need to address so I can't
25 answer that.

2 COUNCIL MEMBER HUDSON: Okay. If this
3 rezoning were not approved... And sorry, I just want to
4 go back to what you mentioned. You said that you've
5 been told affirmatively that you would not receive
6 public subsidy for the project?

7 DAVID ROSENBERG: Correct. The current HPD
8 and HDC term sheets do not have room to fund any kind
9 of mixed-income developments. There's one mixed
10 income, which is kind of a pilot program that's for
11 smaller projects than this. Those are the existing
12 term sheets, and I think also with this, we were told
13 that right now the City has about 1,300 or so units
14 of 100 percent affordable developments that are in
15 the ULURP pipeline but HPD's funding pipeline for the
16 subsidized housing is about five, six years out to be
17 able to close so even stuff that the Council is
18 voting on in the coming months is not going to be
19 able to be funded by the City for five, six years,
20 and with the carrying costs that we have, because as
21 private developers, it's just not... Even if the term
22 sheet were there, a five, six-year timeline would not
23 be feasible.

24 WILLIAM WALLACE IV: Yeah, I think the
25 City has decided as a matter of policy to only fund

2 100 percent non-union-built affordable housing, and
3 that's something that we didn't want to do. We wanted
4 to have a mixed income, and we want to have a union
5 BFO, union-built, union-financed, union-operated, for
6 the first time to have a template that we can
7 duplicate in the City moving forward.

8 COUNCIL MEMBER HUDSON: Thank you. And
9 what would the size of an as-of-right development be?
10 If you could just run through how many units that
11 would be.

12 DAVID ROSENBERG: So, an as-of-right, a
13 condo development, would be about 168 units, all
14 condos. With City of Yes, a hypothetical development,
15 I think when City Planning ran the numbers as part of
16 it, with universal affordability, it would be
17 something like 230-something developments, but we
18 believe that such a development is not likely.

19 COUNCIL MEMBER HUDSON: You believe that
20 such a development with the City of Yes is not
21 likely?

22 DAVID ROSENBERG: That kind of a
23 development, we think that regardless of what happens
24 with City of Yes, the most likely development, absent
25 rezoning, is about 165 to 170 condo units.

2 COUNCIL MEMBER HUDSON: Okay, thank you.

3 WILLIAM WALLACE IV: With obviously no
4 affordability.

5 COUNCIL MEMBER HUDSON: Understood. And
6 would that development, would an as-of-right
7 development cast any shadows onto the Brooklyn
8 Botanic Garden?

9 DAVID ROSENBERG: Yes.

10 COUNCIL MEMBER HUDSON: Okay, and sorry,
11 I'm just doing some math here, but I'll ask my next
12 question. Okay. Can you just explain how the as-of-
13 right development would cast shadows on the Garden?

14 DAVID ROSENBERG: So the as-of-right
15 development today has a maximum building height of 75
16 feet plus an additional 35-foot allowance for
17 bulkheads, which would put the maximum height of the
18 building at about 100, if my math is right, 110 feet.
19 I'm a lawyer, so I don't trust my math ever. And that
20 wall in the back of the building, located under the,
21 which would be about as-of-right today 30 feet from
22 the rear lot line, as proposed, the building would
23 actually, the R7D building would be lower than that,
24 and that wall in the back of the building is what
25 drives the shadow impact on the garden.

2 COUNCIL MEMBER HUDSON: Okay, thank you. I
3 am not a lawyer, but I'm also not a mathematician, so
4 also maybe don't trust my numbers, but that's why I
5 got out my trusty little calculator. I just want to
6 confirm, and I'm just trying to understand and paint
7 the picture of the actual change in unit numbers and
8 what that actually means and looks like. So, from R8A
9 to R7D, it looks like the unit number change is 120
10 units, whereas the delta between R7D and R7A is only
11 36 units.

12 DAVID ROSENBERG: Yes.

13 COUNCIL MEMBER HUDSON: And then as-of-
14 right, the delta between the R7A and as of right
15 would be 149 units, and so the change of 36 units,
16 the reduction of 36 units from R7D to R7A is smaller
17 than the number of units as-of-right to R7D.

18 DAVID ROSENBERG: Yes.

19 WILLIAM WALLACE IV: One minute, David. I
20 think you might be confusing apples and oranges.

21 COUNCIL MEMBER HUDSON: No, I understand
22 that there wouldn't be affordability included, but
23 that's what I'm hoping you can explain a little bit.

24 DAVID ROSENBERG: And so just walking
25 through the floor area, the R6A as-of-right, because

2 there's no Mandatory Inclusionary Housing that is
3 mapped, under current zoning, the maximum floor area,
4 the maximum FAR is 3.0. With R7A, and these numbers
5 assume City of Yes, which is how City Planning
6 calculated it, the maximum FAR for R7A is 5.01. So
7 that is a 67 percent increase in floor area between
8 the R6A and the R7A, because you're going from 3 to
9 5.01. And between R7A and R7D, you're going from 5.01
10 to 5.6. And even with the 5.6, because of the solar
11 plane that's proposed as part of the 15-degree angle
12 in the text amendment, you can't actually max out the
13 site at 5.6. You actually cap out at about 5.35. So
14 that's why there's a relatively small gap between R7D
15 and R7A, and then such a big drop-off once you go
16 from R7A to the next zoning district, which is R6A.

17 COUNCIL MEMBER HUDSON: Okay, thank you.

18 Sorry, just bear with me. Okay, so under R6A, City of
19 Yes would increase the height from 70 feet to 95
20 feet, but only if 20 percent of the building is 60
21 percent AMI, correct?

22 DAVID ROSENBERG: Yes, as currently
23 proposed. The Universal Affordability Preference
24 would allow the building to come up, which would
25 raise the total height of the building in the back to

2 about 130 feet, which is substantially higher than
3 both what we proposed as the R8A, but even certainly
4 what is now in front of the Council with R7D.

5 COUNCIL MEMBER HUDSON: And are you
6 willing to share with us the profit margin that you
7 need in order to pursue this project?

8 WILLIAM WALLACE IV: Let me address that.
9 As I indicated, we're being funded by the AFL-CIO
10 Housing Investment Trust, the pension dollars of
11 these hundreds, and in the city, thousands of union
12 members. With the reduction that has already
13 occurred, not the additional reduction with the 36
14 units, which sounds diminutive, but it's not, the
15 project didn't work, which was why we indicated we'd
16 have to withdraw. We've been able to creatively find
17 a way to make the project work with union labor, with
18 union pension funds, with union operation. Any
19 reduction... Thank you, William. Any reduction makes
20 the project financially untenable. There is an
21 extremely tight profit margin, but we cannot pencil
22 red moving forward with a development that doesn't
23 work so whatever the profit will be, it will be
24 extremely nominal. Right now, we need to move forward
25 as a developer, which is, in a way, kind of ironic

2 that the roles have changed. We are the spokesperson
3 for the working class. We are the ones trying to get
4 union members to work, and so we are trying to stay
5 in this game and show it can happen with the
6 political will of the Council.

7 COUNCIL MEMBER HUDSON: So is that a no,
8 then, that you wouldn't be willing to share with us
9 the profit margin you need? Because I hear what
10 you're saying, but what I'm trying to get at is if
11 there are specific numbers, and are you willing to
12 share what those numbers are so that we can also be
13 creative in offering solutions?

14 DAVID ROSENBERG: So, we're happy to talk.
15 Generally, don't like to talk about margins and
16 particulars in a public forum, but we can talk about
17 it. But I think, as Mr. Wallace said, it's not about
18 a particular target at this point. I think we're past
19 the point of this being profit development, massively
20 profit development, one that anyone would look at
21 today and say, I want to do this, as much as this is
22 a... We've now been doing this for many, many years,
23 and it's now about putting together what's left, and
24 the real thing is putting this project in the black,
25 where it is financeable by the Housing Investment

2 Trust, where they can look back to... They have a
3 fiduciary responsibility to their pension holders and
4 say that this is a sound investment and a good place
5 to put the money and as long as we can find a place
6 where that works, then we can make the development
7 work.

8 WILLIAM WALLACE IV: And we've also shared
9 all of those performance iterations with the City
10 already. We met with Nate Bliss, we met with HPD, we
11 met with HDC. None of them work.

12 COUNCIL MEMBER HUDSON: Okay, so maybe you
13 can share all of that with the City Council too,
14 then. We are a separate entity from all of those
15 agencies you've mentioned.

16 WILLIAM WALLACE IV: We'd be happy to do
17 that. They all pencil red.

18 COUNCIL MEMBER HUDSON: Okay, we're just...
19 It's helpful to have the same information that you're
20 referencing if we can have it, and so that's why I'm
21 asking the question.

22 WILLIAM WALLACE IV: Absolutely,
23 Councilwoman.

24 COUNCIL MEMBER HUDSON: Why did you
25 initially propose an R8A district knowing that there

2 would still cast significant shadows on the Brooklyn
3 Botanic Garden, considering the long process that
4 this project has been through, and did you ever
5 consider a district with lower height limits?

6 DAVID ROSENBERG: So, obviously, we've
7 looked at the options. Between the existing R6A,
8 there's R7A, R7D, R7X, R8A, and the reason why we
9 looked at R8A and brought that forward is because
10 when you look at the area, and I think this is on
11 slide 8, you can see what's going on there, that in
12 the 1991 Rezoning that was done to protect the
13 Brooklyn Botanic Garden, R8A was mapped along
14 Washington Avenue, which is closer to the Garden and
15 intervening between where the development site is and
16 where these sensitive resources are, and so with R8A,
17 we could never kind of exceed the shadow impacts that
18 are already possible on Washington Avenue, because
19 not only is it the same zoning district, we're also
20 actually further back. Now, granted, the buildings
21 that exist there on Washington Avenue are generally
22 of a lower profile, 1 Sullivan Place being the
23 exception, which was built recently and reaches the
24 full height of the R8A. But that's where we started
25 because that's the density that's already existing,

2 and we're further back and where we could put the
3 project in a position where any impact for CEQR
4 purposes, because we have to measure based on what's
5 there, not what could be there, would not exceed what
6 was already possible from the existing zoning all the
7 way going back to 1991.

8 COUNCIL MEMBER HUDSON: Okay, thank you.

9 And forgive me, some of these questions are a little
10 repetitive, but I just want to make sure I get them
11 on the record. So, we talked a little bit about the
12 10-degree alternative or R7A. The City Planning
13 Commission modified this application to R7D with a
14 15-degree sloping plane to transition height down to
15 85 feet on the western side of the building to reduce
16 shadows. The CPC also considered a deeper
17 modification to R7A with a 10-degree sloping plane.
18 Can you just go into a little bit more about why you
19 believe the R7A 10-degree alternative is infeasible?

20 DAVID ROSENBERG: Yeah, and I think
21 important for this, slide 11 shows you some of this.
22 So, obviously the difference between the R7A and the
23 R7D, first off is a difference of 35 units, and that
24 is with the assumption that the bulk increases for
25 R7A that are proposed as part of City of Yes are

1 ultimately adopted. The reduction would be even
2 further without it. And then you want to look at,
3 once we take, right, obviously that 36 units when
4 we're talking about a project with as tight margins
5 as we're talking, 36 units puts us deep into the red
6 that even Workforce Housing can't pull us out of. And
7 then also we look at what the difference is between
8 this. So, this slide shows you three resources that
9 were evaluated as part of the EIS. The first one
10 looks at the Brooklyn Botanic Garden as a whole,
11 separate from the individual resources, but looks at
12 parts of the Garden that some of the lawn areas and
13 some of the other areas and where the shadow impacts
14 are, and you can see the times of when you would see
15 the incremental shadow impacts, all of which are
16 before 9 a.m., and you see that the difference
17 between the R7D and the R7A is a matter of minutes,
18 right? You're talking about a real difference being
19 on the June 21st analysis day is a difference of four
20 minutes for the Garden totally, and then December
21 21st, four minutes totally. But, in particular,
22 during this review process, both during this
23 application process and during the earlier iteration
24 of this, the focus has been particularly on what the
25

2 Garden identified as 23 particularly sun-sensitive
3 resources where they house those collections, and
4 those are the resources A through B on the bottom
5 line and you can see what the difference is there.
6 And particularly a lot of focus between the Parks
7 Department and the Brooklyn Botanic Garden has been
8 on the Hardy Plant Nursery Yard on the June 21st
9 analysis day, and you see there that the difference
10 is three minutes. And, if you look at slide 12 and
11 13, show, of the 23 sensitive resources that the
12 Garden identified as part of this environmental
13 review process, the ones where there are differences
14 between the R7D and the R7A, the other ones either
15 have no impact on both or have no difference on both,
16 and you see that we're talking about a matter of
17 minutes, really, right. You know, seven minutes in
18 September. And on the resources that really matter
19 here at the bottom of the page, the Hardy Plant
20 Nursery Yard, a difference of three minutes on the
21 most impacted day, which is the June 21st analysis
22 day, and so we think that the tradeoff of 36-plus
23 units, which really threaten project feasibility, all
24 for three minutes of differences in shadow,
25 especially considering the commitment that we've

2 already made to half a million dollars for an
3 artificial lighting system to supplement light as
4 well as other infrastructure improvements as the
5 Garden's experts deem necessary, that the three
6 minutes does not justify not just the 36 units, but
7 also really the viability of the entire project.

8 COUNCIL MEMBER HUDSON: Thank you. And can
9 you clarify which MIH Options are currently proposed
10 to be mapped at this site? So, MIH option four, I
11 believe it is?

12 DAVID ROSENBERG: Yes. So, City Planning
13 approved this with MIH Option 1, which is what we had
14 initially proposed. In terms of the Zoning
15 Resolution, whenever there's an application for
16 Mandatory Inclusionary Housing, by definition, all
17 four options are in front of the Council, which is
18 where the Council has the option to choose between.
19 One and two have to be mapped, and then the Council
20 has the option to map either the Deep Affordability
21 Option or the Workforce Housing Option or both. We
22 are asking that the Council map the Workforce Housing
23 Option here alongside Option 1.

24

25

2 COUNCIL MEMBER HUDSON: Okay, and that is
3 30 percent of floor area at an average of 115 percent
4 AMI. Is that correct?

5 DAVID ROSENBERG: Correct. Five percent at
6 70 AMI, five percent at 90 AMI, up and then with an
7 average of 115 percent. Yes.

8 COUNCIL MEMBER HUDSON: And do you know
9 what the income for a family of three at 115 percent
10 AMI is?

11 DAVID ROSENBERG: So, for a family of
12 three at 115 percent AMI, that is between, just
13 because we published the numbers at 110 and 120, it
14 is between 153,780 dollars and 167,760 dollars and,
15 as Mr. Bragg who is next to me, can talk about, and
16 part of why we think that Workforce is appropriate
17 here, even if it might not be in other parts of the
18 city and other projects, as Mr. Wallace was saying,
19 this is going to be a union finance project, this is
20 going to be union built, and this is going to be
21 union operated. And when we talk about 40 percent
22 AMI, 60 percent AMI, 80 percent AMI, these are income
23 levels that foreclose working class families in New
24 York, especially union families, especially public
25 employees, from being able to access the affordable

2 housing and leaves them to compete for market rate
3 housing with people in the finance sector, the
4 financial services, technology sector, and it's also
5 a need that we have in the city to have this kind of
6 housing, and so we think that for a project like
7 this, such a thing would be appropriate, and these
8 are income ranges, Kyle, you can talk about where the
9 incomes are for union families and that these numbers
10 at 115 percent AMI are about where we find union
11 families.

12 KYLE BRAGG: Yes, so as a former President
13 of 32BJ with a membership of about 90,000 here in the
14 city, the average income for one of our members is
15 somewhere between 80,000 and 100,000 dollars. If you
16 put a 32BJ member with a correction officer or with a
17 homecare worker or with a laborer or construction
18 worker or a civil servant, this allows the most
19 vulnerable group of workers who's leaving our city at
20 the highest numbers, black and brown workers, because
21 they cannot find affordable housing. These are union
22 members, are workers, are civil servants, healthcare
23 workers, uniformed officers, just the people who keep
24 this city running every day and they find it more and
25 more difficult to live in the city that they service.

2 COUNCIL MEMBER HUDSON: Thank you. And
3 would all of the units you're proposing as affordable
4 be permanently affordable?

5 DAVID ROSENBERG: Yes.

6 COUNCIL MEMBER HUDSON: And what is the
7 proposed unit size mix, so studios, one bedrooms, two
8 bedrooms, three bedrooms, etc.?

9 DAVID ROSENBERG: So, it's a moving target
10 and obviously subject to HPD approval through BLDS.
11 HPD does mandate certain percentages of two bedrooms
12 relative to one bedrooms and studios and would have
13 to be submitted for their approval just like any
14 other MIH project.

15 COUNCIL MEMBER HUDSON: I understand that
16 it would have to be submitted for their approval, but
17 do you have a mix that you're putting on the table?

18 DAVID ROSENBERG: It's still a moving
19 target especially since City Planning reduced the
20 density, we've been first focused on making sure that
21 there is a project that could be worked out before
22 we've been able to get into the details of exactly
23 what this project would look like. We think it would
24 be different than what the, because of the building
25 constraints, it would look different than... it's not

2 just a shorter version of the 14-story unit and so
3 we'd have to really sit back with the architects and
4 figure out what the best mix is.

5 CHAIRPERSON RILEY: Okay. It would be
6 great to have that information. Maybe you can follow
7 up with us because if we're talking about, you know,
8 a Workforce Option and, you know, folks with
9 families, we want to make sure that the unit mix is
10 appropriate.

11 WILLIAM WALLACE IV: Be delighted,
12 Councilwoman. We'd be delighted.

13 COUNCIL MEMBER HUDSON: Okay. The proposal
14 includes a special permit to reduce parking
15 requirements but not eliminate them entirely. Why
16 include any parking spaces at all in this transit
17 rich part of Brooklyn?

18 DAVID ROSENBERG: So, we've heard
19 extensively from the community here that, despite the
20 transit access that this neighborhood has, there
21 still is a demand for parking. There's still broad
22 concerns about existing parking and that when you
23 have 355 units there will be people with cars and
24 they will need to go somewhere where there's already
25 a shortage of parking, and that is why we proposed

2 this reduction. It still allows us to provide parking
3 to the extent that the market requires it and still
4 requires to provide 20 percent and gives us more
5 flexibility if we think that more might be worth
6 having because the community needs it but we don't
7 think that eliminating it entirely here would be... I
8 guess this, let me say differently is that there's a
9 larger policy discussion happening in the city about
10 entirely eliminating these parking requirements. We
11 think that regardless of what happens with reducing
12 those requirements some amount of parking here is
13 appropriate but it's significantly lower than the 50
14 percent required by zoning which is why we've sought
15 the special permit.

16 COUNCIL MEMBER HUDSON: Okay, so just in
17 terms of reducing costs of the project, my
18 understanding is as is that building parking below
19 ground is very costly so would you consider
20 eliminating parking in order to save money on the
21 project?

22 DAVID ROSENBERG: Yeah, and that's
23 precisely why we've proposed the reduction but what
24 also comes down, it's not dollar-for-dollar space-
25 for-space that you take out you take from a hundred

2 spaces to 99 spaces you save X dollars. At a certain
3 point, when you have to clear out the space for
4 parking or, for that matter, if you have to excavate
5 because you need to put foundations and you have the
6 space for a certain number of parking spaces, the
7 costs don't change to provide the parking. It's when
8 you start increasing those numbers of parking spaces
9 to meet the 50 percent requirement of zoning and you
10 have to start now taking out parts of the first
11 floor, taking out retail space, taking out
12 residential space to put in those parking spaces,
13 that's when the costs start to kick in, and so with
14 this special permit we think we're striking the right
15 balance by bringing down the construction costs that
16 let us provide the affordable housing that we're
17 trying to do here and also meeting the parking demand
18 without just creating extra parking spaces, driving
19 up construction costs unnecessarily and just so
20 people have more cars on the street. It's not what
21 we're trying to do.

22 COUNCIL MEMBER HUDSON: So, that's the 20
23 percent, right, that number? Okay. Thank you. Then
24 this is my last question. What tenants or uses have

2 you considered for the proposed ground-floor
3 commercial space?

4 WILLIAM WALLACE IV: That is a complete
5 work in progress. We have always attempted to have
6 this focused on neighborhood businesses, community-
7 based franchises, creative things like that. We have
8 to see what the final iteration is and continue that
9 focus and hopefully work with your office to make
10 that happen.

11 COUNCIL MEMBER HUDSON: Have you had any
12 conversations or reached out to Community Board 9,
13 the Borough President, or other stakeholders for
14 input?

15 WILLIAM WALLACE IV: We have met with the
16 Community Board repeatedly. One of the reasons why we
17 retained the 20 percent was that there were two major
18 focuses from the Community Board, one was Jackie
19 Robinson. We had a community forum, I think one of
20 the your staff people was there, got feedback what we
21 would do, and the second was what David said, that in
22 Crown Heights they still want the parking. Parking
23 would not have an appreciable impact on the finances
24 but whether we have parking or not again is up to the
25 City Council.

2 COUNCIL MEMBER HUDSON: But no requests
3 for consideration specifically pertaining to the
4 ground-floor commercial space?

5 WILLIAM WALLACE IV: We have had
6 discussions indicating that's what we intend to do,
7 have not gotten far enough until we have a project to
8 make that happen which is why I look forward to
9 working with your office to facilitate that. I know
10 you have a business background and always appreciate
11 the need for community-based businesses, job
12 creators, and we'd like to have that as part of our
13 project.

14 COUNCIL MEMBER HUDSON: So businesses, not
15 necessarily like a community facility or anything?

16 WILLIAM WALLACE IV: All open for
17 discussion.

18 DAVID ROSENBERG: Yeah, and I'd say that
19 with the, you know, previous iteration of the
20 project, there was a lot more discussion around,
21 there was more of those spaces, there were more
22 commercial spaces, there were community spaces. We've
23 had those discussions. Obviously, that project did
24 not move forward. We've now been in this iteration of
25 the project for the better part now of more than two

2 years and then we have to build it, but we're now
3 dealing with an approximately 8,500 square foot
4 retail space that realistically is not going to be
5 ready for another three years if approved and so
6 especially, you know, it'd be one thing to lock in a
7 multinational, someone in as a tenant this far out
8 but to have a community business it's a bit premature
9 to have that discussion.

10 CHAIRPERSON RILEY: Thank you.

11 WILLIAM WALLACE IV: Thank you.

12 CHAIRPERSON RILEY: Thank you, Council
13 Member Hudson for your question.

14 Council Member Abreu.

15 COUNCIL MEMBER ABREU: Thank you, Chair.
16 What percent of this project is funded by the union
17 pension?

18 DAVID ROSENBERG: 100 percent.

19 COUNCIL MEMBER ABREU: Okay.

20 WILLIAM WALLACE IV: Yes and no.
21 Clarification. The debt portion of the project, there
22 has been tens of millions of dollars of equity from
23 the developer put into the project. The debt for the
24 project will be 100 percent union-funded.

2 COUNCIL MEMBER ABREU: Okay. I have never
3 seen anything like this done before in the last three
4 years that I've been on this Committee so this model
5 that you're pursuing, I mean I encourage it. I think
6 union labor supported projects are very important,
7 but I would hope that you continue to work with our
8 Council Member in Brooklyn to hopefully reach a
9 point. I know that she cares deeply about her
10 constituents and labor. I would hate to see you walk
11 away from a project like this.

12 WILLIAM WALLACE IV: Thank you.

13 CHAIRPERSON RILEY: Thank you, Council
14 Member Abreu.

15 There being no more questions from the
16 Council, this applicant panel is excused.

17 Counsel, are there any members of the
18 public who wish to testify on this project?

19 WILLIAM WALLACE IV: Thank you so much.

20 CHAIRPERSON RILEY: Thank you.

21 COMMITTEE COUNSEL VIDAL: Yes, Chair. We
22 have people signed up both in person and online but,
23 if you have signed up online and you are not signed
24 into the Zoom session, you will not be called so if
25

2 you have signed up online, it is very important that
3 you access this hearing via your Zoom.

4 We will first hear from people here in
5 person in (INAUDIBLE)

6 CHAIRPERSON RILEY: Thank you. For the
7 members of the public here to testify, please note
8 that witnesses will generally be called in panels of
9 three.

10 If you are a member of the public signed
11 up to testify on the proposal, please stand by when
12 you hear your name being called and prepare to speak
13 when I say that you may begin.

14 Please also note that once all panelists
15 in your group have completed their testimony, if
16 remotely, you will be removed from the meeting as a
17 group, and the next group of speakers will be
18 introduced. Once removed, participants may continue
19 to view the livestream broadcast of this hearing on
20 the Council's website.

21 Members of the public will be given two
22 minutes to speak. Once you hear the bell, please wrap
23 it up in 10 to 15 seconds.

24 Please do not begin until the Sergeant-
25 at-Arms has started the clock.

2 The following individuals who signed up
3 to testify should now come to the witness table.

4 I'm going to start with a panel of two
5 this time which is Rowan Blaik and Kathryn Glass.

6 KATHRYN GLASS: Please just let me know
7 when to begin.

8 CHAIRPERSON RILEY: Yes. Ms. Glass you may
9 begin.

10 KATHRYN GLASS: Thank you so much. I'm
11 here on behalf of Brooklyn Botanic Garden's President
12 Adrian Benepe who unfortunately wasn't able to make
13 it today. My name is Kathryn Glass. I'm the Garden's
14 Chief Public Affairs Officer.

15 First, I'd like to say that BBG is keenly
16 appreciative of the work that the City Planning
17 Commission has done to foster new development and to
18 protect this vital more than 100-year-old City asset.
19 We thank you and your peers in public service for
20 your consideration. The Garden's analysis indicates
21 that while the project has evolved in a positive
22 direction the R7D zoning class with a 15-degree
23 imaginary plane would still cause significant loss of
24 sunlight to the garden particularly in the winter
25 when the sun is lowest on the horizon. For that

2 reason, we respectfully request that the Subcommittee
3 alter the proposed rezoning from an R7D to an R8A and
4 that they shave five degrees off the imaginary
5 sloping plane, making it 10 degrees rather than 15
6 degrees. With me today is my colleague Rowan Blaik,
7 Vice President of Horticulture, who has prepared
8 testimony on the impacts of these various zoning
9 proposals and what we think would be optimal for the
10 Garden and its collections. Before thanking you for
11 the opportunity to give testimony today, I want to
12 remind the Subcommittee that the Garden is generally
13 not an advocacy organization. In other words, we
14 don't seek out opportunities to opine on issues of
15 public housing or union pensions or affordable
16 housing but, since this development became public in
17 2019, the Garden has been drawn into a campaign to
18 oppose the originally proposed development. We've
19 tasked staff board and outside experts to help us
20 communicate the existential necessity of sunlight for
21 a living museum of plants that grow in our front and
22 our back-of-house collections. We've expended
23 hundreds of thousands of dollars defending the
24 Garden's New York City conferred responsibility to
25 grow and display plants. We think now that the time

2 has come to return to our role as Botanic Garden to
3 guarding the legacy of our visionary founders and the
4 many New York City elected leaders who over the
5 decades have supported and protected this Garden, who
6 imagined in more than a century-old partnership a
7 place where urban dwellers could lose themselves in a
8 sense of nature and benefit from immersion in the
9 world of plants. With your help and protection, we
10 will do just that. Thank you.

11 CHAIRPERSON RILEY: Thank you. Mr. Rowan.

12 ROWAN BLAIK: Good morning, Council
13 Members. I'm Rowan Blaik, VP of Horticulture at
14 Brooklyn Botanic Garden. I'm responsible for the
15 Garden's 52 acres and 46 gardeners and 10,000 plant
16 species. The CEQR Technical Manual was updated in
17 2021 to assess botanic gardens as unique sunlight-
18 sensitive resources with sunlight needs rather than
19 prior thresholds of plant survival. A weakness in the
20 shadow methodology excludes the first and last 90
21 minutes of daylight. For example, around one and a
22 half hours loss of winter sunlight to the
23 conservatories from the 15-degree scenario. The
24 applicant commissioned two reports, the Arborist
25 Report and the Solar Access Study. Both have their

2 methodological flaws. However, both conclude a shadow
3 impact greater than is still claimed by the
4 applicant. The expert greenhouse managers in the
5 Arborist Report disagree on the overall impact and
6 state that shadow impacts would be long-term and
7 experimental in nature. In addressing the applicant's
8 reference to three minutes difference, this
9 simplifies issues to one area of the Garden with a
10 simple in-out time rather than an estimate of the
11 overall shadow footprint. It's not just the timing,
12 it's the size of the shadow impact. The 15-degree
13 scenario impacts a far greater area and more plant
14 collections than the 10-degree scenario. The
15 difference is localized impacts compared to larger,
16 longer shadows from additional stories. I would say
17 regarding the scenarios, we've only seen isometric
18 views with renderings at different times of day nor
19 have we seen as-of-right plans being made available.
20 How at this 11th hour can meaningful studies or
21 comparisons be made?

22 Regarding the costs, they are not costs
23 that are voluntary. They are dictated by Parks and
24 Recreation and there to replace aging equipment like-
25 for-like, mainly our climate control system, not

2 lighting, and this is for general plant health and to
3 expand the climate control system to the Nursery
4 Yard. It will not change our growing practices.
5 Sunlight cannot be replaced by supplementary electric
6 lighting. Please limit this development to the 10-
7 degree scenario and not risk a local and global gem.

8 CHAIRPERSON RILEY: Thank you for your
9 time. Thank you so much. I don't have questions for
10 this panel. Council Member Hudson.

11 COUNCIL MEMBER HUDSON: Yes. Thank you,
12 Chair.

13 You referenced this a little bit in your
14 testimony, but can you go into greater detail about
15 what we've heard in prior testimony specifically
16 about three minutes of sunlight being referenced? Can
17 you clarify the actual minutes of sunlight lost,
18 which collections the lack of sunlight would impact,
19 and the overall impact that you mentioned just now,
20 it's not just about the sunlight directly, it's also
21 about the size of the shadow, locations, and things
22 like that.

23 ROWAN BLAIK: Yes. One example that I
24 would give is the various tables you see that there's
25 something like a 12-minute shadow impact to the

2 conservatories quoted there. By discounting the
3 sunlight from sunrise, we know that a 15-degree
4 scenario through working through their drawings as
5 best as possible a 15-degree scenario would lead to
6 around a one-and-a-half-hour impact to the
7 conservatories in December, not a 12-minute impact.

8 COUNCIL MEMBER HUDSON: I'm sorry can you
9 can you clarify that. You're saying that the 15-
10 degree slope would have a one-hour-and-30-minute
11 shadow impact?

12 ROWAN BLAIK: Approximately, yeah.
13 Somewhere between an hour and 25 minutes and an hour
14 and 30 minutes.

15 COUNCIL MEMBER HUDSON: Okay, and then the
16 10-degree would yield?

17 ROWAN BLAIK: That would go down. It would
18 be closer to as-of-right, and so that's more to
19 around, for example, one hour and ten minutes so it's
20 not three minutes here and there. You know, it's not
21 a trivial impact. It's a large impact. The other
22 thing that is excluded and, you know, as I mentioned
23 in the renderings with the different scenarios, they
24 all illustrate a shadow at different points in the
25 morning so you can't make a visual comparison between

2 the two. They also don't give a top-down plan view
3 that show the actual footprint of the shadow so where
4 there may be, you know, a comparison to be made
5 between a one and a half hour versus a one hour ten
6 minute shadow impact of the conservatory, is it small
7 areas of additional shadow that that timing is based
8 upon or is it the entire selection of workhouses that
9 grow the range of plants for all of the pavilions,
10 for example? That is not something that you can
11 conclude from looking at the images that have been
12 produced for these alternate scenarios.

13 COUNCIL MEMBER HUDSON: So, what types of
14 images or plans would you need in order to make a
15 thorough assessment?

16 ROWAN BLAIK: Well, it would be a top-down
17 view. It would be considering the periods that are
18 outside of the the basic CEQR analysis as well. You
19 know, this is from the point of view of me thinking
20 of the plant collections that we hold and are
21 responsible for, to base any kind of management of
22 risk based on the different scenarios. What has been
23 presented is, you know, it's bare minimum really.

24 COUNCIL MEMBER HUDSON: Can you just give
25 a sense of the impact on plant collections, not

2 necessarily, I guess my question is just a broader
3 question of like the impact generally of lack of
4 sunlight, larger shadows being cast, what impact does
5 that have on the Garden's ability to grow specific
6 types of species of plants and so forth?

7 ROWAN BLAIK: Obviously, the larger the
8 shadow and the longer that the shadow from a duration
9 point of view means that it's going to impact more of
10 our plant collections and the shadow impacts are
11 going to be more severe. We grow an incredibly wide
12 range of plant material with high light requirements
13 from areas such as, you know, equatorial regions,
14 desert regions that have really high intensity long
15 duration sunlight. It would have the effect of, you
16 know, reducing growth, reducing the health of plants,
17 reducing the range of the collections, reducing the
18 breadth of our collection, what is represented
19 countries of the world represented in our
20 collections. It would also reduce our programmatic
21 mandate (INAUDIBLE) our collections such as
22 education, for example. Currently, we can teach
23 school groups all the way through the year because we
24 have plants in flower and fruit with different
25 structures available to us year-round. A reduction in

2 light, as I said and as the experts that were
3 consulted in the developers own reports concluded,
4 you know, it would be a gradual change, it would be
5 experimental. None of them could say, you know, it
6 would affect 10, 20, 30 percent of the collection. It
7 would be experimental in nature and, you know, we see
8 these very, you know, experimental from a planning
9 point of view, experimental from an impact point of
10 view. How can you make a considered, you know,
11 decision on risk to this global collection due to the
12 experimental nature and the very, you know, kind of
13 last-minute considerations that they're asking for.

14 COUNCIL MEMBER HUDSON: Thank you, and
15 then I know you all are not in the housing business,
16 but can you just talk a little bit about an ideal
17 development scenario on this site as-of-right versus
18 this 10-degree plane option.

19 ROWAN BLAIK: The 10-degree option as we
20 understand it is very close to what would be as-of-
21 right under the City of Yes and, as we've mentioned,
22 you know, the ideal situation would be the current
23 as-of-right, it would lead to increased shadow impact
24 obviously because, you know, some of those lots have
25 remained vacant for a long time and so, yes, there

2 would be and so, you know, our aim would be something
3 that would be as close to that as possible.

4 Obviously, as you mentioned, you know, we're not
5 planners, we're not architects. It seems that their
6 10-degree proposal does allow them additional FAR and
7 additional units. If they kept the overall envelope
8 as close to as-of-right, that would be what we had
9 always thought we would be neighboring and basing our
10 collections and our needs on.

11 COUNCIL MEMBER HUDSON: Thank you. Just
12 one second. Okay, that's it for me. Thank you.

13 CHAIRPERSON RILEY: Thank you. I have a
14 question. Do you guys currently use any form of
15 artificial lighting currently at the Botanical
16 Gardens for any of the plants there?

17 ROWAN BLAIK: We do, and we're very clear
18 about what we do with that artificial lighting. We've
19 had an article online since 2019 explaining for
20 interested local residents, for example, that there's
21 a purple color that comes from our glass houses
22 during the daytime.

23 CHAIRPERSON RILEY: Is there is there a
24 difference between I mean, I'm not a professional,
25 I'm just asking, is there a difference between the

2 artificial lighting and the natural lighting with the
3 productivity of the plants at the garden?

4 ROWAN BLAIK: There is.

5 CHAIRPERSON RILEY: And what is that
6 difference?

7 ROWAN BLAIK: It's not comparable. It
8 doesn't penetrate through the plants the same as
9 natural sunlight does. There are there are two main
10 types of artificial lighting. There's those to extend
11 day length and there's those to improve the quality
12 of light that currently exists. Ours are very much in
13 the latter. It's to increase the wavelengths of
14 lights that we don't have at these latitudes.

15 CHAIRPERSON RILEY: But is it still
16 efficient to, I guess, to get the job done?

17 ROWAN BLAIK: Yeah. It's to augment the
18 wavelengths that the equatorial plants especially
19 would receive closer to the equator. It's not to
20 increase day length. It's to maintain the plant
21 health of the collection. Again, in the report that
22 was commissioned by the developer, it notes that
23 lighting would have to be incredibly close to the
24 plants, that it only benefits one layer of plants. If
25 you go into our tropical conservatory, you'll see we

2 have a canopy layer, we have a middle layer, we have
3 a ground layer of plant material. You can't from a
4 practicable point of view use a light to supplement
5 and replace natural daylight, natural sunlight.

6 CHAIRPERSON RILEY: All right. Council
7 Member Abreu.

8 COUNCIL MEMBER ABREU: Are there plants
9 that thrive in the shade?

10 ROWAN BLAIK: No plant grows in total
11 shade.

12 COUNCIL MEMBER ABREU: Excuse me?

13 ROWAN BLAIK: No plant grows in total
14 shade.

15 COUNCIL MEMBER ABREU: I saw your partner
16 nodding her head yes. Is that a yes or no?

17 KATHRYN GLASS: I was nodding indicating
18 that Rowan would answer the question.

19 COUNCIL MEMBER ABREU: Okay.

20 KATHRYN GLASS: He's the Horticulture
21 Specialist and knows a great deal about plants and
22 sunlight.

23 COUNCIL MEMBER ABREU: All right. Please
24 proceed.

2 ROWAN BLAIK: No plant grows in total
3 shade. There are very few plants that will grow in
4 very low light levels. This is why when you see house
5 plants, for example, or you see the plants that are
6 retailed on the market for shade situations, there's
7 a very limited amount of plants that would fulfill
8 that suitability. Certainly not that would produce
9 flowers. Certainly not that would produce fruit for
10 our educational purposes. It would be a complete
11 simplification of not only a plant collection but it
12 would be a simplification of, you know, remit and
13 educational and programmatic output.

14 COUNCIL MEMBER ABREU: Do you think that a
15 combination of artificial light and low light plants
16 could help alleviate some of these concerns?

17 ROWAN BLAIK: No, not from a practical
18 point of view. We would no longer be a botanic garden
19 really.

20 COUNCIL MEMBER ABREU: My last question,
21 Chair. About how much of the botanical garden will
22 still get direct sunlight for the same amount of time
23 it gets now?

24 ROWAN BLAIK: So that's not something that
25 I could give you, say acreage or square feet. That's

2 not something that I could give you off the top of my
3 head. I could prepare that.

4 COUNCIL MEMBER ABREU: I think that would
5 be very relevant for this Committee to have.

6 ROWAN BLAIK: Yeah, I can prepare that as
7 a written submission.

8 COUNCIL MEMBER ABREU: Thank you.

9 CHAIRPERSON RILEY: Thank you. There being
10 no more questions for this panel, this panel is
11 excused. Thank you so much for testifying.

12 The next panel I'm going to call up
13 consists of Andrew Morget (phonetic), Michael
14 Vestarelli (phonetic), and Kevin Elkins. Michael
15 Vestarelli.

16 KEVIN ELKINS: They're all carpenters so
17 I'll take.

18 CHAIRPERSON RILEY: Oh, you're gonna do
19 everything?

20 KEVIN ELKINS: Yeah, yeah.

21 CHAIRPERSON RILEY: Oh, so you're just
22 gonna do everything, Kevin. All right. Thanks. That
23 makes everything better. All right, Kevin, go ahead.
24 You still only get two minutes though.

2 KEVIN ELKINS: All right, if you say so. I
3 just want to start off before I get into my actual
4 remarks. You know the people who did the shadow
5 analysis, I believe Thomas Tomasetti is actually used
6 by the Garden so his analysis is good when he's
7 working for the Garden but when he's doing a similar
8 analysis for somebody else, it seems that analysis is
9 no longer correct so I just want to point that out
10 before I begin my remarks.

11 You know, in previous rezoning's, the
12 Carpenters Union has aggressively challenged
13 developers to increase affordability and ensure that
14 workers earn family sustaining wages. However, this
15 project stands apart for the right reasons. It'll be
16 100 percent union built and provide an exceptional
17 amount of desperately needed affordable housing for
18 New Yorkers. Additionally, the concerns about shadows
19 raised by some bad faith actors have shifted from
20 sincere to disingenuous. You know, Council Member
21 Hudson has done an extraordinary job in dealing with
22 a lot of competing interests to make this project
23 protect and preserve the Garden, and I think the
24 project that was presented to CCP did that. I think
25 we're now trying to keep that project alive and

1 protect the Garden and protect it for future
2 generations, but we can't let the goal post be
3 continuously moved to the point that we are no longer
4 building houses because a few people are bringing up
5 poison pill suggestions and, frankly, this 10 percent
6 verse 15 percent is a poison pill. It's going to
7 reduce the amount of income, it's going to reduce the
8 amount of units available to subsidize the rest of
9 the project, and and that's critical. It has to
10 pencil out. If it can't be built and financed then
11 nobody wins here, and maybe that's the goal. You know
12 I saw a comment from somebody from the Garden in the
13 Times saying they could live with luxury building. I
14 don't think we could live with that kind of
15 development. We need true housing and it's going to
16 be union built. It's going to be a paradigm-shifting
17 development that we desperately, desperately need.
18 The Council Member has aggressively and rightfully,
19 and keyword here is rightfully, fought to make sure
20 there is little to no impact on the Garden. The
21 project has finally reached that goal and even though
22 it comes at the cost of union jobs remember 82
23 percent of it has been reduced. That's my members not
24 being able to work on the project as much so it's
25

2 coming from us. As much as that is happening, it's
3 necessary to protect the Garden. We support this
4 project and hope this rezoning will pass. Thank you.

5 CHAIRPERSON RILEY: Thank you.

6 COUNCIL MEMBER HUDSON: Just one question
7 and thank you for your testimony. The 82 percent
8 reduction refers to what specifically?

9 KEVIN ELKINS: I believe from the original
10 amount of unit threshold. Excuse me, unit threshold.
11 I'm used to talking about 421A. I'm sorry. The amount
12 of units that started off at the proposal 'til now
13 where it is now and basically the everything
14 involved, but I can get the exact breakdown for you
15 as well.

16 COUNCIL MEMBER HUDSON: Okay. Thank you.

17 CHAIRPERSON RILEY: Thank you so much,
18 Kevin.

19 KEVIN ELKINS: All right, thank you.

20 CHAIRPERSON RILEY: The last panel in
21 person I'm going to call up consists of Anthony
22 Williams, Tony Agasto, Jennie Encalada-Malinowski,
23 sorry if I butcher your name, and Ari Espinal.

24 We will begin with Tony Agasto.

2 TONY AGASTO: Good morning. My name is
3 Tony Agasto, and I'm a resident of this Brooklyn
4 neighborhood as well as a member of DC9 Painters and
5 Allied Trades. I'm here today to express my strong
6 support for the development project being proposed,
7 particularly because of the invaluable union jobs it
8 will bring to our community. While I fully understand
9 the concerns regarding shadows and potential impacts
10 on the nearby Botanical Gardens, I believe we must
11 weigh the concerns against the critical need for
12 neighborhood stable jobs for the people who live
13 there. Brooklyn is a borough of deep working-class
14 roots, and we are in the midst of a time when many
15 families are struggling with the cost of living,
16 housing insecurity, and economic uncertainty. This
17 project, which is committed to providing union jobs,
18 offers a direct solution by creating meaningful work
19 that provides fair wages, benefits, and long-term
20 employment. These jobs aren't just paychecks. They're
21 opportunities for our neighborhoods to support their
22 families, invest in their futures, and stay in the
23 community they love. The opposition, which primarily
24 focuses on the impact of shadows and the proximity to
25 the Botanical Gardens, is understandable but should

2 not override the urgent needs for our local
3 workforce. The Botanical Gardens are a treasured part
4 of our community, and I believe we can find ways to
5 mitigate any negative impact through responsible
6 building practices and ongoing collaboration between
7 developers and community leaders. Modern construction
8 methods can address concerns about shadows and
9 environmental sustainability while still allowing
10 progress to move forward. We have to ask ourselves
11 what kind of Brooklyn we want to live in, a
12 neighborhood that prioritizes aesthetics or one that
13 prioritizes the well-being of its people. Union jobs
14 just don't benefit the workers who hold them. They
15 strengthen the entire neighborhood. When our
16 community members have stable, well-paying jobs, they
17 can afford to stay in their homes, support local
18 businesses, and contribute to social and cultural
19 fabric that makes Brooklyn so special. Thank you for
20 your time.

21 CHAIRPERSON RILEY: Thank you. Next, I
22 will call on Ms. Jennie. How do you pronounce your
23 last name for me, please?

24 JENNIE ENCALADA-MALINOWSKI: It's
25 Encalada-Malinowski.

2 CHAIRPERSON RILEY: Thank you.

3 JENNIE ENCALADA-MALINOWSKI: Hi everyone.

4 Thank you for this opportunity. My name is Jennie
5 Encalada-Malinowski. I'm providing testimony today on
6 behalf of Lowell Barton, who's the Vice President and
7 Organizing Director of Laborers Local 1010.

8 Laborers Local 1010 is a premier paving
9 and road building union of New York City. Our members
10 work together to build streets, bridges, and highways
11 throughout the five boroughs of New York City. We're
12 an affiliate of the New York State Laborers,
13 representing over 40,000 men and women across the
14 state, and a proud affiliate of the Laborers
15 International Union of North America. It is of the
16 utmost importance for the Laborers Union that our
17 members and the communities they live in are at the
18 center of our advocacy.

19 Today, I'm providing testimony to state
20 Laborers Local 1010's support of the 970 Franklin
21 Avenue project and the proposal to rezone 962-972
22 Franklin Avenue in the Crown Heights neighborhood of
23 Brooklyn to create a mixed-income residential
24 development dedicated to workforce and affordable
25 housing. Important to note this project will be built

2 by members of the New York City Building and
3 Construction Trades and will be financed by the AFL-
4 CIO Housing Investment Trust, and that itself should
5 be sufficient reason to support it. At a time when
6 inequality is at an all-time high, unions play a
7 critical role in ensuring family sustaining wages and
8 benefits for workers and their families and, by that
9 standard, building the middle class. Unionized
10 careers in the building trades not only support
11 individual workers and their families, but also
12 stimulate the local economy. When union workers earn
13 decent pay, they spend those earnings in their
14 community on housing, groceries, healthcare, and
15 education, creating a positive ripple effect that
16 benefits us all. I'll skip this little section since
17 I already said it. This project being built union-
18 financed and union-operated would ensure high
19 standards and accountability throughout the process.
20 Residents, some of whom are our union members, were
21 engaged in this process to have their needs and
22 concerns heard and addressed. The project will
23 create, as was mentioned, affordable housing options
24 for residents and essential workers as well as
25 generate almost 1,000 union jobs, providing stable

2 employment opportunities and an opportunity for more
3 residents to earn a family-sustaining wage and career
4 in the building and construction trades, all while
5 contributing to the economic vitality of Crown
6 Heights.

7 In conclusion, the impact of union
8 construction labor extends far beyond this job site.
9 This project has the opportunity to expand the
10 pathway to the middle class to more New York City
11 residents and ensure safer working conditions. By
12 investing in and supporting union labor, we invest in
13 a more equitable and prosperous future for our
14 communities. Thank you for this opportunity.

15 CHAIRPERSON RILEY: Thank you. Next, I'm
16 going to call Ari Espinal.

17 ARI ESPINAL: Good afternoon, Chairman and
18 Committee Members and Council Member Hudson. My name
19 is Ari Espinal, member of Local 79, and I am here in
20 behalf of Gary LaBarbera, President of the Building
21 and Construction Trade Council of the Greater New
22 York and Vicinity. Thank you for allowing me the
23 opportunity to submit the testimony in support of 970
24 Franklin Avenue project.

1 The Building Construction Trades Council
2
3 is an organization of local building and construction
4 trade unions that are affiliated with 15
5 international unions in the North American Building
6 Trades Union. Our local union affiliates represent
7 approximately 100,000 union construction workers. The
8 Building Trades mission is to rise the standards of
9 living all workers, to advocate for safe work
10 conditions, and to collectively advance working
11 conditions for affiliates' members as well as all
12 workers in New York City. The 970 Franklin Avenue
13 project is proposing to rezone 962 to 972 Franklin
14 Avenue in Crown Heights, the neighborhood of
15 Brooklyn, to create 14-story mixed-income residential
16 development in the neighborhood that would include
17 approximately units dedicated to workforce and
18 affordable housing. This type of project must move
19 forward given our city housing shortage as it will
20 create housing affordable for our city teachers,
21 firefighters, nurses, bus drivers, and grocery
22 clerks. Additionally, this project is anticipated to
23 create 1,000 union construction jobs and will
24 finance, build, and operate it with union labor,
25 providing well-paying jobs with family sustaining

2 wages, and benefits to the residents of New York
3 City. 970 Franklin Avenue is an example of type of
4 housing projects that our City must support. It will
5 create housing units that are affordable for working-
6 class citizens, will also create jobs with fair
7 wages, and benefit that it will allow workers to be
8 able to afford to live in this city. We thank you for
9 this opportunity to submit this testimony in support
10 of 970 Franklin Avenue. Thank you.

11 CHAIRPERSON RILEY: Thank you. And last, I
12 will call Anthony Williams.

13 ANTHONY WILLIAMS: Good morning, or good
14 afternoon, as a matter of fact, everyone. First of
15 all, I must say thank you for this opportunity to be
16 testifying here for this very important project, and
17 I must commend your team here, the work you've been
18 doing, and the questions you have been asking are
19 very sensitive, but I also must commend the developer
20 for trying to work with the community to ensure that
21 for the first time ever in this city that we're going
22 to have a project of this nature, where it's going to
23 be financed, managed, and operated by the union. This
24 has never happened before. This is a unique project,
25 and what's important about this project is that the

1 people in this community will have an opportunity to
2 live in the housing that they're providing. The
3 reality is that when we look around, our children's
4 future is at stake, and I understand the Councilwoman
5 and her constituency and the kind of work you're
6 doing, and you have a right to represent them, but
7 let's look at the most critical thing in this city.
8 We don't have housing for our people. We don't have
9 enough jobs for our people. The crime is escalating.
10 With good union jobs, it's not a silver bullet, but
11 we have an opportunity to start changing things in
12 our community. This project is so unique that many
13 people who live there would have an opportunity to
14 work there. They would have an opportunity to be part
15 of something different. And that's why the building
16 and construction trades, the 100 black construction
17 workers, Laborers Local 79, and the mason tenders are
18 in support of this project. I'm looking forward, and
19 we're looking forward, that you guys, that we can
20 work together and find a solution, that we can make
21 this city better and provide the housing and the
22 opportunities for our children and for our future.
23 Thank you. I'm looking forward to work with you guys.

2 CHAIRPERSON RILEY: Thank you so much for
3 all of you testifying here today.

4 CHAMBERS: (APPLAUSE)

5 CHAIRPERSON RILEY: Shhh. Appreciate it.
6 You could just do this though, all right?

7 Council Member Hudson, you have a
8 question for this panel?

9 COUNCIL MEMBER HUDSON: Yeah, thank you.
10 Thank you all for your testimony. Do you know the
11 average salary earned by your members?

12 ANTHONY WILLIAMS: Our members make
13 average, a journeyman makes over 40 an hour as a
14 laborer on their job. Actually 42 dollars an hour
15 goes into his pocket.

16 COUNCIL MEMBER HUDSON: You wouldn't
17 happen to know that the annual salary equivalent to
18 that, would you?

19 ANTHONY WILLIAMS: The what?

20 COUNCIL MEMBER HUDSON: The area median
21 income or the annual salary equivalent? No?

22 ANTHONY WILLIAMS: No.

23 COUNCIL MEMBER HUDSON: Okay. 42 dollars
24 an hour.

2 ARI ESPINAL: It also depends on the work
3 and the trade, so it varies, depends on...

4 COUNCIL MEMBER HUDSON: Do you have like a
5 range?

6 ARI ESPINAL: We could get that
7 information for you, depending on the projects.

8 COUNCIL MEMBER HUDSON: Okay, and then do
9 you know what percentage of your members have two
10 income earners per household?

11 ANTHONY WILLIAMS: We will have those
12 information right away, but for sure we were able to
13 get that to you.

14 COUNCIL MEMBER HUDSON: Okay, that sounds
15 good. Thank you.

16 ANTHONY WILLIAMS: Thank you very much.

17 COUNCIL MEMBER HUDSON: I appreciate it,
18 and I do want to just state for the record that there
19 are union jobs at the Garden too. Thank you.

20 ANTHONY WILLIAMS: We're aware.

21 CHAIRPERSON RILEY: Thank you. There being
22 no more questions, this panel is excused. Thank you
23 so much for testifying.

24 I'm going to call up our online panel
25 now, which consists of one person, Ms. Marsha Walcott

2 Dunn. Ms. Dunn, if you can hear me, please unmute and
3 you may begin.

4 Ms. Marsha Walcott-Dunn, if you can hear
5 me, please unmute and you may begin.

6 Ms. Dunn, can you hear me?

7 We'll stand at ease until we hear if Ms.
8 Dunn is still available.

9 Ms. Marsha Dunn, if you can hear me,
10 please unmute and you can start your testimony.

11 Okay. All right, we're going to stand at
12 ease for 60 seconds until Ms. Dunn is available.

13 Okay, we are unable to hear from Ms.
14 Dunn.

15 Ms. Dunn, if you are still there, you can
16 always submit your testimony to us, let me just get
17 this email again, to
18 landusetestimony@council.nyc.gov.

19 All right. If there are any more members
20 of the public who wish to testify regarding the 962-
21 972 Franklin Avenue rezoning proposal remotely or in
22 person, I will stand at ease for 30 seconds, if you
23 want to run to a Sergeant-at-Arms to submit a
24 speaker's card or if anyone pops up online.

2 There being no other members of the
3 public who wish to testify on LUs 161, 162, and 163
4 regarding 962-972 Franklin Avenue Rezoning Proposal,
5 the public hearing is now closed, and the item is
6 laid over. Thank you, everyone. [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 October 19, 2024