

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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November 20, 2017

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HELD AT: Council Chambers - City Hall

B E F O R E: DONOVAN J. RICHARDS  
Chairperson

COUNCIL MEMBERS:

DANIEL R GARODNICK  
JUMAANE D. WILLIAMS  
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## A P P E A R A N C E S (CONTINUED)

Jennifer Gravel  
Director of Housing Economic and Infrastructure  
Planning at the Department of City Planning

Amanda Eyer  
Project Manager of the A Text Application

Adam Friedman  
Director of Pratt Center for Community  
Development

Joel Moskowitz  
Owner of Tools for Working Wood in Brooklyn

Leah Archibald  
Executive Director of Evergreen Exchange

Barika Williams  
Deputy Director at the Association for  
Neighborhood and Housing Development, AHND

Ben Margolis  
Executive Director of Southwest Brooklyn  
Industrial Development Corporation

Bill Wilkins  
Director of Industrial Development for the Local  
Development Corporation of East New York, LDCE NY

Cassandra Smith  
Senior Project Manager at the Greenpoint  
Manufacturing and Design Center

Nancy Carin  
Executive Director of the Business Outreach  
Center Network

Julian Gomez  
Tenant Organizer at Make the Road New York

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

Shahid Mahamood  
President of Delta General Contracting and  
Management

Varun Sanyal  
Vice President of Economic Development at the  
Brooklyn Chamber of Commerce

Zack Mishaan  
Vice President at Robert K. Futterman and  
Associates

James Coakley  
President of Treasure Island Management LLC.

Jon Dario  
Vice Chairman of the New York Self-Storage  
Association

Benjamin Stark  
Representing Safe N Lock Self-Storage from Slater  
And Beckerman P.C.

Marc Sharinn  
Owner of Safe N Lock Self-Storage

Maeve Marcello  
Construction Manager at Safe N Lock Self-Storage,  
Resident of the Bronx

Michael Deviney  
Industrial Business Program Assistant at Business  
Outreach Center Network

Darryl Holland  
Industrial Business Service Provider for the  
Business Outreach Center Network

Quincy Ilicate  
Manager of Industrial Business Service at the  
Business Outreach Center Network

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

Liz Krueger  
Senator of the State of New York

Jim Caras  
Representing Manhattan Borough President Gale  
Brewer

Karan Mehra  
President of Mehra Law Group, P.C.

Sandy Hornick  
Land Use Consultant to the East River Fifties  
Alliance

David Leeds  
Representing Congresswoman Carolyn Maloney

Gary Tarnoff  
Member of the law firm Kramer Levin representing  
Gamma Real Estate

Stanley Schlein  
Lawyer in Bronx, New York

Anthony Austin  
Employer of Lendlease

Jeff Mulligan  
Member of Kramer Levin representing Gamma Real  
Estate

Michael Slattery  
Representing the Real Estate Board of New York

Robert Joseph  
Project Manager of the Municipal Arts Society

Jessica Osborn  
Vice President of East River Fifties for 30 years

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

Robert Shepler  
Resident of East River Fifties For Over 30 Years

Elizabeth Fagan  
Director of Preservation at Friends of the Upper  
East Side Historic Districts

[gavel]

CHAIRPERSON RICHARDS: Alright, good morning. Good morning, I'm Council Member Donovan Richards, Chair of the Subcommittee on Zoning and Franchises and I know that a lot of my colleagues have events this morning, so they'll be filtering in and out. Today we'll be holding two public hearings today. The first will be on Land Use Item Number 817, the self-storage text amendment. The Department of City Planning is the applicant for this citywide text amendment. The second hearing will be on preconsidered Land Use Item... Land Use East River Fifties/Sutton Place, an application for a zoning text amendment by the East River Fifties Alliance. This hearing will not begin before 11:30. Okay, so the Self-Storage text amendment is a citywide action to establish new restrictions on self-storage development within designated areas in M districts which largely coincide with the industrial business zones IDZ's. These areas include parts of 24 city council districts throughout all of the boroughs except Manhattan. The original application filed by the Department of City Planning would create a new CPC special permit requirement for all new self-

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2 storage development within the designated areas. On  
3 November 1<sup>st</sup> the City Planning Commission voted to  
4 withdraw this original application and instead  
5 approve an, an alternative version that would allow  
6 self-storage as of right but add new mixed-use  
7 requirements for providing space for industrial  
8 businesses. Since the city council has the ability to  
9 restore all or, or parts of the original application,  
10 this hearing will include discussion of both the  
11 original application and the mixed-use alternative  
12 that was advanced by the City Planning Commission.  
13 This proposal originated as part of the 10-point  
14 industrial action plan to support job creation and  
15 industrial growth that was jointly announced by the  
16 De Blasio... De Blasio Administration in City Council  
17 in November 2015. As it has moved through the ULURP  
18 Process the application had generated spurned debate  
19 between various parts of the business community. we  
20 are looking forward to hearing from a diversity of  
21 perspectives about what the council's best course of  
22 action might be. As per our normal rules please hold  
23 applause or disruption during other's testimony. We  
24 will hear first from the applicants then from panels  
25 of five speakers alternating panels in favor and in

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2 opposition. I will now open the public hearing on  
3 Land Use Item Number 817 and we'll call the first  
4 panel which is the Department of City Planning. Okay.  
5 Alright, so I'm going to ask the Department of City  
6 Planning to come up; Amanda Eyer and Jennifer Gravel,  
7 Gravel and we're going to try to get our technology  
8 up to par, it'll take a minute.

9 [off-mic dialogue]

10 CHAIRPERSON RICHARDS: Alright, yes  
11 ma'am.

12 JENNIFER GRAVEL: Good morning, my name  
13 is Jennifer Gravel, I'm the Director of Housing  
14 Economic and Infrastructure Planning at the  
15 Department of City Planning and I'm joined today by  
16 my colleague Amanda Eyer who is the Project Manager  
17 for the application that is before you today. Amanda  
18 will walk you through a brief presentation that  
19 explains the, the proposal that was recently adopted  
20 by the Commission as well as the one that was... the  
21 original proposal as referred out, so I'd like to  
22 hand the mic over to Amanda who can explain where we  
23 are.

24 AMANDA EYER: Good morning, my name is  
25 Amanda Eyer. While the presentation gets started here



1  
2 I'm going to just get started. I first wanted to  
3 briefly delve into the background of this proposal to  
4 remind us all why we are here today and what we are  
5 aiming to achieve. The self-storage text amendment  
6 originated in the 10-point industrial action plan  
7 which was announced almost exactly two years ago. The  
8 industrial action plan targets New York City's  
9 industrial business zones, IBZ's as areas for  
10 employment growth and industrial innovation. The  
11 industrial action plan called for a limitation on  
12 personal storage in IBZ's to support job creation and  
13 economic growth. It also called for the creation of a  
14 hotel special permit within IBZ's and confirmed that  
15 the administration would not support private  
16 applications for residential rezonings within IBZ's.  
17 the geographic scope of the hotel special permit was  
18 broadened which required further study and the self-  
19 storage proposal was advanced enough to stand on its  
20 own. For this reason, the proposal before you today  
21 regard only self-storage. The self-storage zoning  
22 text amendment would apply to all industrial business  
23 zones, IBZ's except airport areas. Thank you.

24 Alright, the presentation's up and running. IBZ's are  
25 New York City's most active industrial areas, over 68

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2 percent of employment in these areas is industrial.  
3 The IBZ's are also critical for a range of... critical  
4 siting opportunities for a range of industries going  
5 from wholesale trade to construction, transportation  
6 and warehousing and manufacturing and since 2010 we  
7 have seen that industrial employment is growing in  
8 IBZ's. the industrial action plan in its aim to  
9 support industrial businesses and IBZ's builds on a  
10 series of existing policies that apply in these  
11 areas. These include among others tax incentives for  
12 businesses and the provision of business services by  
13 non-profits. All of these policies support economic  
14 growth in IBZ's and the proposed restrictions on  
15 self-storage makes sense in this context of a clear  
16 economic development policy for IBZs. To date self-  
17 storage is permitted in all M and all manufacturing  
18 and C8 districts. Some manufacturing districts are  
19 IBZ's, not all of them are IBZ's, this means that  
20 self-storage if adopted... if this proposal were to be  
21 adopted self-storage would remain as of right in some  
22 manufacturing districts and in C8 districts. We think  
23 restricting self-storage in IBZ's is necessary  
24 because we see that job intensive industrial  
25 businesses have a hard time finding appropriate

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siting opportunities in New York City. In IBZ's where industrial employment has grown and there is an economic development policy in place we need to ensure that siting opportunities remain available for these businesses. As an unregulated development of self-storage detracts from the city's long-term goals for IBZ's. self-storage does not generate many jobs, it serves to a large extent household although approximately 30 percent of units are leased by small businesses according to data published by the National Self-Storage Association and tends... and self-storage tends to occupy sites that would be suitable for other businesses. Self-storage tends to site on large sites, along truck routes or highways which would often be optimal for industrial more job intensive businesses. In that sense self-storage combines three characteristics which result in its development conflicting with the city's economic development goals for IBZ's. I also briefly would like to outline the milestones of the public land use review process of this text amendment. On May 22<sup>nd</sup>, 2017 the original proposal was referred to community boards, borough presidents and borough boards. On August 3<sup>rd</sup>, 2017 the Department of City Planning

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2 filed a modified application called an A-text which  
3 proposed another policy solution or another policy  
4 option to the original proposal that involved the  
5 conditional as of right framework. On August 23<sup>rd</sup>,  
6 2017 the City Planning Commission held a public  
7 hearing concerning both the original proposal and the  
8 modified application, the A-text. On November 1<sup>st</sup>,  
9 2017 the City Planning Commission adopted the  
10 modified application, the conditional as of right  
11 framework with additional changes. After several  
12 months of public outreach and robust discussions the  
13 City Planning Commission adopted the following  
14 proposal. I will first describe it generally and then  
15 go into the details. Under the proposal adopted by  
16 the Commission new self-storage on large lots may be  
17 constructed as of right as long as it includes a  
18 substantial amount of industrial space. New self-  
19 storage on small lots may be constructed as of right  
20 as long as it includes a large percentage of large  
21 self-storage units which are generally used by small  
22 businesses. A board of standards and appeals special  
23 permit would be required to modify or waive the  
24 industrial space requirement. And finally, existing  
25 self-storage would be grandfathered and would be

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2 considered conforming. In more detail, so the large  
3 lots proposal and this mean... this would apply to  
4 large... to lots larger or equal to 25,000 square feet,  
5 new self-storage would need to include an industrial  
6 space component amounting to 50 percent of the lot  
7 area. At least half of the required industrial space  
8 would need to be located on the ground floor, the  
9 other half could be located on the second story or in  
10 the cellar as long as it benefits from direct access  
11 to the industrial space on the ground floor to  
12 access... as it benefits from access to freight  
13 elevators and loading births. The industrial space  
14 could be dedicated to manufacturing, semi-industrial  
15 or industrial uses, arts, art studios or photo or  
16 motion picture production studios. This illustration  
17 shows what a mixed-use building under this proposal  
18 could look like. In an M11 district on a 60,000-  
19 square foot lot a self-storage facility would need to  
20 include at least 30,000 square feet of industrial  
21 space dedicated to the uses that I just mentioned.  
22 The self-storage portion of this building could  
23 measure 50,000 square feet under the rules as, as  
24 drafted. The Commission included also several other  
25 zoning changes that would increase the feasibility of

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2 such developments and these are; a, a reduction of  
3 the off-street parking and loading dock requirements  
4 because these take away from ground floor space and  
5 could reduce the feasibility of providing the  
6 industrial space. Furthermore, the Commission adopted  
7 a... a, a permission that the required industrial space  
8 exceeds the one FRA cap in M11 districts... only in M11  
9 districts, this is because the permitted FAR and M11  
10 districts is only one and the mixed-use building  
11 would be difficult to, to build with this amount of  
12 floor area. So, the required industrial... the required  
13 industrial space would be allowed to exceed the one  
14 FAR cap by not more than 20,000 square feet. The  
15 Commission also adopted specifications for the  
16 ceiling heights of the industrial floor space  
17 amounting to 15 feet which corresponds to floor to  
18 ceiling heights industrial uses typically require. On  
19 small lots which are a lot smaller than 25,000 square  
20 feet new self-storage would have two options. New  
21 self-storage could either apply the same option that  
22 exists for large lots meaning providing in industrial  
23 space but because Commission didn't expect that this  
24 would be a workable solution on many small sites the  
25 Commission also included a second option which is to

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2 provide a big portion of large self-storage units  
3 because large units are typically rented by small  
4 businesses. This means that floor area amounting to  
5 50 percent of the lot area would have to be provided  
6 in the form of large self-storage units which are  
7 units of 100 square feet or more. Then in order to  
8 modify or waive the industrial space requirement a  
9 self-storage developer would have to go to the board  
10 of Standards and Appeals for a special permit. The  
11 BSA would need to find that the required industrial  
12 space creates financial hardship with no reasonable  
13 possibility that a self-storage facility with the  
14 required industrial space would bring a reasonable  
15 return. What is the significance of the proposal  
16 before city council, the Commission has adopted a VSA  
17 special permit where the findings are not open to  
18 multiple interpretations and relate to financial  
19 feasibility. The creation of new industrial space is  
20 a condition of new self-storage development which  
21 presents a consequential restriction and accomplishes  
22 our goal of supporting industrial businesses and  
23 IBZ's. This proposal also has the potential of  
24 creating meaningful amounts of industrial space based  
25 on typical self-storage lots the industrial set aside

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2 would measure between 12,500 square feet and 45,000  
3 square feet on each lot where a self-storage facility  
4 would be built. This, this proposal by providing a  
5 conditional as of right framework reduces impacts on  
6 the self-storage industry and the small businesses  
7 and households that rely on self-storage. The  
8 conditional as of right framework also reduces the  
9 possibility of shifting self-storage development to M  
10 and C8 district outside of IBZ's which are often  
11 closer to residential areas. This proposal also  
12 includes a small sites alternative which is  
13 responsive to small businesses use of self-storage.  
14 The industrial floor space as written in, in the  
15 proposal adopted by the City Planning Commission is  
16 permitted on several stories which provides more  
17 flexibility in building... in constructing the  
18 building, allows both uses to function on the ground  
19 floor which this would improve the feasibility for  
20 self-storage and the affordability for industrial  
21 businesses. The relatively wide range of uses  
22 permitted in the industrial floor space facilitates  
23 the ability to find tenants for self-storage  
24 operators. The other zoning changes to parking,  
25 loading and permitted FAR that were included in the



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2 proposal facilitates the construction of a mixed use  
3 self-storage industrial building. This is what I  
4 wanted to explain regarding the proposal adopted by  
5 the City Planning Commission, I also wanted to  
6 briefly give you some background on the proposal as  
7 it was originally referred into the process. The  
8 proposal as it was referred into the process included  
9 a City Planning Commission special permit for all new  
10 self-storage facilities in IBZ's, the designated  
11 areas in M districts. The purpose of the CPC special  
12 permit was to ensure that self-storage development  
13 would not represent a significant lost opportunity  
14 for the future siting of a more job intensive  
15 industrial business. The proposed considerations to  
16 make the CPC special permit findings included the  
17 zoning law ties, the lot or building configuration,  
18 proximity to truck routes, the capacity of local  
19 streets providing access to the zoning lot, and  
20 investment in comparable sites in the vicinity. The  
21 Commission heard many concerns regarding the original  
22 proposal, we heard amongst others that the findings  
23 were vague, not measurable and open to multiple  
24 interpretations. A main concern that... was that the  
25 findings were less oriented towards the suitability

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2 and potential impact of the self-storage use and more  
3 toward the potential industrial uses permitted by  
4 zoning that could also site at a given location. The  
5 findings also would have required the Commission to  
6 consider... to consider whether it would be impractical  
7 to establish any other permitted industrial or  
8 manufacturing use at such a location which the  
9 Commissioner has regarded as a difficult criterion to  
10 plan on. The Commission also heard that the proposal  
11 would hurt the self-storage industry and the small  
12 businesses and households that rent units. We heard  
13 that the proposed special permit wouldn't necessarily  
14 lead to growth and industrial employment since the  
15 self-storage restriction in itself wouldn't directly  
16 result in the creation of industrial space. We heard  
17 that the original proposal was very restrictive and  
18 could so result in a shift of self-storage to other M  
19 and C8 districts outside of IBZ's which are often  
20 closer to residential zones. The Commission also  
21 heard that self-storage is often built on  
22 contaminated sites or old buildings in need of  
23 renovation, places that require significant  
24 investments. For these reasons the Commission  
25 considered changing the proposal and adopted the

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2 conditional as of right framework I explained in  
3 detail. The proposal the Commission voted on was the  
4 result of a balancing act, it sought to reduce the  
5 impact on the self-storage industry recognizing that  
6 self-storage is an amenity for many New York City  
7 residents and businesses while still meeting the  
8 goals and objectives of the proposal that is too  
9 ensure that job intensive industrial and  
10 manufacturing businesses they continue to operate and  
11 find appropriate siting opportunities in IBZ's. This  
12 concludes my presentation, thank you very much for  
13 listening and I'm... we're happy to take any questions.

14 CHAIRPERSON RICHARDS: Thank you and I  
15 first want to acknowledge we've been joined by  
16 Council Members Lander and also Salamanca. Alright,  
17 so I'll hop right into questions. So, obviously two  
18 years ago we announced this industrial action plan  
19 between the administration and the council and I'm  
20 interested, can you explain why obviously we're  
21 having conversations around hotels and now self-  
22 storage can you speak to why we're targeting these  
23 two particular industries? And, and if you want to go  
24 into are there any other particular businesses that  
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2 are in industrial areas that are also... do you see as  
3 competing with the industrial sector as well?

4 JENNIFER GRAVEL: Uh-huh. As, as...  
5 regarding as to why we're focused on self-storage and  
6 hotels, these are two uses that we've recognized have  
7 had probably the greatest impact in terms of  
8 effecting siting opportunities, hotels as well.  
9 There's a... as a separate... as you know a separate  
10 study going on and looking at the patterns of  
11 development of a hotel happening in really haphazard  
12 ways and in ways that are potentially at odds with  
13 the visions of those areas. There are... these are the  
14 only uses that we are, are currently considering  
15 placing additional restrictions on.

16 CHAIRPERSON RICHARDS: Okay and are there  
17 any... and you don't see any other particular  
18 industries that you eventually will look to as well?

19 JENNIFER GRAVEL: No, not at this time.

20 CHAIRPERSON RICHARDS: Okay, so I'll hop  
21 right into self-storage, so how many self-storage  
22 facilities are there in New York City?

23 JENNIFER GRAVEL: I'll let Amanda take  
24 that one.

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AMANDA EYER: As, as the study report says there are about 240 existing self-storage facilities in, in New York City.

CHAIRPERSON RICHARDS: That's 240 you said... [cross-talk]

AMANDA EYER: About 240...

CHAIRPERSON RICHARDS: And how many of them are actually located in IBZ's?

AMANDA EYER: About one quarter.

CHAIRPERSON RICHARDS: One quarter, okay... [cross-talk]

AMANDA EYER: Yeah...

CHAIRPERSON RICHARDS: And what percentage of... are recent new construction in IBZ's as self-storage development?

AMANDA EYER: It has remained relatively constant, we looked at develop... self-storage development in the last ten years and on average there were about eight self-storage facilities built citywide of which two were on average in, in IBZ's.

CHAIRPERSON RICHARDS: Alright, so eight on average in IBZ's?

AMANDA EYER: No, two on average in IBZ's, eight citywide per year.

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CHAIRPERSON RICHARDS: Okay, per year.

And what is the typical lot size preferred by storage developers?

AMANDA EYER: The, the, the median lot size is about 45,000 square feet, the typical lot sizes range from about 25,000 square feet to 100,000 square feet or at least those are frequent examples of self, self-storage development, there are a few self-storage facilities that are also built on smaller sites than 25,000 square feet, about one quarter of self-storage facilities, new construction self-storage facilities are built on sites smaller than 25,000 square feet.

CHAIRPERSON RICHARDS: and can you...

[cross-talk]

COUNCIL MEMBER LANDER: I'm sorry, can we just... can she repeat that, I didn't... [cross-talk]

CHAIRPERSON RICHARDS: Oh, oh go ahead...

COUNCIL MEMBER LANDER: How, how many, I'm sorry?

AMANDA EYER: One quarter of self-storage facilities are built on lots smaller than 25,000 square feet.

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2 COUNCIL MEMBER LANDER: Thank you, thank  
3 you.

4 CHAIRPERSON RICHARDS: And.. alright, so  
5 let's get into why we're here today, so obviously  
6 there was the original text and then the text A, so  
7 can you speak to the differences in the text a little  
8 bit more and why did City Planning decide to amend  
9 the original text?

10 AMANDA EYER: Yes, the proposal is really  
11 focused on, on the objectives which is to facilitate  
12 job creation and the growth of industrial businesses  
13 in IBZ's... [cross-talk]

14 CHAIRPERSON RICHARDS: Just pull your mic  
15 a little closer, we're having a hard time hearing.

16 AMANDA EYER: Okay, sorry. The proposal  
17 is really focused on the objectives of the action  
18 meaning to facilitate job creation and the growth of  
19 industrial, industrial businesses in IBZs and to  
20 solve for the problems created by self-storage. The  
21 proposal as adopted by the City Planning Commission  
22 ties self-storage development in New York City's most  
23 active industrial areas to the creation of industrial  
24 space serving more job intensive industrial  
25 businesses. The Commission saw this measure as

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2 actually helping industrial businesses by directly  
3 creating siting opportunities to the new industrial  
4 space and IBZs. Based on testimony we would... we  
5 recognized that the original proposal would not in  
6 itself result in the creation of industrial space and  
7 with this not necessarily lead to growth and  
8 industrial employment.

9 CHAIRPERSON RICHARDS: And would you say  
10 the original goal when we announced this two years  
11 ago was to eliminate self-storage totality from  
12 IBZ's?

13 AMANDA EYER: No, that was not the  
14 objective of the proposal, the restrictions that were  
15 announced were appropriate limitations on personal  
16 self-storage and the... it was never the intention to  
17 eliminate self-storage from IBZ's... [cross-talk]

18 CHAIRPERSON RICHARDS: And has there been  
19 any president for... precedent for mixed-use  
20 requirements with self-storage facilities, have you  
21 seen this happening around the country in any places  
22 or where did this idea spring from?

23 AMANDA EYER: Sure.  
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JENNIFER GRAVEL: I, I don't... I mean we have seen self-storage mixing with retail actually in New York City... [cross-talk]

CHAIRPERSON RICHARDS: Mixed with retail but not... [cross-talk]

JENNIFER GRAVEL: Right... [cross-talk]

CHAIRPERSON RICHARDS: ...industry... [cross-talk]

JENNIFER GRAVEL: With, with industrial uses I think this is pretty unique, it's, it's not... obviously there are challenges to, to siting them together but if that's the only option to siting we think it's an opportunity for it to happen and we propose it was crafted in a way that we believe was a meaningful set aside but, but also a workable one.

CHAIRPERSON RICHARDS: And how... this particular option is actually going to be successful so are you positive with this mixed-use development that they'll actually... will be able to actually fill the industrial space?

JENNIFER GRAVEL: I can't say that I would be positive, the BSA special permit which was included as part of the modified application does provide an avenue to waive or modify the requirements

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2 in the event that they're not feasible on a case by  
3 case basis. So, we do believe that there is, is an  
4 opportunity to, to have a workable option given the  
5 availability of the BSA special permit.

6 CHAIRPERSON RICHARDS: And go through if...  
7 so, let's imagine that this particular... the thing  
8 you're speaking of today actually happens speak to  
9 what is the city strategy around insuring that an  
10 industrial business actually will be able to afford  
11 the rent in a particular self-storage mixed use  
12 development so, what if the self-storage company  
13 perhaps, you know charges some high rent will there  
14 be incentives for particular industrial businesses  
15 being located within the sites or how do you see this  
16 playing out and also what would be your, your  
17 enforcement mechanism to ensure that if this was to  
18 move forward that enforcement would happen?

19 JENNIFER GRAVEL: Uh-huh, uh-huh. We  
20 don't through zoning dictate what the, the rents can  
21 be but because the space is required to be rented by  
22 a limited subset of uses which are intended to be  
23 industrial they will have to... have to rent that space  
24 at whatever the market will allow and it's, it's... a  
25 business is obviously not going to pay more than they

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can afford to rent that space so the other option.. if they want to occupy the space they'd have to rent it at a... at a... at a price the businesses could pay. On the enforcement, the enforcement is the same as, as the mechanisms that exist today, it's primarily a complaint driven system but if there are eyes on the ground... [cross-talk]

CHAIRPERSON RICHARDS: So, complaint driven no particular inspectors would be assigned.. [cross-talk]

JENNIFER GRAVEL: There are... there... [cross-talk]

CHAIRPERSON RICHARDS: ...just go through... [cross-talk]

JENNIFER GRAVEL: Yeah... [cross-talk]

CHAIRPERSON RICHARDS: ...who would actually... would it be Department of Buildings or...

JENNIFER GRAVEL: Department of Buildings, yes... [cross-talk]

CHAIRPERSON RICHARDS: Okay.

JENNIFER GRAVEL: Yes.

CHAIRPERSON RICHARDS: And do they have, or they would just use their general inspectors to inspect?

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2 JENNIFER GRAVEL: Yeah, there's no  
3 special regime, regime proposed as part of this  
4 application.

5 CHAIRPERSON RICHARDS: And in  
6 anticipation of this special permit how many do you  
7 anticipate would be applied for?

8 JENNIFER GRAVEL: Do you want to..

9 AMANDA EYER: So, given that we have seen  
10 without the special permit requirements or without  
11 even the restriction we, we have seen about two self-  
12 storage... two, two self-storage units... two self-  
13 storage facilities in IBZ's per year, we, we think  
14 it, it would be two or, or less than two.

15 CHAIRPERSON RICHARDS: And how many  
16 outside of IBZ's?

17 AMANDA EYER: We expect that the rate..  
18 the rate of growth will continue to be similar as it  
19 has been in the past, self-storage is a growing  
20 industry and has grown significantly in the last  
21 decade and that would continue so probably about six  
22 outside of IBZ's.

23 CHAIRPERSON RICHARDS: So, do you  
24 anticipate more outside of IBZ's... I mean as, as it is  
25 now but how much more would you anticipate?

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AMANDA EYER: This, this is hard, hard to assess, we, we did in, in terms of the environmental review acknowledge that there was a, a, a potential for shifting self-storage developments to M and C8 districts outside of IBZ's however this, this shift will be modest first of all because the number of self-storage facilities is, is not a large number to begin with but secondly and most... more importantly M and C8 districts that are not IBZ's are, are widely mapped in the city, they're, they're also mapped in very different areas of the city and so even if there were a certain amount of self-storage... a, a shift in self-storage construction we don't think that shift would concentrate anywhere specifically or would be particularly noticeable.

CHAIRPERSON RICHARDS: And.. [cross-talk]

AMANDA EYER: Or result in a concentration in a specific area.

CHAIRPERSON RICHARDS: And I... and I'm interested in knowing so obviously we got to the 25,000-square foot threshold, where... how did you arrive at 25,000 square feet?

AMANDA EYER: This was part of a... the... we, we did a feasibility analysis as part of the

1  
2 draft in sites of, of the study that the Department  
3 of City Planning had commissioned looking at mixed  
4 use... mixed use buildings and this study looked in  
5 particular at self-storage and industrial mixed-use  
6 buildings, about 30,000 square... or between 25,000 and  
7 30,000 square feet was determined to be the minimum  
8 site size for those two... for those two uses to site  
9 side by sides in an efficient manner.

10 CHAIRPERSON RICHARDS: And, and we've  
11 often heard and I'm going to go to my colleagues for  
12 questions and circle back in a second, so we've often  
13 heard that from the self-storage industry that  
14 approximately 30 percent of their users are  
15 businesses rather than residential thresholds, what  
16 would you say to that since you... and, and you've  
17 obviously a study on this so what would you say the  
18 numbers look like?

19 AMANDA EYER: We have heard those similar  
20 numbers but, but our sources are either the national  
21 or the New York Self-Storage Association. We, we  
22 didn't have a way to find out more detailed numbers  
23 on the users of self-storage facilities.  
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CHAIRPERSON RICHARDS: So, you didn't go out and, and, and... you said... so... and you said there's I believe 240 self-storage facilities?

AMANDA EYER: Yes, but... [cross-talk]

CHAIRPERSON RICHARDS: And there was no way for your agency to go out and sort of survey these particular businesses?

JENNIFER GRAVEL: I mean that, that information would have been obtained through the self-storage operators. They... there was some testimony at, at our public hearing where those... from a number of sources that sort of consistently reported 20 to 30 percent, those are numbers that we saw in independent studies that existed prior to our referral of a, a text so we don't have any reason to really doubt those numbers.

CHAIRPERSON RICHARDS: And before I turn it over to my colleagues I wanted to hear a little bit more on your special permit especially as they go to the BSA, I'm really concerned about the BSA playing a role here they have not historically in my opinion have not done due diligence and, and really take community concerns into account as much as I would like them at least in... within my own district

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2 over the years so I'm interested in knowing... hearing  
3 a little bit more on how the BSA will play a role  
4 here and is this a way for them to circumvent the  
5 process, will self-storage companies use this as a  
6 way... as a backdoor in one sense to circumvent the  
7 process?

8 JENNIFER GRAVEL: The, the reason that  
9 the BSA... why it was shifted to a B... BSA special  
10 permit is because we heard a lot of concerns about  
11 the findings of the CPC special permit and the  
12 ability to actually demonstrate or adjudicate those  
13 findings. The, the proposal as it's currently written  
14 is really about the, the feasibility of developing a  
15 site which is... really falls into the jurisdiction of  
16 the Board of Standards and Appeals and is not really  
17 something that the City Planning Commission is, is  
18 well equipped to, to understand or, or, or process.  
19 For it being a backdoor, it's, it's the process  
20 that's proposed and it, it would be a legitimate  
21 avenue provided they can meet the, the findings  
22 related to the feasibility of the development.

23 CHAIRPERSON RICHARDS: Well I just want  
24 to voice that I do have concerns with that so I, I  
25 think we should continue... [cross-talk]



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JENNIFER GRAVEL: Okay... [cross-talk]

CHAIRPERSON RICHARDS: ...conversations...

[cross-talk]

JENNIFER GRAVEL: Okay... [cross-talk]

CHAIRPERSON RICHARDS: ...around this. I'm going to go to first Council Member Salamanca followed by Lander and then to Reynoso.

COUNCIL MEMBER SALAMANCA: Thank you Mr. Chair. Just... I would like to present my testimony for the record, I believe that it would submit it... my position on this new A text that's being presented. My question is, where did this A text amendment come from?

AMANDA EYER: Throughout the process we heard from a variety of stakeholders, we heard from community boards, we heard from Chambers of Commerce and... who had significant... and the City Planning Commission, they all had significant concerns regarding the original proposal as referred into the process and that is how the A text came about.

COUNCIL MEMBER SALAMANCA: So, the original proposal you presented it to local community boards, am I right?

AMANDA EYER: Yes.

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COUNCIL MEMBER SALAMANCA: And then you changed the original proposal to now this A text amendment and did you go back to the community boards and present that and ask for a vote as well?

AMANDA EYER: We sent... we sent letters including a description of the proposal and the environment... the technical... the text memo that included the environmental review for the A text.

COUNCIL MEMBER SALAMANCA: But... [cross-talk]

AMANDA EYER: But no... [cross-talk]

COUNCIL MEMBER SALAMANCA: ...don't think that it's appropriate that you go back to the local community boards and you make a formal presentation as you originally did and ask for approval?

JENNIFER GRAVEL: City Planning Commission applications are often modified after the community board process, we heard from a number of stakeholders in the process and this is why the, the proposal was modified.

COUNCIL MEMBER SALAMANCA: See... my concern is there, there, there's a level of trust here in terms of the communities and City Planning especially when we talk about rezonings. When we're

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2 talking about my community, Southern Boulevard  
3 rezoning, City Planning is telling the community one  
4 thing and they're coming here and they're telling  
5 City Hall and they're telling Council Members another  
6 thing and this just... this just not going back to the  
7 local community boards and making a formal  
8 presentation and getting input on this new plan is  
9 where there's mistrust from the community and City  
10 Planning. In terms of the... this A text, this new  
11 proposal who, who supports this new proposal?

12 JENNIFER GRAVEL: It's, it's interesting  
13 it... we have... as, as Amanda said this is a, a  
14 balancing act, we heard concerns from actually  
15 pulling in two different directions on this proposal.  
16 It's, it's, it's a proposal that, that many sides  
17 have, have concerns with both those who would like to  
18 see no self-storage in IBZ's and from those who would  
19 like to see more self-storage in IBZ's. We see this  
20 as sort of the essence of, of compromise if both  
21 sides are a bit unhappy, it's a difficult proposal  
22 to, to get perfect but we believe it's been  
23 responsive to the concerns and if, if we haven't  
24 gotten it quite right and we probably haven't gotten

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2 it quite right there will be an opportunity for  
3 additional modifications at the council.

4 COUNCIL MEMBER SALAMANCA: You know it,  
5 it also appears to me that this A text is, is, is  
6 watered down, it's significantly watered down from  
7 the administration's 10-point industrial action plan  
8 that the Chair referred to that was rolled out in  
9 2015. Does the administration recognize that the  
10 impact of the A text will have on other aspects of  
11 the action plan such as the industrial developer  
12 fund?

13 JENNIFER GRAVEL: The... you're asking if  
14 the A text will include aspects of the industrial  
15 development fund?

16 COUNCIL MEMBER SALAMANCA: Yes, what,  
17 what in... how... [cross-talk]

18 JENNIFER GRAVEL: Yes... [cross-talk]

19 COUNCIL MEMBER SALAMANCA: ...would it  
20 impact?

21 JENNIFER GRAVEL: It, it, it... I mean the  
22 industrial development fund is independent of the  
23 Department of City Planning, that's administered by  
24 the Economic Development Corporation, I, I don't want  
25 to misspeak but I, I believe that these projects

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could be eligible for that, but I believe it's a discretionary process to get that kind of funding.

COUNCIL MEMBER SALAMANCA: Alright, when was the last time City Planning actually visited an IBZ?

JENNIFER GRAVEL: We're out there frequently.

COUNCIL MEMBER SALAMANCA: You are?

JENNIFER GRAVEL: Yeah.

COUNCIL MEMBER SALAMANCA: So, for example in, in, in Port Morris with this new plan have... has, has a study been made in terms of how this would affect jobs in this IBZ in terms of job loss?

JENNIFER GRAVEL: How this particular proposal would... [cross-talk]

COUNCIL MEMBER SALAMANCA: Yes, in terms of job creation... [cross-talk]

JENNIFER GRAVEL: In, in Port Morris in particular?

COUNCIL MEMBER SALAMANCA: Yeah, Port Morris or Hunts... [cross-talk]

JENNIFER GRAVEL: Yes... [cross-talk]

COUNCIL MEMBER SALAMANCA: ...Point or any particular IBZ... [cross-talk]

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JENNIFER GRAVEL: And any particular...

[cross-talk]

COUNCIL MEMBER SALAMANCA: ...that you've visited... [cross-talk]

JENNIFER GRAVEL: IBZ... I mean it is our under... is our belief that self-storage as a whole is a low generating use and it is the intent of this proposal to support the growth of jobs in industrial business zones. The modified version of the proposal that's before you today require, requires industrial space as a condition of new self-storage development. So, we believe that is actually pro-jobs in the sense that if... for a self-storage facility to locate in an IBZ it must include space for industry as well.

COUNCIL MEMBER SALAMANCA: In terms of this new proposal can you explain to me in terms of a large lot a new storage facility may be constructed as of right, am I right?

JENNIFER GRAVEL: Provided that the space... provided that there is space provided for industry.

COUNCIL MEMBER SALAMANCA: Okay... [cross-talk]

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2 JENNIFER GRAVEL: The condition of  
3 development.

4 COUNCIL MEMBER SALAMANCA: And it says  
5 here that small lots may be constructed as of right  
6 as long as it includes a large percentage of large  
7 storage units which are generally used by small  
8 businesses, now who's going to monitor this?

9 JENNIFER GRAVEL: The, the Department of  
10 Buildings will have to approve the plans that will  
11 show that the spaces have to meet the size  
12 limitations that are required.

13 COUNCIL MEMBER SALAMANCA: Alright and  
14 what's BSA's involvement in this?

15 JENNIFER GRAVEL: BSA would only be  
16 involved in the event that a, a development... the  
17 requirements of the... of the zoning text do an as of  
18 right project were deemed infeasible for a particular  
19 property owner and on a case by case basis a  
20 developer could apply to the Board of Standards and  
21 Appeal to either reduce or, or waive the requirements  
22 in the zoning text.

23 COUNCIL MEMBER SALAMANCA: And BSA  
24 applications do not require council input?  
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2 JENNIFER GRAVEL: They don't require city  
3 council approval, no.

4 COUNCIL MEMBER SALAMANCA: Okay. Alright,  
5 you mentioned that the, the self-storages when the  
6 Chair asked how many self-storages are in IBZ's you  
7 said one quarter, can you give me an exact amount?

8 AMANDA EYER: Yes, one second... that, that  
9 would be at... about 80 self-storage facilities, yeah.  
10 If you're interested in the Bronx, there are about 52  
11 existing self-storage facilities... [cross-talk]

12 COUNCIL MEMBER SALAMANCA: Fifty two of  
13 the 80?

14 AMANDA EYER: Oh no...

15 COUNCIL MEMBER SALAMANCA: That's what  
16 she said, right, 52... [cross-talk]

17 AMANDA EYER: Eighty... [cross-talk]

18 COUNCIL MEMBER SALAMANCA: ...of the 80...  
19 [cross-talk]

20 AMANDA EYER: ...out of 240... [cross-talk]

21 COUNCIL MEMBER SALAMANCA: No, but...  
22 [cross-talk]

23 AMANDA EYER: ...are in... [cross-talk]



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2 COUNCIL MEMBER SALAMANCA: ...and there's  
3 80 of them... I'm sorry, let's go... there's, there's 240  
4 in the city of New York?

5 AMANDA EYER: Yes.

6 COUNCIL MEMBER SALAMANCA: Eighty of them  
7 are in the Bronx?

8 AMANDA EYER: No...

9 COUNCIL MEMBER SALAMANCA: No.

10 AMANDA EYER: Fifty-two of them are in  
11 the Bronx.

12 COUNCIL MEMBER SALAMANCA: Fifty-two of  
13 them are in the Bronx and those 52, how many of those  
14 52 are in IBZ's?

15 AMANDA EYER: Sixteen.

16 COUNCIL MEMBER SALAMANCA: Sixteen, okay.  
17 Okay, Mr. Chair just to close I just want to read my  
18 final statement here on my, my remarks and, and while  
19 I do support the A text... I'm sorry, while I do  
20 support the original text, the A text is something is  
21 something that I currently do not support and while I  
22 understand that it may not be plausible to return to  
23 the original text that is the text that establishes  
24 special permitting in IBZ's to construct self-storage  
25 I do believe that a compromise can be found that

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provides a fair framework for future self-storage facilities while also protecting the future of our industrial and manufacturing zones and with that I thank you.

CHAIRPERSON RICHARDS: Thank you Council Member Salamanca from the Bronx. Alright, we're going to go to Council Member Lander.

COUNCIL MEMBER LANDER: Thank you Chair Richards, an honor to follow my colleague from, from the Bronx. Let's take one step back, what's the purpose of IBZ's?

JENNIFER GRAVEL: The purpose of IBZ's is to provide locations where industrial businesses and businesses in general can locate and find stability, it's initially intended as a tax program with, with some... with commitments but to not to rezone for residential to allow for some greater certainty in terms of the market.

COUNCIL MEMBER LANDER: So, they were created in the last administration though right, before we just had M zones, right and there's a lot of M zones throughout the city and then we created industrial business zones specifically, so...

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JENNIFER GRAVEL: Correct... well the M zones... industrial business zones until this proposal did not exist in zoning, still... until this proposal is approved will not exist in zoning, but they do form the basis of policy...

COUNCIL MEMBER LANDER: No, the industrial business zones exist in, in zoning, I mean they were created and zoned in the last administration they created the boundary commission...

JENNIFER GRAVEL: Yes, but they're independent of the zoning maps and the resolutions. Correct but they... you're, you're correct in that, that they do guide policies in regard to... [cross-talk]

COUNCIL MEMBER LANDER: So, so, I'm going to read from the city's IBZ website which says industrial business zones were established to protect existing manufacturing districts and encourage industrial growth citywide, what, what... why... what were they designed to protect from... well I guess let me start first, why, why were they designed to protect from anything like why did we want protection for industrial business zones... [cross-talk]

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JENNIFER GRAVEL: Yes, the... this administration like the last administration committed to maintaining the industrial business zones as a place where industrial businesses can locate and grow and... [cross-talk]

COUNCIL MEMBER LANDER: But it sounds like at least as according to the city's website the first goal is actually to protect existing manufacturing, I'm just reading... [cross-talk]

JENNIFER GRAVEL: Sure... [cross-talk]

COUNCIL MEMBER LANDER: ...from the city's website... [cross-talk]

JENNIFER GRAVEL: Yeah, that's correct, yes.

COUNCIL MEMBER LANDER: Because there are jobs in them presumable or else we wouldn't be protecting them.

JENNIFER GRAVEL: There's jobs... yes and an opportunity to grow as well.

COUNCIL MEMBER LANDER: And what are we... why do they need protection?

JENNIFER GRAVEL: There are a limited number of places in the city where industrial businesses can function both because of the sites

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2 that are available and the cost of land, you're  
3 right.

4 COUNCIL MEMBER LANDER: So, I mean I... I'm  
5 not trying to ask a trick question, it seems to me  
6 what they need to be protected from is higher rent  
7 paying uses at least as I've seen it, the, the threat  
8 to manufacturing jobs is that higher rent paying uses  
9 will displace them and that's why we created  
10 industrial business zones to, to protect those  
11 manufacturing districts, is that a fair... that, that  
12 was my understanding of why we created them in the  
13 first place.

14 JENNIFER GRAVEL: Yes and there's a  
15 number of policies in addition to zoning that help  
16 address those concerns.

17 COUNCIL MEMBER LANDER: But I, I mean  
18 from my point of view there weren't enough that's how  
19 we got here in the first place and I, I mean I'll  
20 just put my cards on the table and maybe I'll share  
21 some things with my, my colleagues from the Bronx  
22 like I'm really distressed about the A text at both a  
23 micro and a macro level. At a micro level, I'm  
24 watching the Gowanus IBZ be eroded of jobs by a  
25 number of uses not only self-storage also hotels and

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2 entertainment and retail and big floor played office,  
3 all of those things are eroding what's... otherwise we  
4 got a lot of great manufacturing companies that would  
5 like to grow but they have a hard time growing  
6 because the land is getting expensive and actually at  
7 163 6<sup>th</sup> Street there's a self-storage facility in  
8 construction on what was an active industrial site  
9 before it was purchased by a self-storage company and  
10 now the active industrial use is gone and I don't  
11 have the... I mean it's got nothing against self-  
12 storage but there will be very, very few jobs on that  
13 site where our whole goal was to have a zone that was  
14 about protecting and encouraging and incentivizing  
15 jobs and, and we're going to have very, very few and  
16 at a macro level the council did this work together  
17 with the administration to what we identified.. and  
18 this is why when you say compromise I feel so  
19 frustrated, like we wanted to do more restricting, we  
20 wanted to restrict hotels and big office and retail  
21 and entertainment uses which are driving out the job  
22 intensive manufacturing uses we want and what we  
23 compromised to was the original text and the A text  
24 feels like not a compromise at all, it feels like a  
25 total erosion of the goal. So, I just want to make

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sure I understand what it would mean in Gowanus. Gowanus, you know it's a... it's in an area where there's a lot of residential around so there'd be a lot of demand for it, pretty small lot size. So, on sites under 25,000 square feet in the Gowanus industrial business zone if the A text passes self-storage could be built as of right so long as some of it is reserved for large lockers?

JENNIFER GRAVEL: The proposal would require industrial space as a condition of new development on sites over 25,000... [cross-talk]

COUNCIL MEMBER LANDER: I, I asked about under 25,000... [cross-talk]

JENNIFER GRAVEL: Under... [cross-talk]

COUNCIL MEMBER LANDER: ...square feet... [cross-talk]

JENNIFER GRAVEL: ...25,000 square feet there is this requirement that a certain percentage of the sites be business sized. Now if this proposal is... there will be an opportunity for the council to modify this proposal... [cross-talk]

COUNCIL MEMBER LANDER: Well I didn't think we needed it modified because the original text proposed was just fine, so I wasn't look... I'm not

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looking for an opportunity to council, I mean we may need to do that but I just... I'm trying to get clear because lots of the Gowanus slots are under 25,000 square feet, you told us that a quarter of new self-storage construction is on those small lots so given what I'm seeing in Gowanus I feel like I should have every reason to expect if the A text passes that lots of the... some of the small lots will become self-storage instead of manufacturing just like is happening on 6<sup>th</sup> Street and I guess my question on the larger lots is as... is as follows, if they didn't exist today, if there weren't businesses on them now then I get why the new proposal might be okay, we might get some new manufacturing jobs in addition to some not very job generating self-storage but most of the sites are active today and don't you think that the A version on larger sites would act as an incentive for self-storage facility developers to buy up active manufacturing uses displace existing job intensive companies and replace them with self-storage facilities with less manufacturing than is on the site today.



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JENNIFER GRAVEL: I don't... I'm not... I don't think it would necessarily incentivize... [cross-talk]

COUNCIL MEMBER LANDER: Why not... [cross-talk]

JENNIFER GRAVEL: ...I mean there's a number of reasons why sites become available and it's not always that the business gets displaced, I mean sites do... businesses do choose to leave and do relocate for other reasons as well.

COUNCIL MEMBER LANDER: I'll, I'll give that on some occasions that may be true, it's not what happened at 163 6<sup>th</sup> Street where there was an active manufacturing... [cross-talk]

JENNIFER GRAVEL: Uh-huh... [cross-talk]

COUNCIL MEMBER LANDER: ...user before the site was purchased, do you agree that there are some instances where the A text could act as an incentive for a self-storage developer to acquire an active manufacturing lot, have the manufacturing business leave and then build this with half the manufacturing FAR that's there now?

AMANDA EYER: So, so, the existing... currently the self-storage building could site on

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2 that site as of right, what the... what the proposal  
3 includes is a condition that industrial space be  
4 included so that, that is a restriction and it's a  
5 significant... [cross-talk]

6 COUNCIL MEMBER LANDER: But you're...  
7 [cross-talk]

8 AMANDA EYER: ...requirement for a self-  
9 storage... [cross-talk]

10 COUNCIL MEMBER LANDER: ...you're comparing  
11 it to the... to the jobless facility that's going up,  
12 no not to the jobs that were on the site before they  
13 were displaced by the development of a self-storage  
14 facility which I think would be just as likely to  
15 happen under the A text... [cross-talk]

16 AMANDA EYER: Right, so we, we think that  
17 this proposal really does focus on the objectives of  
18 creating space for job intensive... [cross-talk]

19 COUNCIL MEMBER LANDER: But what about  
20 protecting, that's what... I'm going back to my... the,  
21 the goal of the IBZ's is to protect existing  
22 manufacturing and you're A version does the opposite  
23 of protecting them, it puts them right in harm's way.  
24 Now some new manufacturing jobs might come in at half  
25 the FAR that's there, there today but what happened

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2 to the protecting the manufacturing jobs that were  
3 there before.

4 JENNIFER GRAVEL: So, this proposal  
5 actually does make a significant step forward from  
6 the existing condition in terms of protection, the  
7 IBZ's will be in the zoning resolution for the first  
8 time as part of this which is a significant  
9 statement... [cross-talk]

10 COUNCIL MEMBER LANDER: But how is that a  
11 protection if I can build the thing and actually get  
12 a little density bonus and... [cross-talk]

13 JENNIFER GRAVEL: Well compared to what  
14 you can do today you're... we're conditioning the  
15 development of a self-storage facility on providing  
16 industrial space and if there's an opportunity to  
17 modify this it's the, the council has... [cross-talk]

18 COUNCIL MEMBER LANDER: I, I got it, I  
19 mean if you're telling us we should change it I'm all  
20 with you, we're going to... we're going... at least... at  
21 least... look, I'm focused on Gowanus, I guess we got  
22 other colleagues they'll need to think about their  
23 other neighborhoods, I'm just... I'm trying to preserve  
24 the jobs in the Gowanus industrial business zone. I  
25 thought that was a shared goal, the original text

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2 would do that, the A text would not do it so.. anyway,  
3 I'll, I'll, I'll leave it there, I may come back on  
4 questions on the second round, thank... [cross-talk]

5 CHAIRPERSON RICHARDS: Thank you, we're  
6 going to go to Council Member Reynoso, we've also  
7 been joined by Council Members Garodnick... oh and  
8 Reynoso, okay, Reynoso.

9 COUNCIL MEMBER REYNOSO: Thank you Chair  
10 and you know I'm hoping that Council Member Brad  
11 Lander does get a second round because he's asking  
12 important questions and making very... points that I  
13 think are very clear to the general public to  
14 objective viewers to outside looking in. If our goal  
15 here is to protect industrial businesses and  
16 manufacturers in the IBZ, self-storage is... self-  
17 storage competes against that directly is a  
18 competitor to industrial businesses and actually like  
19 job, job growth and job producing manufacturers. I  
20 want to be clear, anywhere you see a self-storage  
21 facility where you can find more than five workers  
22 even if it's a 200,000 square feet, you know I would  
23 love to go to that place and meet those five workers,  
24 they could literally operate a self-storage facility  
25 remotely, they don't even need to be in the site to

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2 be perfectly honest but let's... when it comes to jobs  
3 there's no comparison, between even a small business  
4 and like a 25,000 square foot site to a self-storage  
5 facility in a 200,000 square foot site, it just  
6 doesn't make any sense. And I really do think that  
7 presenting the A text to us now after we had an  
8 original text that actually made sense to many of us  
9 here, there, there's only one thing that I can... I  
10 can... that, that I feel happened there and it's that  
11 the administration has succumbed to like special  
12 interest within the self-storage facility, self-  
13 storage world, there's no other place. I want to be  
14 clear, 14 community boards voted for this, four  
15 community boards vote against it, where are those  
16 four, I would like to as what four community boards  
17 voted against this?

18 AMANDA EYER: Community Board one in  
19 Queens, Community Board one in Brooklyn, Community  
20 Board three in Staten Island, and Community Board 13  
21 in Queens.

22 COUNCIL MEMBER REYNOSO: And then... and  
23 how many... and I just... I would... I would now have you  
24 go through fourteen community boards that voted in,  
25 in support of it, why would you amend at... an... a

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2 proposal when the overwhelming majority of the city  
3 of New York supported the original proposal, what,  
4 what, what would... what would make it so that you feel  
5 that you had to do that, in the council I think there  
6 was almost... also a wide spread of majority support  
7 for this? We were meeting constantly about this and  
8 we were talking about supporting this, CPC was a part  
9 of the team that was helping us drive this, this  
10 vehicle in support and then out of nowhere the A text  
11 comes out.

12 AMANDA EYER: Understood, the draft  
13 environmental impact statement acknowledged the  
14 potential for significant impact from the self-  
15 storage industry which then resulted in us looking at  
16 alternatives. We heard from Community Boards, we  
17 heard from Chambers of Commerce, we heard from a  
18 variety of stakeholders which made us propose an A  
19 text and really that is just another policy option  
20 for... it was another policy option for the City  
21 Planning Commission to consider, it is now another  
22 policy option for the city council to consider.

23 COUNCIL MEMBER REYNOSO: Right... [cross-  
24 talk]

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AMANDA EYER: So, there are now... [cross-talk]

COUNCIL MEMBER REYNOSO: ...look I'm, I'm going to call... [cross-talk]

AMANDA EYER: ...more options on the... [cross-talk]

COUNCIL MEMBER REYNOSO: ...on my colleagues... [cross-talk]

AMANDA EYER: ...table than there were before based on feedback that we heard throughout... [cross-talk]

COUNCIL MEMBER REYNOSO: Yes... [cross-talk]

AMANDA EYER: ...the public process.

COUNCIL MEMBER REYNOSO: Right... no, so you get feedback from four community boards opposed to 14 and you cut half of the... half the facility... you cut the facility in half and allow for some manufacturing and the other half is going to be self-storage, I just don't understand the math there when you have over... I want to say 80 percent of the city of New York voting in support of this and you go ahead and just gut the entire essence of the bill which is to, to remove self-storage from...

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2 opportunities from IBZ's. In the Bronx you said there  
3 were 52 self-storage facilities of which only 16 were  
4 in the IBZ's so obviously there are locations outside  
5 of the IBZ's where these self-storage facilities are  
6 thriving, how is that not a more ideal location or,  
7 or, or place for them than the IBZ, why is that... does  
8 that no suffice I guess?

9 AMANDA EYER: But we heard throughout the  
10 public process is also that IBZ's... that self-storage...  
11 that the self-storage industry felt like that, that  
12 IBZ's were important siting opportunities for the  
13 industry and that in the future there may be more  
14 self-storage construction in these areas than there  
15 has been in the past, this made us consider that  
16 there is a potential for impact on the industry.

17 COUNCIL MEMBER REYNOSO: Can, can you  
18 name... I just want to know who supports the A text,  
19 the industry doesn't, the, the providers of services  
20 to the manufacturers don't, the manufacturers don't,  
21 you know Boar's Head in my district doesn't want it,  
22 you know the... other, other businesses Wonton Foods  
23 doesn't want it, no one wants self, self-storage  
24 facilities, no one wants hotels, who supports more  
25 self-storage or self-storage in IBZ's, I just want to



1  
2 know who supports it. Are you saying the city  
3 supports that self, self-storage in IBZ's, that's  
4 what I'm getting?

5 JENNIFER GRAVEL: I just have to  
6 reiterate the objective of the proposal was not to  
7 eliminate self-storage in IBZ's but to make sure that  
8 there remained siting opportunities for industry and  
9 the option that was adopted by the commission  
10 maintains siting options for industry because they  
11 have conditions of provision of industrial space in  
12 those developments.

13 COUNCIL MEMBER REYNOSO: So, who supports  
14 self-storage in IBZ's?

15 JENNIFER GRAVEL: There... [cross-talk]

16 COUNCIL MEMBER REYNOSO: ...outside of the  
17 self-storage industry?

18 JENNIFER GRAVEL: There... we heard from  
19 several Chambers of Commerce as well as a number of  
20 small businesses that use self-storage facility. A  
21 number of... [cross-talk]

22 COUNCIL MEMBER REYNOSO: Okay, so did  
23 the... [cross-talk]

24 JENNIFER GRAVEL: ...businesses... [cross-  
25 talk]

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COUNCIL MEMBER REYNOSO: ...so just... and just to help me, we're... [cross-talk]

JENNIFER GRAVEL: Uh-huh... [cross-talk]

COUNCIL MEMBER REYNOSO: ...to, to, to put some foundation to, to this bogus plan, does the Brooklyn Chamber... what Chambers of Commerce supported this plan?

JENNIFER GRAVEL: The mixed-use option or the original proposal?

COUNCIL MEMBER REYNOSO: The, the, the A text that you're presenting to us, that... by the way the original plan wasn't even presented to DCP, you only had an option to vote on the A text, right, so we never even got a shot at, at hearing the arguments there, I would of loved for, for both proposals to be at the table so that we can make a distinction but the A text is the only one that's being presented to us, the original text is not even something we should be considering anymore or talking about it's this A text. So, which Chambers supported the A text?

JENNIFER GRAVEL: Amanda can you take this...

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AMANDA EYER: We heard... we heard from the Chambers of Commerce that the A text was a step in the right direction...

COUNCIL MEMBER REYNOSO: So, there's no Chamber of Commerce that has written a letter in support of the A text that formally has supported the A text?

AMANDA EYER: They have formally said that it's a step in the right direction, well all... the Queens, the Brooklyn and the Staten Island Chamber of Commerce but they... but they have said that it is in need of additional modifications in order to meet their objectives so the proposal that the city council has before them may be modified if, if you desire.

COUNCIL MEMBER REYNOSO: It's not about... so, so the thing is we want to work in partnership with the administration here in getting the best plan to, to present to the... to the community boards just to, to follow through on... for, for IBZ's. I just really feel that you're, you're building leverage against our ability to do what I think the, the goals and the intentions of the IBZ's are, you're working against us, actively working against us.

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2 JENNIFER GRAVEL: Yeah, as Amanda  
3 mentioned earlier what the A text has is actually...  
4 should be viewed as an additional option that's on  
5 the table, there, there is a lot of room for  
6 modification here and we're... have been in regular  
7 discussions with the council Land Use staff about  
8 where to go with this proposal after... [cross-talk]

9 COUNCIL MEMBER REYNOSO: I just... [cross-  
10 talk]

11 JENNIFER GRAVEL: ...this and we will  
12 continue... [cross-talk]

13 COUNCIL MEMBER REYNOSO: It's just...  
14 [cross-talk]

15 JENNIFER GRAVEL: ...to work with them...  
16 [cross-talk]

17 COUNCIL MEMBER REYNOSO: ...its beyond me  
18 how this administration could stand on its... on, on,  
19 on the fact that it supports manufacturing and that  
20 it's going to... it's going to... this 10-point plan or  
21 whatever point plan it is it's all bogus, at this  
22 moment if we don't win... if we don't get this done the  
23 right way it, it's... I will be... the next four years  
24 would be me speaking against the administration's  
25 support of manufacturing if, if at all, it's just the

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2 truth like if we can't get self-storage on check then  
3 what can we do, what are we really doing to try to  
4 support these businesses especially in my district  
5 that pay good wages, a significant amount of jobs and  
6 a growing industry, right, consistently and then not  
7 only is it hotels, it's again self-storage, it's  
8 entertainment use all these purposes that don't  
9 fulfill with the policy goals of an IBZ, I just don't  
10 get what DCP is doing and I will be recommending,  
11 recommending changes to the A text if we were to ever  
12 vote for it here in the City Council to, to speak to  
13 a, a body that actually supports IBZ's as opposed to  
14 the administration which has abandoned it through  
15 this proposal. Thank you Chair.

16 CHAIRPERSON RICHARDS: Thank you Council  
17 Member Reynoso, we're joined by Chair Greenfield,  
18 Council Member Garodnick and Menchaca, we'll go to  
19 questions now Garodnick followed by Menchaca and  
20 we're also joined by Council Member Grodenchik,  
21 Garodnick, Grodenchik. Alright.

22 COUNCIL MEMBER GARODNICK: Thank you very  
23 much. First of all, I, I want to note that I do not  
24 have IBZ's in my council district and have been  
25 following closely in this conversation because I

1  
2 support the idea of finding ways to protect  
3 manufacturing in New York City, but I want to make  
4 sure that we do it thoughtfully and soundly and in a  
5 way, that makes sense here. so, the first question  
6 that I have is what are the permitted uses today in  
7 the M districts, so, if I were in an M... an IBZ today  
8 what are the variety of permitted uses?

9 JENNIFER GRAVEL: Sure, it depends on  
10 where you are but broadly speaking the range... full  
11 range of industrial uses are, are permitted provided  
12 they meet performance standards, there are certain,  
13 certain retails, retails permitted but there are  
14 limitations on, on large format retail uses,  
15 currently hotels are permitted in the light  
16 manufacturing M1 districts but there is a proposal  
17 following this one that will require special permits  
18 for that use and there are a number of other  
19 commercial uses as well that are allowed in  
20 industrial business zones and, and manufacturing  
21 districts. We allow distribution and construction  
22 uses as well as well as... as well as storage and  
23 warehousing, not the self-storage use but additional  
24 storage and warehousing that's commercial storage  
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that's not, you know available on lease to the public as permitted.

COUNCIL MEMBER GARODNICK: Is, is there a distinction between self-storage and warehousing?

JENNIFER GRAVEL: This proposal will create such a distinction, it does not currently exist.

COUNCIL MEMBER GARODNICK: So, explain that to me and also, I think that there's probably other things that are... tow... is it tow pound, is that something that could be permitted in an M zone?

JENNIFER GRAVEL: Yes.

COUNCIL MEMBER GARODNICK: Okay and you said hotels, I'm sure there's other things that you didn't include on the list but let's just... let's just talk about that distinction of self-storage versus manufacture... I'm sorry, be... versus warehousing because I, I don't really understand that one, it seems to me that those are probably low job creating experiences in each situation, but City Planning is making a distinction there that I'm not that I understand, can you help me understand what the difference is for the purpose of protecting a... an IBZ between a self-storage and warehousing?

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AMANDA EYER: So, we are not proposing restrictions on ware... on, on other kinds of warehouses that are not self-storage because, because warehousing is an... is an industrial use that is used by many businesses and it's often even difficult to tell the difference between warehousing and wholesaling and distribution which are actually job generating industrial activities and IBZ's. We have crafted a definition for self-storage that would draw a distinction between ware, warehousing and self-storage, it will be included in the zoning resolution under 1210, definition of self-storage. One of the important... one, one thing that distinguishes self-storage from other kinds of warehousing is using... is usually the partitioning into small units so it's, it's the small units that are rented and then also the, the, the fact that individuals or businesses directly access their units without, without giving them in, into bailment or into custody of, of the warehouse... of, of, of warehouse which then it would be a warehouse not a self-storage facility so those are the main distinctions... main distinctions that the definition for self-storage introduces.



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COUNCIL MEMBER GARODNICK: So, so it's an... it's an industrial... warehousing is an industrial use and is used by many businesses, is... as I understand your explanation. Is... tell me who's using these self-storage facilities, it seems to me that there are a lot of businesses that are using self-storage facilities too, a lot of New Yorkers who are not businesses are using self-storage too, but do you know what percentage of self-storage is used by business as opposed to individuals?

AMANDA EYER: So, we can... we can only cite numbers that we have heard cited frequently throughout the public review process and numbers that we have found in... or data that's provided by the National Self-Storage Association independent of this action and the New York Self-Storage Association and we have consistently heard that between 20 and 30 percent of units are rented by businesses and those are, are typically small businesses that we have heard meet the flexibility that self-storage offers with the short term... with the short leasing terms and the ability to expand or reduce the size of units they can also access the self-storage units themselves at any time that they want to when the

1  
2 self-storage facility is open which we hear is an  
3 important feature for small businesses.

4 COUNCIL MEMBER GARODNICK: So, 20 or 30...  
5 20, 30 percent seems to me like many businesses are  
6 using self-storage facilities, it's not exclusive  
7 obviously to businesses but it does seem like many  
8 are using self-storage so, I, I, I'm still struggling  
9 then with the distinction between warehousing and  
10 self-storage for this purpose, do they both have in  
11 terms of job creation or warehouses and self-storage  
12 are they... is there... is there a material difference  
13 there from City Planning's perspective?

14 AMANDA EYER: The data that we looked at  
15 combined warehousing and moving businesses which is  
16 another kind of business in that sort of field and I  
17 believe this is in the... in the... in the environmental  
18 review work but warehousing and moving businesses had  
19 about three times as much jobs as self-storage, I  
20 think about 18... on average 18 jobs per business  
21 versus five for a self-storage business.

22 COUNCIL MEMBER GARODNICK: So, moving  
23 businesses and warehousing you put in the same  
24 category with self-storage as one third of the jobs  
25 on the other side, is that... is that accurate?

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2           AMANDA EYER: That is correct, we  
3 couldn't look at direct... at data... at, at detailed  
4 data for other businesses that use self-storage  
5 because they, they, they don't declare the self-  
6 storage unit as their... as their location or business  
7 base.

8           COUNCIL MEMBER GARODNICK: Well is there  
9 any way for us to get that number with any certainty  
10 here about either, either jobs or who's using self-  
11 storage facilities without having to... I mean  
12 obviously there's some numbers out there as you cited  
13 that may be City Planning is not comfortable with or  
14 is not prepared to adopt as, as our own as the city  
15 but is there a way to get to the... to a, a real number  
16 as to who's using them and what sort of businesses  
17 are potentially affected here?

18           JENNIFER GRAVEL: There... we have... we've  
19 saw a number of studies that were issued to prior to  
20 our referral of this text amendment that were  
21 consistent with what we heard in testimony at our  
22 hearings about the number of users in self-storage  
23 facilities that are businesses, so we don't... we don't  
24 really have any reason to, to, to doubt that those  
25 numbers are true. There... in, in theory I suppose you

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2 could do a survey, I don't know, you know how, how  
3 accurate that would be but who's using the facilities  
4 is information that's collected by the operators of  
5 those businesses and its proprietary information  
6 that, that we can't compel them to share with us.

7 COUNCIL MEMBER GARODNICK: Have you  
8 asked... have you asked for it?

9 JENNIFER GRAVEL: We have asked on a  
10 number of occasions for information about the number  
11 of businesses that, that rent from them, we have not  
12 been provided data, we have... but they, they have  
13 provided testimony in hearings.

14 COUNCIL MEMBER GARODNICK: Okay, well  
15 we'll, we'll certainly ask them for that too. Just a  
16 couple more questions here Mr. Chairman and thank  
17 you. The industry says that they're... self-storage is  
18 about 95 percent occupied in the aggregate is that an  
19 accurate number from your perspective or is that off?

20 AMANDA EYER: I think that's pretty much  
21 what I have been reading in the industry journals.

22 COUNCIL MEMBER GARODNICK: Okay and the  
23 last question is I realize... I'm sorry, I didn't,  
24 didn't ask it before but a tow pound you gave me the  
25 example for a moving company and a warehouse versus

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self-storage, how about a tow pound you said 18 jobs per business on, on a moving company how about... how about for a tow pound?

JENNIFER GRAVEL: We didn't really look at tow pounds specifically as part of this study but it's in... a tow pound is also a challenging use to cite, I, I mean I can do some research and figure out sort of typical number of jobs, but they require large sites, they are not uses you would want in residential or commercial areas, so manufacturing districts are generally appropriate places to locate a tow pound.

COUNCIL MEMBER GARODNICK: So... but we don't have a... we don't have a, a job number?

JENNIFER GRAVEL: I, I don't offhand have a job number.

COUNCIL MEMBER GARODNICK: Okay, well I'll just make one observation Mr. Chairman, it seems like there's a proposal on the table here that not, not really, really nobody's all that satisfied with, I'm... I don't have the prescription as to what the answer is, but I would note that there are some distinctions that are remain... being made among different categories of businesses that, that does

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2 make me squeamish and I think that we should be  
3 concerned about as a precedence when it comes to say  
4 picking and choosing among industries out there so  
5 those are... those are my two cents, we'll look forward  
6 the continued conversation and the testimony from  
7 everybody else today.

8 CHAIRPERSON RICHARDS: Thank you Council  
9 Member Garodnick. We're going to go to Council Member  
10 Menchaca.

11 COUNCIL MEMBER MENCHACA: Thank you Chair  
12 and thank you to the members of the committee and  
13 those who have been asking questions, thank you for  
14 coming today and talking to us a little bit about the  
15 future of manufacturing. I, I want to... I want to also  
16 take some steps back and, and question the connection  
17 between the work that you're doing and the  
18 presentation that you gave us today and some other  
19 agencies that are talking about manufacturing  
20 districts like the Economic Development Corporation  
21 and the Mayor himself about generating jobs in the  
22 places that are manufacturing and whether or not you  
23 took into account... and actually you can tell me if  
24 the Mayor has a jobs plan that he's presented  
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2 recently and, and what that... what that plan is and,  
3 and we'll start there actually.

4 JENNIFER GRAVEL: So, there was New York  
5 Works was released in June which is, is a jobs plan...  
6 [cross-talk]

7 COUNCIL MEMBER MENCHACA: What was  
8 released in June, I'm sorry?

9 JENNIFER GRAVEL: It's called New York  
10 Works...

11 COUNCIL MEMBER MENCHACA: Okay...

12 JENNIFER GRAVEL: And is administration's  
13 jobs plan. It, it, it is a bit more high level than,  
14 than sort of a strategy for M zones, I wouldn't  
15 describe it as specifically a strategy for M zones  
16 but it really... what the objective of that plan is to  
17 really try to grow and connect workers to good jobs  
18 and good jobs that are growing and one aspect of that  
19 plan that is relevant to sort of manufacturing and  
20 industry is a commitment to invest in the city's  
21 assets for... at the Brooklyn Navy Yard, at the  
22 Brooklyn Army Terminal. The administration has made  
23 a, a very significant commitment to investing in that  
24 space and growing manufacturing jobs in those  
25 locations.

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COUNCIL MEMBER MENCHACA: And that also includes Bush Terminal as well?

JENNIFER GRAVEL: Uh-huh, yes.

COUNCIL MEMBER MENCHACA: Okay, so then again I'm, I'm trying to understand because there's a little cognitive dissonance here about the, the jobs plan, you're saying it's a little bit more general than, than manufacturing districts yet there's a lot of investment we're putting into, into properties themselves and, and yet we're getting a proposal that, that has I think compromised some of those values that you kind of heard today about, about self-storage and it's... and it's dismal and I think we... I'd be... have to keep on saying it, it's dismal employees on average per square foot and can you actually repeat that, what, what is the average square foot per employee on self-storage?

JENNIFER GRAVEL: We, we didn't average it out by the individual size of different self-storage facilities, but it was an average of five employees per self-storage facility independently of, of the size, this of course could include variation but we, we didn't go into that much detail.



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COUNCIL MEMBER MENCHACA: Okay, so again I, I just... I, I just want to emphasize that as someone who does have an IBZ in, in my district a, a massive manufacturing district, a waterfront with a port, with a future I think of, of how we're going to do work in, in this city I think it's important to say that the proposal that you... that you have in front of us I think compromises the larger value or the goals that the Mayor and the Economic Development Corporation are trying to push forward and so I think that's just important, important to say. The other piece to this is figuring out where the... this 10-point industrial action plan that was also released in 2015 include the restrictions of hotels and self-storage in manufacturing and, and so can you help reconcile that, that kind of positioning with the proposal that is before us today?

JENNIFER GRAVEL: So, the question is why doesn't this proposal include hotels, is that...

COUNCIL MEMBER MENCHACA: Or just help, help me understand the, the kind of connection between what... [cross-talk]

JENNIFER GRAVEL: Yes... [cross-talk]

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COUNCIL MEMBER MENCHACA: ...what we heard  
in 2015... [cross-talk]

JENNIFER GRAVEL: Correct... [cross-talk]

COUNCIL MEMBER MENCHACA: ...I just... I  
just... I think it's important for us to understand  
the... [cross-talk]

JENNIFER GRAVEL: Yeah... [cross-talk]

COUNCIL MEMBER MENCHACA: ...evolution of,  
of understanding for, for the administration.

JENNIFER GRAVEL: So, initially it was  
the Department's intention to refer out a text that  
included both hotels and many storage... self-storage  
in IBZ's to, to include appropriate limitations on  
both of those uses after doing quite a significant  
amount of work and prior to referring out the text  
initial concerns about hotels raised more broadly  
outside of, of the IBZ's and in M1 districts more  
generally. Those issues were not solely related to  
conflicts with industry but we're recognized as  
broadly concerns of many communities so there was a  
decision made to expand the geography of the  
applicability of the hotel special permit. We felt  
like self-storage was ready to go, we didn't want to  
slow it down because of the significant increase in

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2 the geography where the hotel special would apply, we  
3 had... additional work was necessary, and we recently  
4 scoped the environmental roof for that and that is,  
5 is, is... will... it has sort of began its first sort of  
6 milestone in the public review of that. Self... we  
7 didn't think it was necessary to slow down one aspect  
8 of the commitments that were made.

9 COUNCIL MEMBER MENCHACA: Okay, look I... a  
10 lot of my colleagues already kind of hit the points  
11 that we needed to hit and I, I just want to emphasize  
12 here that there's, there's a real I think lack of  
13 commitment on previous statements that were said  
14 about how we protect our industrial business zones  
15 for the kind of economic advancement that it's going  
16 to have on our working families, immigrants, and the  
17 opportunities that it's already showing with the  
18 investment that's already on its way and that  
19 investment that's already made its way to places like  
20 Brooklyn Army Terminal and the Brooklyn Navy Yard  
21 and, and I think this proposal though we keep on  
22 hearing over and over again we can... we can adopt a  
23 different proposal it's disappointing that the  
24 administration doesn't continue to stand on what it  
25 stood for a few years ago and stands with the council

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against interests that do not have our communities at the core of, of, of that interest. So, I, I just... registering the disappointment and we're going to make some decisions here and I think we're ready to do that as a council and as members who represent IBZ's... [cross-talk]

JENNIFER GRAVEL: Yeah... [cross-talk]

COUNCIL MEMBER MENCHACA: ...like mine.

JENNIFER GRAVEL: So... so, we are pretty... we remain committed to the industrial business zones, the intent of this proposal is to grow industrial jobs and we look forward to working with the council on ways to make it the best proposal it can be, and we think that, you know given what we've put on the table that there's a lot of options to do that.

COUNCIL MEMBER MENCHACA: Okay.

JENNIFER GRAVEL: Thank you.

CHAIRPERSON RICHARDS: Thank you Council Member Menchaca, going to go to Chair Greenfield.

COUNCIL MEMBER GREENFIELD: Thank you Chair. So, just, just a few questions to, to wrap up. So, you know... you're familiar with the old saying that a camel is a horse design by a committee, it seems like this is sort of the, the camel of the land

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2 use world where from what I can tell nobody actually  
3 seems happy with the A text, am I missing something,  
4 do you... have you gotten a rash of folks either on the  
5 pros or the cons who have come out and said wow this  
6 is so fantastic, have people been sending letters and  
7 advocating because I, I can't tell anybody so far who  
8 signed up today is actually saying they like this  
9 camel. So, I'm just curious as to what your thoughts  
10 are about that in general, is that... are you happy  
11 with that result where both sides seem to be fairly  
12 unhappy, what, what are your thoughts on the bigger  
13 picture and then I just have a couple of specific  
14 follow up questions?

15 JENNIFER GRAVEL: Yeah, sure. Obviously,  
16 we're not happy with this result where both sides are  
17 unhappy, we'd prefer results where both sides are  
18 happy, I don't know that there is a proposal where  
19 you're going to get both, both sides happy here. so,  
20 we, we do believe that the proposal that's put forth  
21 is a meaningful... requires a meaningful amount of  
22 space for industrial use and meets the objectives of  
23 the plan while also addressing additional concerns we  
24 heard in the process because it's not what was  
25 originally referred out and because what we've heard

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2 from the industry that it remains a significant  
3 requirement on their part to develop the space we  
4 have two sides that are, are, are less than happy,  
5 less than thrilled with what's been put out but we do  
6 believe it was the balancing act.

7 COUNCIL MEMBER GREENFIELD: Okay, I guess  
8 my, my follow up question to that is then what is the  
9 policy goal there is to choose, right, I mean if, if  
10 each side is telling us hey we're not happy with this  
11 and each side is making arguments, policy arguments  
12 that this undermines their particular objective  
13 without rehashing what has been already discussed  
14 here for the last hour what do you think your new  
15 policy.. what do you think your camel actually  
16 achieves, in your own words what, what do you think..  
17 [cross-talk]

18 JENNIFER GRAVEL: In my own words..  
19 [cross-talk]

20 COUNCIL MEMBER GREENFIELD: ...this  
21 achieves from a policy.. [cross-talk]

22 JENNIFER GRAVEL: Yeah... [cross-talk]

23 COUNCIL MEMBER GREENFIELD: ...perspective?

24 JENNIFER GRAVEL: Yeah... [cross-talk]

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COUNCIL MEMBER GREENFIELD: Beyond the compromise?

JENNIFER GRAVEL: Uh-huh, if you're going to get self-storage it's going to include industrial space so you, you get the industrial space built, some new industrial space which you actually don't see constructed that often, you get that space and self-storage next to or above it and you... I don't believe you get any less industrial space than what you would have were you not to have it.

COUNCIL MEMBER GREENFIELD: Okay, so to be fair it's essentially a new policy that the city's articulating, right, which is... it's, it's nothing to do with the old policy, it's a brand-new policy that says that if you're going to build... if you're going to build self-storage you have to build industrial space, is that basically what the policy is, I'm just trying to make sure we're all on the same page?

JENNIFER GRAVEL: More or less, yes.

COUNCIL MEMBER GREENFIELD: More or less, okay. So, it's a new policy essentially that you've rolled out?

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JENNIFER GRAVEL: It's, it's consistent with, with what the administration has been saying that we... [cross-talk]

COUNCIL MEMBER GREENFIELD: No, I don't... I don't... to be fair I'm not debating as you can... [cross-talk]

JENNIFER GRAVEL: Yeah... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...tell I'm not... [cross-talk]

JENNIFER GRAVEL: Yeah... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...at the end of the questioning sequence I'm really just trying to get down to the facts, I'm not... I'm not looking to debate or argue the merits of it, I just want to understand just so we're all on the same page respectfully for the new policy the city is putting out which is not the one that was announced a couple of years ago, right, they're saying that new policy you can get self-storage as long as you build some industrial space, pretty much the case?

JENNIFER GRAVEL: I would... I wouldn't characterize it as a new policy, I would characterize it as, as administering what we committed to was to



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2 study this and to look into appropriate limitations  
3 on self-storage and we believe... [cross-talk]

4 COUNCIL MEMBER GREENFIELD: Right, I'm  
5 not... once again I told you I was honest when I said I  
6 wasn't going to quibble with you so I'm not going to  
7 quibble so I'm just going to... I, I have my  
8 interpretation, I think it's clear essentially where  
9 we're at and that's okay, it's not a criticism I'm  
10 just trying to make sure we're all on the same page  
11 because I think there's a lot of sort of confusing in  
12 terms of different perspectives. Just a, a couple of  
13 technical questions. I noticed that the existing  
14 self-storage facilities would be grandfathered but  
15 normally the grandfathering would be considered to be  
16 non-conforming and in this case, it's actually be  
17 conforming so that allows for the existing self-  
18 storage facilities to still... still expand why, why is  
19 that, that seems to be a little bit unusual in terms  
20 of how, how the Department normally does these  
21 things?

22 AMANDA EYER: Yes, that's, that's a good  
23 question. So, yes the Commission adopted a proposal  
24 that would consider pre-existing self-storage  
25 facilities as conforming buildings not non-conforming

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2 buildings and this is because legal non-conforming  
3 buildings even for a change in the building's  
4 footprint would trigger the special permit  
5 requirement, this seems like it would be an  
6 unnecessarily onerous to the industry and could  
7 potentially involve a lot of Department of City  
8 Planning staff time for even somewhat minor changes,  
9 having a, a special permit application for changing  
10 the building's footprint or for reallocating parking  
11 or loading would not further the, the objectives of  
12 maintaining and creating siting opportunities for job  
13 intensive industrial businesses in IBZ's so we wrote  
14 the rules this way. This... all this really means is  
15 also that a self-storage facility that is underbuilt  
16 prior to date of adoption of, of this proposal so  
17 only a self-storage facility that is currently  
18 underbuilt could still have the ability to expand so  
19 if it was built to the full FAR today it could not  
20 expand even with the adoption of this. So, the  
21 commission... the commission did not have any issues  
22 with considering self-storage facilities conforming  
23 since expanding and underbuilt self-storage facility  
24 does not take away space from a potential industrial  
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development and is... it would in that case only be realizing the FAR that is already permitted.

COUNCIL MEMBER GREENFIELD: Got it, okay so when you refer to special permit framework which framework are you referring the new one or the original one when you're referring to the... you referred in your testimony the special permit, what are you referring to, the BSA... the permit, you're not referring to the DCP special permit, right, that was originally contemplated, I just want to clarify that point? Are you referring to the Board of Standards and Appeals?

JENNIFER GRAVEL: Yes.

COUNCIL MEMBER GREENFIELD: Because if, if I recall correctly the original framework had a special permit that was the... that was going to be decided by the Commission, correct and that's... [cross-talk]

JENNIFER GRAVEL: That's correct... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...something that you walked away from ultimately?

JENNIFER GRAVEL: That's correct, I mean the, the proposal now if you were to... if a... if a

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developer were to need relief on the current proposal in which they, they either could not provide the industrial space to the standards that are indicated in the zoning text waiver reduce those requirements they'd have to go to the BSA special permit. Those... the relevant... [cross-talk]

COUNCIL MEMBER GREENFIELD: As opposed to the original framework which had a commission...

JENNIFER GRAVEL: Had a commission, the, the reason is for the difference here is that the, the... [cross-talk]

COUNCIL MEMBER GREENFIELD: Yeah... [cross-talk]

JENNIFER GRAVEL: ...findings are really related to feasibility and that is something that the board... [cross-talk]

COUNCIL MEMBER GREENFIELD: No, I understand... [cross-talk]

JENNIFER GRAVEL: ...of standards... [cross-talk]

COUNCIL MEMBER GREENFIELD: I just want to... [cross-talk]

JENNIFER GRAVEL: Yeah... [cross-talk]

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2 COUNCIL MEMBER GREENFIELD: I like to  
3 clarify... [cross-talk]

4 JENNIFER GRAVEL: But that's correct...  
5 [cross-talk]

6 COUNCIL MEMBER GREENFIELD: ...for those  
7 folks who are... [cross-talk]

8 JENNIFER GRAVEL: ...there's a difference,  
9 yeah... [cross-talk]

10 COUNCIL MEMBER GREENFIELD: ...watching at  
11 home it gets a little bit confusing. So, referring  
12 back to the original... to the original special permit  
13 which was related to the commission why, why did you  
14 abandon that model and is there... is there anything  
15 that could be done to improve it because I think that  
16 was a point of contention?

17 JENNIFER GRAVEL: There were a number of  
18 concerns heard in the process about the findings for  
19 the CPC special permit and the ability of the  
20 commission to adjudicate those findings so, that was...  
21 that was one concern and with the change to the  
22 proposal being related to the development of  
23 industrial space and, and to get relief on that as...  
24 like I mentioned about feasibility which is not  
25 something that the commission is, is well equipped to

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adjudicate but to answer your question could you do it... do anything about it, we referred out a CPC special permit so there are modifications that are in scope so yeah, I mean that, that could be addressed.

COUNCIL MEMBER GREENFIELD: Okay, so that leads me to my next and final question which is are there modifications to the original proposal that you think would make it better or easier to work with in relation to the commission's special permit, the one that we've walked away from? As, as you can tell from this conversation we're looking at everything, right so we're... [cross=talk]

JENNIFER GRAVEL: Uh-huh... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...going to have a holistic conversation about all the possibilities and one of the possibilities was a special permit so I just want to get your input on that because as you recognize it is within scope so are there modifications or changes that you would like to see that you would say well you know if these changes happen we think it would make it a little bit more efficient or a little bit easier for the commission to actually overcome those challenges.

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JENNIFER GRAVEL: I mean it's something we've been thinking about for a long time and its, it's a... it's been a challenge, but we look forward to, to working with the council's land use staff to, to try an... [cross-talk]

COUNCIL MEMBER GREENFIELD: Okay, nothing in particular that you want to share with us... [cross-talk]

JENNIFER GRAVEL: Nothing... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...today but you're... [cross-talk]

JENNIFER GRAVEL: ...in particular... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...open to having the... [cross-talk]

JENNIFER GRAVEL: Yeah... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...conversation... [cross-talk]

JENNIFER GRAVEL: I'm open to having the... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...is what you're saying... [cross-talk]

JENNIFER GRAVEL: ...conversation.

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COUNCIL MEMBER GREENFIELD: Okay, very helpful. Well we thank you very much and, and once again I want to recognize that this is a complicated area and I understand that, you know horses are difficult to make and sometimes camels come out but the purpose of these hearings is that we have the opportunity to improve it and hopefully we can get back to a... the horse model so I thank you for this opportunity and I really am grateful, I know there was a lot of work here and I appreciate that and the, the frustration that you're seeing today it certainly should not be a reflection of the fact that we, we certainly do recognize that a lot of time and effort went into, into it and I think we're just trying to perfect that system but we're grateful for all the hard work and the time and effort that you put in so thank you.

JENNIFER GRAVEL: Thank you.

CHAIRPERSON RICHARDS: Okay, Council Member Garodnick, last question. Garodnick followed by Grodenchik.

COUNCIL MEMBER GARODNICK: We're interchangeable anyway, it's fine. Let me... one, one follow up to before... would there be any rational to



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create some sort of a restriction or limitation for self-storage in industrial business zones which said that more than a certain percentage of the units had to be occupied by businesses as opposed to say individuals, is that something which City Planning considered here, it, it seems like it would have addressed the, the warehouse versus self-storage distinction but I, I don't know if you guys studied that?

JENNIFER GRAVEL: We, we did, and you know to be quite honest I don't know how you would enforce that provision without peeking in boxes and it just... it's a... sort of a level of oversight that really even with the most robust enforcement regime would probably be impossible to enforce and... that's why this, this notion on for small size allowing for business sized units it is... the trend that the larger storage, storage units are more likely to be rented by businesses so the... it's structured to create a preference for businesses on certain sites but to actually sort of guarantee that a business is, is located in that site I think is a... is a... is a level of, of our intervention into this that... which...  
[cross-talk]

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COUNCIL MEMBER GARODNICK: So, this...

[cross-talk]

JENNIFER GRAVEL: ...is probably undoable...

[cross-talk]

COUNCIL MEMBER GARODNICK: So, the size distinction... [cross-talk]

JENNIFER GRAVEL: Yeah... [cross-talk]

COUNCIL MEMBER GARODNICK: ...can be done on the basis of a building permit or... [cross-talk]

JENNIFER GRAVEL: Yeah... [cross-talk]

COUNCIL MEMBER GARODNICK: ...building approval it's just that prescribing a percentage is, is... it's too hard from an enforcement perspective?

JENNIFER GRAVEL: Sure and it is nothing to... you know stop a business from using the space for their personal storage unit, so I think the business sized really gets that at the intent of that without having... trying to put into place a really sort of unworkable sort of regime.

COUNCIL MEMBER GARODNICK: And did you say there is a distinction in the proposal between larger sized units and smaller sized, I'm sorry?

JENNIFER GRAVEL: On smaller sites... on smaller zoning lots you... in lieu of the industrial

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2 space you... a certain number of, of the units in the  
3 building are required to be... what is the size Amanda?

4 AMANDA EYER: A hundred square feet.

5 JENNIFER GRAVEL: No smaller than 100  
6 square feet which is a... is a large unit in a self-  
7 storage facility and is intended to preference  
8 businesses in that model.

9 COUNCIL MEMBER GARODNICK: Okay, thank  
10 you.

11 JENNIFER GRAVEL: Yeah.

12 CHAIRPERSON RICHARDS: Grodenchik.

13 COUNCIL MEMBER GRODENCHIK: Thank you Mr.  
14 Chairman. I'm sorry I was late today but other things  
15 happen. Manufacturing, we get a lot of requests for  
16 that in the city of New York these days other than  
17 motion pictures which I guess is a form of  
18 manufacturing but I'm just wondering, you know how  
19 much of that is still going on in the city of New  
20 York?

21 JENNIFER GRAVEL: Do you want me to speak  
22 to that?

23 AMANDA EYER: Sure.

24 JENNIFER GRAVEL: Yeah, sure. We're  
25 seeing limited growth, it sort of happens in pockets

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2 in certain locations, it's... it is... has been for a  
3 long time and you know a challenging use to operate  
4 in the city just because of sort of factors that are,  
5 you know independent of what we can control but we  
6 are seeing sort of smaller niche manufacturers  
7 particular that cater to the New York City market do  
8 pretty well in the city, it is a challenge for them  
9 to find sites and that's just part of the reason the  
10 city has made a pretty... a, a pretty significant  
11 commitment in the Navy Yard and the Brooklyn Army  
12 Terminal to help grow these sectors.

13 COUNCIL MEMBER GRODENCHIK: And what are  
14 these... I know we've had, you know growth in the beer,  
15 beer manufacturing, the people who make beer those  
16 kinds of things but that's a product that's consumed  
17 in New York City, you see... can you describe a typical  
18 manufacturer that's come back to the city in the last  
19 five to ten years or is there a typical that's the  
20 first question really?

21 JENNIFER GRAVEL: I don't know if I would  
22 say there's a... the... a typical but the, the type of  
23 manufacturer we have seen sort of do better, sort of...  
24 you know since 2010 has been generally smaller scale  
25 food manufacturing, there has been some sort of

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2 creative sort of artisanal manufacturing, sort of  
3 woodworking and jewelry making and small... generally  
4 tends to be typically small-scale businesses.

5 COUNCIL MEMBER GRODENCHIK: Okay, thank  
6 you Mr. Chairman.

7 CHAIRPERSON RICHARDS: Thank you.  
8 Alright, I want to thank you for your testimony  
9 today. One last question could... do... can we anticipate  
10 any changes, I know you're going through the hotel  
11 special permit conversation, will we be anticipating  
12 any A texts there as well or... [cross-talk]

13 JENNIFER GRAVEL: Yeah... [cross-talk]

14 CHAIRPERSON RICHARDS: ...do you not...

15 JENNIFER GRAVEL: It... [cross-talk]

16 CHAIRPERSON RICHARDS: Or too early to  
17 say?

18 JENNIFER GRAVEL: It's too early to say,  
19 it's going to go through a public process..

20 CHAIRPERSON RICHARDS: Alright, well I  
21 hope that we're going to present it straightforward  
22 the first time as we go through this process as well.  
23 So, I'll just leave, I want to thank you for your  
24 testimony today so just some of the concerns that you  
25 might have heard obviously around the BSA, the 25,000

1  
2 square feet threshold and also you, you said you  
3 spoke to... you sent letters to community boards?

4 JENNIFER GRAVEL: Yeah, Amanda do you  
5 want to take that...

6 AMANDA EYER: Yes, regarding the A text,  
7 yeah.

8 CHAIRPERSON RICHARDS: Okay, so what I  
9 would suggest, and we would hope you would do is to  
10 offer an opportunity to go back to those boards to  
11 present your changes, you should at least offer the  
12 opportunity and we look forward to more dialogue on  
13 this... at the council regroup to sort of figure out  
14 what direction we're going to go in... go in so, so  
15 thank you for your testimony.

16 JENNIFER GRAVEL: Thank you.

17 CHAIRPERSON RICHARDS: Alright, we're  
18 going to call the next panel; Leah Archibald,  
19 Evergreen; Adam Friedman, Pratt Center; Barika  
20 Williams, ANHD; Joel Moskowitz Tool for Working Wood...  
21 Working Wood and Cheryl Serrano, Brooklyn... I can't  
22 read this, Brooklyn... what is this? Brooklyn... is it  
23 Brooklyn... oh Cookie Company, okay. I didn't have  
24 breakfast this morning, a cookie sounds good right  
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1  
2 about now. So, Cheryl Serrano, Joe Moskowitz, Barika  
3 Williams, Adam Friedman, Leah Archibald.

4 ADAM FRIEDMAN: Yeah... okay, am I leading  
5 off?

6 CHAIRPERSON RICHARDS: We're going to  
7 give each one of you two minutes on the clock, we do  
8 have another hearing after this as well so... going to  
9 try to adhere to the timelines here.

10 ADAM FRIEDMAN: Okay...

11 CHAIRPERSON RICHARDS: Alright.

12 ADAM FRIEDMAN: Thank you... [cross-talk]

13 CHAIRPERSON RICHARDS: And you may begin.

14 ADAM FRIEDMAN: Good morning... good  
15 morning, I'm Adam... is it on? I'm Adam Friedman and  
16 I'm the Director of the Pratt Center for Community  
17 Development. I appreciate the opportunity to testify  
18 this morning and I'll do my best to summarize the  
19 testimony that you have in front of you. So, we  
20 supported the original proposal and today we're here  
21 in opposition the A text. Many of the reasons have  
22 already come out I would say, you know in all honesty  
23 we have supported use restrictions in the M zones for  
24 more than 20 years. The first report we did was  
25 called The Little Manufacturer That Could and the

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2 same dynamic that we saw then exists today where  
3 there are competitive uses, non-industrial that pay  
4 higher rents that are not only directly displacing  
5 manufacturing but that cause instability in the  
6 market. It's the expectation that a landlord can, or  
7 a developer can get more for the property beyond what  
8 a manufacturer pay that sets off this type of real  
9 estate speculation that necessitates use restrictions  
10 in the M zones. So, two years ago we stood with the  
11 Mayor and many of you around to, to celebrate the 10-  
12 point commitment and many, many of those provisions  
13 have now hit obstacles and then simply not moving  
14 forward and long overdue. One of those commitments  
15 was special permits for self-storage, we testified in  
16 support of the original proposal by DCP at the  
17 community boards, at the Planning Commission, at the  
18 Borough Presidents, we honored our commitment, we  
19 don't see that... the reciprocity being honored today.  
20 So, there are essentially four reasons here why it  
21 should be... why the A text should not be supported,  
22 nobody wants it, what we heard repeatedly during the  
23 earlier hearings that developers of self-storage  
24 should not be forced into the business of being  
25 developers and landlords for manufacturers, it's not



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2 enforceable, DOP has no capacity to do this and the  
3 amount of the fines is like a business cost, it's  
4 trivial, it's not necessary, I've attached a map that  
5 shows where as of right development of self-storage  
6 can continue and finally we kind of think it's  
7 obsolete, this is the old business model and today  
8 what we're seeing particular in higher cost markets  
9 is a new business model around pickup and delivery,  
10 you know to.. I just want to respond to Council Member  
11 Garodnick's, Dan Garodnick's question around what can  
12 be done in an M zone, the other uses, what was not  
13 mentioned was across office use as of right. We've  
14 heard repeatedly that office space is in short  
15 demand. Well you know in New York City everything is  
16 in short supply, right; retailing, self-storage,  
17 manufacturing and the, the national ratios that you  
18 may hear in terms of residents to self-storage simply  
19 don't apply in New York City because of the density  
20 in which we, we use our land and if you look at the  
21 diagram that's in there or some of the pictures that  
22 are in there you get an idea about the utilization  
23 rate that comes from pick up and drop off self-  
24 storage. Thank you.

25 CHAIRPERSON RICHARDS: Thank you Adam.

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2 JOEL MOSKOWITZ: Alright, my name is Joel  
3 Moskowitz, I'm the owner of Tools for Working Wood in  
4 Brooklyn, we manufacture and sell woodworking tools,  
5 basically we're metalworkers who manufacture tools,  
6 typically high-end tools, we're the only manufacturer  
7 of... only retailer of traditional wood working tools  
8 in New York City area actually for about 200 miles in  
9 any direction, but we also sell other stuff frankly  
10 to help pay our rent. I, I, I feel very frustrated  
11 because I, I kind of feel like I'm a... you know the,  
12 the cost of rent is... my self-storage and any non-  
13 industrial use that can be done elsewhere, if you  
14 don't have self-storage in an industrial area they  
15 can go elsewhere, it's a high margin business, they  
16 can put... actually they can be more convenient to  
17 their customers. The reason they want to be in an  
18 industrial area is because you can buy land fairly  
19 cheap because it has zoning that's protecting it and  
20 then you basically try to get... slowly push away it's...  
21 push away what you can do with it. We employ people,  
22 I have equipment, I'm trying right not to figure out  
23 how to get a C and C milling machine in, it weighs  
24 three tons, you can't put it anywhere even just  
25 mechanically, it has to be on a ground floor with the

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2 right kind of electricity in the right kind of  
3 environment. I also worry about critical mass both  
4 for myself, if I want a part or want to even talk to  
5 a... something... if there's no critical mass of industry  
6 one business left over it just doesn't work. Right  
7 now as a seller of woodworking tools my customers are  
8 leaving in droves, they want their woodworking  
9 companies that require typically fairly small amounts  
10 of space, 5,000, 10,000 square feet and they are  
11 getting huge increases of rent and they say I can't  
12 make a living I'm in competition with everybody else,  
13 they're leaving, when they leave they also take their  
14 families who have other jobs and things like that,  
15 they leave the city and suddenly you get less demand  
16 for my product, you lose critical mass suddenly,  
17 there's no market for lumber yards, there's no market  
18 for the electrician who has to... you know doesn't have  
19 work either because that cabinet maker's going to use  
20 his local guy where he's... to come down to the city.  
21 So, it's, it's, it's very frustrating, I can't... it's  
22 a constant battle, you have a certain set of zoning  
23 proposals that made sense and now suddenly, okay,  
24 well it doesn't really... we don't really mean it and  
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2 it's so frustrating, okay. The... that's basically kind  
3 of... I'm very frustrated. Thank you.

4 CHAIRPERSON RICHARDS: Thank you. Thank  
5 you for your testimony.

6 LEAH ARCHIBALD: Alright, is this on? Now  
7 it's on, alright. So, I'm Leah Archibald, I'm the  
8 Executive Director of Evergreen, we're the local  
9 development corporation that works with businesses in  
10 industrial North Brooklyn to help them grow so we can  
11 keep high quality working class jobs in our  
12 community. I'm going to... I neglected to hand you guys  
13 my testimony but it's here and I'm... I'll pass it out  
14 when we're done but I think I'd rather talk a little  
15 bit about why our organization supports the original  
16 proposal that City Planning had developed and has  
17 concerns about the revised A text. So, in no  
18 particular order, you know concern... we're concerned  
19 about the A text because it... first of all it feels  
20 like, you know it was originally intended to be a  
21 limitation on the proliferation of self-storage has  
22 kind of turned into a heightened density bonus for,  
23 for developers so I got... you know we have questions  
24 about that. I'm really concerned in the new space  
25 that would be mandated under the A text about the

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2 affordability for the industrial space in it, you  
3 know we've kind of been through this with the  
4 development and approval of the 25 Kent proposal  
5 which had, you know a similar retention of industrial  
6 real estate and... you know we, we just couldn't nail  
7 the affordability thing in that and you know we're  
8 going to... it'll... it remains to be seen, you know how  
9 affordable this is going to be and whether, you know  
10 working manufacturers and the city are going to be  
11 able to swing it. Enforcement with DOB, I'm concerned  
12 about enforcement, the Department of Buildings has a  
13 lot of really important work to do to protect the  
14 safety and lives of our citizens and I feel like this  
15 is going to get filed under, you know the illegal  
16 conversions that did not get well enforced because,  
17 you know danger to life was not imminent and then,  
18 you know finally, the, the, the big issue here and  
19 it's the hard one for City Planning and it's the hard  
20 one for you guys, it's the hard one for all of us,  
21 you know because so many uses are legal and as of  
22 right in the manufacturing zones here in New York  
23 City there's a lot of competition and there are uses  
24 that are legal and as of right like this, like hotels  
25 that can weigh out strip what a manufacturer is able

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2 to pay and, and it's hard work but we do actually  
3 have to kind of choose what ponies we, we want to  
4 enter into the race and, and, and I think that  
5 without, you know real thoughtful use group reform,  
6 you know it's... we're just going to continue to have  
7 this conversation over and over.

8 CHAIRPERSON RICHARDS: Thank you.

9 BARIKA WILLIAMS: Hi, good morning. My  
10 name is Barika Williams, I'm the Deputy Director at  
11 ANHD, the Association for Neighborhood and Housing  
12 Development so likewise we supported the original  
13 proposal. We have been working and happy to partner  
14 with City Council for the past three years with many  
15 of the industrial business providers, those folks who  
16 work in the IBZ's and with the administration on both  
17 the council's industrial port and the  
18 administration's industrial port and are extremely  
19 disappointed and frustrated that we have somehow  
20 gotten to this point. I think just to highlight some  
21 of the, the things are that the A text is not a part  
22 of what the original goal was. The original goal was  
23 to limit use groups in industrial areas in order to  
24 protect and, and focus on industrial and  
25 manufacturing jobs and the A text does not limit uses

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2 at all, it puts restrictions and requirements, but it  
3 doesn't limit uses at all. I think to speak to  
4 Council Member Garodnick's specific question, I want  
5 to highlight that while the administration did answer  
6 some of the numbers about what share of self-storage  
7 is in small businesses all of those numbers come from  
8 the self-storage industry themselves, we actually  
9 have no independent numbers and no independent data  
10 on how many self-storage facilities are being used by  
11 small businesses and, so we really don't have a clear  
12 understanding of what the... this actually looks like.  
13 I think there, there's a lot of concern about what  
14 the evidence and the numbers are to actually support  
15 this, we know as the administration testified that  
16 they're saying an average of five businesses in a  
17 self-storage facility, I think we have heard accounts  
18 that it's much lower than that and I think that's  
19 what Council Member Menchaca mentioned is one and  
20 sometimes zero people and I think the question that  
21 this sort of raises and the challenge and one of the  
22 reasons we were committed to this is we don't want to  
23 be in a position where we're trading the  
24 manufacturing businesses and workers, many of whom  
25 are racially and ethnically diverse, many of whom are

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folks who are like... who are here in the room in order to store stuff for people who can afford not just their rent but also an extra space and that we thought that the commitment was as neighborhoods and as a city overall that we were saying we value these people, we value these businesses, we value these workers, we value these jobs and now it feels like we've gotten to a point of really stepping back from that.

CHAIRPERSON RICHARDS: Thank you for your testimony and before we go to questions I want to acknowledge we've been joined by students from PS184 in the Lower... from the Lower East Side, hello... sorry, you chose this day to come here but if there's any consolation I was on the city council in the fourth grade in my school and I'm sitting here so... the sky's the limit for you, join the city council in your school. Alright, I'm going to go to Council Member Menchaca for questions.

COUNCIL MEMBER MENCHACA: Thank you Chair and, and thank you for each of your testimony. I, I heard pretty clearly that the impacts of self-storage are, are negative on IBZ's, I heard clearly that the self-storage developers often compete with businesses



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2 at unfair rates and that the lack of enforcement is,  
3 is really critical here. The proposal in front of us  
4 on the A text actually wouldn't give us any  
5 protections it would just kind of create more  
6 opportunity for bonus, densities. So, thank you for  
7 kind of aligning that. I, I do want to say and this  
8 is kind of to the most recent point made about data,  
9 if, if we... if data is coming to us from a particular  
10 industry right now and, and independent, independent  
11 data needs to come to really understand exactly the  
12 economic impact that a self-storage would have, if we  
13 want to support jobs then, then how do we... how do we  
14 move this forward if, if, if we have to do something  
15 now and I, I think that's going to be the important  
16 thing for us as the council to figure out because if  
17 the only data that we have is biased then how do we...  
18 how do we get to a... an understanding?

19 BARIKA WILLIAMS: So, I will say to that  
20 the... I mean I think Adam spoke to some of the data  
21 about how much space is available to do this in other  
22 places and I will also say that the data of who these  
23 workers are and who these businesses are is... does,  
24 does come to us from an outside entity so that comes  
25 from what is connected at the national level so we

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know that 80 percent of manufacturing jobs tend to be people of color, that they are majority foreign born, those are numbers that are coming to us from the national... from NAICS codes so this is national census type of data connect... collected by the US Census Bureau as a part of surveying businesses and surveying workers, what we don't know and what we don't have impartial data on is who's using this space, who wants this space, how much capacity is it, how much vacancy is there within the space, how... is it small businesses using it, is it individuals using it all of that is coming from within the industry.

COUNCIL MEMBER MENCHACA: Have, have, have we asked that question to them, to the industry?

BARIKA WILLIAMS: My... [cross-talk]

COUNCIL MEMBER MENCHACA: To, to supply it?

BARIKA WILLIAMS: My understanding... I, I mean I, I will say I think that's what DCP just testified that they, they requested it and did not get it but I... [cross-talk]

COUNCIL MEMBER MENCHACA: Okay... [cross-talk]

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BARIKA WILLIAMS: ...that's me recounting what they just testified on.

COUNCIL MEMBER MENCHACA: Yeah and, and, and I heard that but as, as far as the advocacy... the advocacy piece have, have the advocates asked for that, I don't know if Pratt Center's asked for that or... is that something that, that we have... that we have sought for?

ADAM FRIEDMAN: Sure...

BARIKA WILLIAMS: Oh I believe Council Member Reynoso asked for it during certification apparently so... there we go and Deputy B.P. Reyna.

COUNCIL MEMBER MENCHACA: Yeah and I guess I'm, I'm not, not right here today right now, I'm saying in general have, have we been... have we've had requests for that kind of data to... again to have a better understanding about what the full picture is and if we're getting... if we're getting blocks to that information then, then I want to know that too.

BARIKA WILLIAMS: Yeah...

COUNCIL MEMBER MENCHACA: That's...

ADAM FRIEDMAN: We haven't requested, we'd be happy to work with the industry in trying to get... [cross-talk]

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COUNCIL MEMBER MENCHACA: Okay... [cross-talk]

ADAM FRIEDMAN: ...it... [cross-talk]

COUNCIL MEMBER MENCHACA: Good... [cross-talk]

ADAM FRIEDMAN: ...in a way that it's credible.

COUNCIL MEMBER MENCHACA: Okay... [cross-talk]

ADAM FRIEDMAN: The, the... I just want to say the other piece of the data that I think we all do have is the ratio on the number of sites, how much are in the IBZs and how much are not in the IBZs and really... so 25 percent are in IBZs... or 20 percent rather are in IBZs, you know that's kind of insignificant in the sense of it won't impact the industry if that opportunity is eliminated.

COUNCIL MEMBER MENCHACA: Right. A couple more questions, is there any modification on the A text at all that you would want to propose?

ADAM FRIEDMAN: Look, I, I think the fundamental problem is and our objection and the commitment that was made is that there should be no as of right use in the IBZ's, it's all or nothing.

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COUNCIL MEMBER MENCHACA: Yeah, okay..

[cross-talk]

BARIKA WILLIAMS: And I think that is clearly the piece that was eliminated in the A text.

COUNCIL MEMBER MENCHACA: Right. And then the A text also allows for the self-storage... allows self-storage as of right on sites smaller than 25,000 square feet, in your experience are sites larger than 25,000 square feet are more valued and in demand by industrial businesses than the smaller sites?

ADAM FRIEDMAN: Yeah... [cross-talk]

LEAH ARCHIBALD: They're, they're harder to find, I mean I can't... I can't speak for the whole city, you can ask my colleagues who will come up from other neighborhoods but certainly in North Brooklyn the, they're... sites like that go really quickly.

ADAM FRIEDMAN: Yeah, under 25 cost is very valuable, 5,000 is valuable, 10,000 is valuable for a manufacturer to, to do their own building on and you know I think there was some testimony, some indication earlier that that doesn't fit the existing self-storage model so it's not really at risk, the self-storage model can evolve, you know they'll figure out some way of using smaller sites and that..

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the fact that some percentage of them already are smaller sites, it's not a big leap.

JOEL MOSKOWITZ: A year and a half ago when... a year and a half ago when I was forced to leave industry city just rents went skyrocketing, it took me about six months of compulsive looking before I found something that was not inexpensive but still on the fringes of affordability to some extent I, I find... you know the amount of rent I pay versus... in New York City versus anywhere else is... we're talking a factor of ten practically and... but it took me a solid six months of looking of which the last couple of months we were in desperate panic so anything... and I have 5,000 square feet which is apparently the sweet spot for, you know small shops, small manufacturing's and stuff like that so...

COUNCIL MEMBER MENCHACA: Thank you.  
Thank you. Thank you.

BARIKA WILLIAMS: Thank you.

CHAIRPERSON RICHARDS: Alright, thank you all for your testimony, thank you. Alright, we're going to go... oh... [cross-talk]

COUNCIL MEMBER REYNOSO: Chair can I say a few words... [cross-talk]

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2 CHAIRPERSON RICHARDS: Council Member  
3 Reynoso for a quick... [cross-talk]

4 COUNCIL MEMBER REYNOSO: I'm sorry...  
5 [cross-talk]

6 CHAIRPERSON RICHARDS: ...question.

7 COUNCIL MEMBER REYNOSO: I'm so sorry,  
8 thank you Chair. So, first I want to say I'm sorry  
9 that you're even sitting here having to have a  
10 conversation about an A text after, you know  
11 partnering with the city and with the city council to  
12 really try to find out how we can best make this  
13 happen so, again I want to apologize first and  
14 foremost. Second, just when it comes to these  
15 policies you... your number one like function in the  
16 work that you do is to protect industrial businesses,  
17 should self-storage have been something that is  
18 conducive to the growth of manufacturing districts,  
19 you would have been the first ones here supporting  
20 it, that not being the case you're obviously opposed  
21 to, to this A text version. Did you guys get a heads  
22 up that this was a... going to be an issue early on in  
23 the process or ever throughout the process, I just  
24 want to know the timeline that's what my, my big  
25 thing... I felt like the Mayor's Office was partnering

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with us in these conversations, did, did you ever get an inkling that they didn't feel comfortable of what was being presented by, by I guess a group that they were a part of?

LEAH ARCHIBALD: No.

ADAM FRIEDMAN: No...

BARIKA WILLIAMS: No, I mean I think the, the answer to that is we went... I mean we all work together to make sure industrial advocates, industrial businesses, small manufacturers were testifying and were a part of the city's land use process at their community boards, at their borough presidents, we wanted them to be able to participate in, in this conversation and it wasn't until we got right to the vote of the City Planning Commission when this was introduced that we had ever heard anything.

ADAM FRIEDMAN: I, I... and I would also add there's supposed to be this study of the North Brooklyn IBZ to create a new template and today was the first time that I heard that there is no other use restriction being contemplated so... currently. I'd been under the impression I guess incorrectly that there was some openness to looking at large scale



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2 entertainment and other non-industrial uses which can  
3 be disruptive.

4 JOEL MOSKOWITZ: I actually, I mean I'm  
5 not an organization I'm just a business, we make... we  
6 make stuff and so I'm not nearly in the know as  
7 people whose job it is to keep track of what's going  
8 on but I remember reading when the original proposal  
9 went through and I said oh this is actually good,  
10 they are trying to kind of make what's little left of  
11 industrial space industrial space and then I found  
12 out about this amendment and I was actually really  
13 floored because I said oh we're back on square one,  
14 it's like no matter how much you try to say let us  
15 protect something it's like you know having a bunch  
16 of pandas and the argument is okay we're going to  
17 protect the pandas and then someone comes and says  
18 I'd like to shoot a panda and now we're having a  
19 discussion of is that a good idea, you know...

20 CHAIRPERSON RICHARDS: I don't know if  
21 that's a good analogy but okay...

22 COUNCIL MEMBER REYNOSO: I think, I think  
23 it's... [cross-talk]

24 JOEL MOSKOWITZ: It... [cross-talk]  
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2 CHAIRPERSON RICHARDS: Leave the pandas  
3 out of this... [cross-talk]

4 COUNCIL MEMBER REYNOSO: ...a perfect  
5 analogy... [cross-talk]

6 CHAIRPERSON RICHARDS: ...alright... [cross-  
7 talk]

8 COUNCIL MEMBER REYNOSO: But it... but it's  
9 true, the people that are supposed to be holding  
10 guard to protecting the IBZ's are letting anyone in  
11 and they're looting the place blind and then they're  
12 looking at us like oh well you should put in police  
13 officers, city council so I just want to say look the  
14 North Brooklyn study is, is an example of the track  
15 record that this administration has when it comes to  
16 actually looking out for the best interest of  
17 manufacturing. It was... it was committed to me for the  
18 last three years that we're going to get a North  
19 Brooklyn study done that's going to look at how we  
20 can continue to protect and grow manufacturing  
21 including some, some prospects that I don't  
22 necessarily agree with but I was open to listening to  
23 because I think we need to evolve or we need to  
24 progress on this issue, I don't have that either so  
25 not only is North Brooklyn not getting it's study,

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2 not only are we fighting DCP on A text amendment, you  
3 know we're having conversations in the Bushwick  
4 rezoning where they want to take all the  
5 manufacturing, right like I just don't... I don't see  
6 any, any level of advocacy by this administration  
7 when it comes to manufacturers and this is just  
8 another example of that so it's just getting very  
9 frustrating for me who considers himself a partner to  
10 the administration that even, even that relationship  
11 is insignificant when it comes to something I care  
12 deeply about.

13 JOEL MOSKOWITZ: Can I say one thing..  
14 [cross-talk]

15 CHAIRPERSON RICHARDS: Alright, we're  
16 going to have to... we're going to have to wrap up  
17 because I... I'll let you give final, a very quick  
18 statement and then we have to get to the next panel.

19 JOEL MOSKOWITZ: My analogy may not be  
20 100 percent appropriate, but this is my livelihood, I  
21 mean on the sense that I... when I was looking for  
22 space I honestly thought I just... I thought I got... I  
23 found the space I'm currently in on December 27<sup>th</sup>, I  
24 accidentally just looked at some real estate ads  
25 figuring it's Christmas week no one's putting up any...

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2 up stuff but I should try but I actually thought we  
3 might either be forced to close or something because  
4 I, I like living in New York City and I... making a  
5 living is really hard and both myself and the people  
6 who work for me, you know we all depend on each... we  
7 depend on space.

8 CHAIRPERSON RICHARDS: Thank you.

9 LEAH ARCHIBALD: Thank you... [cross-talk]

10 CHAIRPERSON RICHARDS: Thank you for your  
11 testimony.. [cross-talk]

12 BARIKA WILLIAMS: Thank you... [cross-talk]

13 CHAIRPERSON RICHARDS: ...we thank you all.  
14 Alright, we're going to get to the next panel;  
15 Cassandra Smith, GMDC; Julian Gomez, Make the Road  
16 New York; Nancy Carin, BOC; Bill Williams, LDC of  
17 East New York and Ben Margolis, Southwest Brooklyn  
18 Industrial Development Corporation and I want to  
19 thank everyone for their testimony. We're going to  
20 get to... we're running a... we have two more... oh three  
21 more panels I believe on the East River Fifties,  
22 Sutton Place Application following these panels. You  
23 may begin.

24 BEN MARGOLIS: Good morning. My name is  
25 Ben Margolis and I'm the Executive Director of

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2 Southwest Brooklyn Industrial Development  
3 Corporation. On behalf of New York City, we manage  
4 the areas IBZ and the Workforce One Industrial and  
5 Transportation Career Center located at the Brooklyn  
6 Army Terminal. As a provider of both industrial  
7 business services and workforce development programs  
8 we feel a unique perspective and responsibility  
9 around this issue. Through a public process IBZ's  
10 were established by the Industrial Business Zone  
11 Boundary Commission to quote, "protect existing  
12 manufacturing districts and encourage industrial  
13 growth citywide". Even without sufficient investment  
14 IBZ's remain a home for industrial businesses that  
15 provide vital services to the New York City market  
16 and quality employment and are supposed to be the  
17 geographic heart of the city's own industrial action  
18 plan. Many of our IBZ businesses that have subsidized  
19 employees during lean times survive decades of  
20 pressures that impinge upon their daily operations  
21 and have still chosen to stay in our communities  
22 would like to invest in their own properties, their  
23 businesses and grow but they have serious concerns  
24 about the proliferation of self-storage facilities  
25 and other incompatible uses in the IBZ and their

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2 effect on speculation and on operation. In the  
3 working waterfront communities that we serve in Red  
4 Hook Gowanus and Sunset Park there are nine self-  
5 storage facilities, five of these facilities are  
6 either less than a year old or currently under  
7 construction so we're experiencing a pace of  
8 development that is intense and it's increasing. That  
9 pace of self-storage construction in our IBZ is  
10 essentially precluding creation of quality jobs and  
11 economic mobility that we can actually measure and  
12 that has simply countered to the goals presented in  
13 the Council's own engines of opportunity report and  
14 to the commitments made by this administration and  
15 council in the 10-point industrial action plan.  
16 Therefor as reviewed and approved by a substantial  
17 majority of community boards we strongly support the  
18 original proposal. While Text Amendment A proports to  
19 provide a solution, there are no provisions regarding  
20 an obligation or even an asperation to keep  
21 industrial space in perpetuity and we're fear... we're  
22 really fearful of the ease of making a hardship  
23 argument to BSA so as a result we feel this provision  
24 does not promote the city's clearly stated goal of  
25 creating more affordable manufacturing spaces,

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2 industrial businesses are the... truly the heart of New  
3 York City's economy. Having some place where we  
4 actually prioritize their operational and special  
5 needs is essential, the original proposal allows us  
6 to better contemplate and to support their growth.  
7 Thanks for the opportunity to speak.

8 CHAIRPERSON RICHARDS: Thank you.

9 BILL WILKINS: Good morning. My name is  
10 Bill Wilkins, I'm the Director of Industrial  
11 Development for the Local Development Corporation of  
12 East New York. I've been working in this space for  
13 over 17 years, the LDC has been around for 38 years,  
14 we were birthed out of industrial development  
15 subsequently we were the first in place industrial  
16 park, the first industrial bid in New York City and  
17 the first empire zone in the zones program. Just to  
18 provide you with some context, in 2006 Mayor  
19 Bloomberg commissioned a study on our industrial  
20 space and the recommendations that came out of that  
21 study is that we have to protect and preserve our  
22 industrial space because there just isn't a lot of  
23 inventory. Fast forward to 2015, based upon a lot of  
24 my colleagues the Mayor then embraced this 10-point  
25 plan that he would adopt a special permit use for

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2 hotels and storage facilities. Fast forward, in East  
3 New York right now there are ten storage facilities,  
4 there just isn't any space for our businesses to  
5 expand or to relocate and it's becoming extremely  
6 problematic. In addition to that as I stipulated  
7 being the first IPIP we worked with the EDC over  
8 500,000 square feet of negotiated land sales and to  
9 be a successful applicant it's based upon two  
10 principle components, capital investment and job  
11 growth or job retention and when you build a storage  
12 facility it's the cheapest vanilla box you can make  
13 and you're only going to have about four or five  
14 employees for 30, 40, or 50,000 square feet, it just  
15 doesn't make sense. So, I ask the committee and the  
16 City Council no back peddling on this issue and  
17 keeping it 100 percent Brooklyn, we need to do the  
18 right thing. Thank you.

19 CHAIRPERSON RICHARDS: I'm Queens... I'm  
20 from Queens though, okay, thank you for your  
21 testimony.

22 CASSANDRA SMITH: Good morning... [cross-  
23 talk]

24 CHAIRPERSON RICHARDS: Press your mic,  
25 make sure it's lit, lit up red then you may begin.



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CASSANDRA SMITH: Good morning Chair Richards and members of the Zoning and Franchises Subcommittee. Thank you for the opportunity to testify. My name is Cassandra Smith, I'm the Senior Project Manager at the Greenpoint Manufacturing and Design Center. We're a non-profit developer of affordable manufacturing space for small businesses and we've developed over 700,000 square feet of space in New York and we own and manage five buildings which are now home to over 600 manufacturing jobs. Just last week we closed on our new project in Ozone Park, Queens where we are beginning our renovation work today and creating space for 80 more jobs. So, I'm here to urge the Subcommittee to change the A text version of the self-storage text amendment back to the original version. The jobs created by the manufacturing businesses in New York City are good paying jobs, the industrial and manufacturing center has always... sector has always played a key role in creating the middle class in our city and while the sector has changed over time wages remain strong. Average wages in the industrial sector and in GNDC's own buildings are over 50,000 dollars a year, that's significantly more than the average wages in retail

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2 and customer service. And when space is preserved for  
3 manufacturing good jobs stay in the city. If the  
4 manufacturers are less concerned about being priced  
5 out of their space, then they are able to focus their  
6 attention on running their business. GNDC has found  
7 itself bidding against the self-storage industry  
8 continually for the past ten years, in numerous  
9 manufacturing zones in IBZ's and other M zones. The  
10 seller of the building that we just purchased in  
11 Ozone Park told us that the reason they chose to sell  
12 us the property was because our tenants create good  
13 jobs and we shared with them that we expect there to,  
14 to be at least 80 jobs in the building once it was  
15 fully leased up. In contrast the self-storage company  
16 that we were bidding against told the seller that  
17 they would have six jobs in the 85,000-square foot  
18 facility with the hope that they would reduce that to  
19 four jobs within a year. I'd like to close with some  
20 information about GMDC's tenants, proximity to  
21 markets and labor were the top two reasons that they  
22 gave us for locating their businesses in New York  
23 City on our most recent tenant survey. Third on the  
24 list was quality of life, GMDC's small business  
25 tenants are people who want to live in New York City

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2 who want to make their homes here. Please protect the  
3 spaces where they make their living, so they and  
4 their employees can continue to contribute to New  
5 York City's economy and culture. Thank you.

6 CHAIRPERSON RICHARDS: Thank you.

7 NANCY CARIN: Good morning Chair Richards  
8 and, and members of the Zoning and Franchises  
9 Subcommittee. Thank you for the opportunity to  
10 testify. My name is Nancy Carin, I'm the Executive  
11 Director of the Business Outreach Center Network. For  
12 over 20 years we've been working to save and create  
13 jobs through small business development in New York  
14 City with a special focus on minority and immigrant  
15 communities. During this time, I've witnessed how  
16 important industrial manufacturing jobs and  
17 opportunities are to these local communities and as  
18 an industrial business solutions provider I've  
19 witnessed the critical need for affordable space for  
20 industrial manufacturing businesses that are  
21 committed to their workforce and customers in New  
22 York City. We, we... I'm here to urge that we adopt the  
23 original proposal and not the A text version. In  
24 preparing for today I reached out to businesses and  
25 our good jobs and community wealth building

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2 initiative and I'd like to present a statement by  
3 James Peterson the owner of EAT with Culinary  
4 Professionals Inc. in the South Bronx. Mr. Peterson  
5 stated, I'm currently looking for 15,000 to 20,000  
6 square feet for manufacturing and distribution for  
7 city, state, and federal contracts but there's not an  
8 availability of space, space has been taken up by an  
9 abundance of self-storage facilities. I also believe  
10 that these self-storage facilities only have one to  
11 three employees and their space could be utilized for  
12 companies with 40 to 50 employees which my company  
13 would likely be doing. So, in my best efforts I've  
14 not been able to find suitable space therefor I  
15 support the original proposal for the special permit  
16 to limit the growth of self-storage facilities. My  
17 name is James Peterson and feel free to contact me at  
18 any time. People like Mr. Peterson care about  
19 creating good jobs for community residents and I know  
20 that New York City council shares Mr. Peterson's  
21 values. With the majority of workers foreign born and  
22 over 80 percent of workers being people of color the  
23 industrial manufacturing sector provides access to  
24 good paying jobs while often not requiring a college  
25 degree. This is good jobs policy for all New Yorkers.

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At BOC we recognize that self-storage is used by microenterprises for business purposes however the proliferation of self-storage around the city is so advanced already that we see no evidence that the current demand by microenterprises is not being met by the existing supply of units and most emphatically we see no evidence that these business oriented units need to be located in the industrial business zones. For these many reasons jobs being the number one, we strongly urge the Zoning and Franchises Subcommittee to change the A text of the self-storage text amendment back to its original version. Thank you.

CHAIRPERSON RICHARDS: Thank you Nancy.

JULIAN GOMEZ: Good morning Chair

Richards and members of the Zoning and Franchises Committee. Thanks for the opportunity to testify and to speak for the immigrant and working-class communities. My name is Julian Gomez and I am a Tenant Organizer at Make the Road New York. Make the Road New York is here to urge the Zoning and Franchises Committee to change the A text version of the self-storage text amendment back to its original version. While the original proposal will set a solid foundation for protecting the jobs within the

1  
2 industrial business zones, A text fails to address  
3 the challenges of competing uses making it harder for  
4 industrial and manufacturing businesses to afford to  
5 stay in the city. This issue is of a special  
6 importance to Make the Road and our members in light  
7 of the proposed Bushwick rezoning. One of our key  
8 demands and concerns with the rezoning is ensuring  
9 that preservation and creation of good paying jobs  
10 for local residents and the manufacturing and  
11 industrial sector is a vital avenue through which  
12 this is achieved in our community. Our very wages in  
13 industrial sectors are 50,000 a year, significantly  
14 more than the average wages in retail or food  
15 services in a city where affordability is a constant  
16 challenge and in... and in a labor market highly  
17 obsessed with college degree retaining manufacturing  
18 and industrial jobs is crucial to not exacerbating  
19 the significant wage gap between immigrant families  
20 and native-born workers. In a community like Bushwick  
21 we cannot allow for commercialization of industrial  
22 zoned land, we need equitable economic development,  
23 more opportunities for manufacturers to stay in  
24 Bushwick and employ our members. Today this starts  
25 with the self-storages special permit as a first step

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2 to further use restrictions to IBZ's and beyond. It  
3 is important that you understand if you prioritize  
4 the A text we are... you are prioritizing a space of  
5 stuff over space for jobs. Make the Road members  
6 don't need more self-storage facilities, we need jobs  
7 with good incomes that allow us to... sorry, that allow  
8 us an opportunity to rent or own apartment with the  
9 space we need to keep our stuff. It is also important  
10 that you understand that the A text sets a terrible  
11 precedent for protecting core industrial areas.  
12 Currently this zoning resolution doesn't offer any  
13 protections that are specific to the city's 21  
14 industrial business zones. The original proposal  
15 would for the first-time change this by effectively  
16 restricting a competing use of the IBZ and laying the  
17 foundation for future use restriction from there.  
18 Whether the city passes the original proposal, or the  
19 A text will determine the future of the industrial  
20 business zones in communities like Bushwick. Will our  
21 neighborhood be a center for good paying jobs or an  
22 area where industry interests win out over the  
23 community needs? Thanks for the opportunity to  
24 testify.

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CHAIRPERSON RICHARDS: Thank you for your testimony, thank you all for your testimony. I'm going to go to the next panel. Shahid Mahamood, Delta General Contractor; Zack Mishaan, RKF; Varun Sanyal, Brooklyn Chamber of Commerce. So, Shahid, Varun Sanyal, Zack Mishaan. You may begin.

SHAHID MAHAMOOD: Yes, good morning. My name is Shahid Mahamood and I am the President of Delta General Contracting and Management, best in Bronx and it's a WMB firm and Delta is... right now I have about 20 employees working as a major subcontractor for storage industry. I will summarize it... more than 70 percent of our business is related with the storage industry. We have 20 extra hard really committed workers which sometimes there are more, we have added but those workers are working with... extensively with Cube Smart, Storage Post, Storage Deluxe and some other storages. One of the things I have been proud of as a general contractor working on the projects taking those vandalized sites in different boroughs in Brooklyn and Bronx especially and I'm very proud of that, that those buildings have been renovated or been in good shape to serve the community. Many of the self-storage



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2 projects that Delta has worked on have helped  
3 significantly improve the condition of a site of a  
4 street scape, they kept the buildings in good shape,  
5 they add some green parts on their buildings and keep  
6 the blocks clean. I'm deeply dismayed that the city  
7 is targeting the self-storage industry and  
8 jeopardizing the jobs of the real construction  
9 workers supporting the industry my employees are at  
10 the risk of no new self-storage being built as a  
11 result of this proposal. I will have to lay off the  
12 peoples, I will be in trouble for those investments  
13 we have done on our tools, our equipment and the  
14 places we rented from the storage businesses on  
15 different places to keep our tools which we keep  
16 close to the sites.

17 CHAIRPERSON RICHARDS: Alright, please  
18 begin to wrap up because we, we have another hearing  
19 so I'm going to... [cross-talk]

20 SHAHID MAHAMOOD: Okay... [cross-talk]

21 CHAIRPERSON RICHARDS: ...really... [cross-  
22 talk]

23 SHAHID MAHAMOOD: ...alright, so... I'm in...  
24 I'm, I'm trying to convince that for our construction  
25 usage we are renting units of these storages which

1  
2 are creating usage of these storages and I will say  
3 that the negative consequences of this text amendment  
4 will be... is, is a... company as a WMBE and will be  
5 losing their jobs, thank you.

6 CHAIRPERSON RICHARDS: Thank you.

7 VARUN SANYAL: Good afternoon Chair  
8 Richards and members of the Subcommittee. I'm Varun  
9 Sanyal, the Vice President of Economic Development at  
10 the Brooklyn Chamber of Commerce testifying on behalf  
11 of our president CEO Andrew Hoan. Implementing  
12 industrial policies and land use measures that will  
13 lead to innovation as well as preserving and creating  
14 new jobs, means taking a comprehensive approach to  
15 IBZ's. throughout our various initiatives the  
16 Brooklyn Chamber is committed to those starting all  
17 operating industrial businesses in Brooklyn. We are  
18 keen on working with the city of New York to promote  
19 a strong business economy in the borough. Many small  
20 businesses in Brooklyn turn to self-storage as an  
21 inexpensive alternative for warehousing the  
22 inventory. This includes manufactures and artisans  
23 who see self-storage as complimentary to their  
24 sectors. Considering the cost of real estate access  
25 to self-storage allows small businesses to minimize

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2 expenses. We respectfully request that the city  
3 council disapprove the text amendment in front of us  
4 today as... the issues to be set aside until the proper  
5 research can be conducted and the proper balances can  
6 be struck. Thank you for your time.

7 CHAIRPERSON RICHARDS: Thank you.

8 ZACK MISHAAN: And... good afternoon. My  
9 name is Zack Mishaan and I'm, I'm a Vice President at  
10 Robert K. Futterman and Associates, a retail leasing  
11 and investment sales brokerage firm. My firm has  
12 worked extensively as a commercial broker selling  
13 properties in manufacturing zones across New York  
14 City. I am here today to offer comment on the self-  
15 storage text amendment. I believe it is a flawed  
16 notion that self-storage is gobbling up sites in the  
17 IBZ zone and making it harder for manufacturers to  
18 exist in these zones. In my experience I have not  
19 seen a self-storage developer compete with a  
20 manufacturer across the RBZ's. As a commercial broker  
21 I can attest that self-storage plays an important  
22 role in acquiring, developing vacant land and needs...  
23 that needs remediation or significant investment  
24 often bringing a blighted lot to a state of good  
25 repair. Currently I can point to a site on Ralph

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2 Avenue in Brooklyn, a vacant 70,000 square foot lot  
3 that needs substantial repair and remediation which  
4 has been sitting on the market for several years. It  
5 is in the flat, flatlands in Fairfield IBZ, I've had  
6 some initial conversations with self-storage  
7 developers who were interested in purchasing and  
8 remediating this site but because of those potential  
9 IBZ's restrictions no deals are, are proceeding and  
10 the site will continue to just sit there. I am.. I am  
11 not aware of any other interest in this site, these,  
12 these situations are not.. are problematic for self-  
13 storage alone but for commercial brokers and property  
14 owners whose options for deals will diminish. The  
15 uses other than self-storage that we occasionally..  
16 buying these sorts of.. within these IBZ's include  
17 construction supply yards and raw materials or  
18 logistics of warehousing, if self-storage effectively  
19 disappears from IBZ's these will be the uses that may  
20 take place rather than, than manufacturing. Having  
21 come across.. having come from a career in the garment  
22 sector I am well aware of the challenges that  
23 manufacturers grapple and.. grapple with and ranging  
24 from the labor, labor rates to.. available for  
25 workforces to taxes. These factors affect the

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manufacturing landscape a great deal more than growth of self... of self-storage in the city. I do not believe that this text amendment will meet the, the city's anticipative goal of helping manufacturers grow in New York City and may... and may have unintended consequences in the industrial business zones. Thank you.

CHAIRPERSON RICHARDS: Thank you all for your testimony. Alright, we're going to get to the next panel; James Coakley, Treasure Island Management LLC.; Jon Dario, New York Self-Storage Association; Marc Sharinn, SNL Development; Ben Stark, Slater Beckerman and Maeve Marcello, Safe N Lock Self-Storage. You may begin.

JAMES COAKLEY: Thank you, Mr. Chairman, Council Members. Thank you for the opportunity here to speak today in regard to this proposed text amendment. I've attended a number of these.. [cross-talk]

CHAIRPERSON RICHARDS: Just state your name for the record.. [cross-talk]

JAMES COAKLEY: Oh I'm sorry, James Coakley, Treasure Island Management. I've attended a number of the public hearings as well as some of the

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2 subcommittee meetings to get an understanding of what  
3 the committee's goals were. We've shared experiences  
4 from our industry and you know some of which have  
5 been taken into account others have not. I've asked  
6 for specific examples of data or business names that  
7 would support the notion that self-storage  
8 development is preventing industrial or manufacturing  
9 uses from opening the doors for business here in New  
10 York City, I've even handed out business cards at  
11 some of these hearings as we develop other types of  
12 asset classes. I've yet to... as of today I've yet to  
13 receive any kind of response to a business that was...  
14 that had... was prevented from opening due to a self-  
15 storage development. I further argue that self-  
16 storage is actually an incubator of businesses in New  
17 York City. As an organization we have provided past  
18 testimony supporting the fact that numerous small  
19 businesses rely on self-storage to grow their  
20 businesses and support their families. I'm currently  
21 building a 14,000-square foot, single tenant  
22 industrial facility, this tenant began this business  
23 less than five years ago and he began by renting two  
24 ten by 20 self-storage facilities... units, he now  
25 employs over 45 employees in New York City. Looking

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2 at the numbers that were provided in earlier  
3 testimony that there are about 240 self-storage  
4 facilities of which about 30 percent of their tenants  
5 are industrial or business users... or business... small  
6 business users, excuse me, with the average, you know  
7 for math sake of about 1,000 units in a facility,  
8 that's 300 small businesses per self-storage facility  
9 times 240 is 72,000 small businesses that could be  
10 affected here. and provided... you know taking into  
11 account that these folks are, you know not even sole  
12 proprietors I think the amount of families they  
13 support goes well beyond the 72,000 and I'm a... I'm a  
14 little bit alarmed at the lack of attention that  
15 those small businesses have been getting throughout  
16 this process and I'd urge this council to really take  
17 that into hard consideration. Thank you, sir.

18 CHAIRPERSON RICHARDS: Thank you.

19 JON DARIO: Good afternoon. My name is  
20 Jon Dario, I'm the Vice Chairman of the New York  
21 Self-Storage Association. As we've heard multiple  
22 times today from multiple speakers and from the, the  
23 answers to many Committee member's questions, the  
24 proposed restrictions on self-storage are, are  
25 arbitrary and not based on any real study or

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2 empirical evidence that self-storage has a real  
3 detrimental effect on the siting of industrial uses.  
4 And in fact, we have anecdotal evidence from multiple  
5 speakers that speaks to the opposite. As a result,  
6 the proposal imposes generic zoning framework to  
7 nearly 5,000 acres of land in the Bronx, Brooklyn,  
8 Queens and Staten Island, it's overly broad with  
9 little or no consideration of the specific conditions  
10 and needs of the individual areas across the four  
11 boroughs. In line with the previous speaker's  
12 comments the 72,000 our, our so small businesses  
13 support families and jobs of each small business has  
14 just five employees that's 350,000 jobs much to the...  
15 to the disagreement of the multiple speakers who have  
16 spoken about the low job generation of the self-  
17 storage industry. This proposal would significantly  
18 harm the self-storage industry, it's something that  
19 the City Planning's draft environmental impact  
20 statement fully acknowledged and that means that the  
21 city's through the, the city's environmental review  
22 regulation, City Planning had an obligation to  
23 consider alternatives that would mitigate the impact  
24 that had been identified to the self-storage industry  
25 and therefor the City Planning came up with ideas in



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2 the A text that would attempt to mitigate the impact  
3 on the industry. We believe that there's still  
4 working to do on the A text and on those mitigating  
5 factors. In closing we urge the council to vote  
6 against this proposal in its entirety, there's no  
7 study that backs up its premise or demonstrates its  
8 effectiveness, short of that we believe the  
9 Subcommittee has an obligation to modify the text to  
10 mitigate the significant adverse impacts on the  
11 industry.

12 BEN MARGOLIS: Good afternoon. My name is  
13 Benjamin Stark from Slater and Beckerman P.C., I  
14 represent Safe N Lock Self-Storage, a developer of  
15 self-storage facilities in... here in the city. As many  
16 of you are aware for months we have worked with the  
17 Department of City Planning and other stakeholders to  
18 craft an amendment to the zoning resolution that  
19 would both support the primary purpose of industrial  
20 business districts to retain existing and grow the  
21 city's base of competitive manufacturing and  
22 industrial employers and sensibly allow for the  
23 continued development of self-storage facilities in  
24 the city of New York regretfully we have not yet  
25 found that balance. To date no true quantifiable data

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2 has been presented demonstrating that the development  
3 of self-storage facilities in IBZ's has had either a  
4 negative impact on the viability of existing  
5 manufacturing industrial employers or a chilling  
6 effect on the development of new or the expansion of,  
7 of existing facilities for manufacturers and  
8 industrial users. In short, the record is devoid of  
9 any direct correlation between the development of  
10 self-storage and a negative impact on the city's  
11 manufacturing base. We think that this is highly  
12 problematic especially considering the gravity of  
13 this proposal. Ultimately, we feel that any  
14 restriction on self-storage development won't  
15 actually help the city's manufacturing base. It is  
16 for this reason why we feel strongly that the real  
17 value of this zoning amendment process will be  
18 finding and this term has come up before, the sweet  
19 spot where the continued consumer demand for self-  
20 storage can be used to leverage the development of  
21 new manufacturing space allowing existing  
22 manufacturers in the city to expand and new  
23 manufacturers to set up shop, that's the outcome  
24 oriented goal we've been working toward and we are  
25 grateful for City Planning and other stakeholders who

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2 have stepped up to the plate to have this  
3 constructive conversation. However, as currently  
4 drafted we are not yet there, we've made it clear to  
5 City Planning that the requirement on zoning lots  
6 25,000 square feet or greater that industrial space  
7 equal to... that 50 percent of the lot area be provided  
8 is simply a non-starter for the industry. That  
9 minimum lot size requirement along with the  
10 requirement to provide a significant ground floor  
11 industrial presence will scare away investors,  
12 private lenders and commercial banks and ultimately  
13 discourage the development of larger parcels in the  
14 IBZs. In short, our client and developers like them  
15 cannot make the numbers work, they will not break  
16 ground and therefor they will not construct new  
17 manufacturing space. I would add that the zoning  
18 amendments relief mechanism, a special permit from  
19 the Board of Standards and Appeals to waive these  
20 requirements does nothing to ensure the viability of  
21 self-storage development in the IBZs considering the  
22 existing business model of self-storage, financing,  
23 development and profit outlook, the findings for the  
24 BSA special permit are simply too ambiguous, too  
25 qualitative to provide self-storage investors and

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2 lenders the assurance that they need to make  
3 ultimately a leap of faith. Therefore, we propose a  
4 workable self-storage text amendment that would allow  
5 as of right on zoning lots 50,000 square feet or less  
6 self-storage with no industrial set aside and no  
7 restriction on unit size and on zoning lots larger  
8 than 50,000 square feet self-storage that fully  
9 utilizes the floor area, area ratio provided that an  
10 additional ten percent is set aside for industrial  
11 uses. With these parameters we will build new  
12 manufacturing industrial space while continuing to  
13 provide the affordable warehouse space that  
14 manufacturers and other small businesses have come to  
15 rely on. The affordable warehouse space that keeps  
16 those businesses in business and with that we  
17 respectfully request that the council disapprove the  
18 zoning amendment or in the alternative consider the  
19 modifications we've suggested today, it is not too  
20 late to get this right. Thank you.

21 CHAIRPERSON RICHARDS: Thank you for your  
22 testimony, I just want to acknowledge we've been  
23 joined by Council Members Torres and Barron. You may...  
24 you may begin.

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2           MARC SHARINN: Good after... [clears  
3 throat] excuse me, good afternoon. My name is Marc  
4 Sharinn and I'm one of the owners of Safe N Lock  
5 Self-Storage, a self-storage developer that employs  
6 20 people and builds facilities across New York City.  
7 From the start we have been confounded by the premise  
8 that self-storage stands in the way of manufacturing  
9 growth IBZ's. This assertion has not been backed by  
10 any data whatsoever. Here is the hard data that we do  
11 have; self-storage occupies only 1.6 percent of the  
12 square footage of IBZs across New York City. Over the  
13 last ten years only two self-storage facilities have  
14 appeared in IBZ's per year. Furthermore the New York  
15 Metropolitan area is the number one undersupplied  
16 area for self-storage in the United States. In S and  
17 L's history acquiring and developing sites for more  
18 than 12 years we have never displaced or competed  
19 with manufacturing uses on the sites that we develop.  
20 More often than not we are remediating a contaminated  
21 site that has been left vacant and building a  
22 facility that brings value to local residents and  
23 businesses. If there is any use in the IBZ's that is  
24 complimentary to manufacturing and job creation it is  
25 self-storage. Across our facilities 30 percent of our

1  
2 customers are businesses, they are home contractors,  
3 artists, and artisans, non-profits and manufacturers  
4 who live and work in the community and rely on  
5 affordable warehousing. Forty seven percent of  
6 businesses using self-storage are MWBE's according to  
7 a recent survey. With existing self-storage  
8 facilities already near capacity eliminating  
9 competition will likely result in sharp, sharp price  
10 spikes and hurt residents and businesses which  
11 include manufacturers. We have brought to the table  
12 mixed use compromises that would help the city  
13 achieve its goals, but they are not reflected in this  
14 text. Safe N Lock Self-Storage will not survive this  
15 proposal, we urge the council to base citywide zoning  
16 policies on data not speculation and to disapprove  
17 the zoning text before you. Thank you for your time.

18 CHAIRPERSON RICHARDS: Thank you for your  
19 testimony. Do you mind swapping seats with her?

20 MARC SHARINN: Not at all.

21 CHAIRPERSON RICHARDS: Okay, thank you.

22 MAEVE MARCELLO: Okay. Hi, good  
23 afternoon. My name is Maeve Marcello and I'm a  
24 Construction Manager at Safe N Lock Self-Storage and  
25 a resident of the Bronx. I'm here today to express my

1  
2 concern and opposition to the proposed text amendment  
3 on the self-storage in designated areas. I've been an  
4 employee for... at SNL for more than two years and  
5 prior to that I've worked for a steels production  
6 company in East New York Brooklyn. As someone who is  
7 in the self-storage industry and with a past career  
8 in manufacturing I'm opposed to the City Planning,  
9 Planning's proposal. I understand and agree with the  
10 need for support of manufacturers in New York City,  
11 but I am disappointed in the City Planning's  
12 approach. Manufacturing is being squeezed by many  
13 factors in New York City, my experience working,  
14 working with the steel company has shown me that  
15 property leases are not the only issue effecting  
16 manufacturing in New York City; taxes, labor cost and  
17 general operating cost of being in New York City are  
18 all significant drivers of whether a manufacturer can  
19 survive. The need for more housing is squeezing  
20 manufacturing as retail and hospitality are growing  
21 in these very areas. Safe N Lock has been an  
22 extraordinary career and growth opportunity for me  
23 and my job as well as many others are being  
24 threatened by this unrealistic proposal in hopes that  
25 this will promote manufacturing jobs. As I stated

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2 before there are many different issues affecting  
3 manufacturing in the city and this proposal will not  
4 solve them all. Furthermore, as a construction  
5 manager at SNL I visit underdeveloped... sites  
6 underdevelopment on a regular basis and often they  
7 see these sites in underbuilt parts of the city and  
8 distressed areas. Many of these properties were  
9 formerly manufacturers that chose to leave New York  
10 City, those buildings are now filled with violations  
11 and are a blight in the local community, sometimes  
12 unoccupied and on the market for many years. It is  
13 disappointing for the city to attempt to stifle an  
14 area of growth, self-storage is growing because there  
15 is a demand and there's a city... the city's density is  
16 increasing both on the residential and business  
17 customer side. This is damaging to the working-class  
18 people and the companies like SNL that are serving a  
19 growing need in the city. I hope that the City  
20 Planning can offer a viable proposal that will allow  
21 self-storage and manufacturing to live together in  
22 these IBZ zones.

23 CHAIRPERSON RICHARDS: Thank you, I have  
24 a few questions and then I'm going to turn it over to  
25 my colleagues. So, according to the Department of



1  
2 City Planning 25 percent of New York City's self-  
3 storage facilities are currently located within IBZ's  
4 so, so we're wondering why is the industry in such  
5 strong opposition to this particular text amendment?

6 JON DARIO: Hi, it's Jon Dario I'll take  
7 that. The, the available spaces for further  
8 development about 50 percent of that space that's in  
9 the IBZ's... [cross-talk]

10 CHAIRPERSON RICHARDS: Uh-huh... [cross-  
11 talk]

12 JON DARIO: ...so restriction of self-  
13 storage would cut off 50 percent of the opportunity  
14 for growth of the industry.

15 CHAIRPERSON RICHARDS: So, you're saying  
16 IBZ's are a more attractive area for self-storage  
17 companies or...

18 JON DARIO: No, literally the, the  
19 available sites due to existing zoning, there's other  
20 zoning prohibitions throughout the... [cross-talk]

21 CHAIRPERSON RICHARDS: Uh-huh... uh-huh...  
22 [cross-talk]

23 JON DARIO: ...city which prevent self-  
24 storage so a, a literal analysis of the opportunity  
25 the, the, the opportunities through current zoning to

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develop self-storage this would cut out 50 percent of those opportunities.

CHAIRPERSON RICHARDS: Right, so it's safe to say the zoning restrictions are the reason you look to IBZ's, is that what you're saying... [cross-talk]

JON DARIO: Well obviously there's... in addition to the zoning there's the demand... the demand requirement of business self-storage just like any other business goes to where the demand is.

CHAIRPERSON RICHARDS: And you're familiar that Chicago and both San Francisco also have zoning restrictions around IBZ's and has your particular businesses looked to how that has certainly effected self-storage companies in those cities?

JON DARIO: Its... [cross-talk]

CHAIRPERSON RICHARDS: And has there been a negative effect, have you heard any or have followed that?

JON DARIO: Yeah, I... there, there has been a... there certainly has been a negative impact anecdotally from the owners and operators in those

1  
2 cities neither of those cities is as undersupplied as  
3 New York City so... [cross-talk]

4 CHAIRPERSON RICHARDS: So, are there  
5 still ways... is it safe to say there's still a  
6 significant amount of... or let me not say significant  
7 but there's still development of self-storage going  
8 on?

9 JON DARIO: In those cities there are  
10 still other opportunity, that's correct.

11 CHAIRPERSON RICHARDS: So, let's speak  
12 about the A text, are you in support of the A text  
13 or...

14 JON DARIO: Speaking for... [cross-talk]

15 CHAIRPERSON RICHARDS: Or in support of  
16 nothing happening? I know what you're going to say  
17 but go ahead, you're more than welcome anyway..

18 BEN MARGOLIS: We are in opposition of  
19 the A text.

20 CHAIRPERSON RICHARDS: Say that again,  
21 I'm sorry?

22 BEN MARGOLIS: We are in opposition to  
23 the A text.

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CHAIRPERSON RICHARDS: So, you're in opposition to the A text and can you state the reason?

BEN MARGOLIS: The A text... given that the, the average lot size... I can speak for... [cross-talk]

CHAIRPERSON RICHARDS: Yeah... [cross-talk]

BEN MARGOLIS: ...my client the self... Safe N Lock that given that the average lot size that's being developed for self-storage in recent years is, is closer to 50,000 square feet and given that our expertise is building self, self-storage we, we find that... first off that the, the minimum lot size requirement that would allow these, these self-storage facilities to be built as of right is... it's inconsequential because the... we're, we're building sites that are closer to 50,000 and, and more square feet. From there the numbers just... they're just not working, the... providing a certain amount of square footage to industrial use based on 50 percent of the, the given lot area it's just not penciling out, it's not...

CHAIRPERSON RICHARDS: So, it's not... you're saying it's not financially feasible?

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2           BEN MARGOLIS: The, the A text as  
3 currently drafted is not financially feasible.

4           CHAIRPERSON RICHARDS: And what would  
5 make it feasible?

6           BEN MARGOLIS: Allowing self-storage  
7 facilities to build as of right on lot sizes under  
8 50,000 square feet and for lots... zoning lots greater  
9 than 50,000 square feet that's when the numbers start  
10 to look a little better for us but we would need to  
11 be... we would need to... it's, it's tough to underwrite  
12 the, the development, the industrial space so from  
13 there we would need a, a... an as of right bump up in  
14 the amount of floor area permitted on a given zoning  
15 lot to then build the, the industrial space.

16           CHAIRPERSON RICHARDS: So, you're saying  
17 the 25,000-square foot threshold would not work?

18           BEN MARGOLIS: No, it would not work. We  
19 would need to bump the as of right threshold from  
20 25,000 to 50 and then on anything over 50 we can  
21 build the industrial space but then we need... we need  
22 a little slice of additional bump up in floor area...  
23 [cross-talk]

24           CHAIRPERSON RICHARDS: And what would the  
25 rents look like for these industrial businesses

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because I think in other concerns, you know it's, it's obviously rent, rents, right, can anyone answer that?

MARC SHARINN: That's really not our business but what research we have done it appears to be approximately 20 dollars a foot.

CHAIRPERSON RICHARDS: It's 125 dollars?

MARC SHARINN: Twenty.

CHAIRPERSON RICHARDS: 120... oh 20, I'm sorry... [cross-talk]

MARC SHARINN: Two, two zero.

CHAIRPERSON RICHARDS: 20, okay. Alright. Alright, I'm going to go to both Council Member's Menchaca and Torres for questions.

COUNCIL MEMBER MENCHACA: Thank you Chair and actually the... that... those were... that's what I wanted to know as well on whether or not you supported the, the A text. Is there anybody that does support A text on the panel, the, the current... as, as currently presented by the administration?

JON DARIO: I'll say representing New York Self-Storage Association we believe that the A text is a required step in the right direction to mitigate the, the strongly adverse impact that would

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occur on the industry, but we believe there are still... [cross-talk]

COUNCIL MEMBER MENCHACA: Can I pause you there and... [cross-talk]

JON DARIO: Yes... [cross-talk]

COUNCIL MEMBER MENCHACA: ...the adverse impacts to a special permit?

JON DARIO: No, to the, the adverse impact to the self-storage industry which was already defined in the... in City Planning's DIS.

COUNCIL MEMBER MENCHACA: Got it, so I... and again I just want to... I just want to compare the options that we have currently, A text versus a special permit and you're saying that... I just want to understand the, the kind of connection between a special permit and the A text proposal.

JON DARIO: The New York Self-Storage Association believes that the, the A text is preferable to the original version of the... [cross-talk]

COUNCIL MEMBER MENCHACA: Preferable, okay.

JON DARIO: Yes...

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COUNCIL MEMBER MENCHACA: So, then I have one more follow up question because I think we learned a lot from, from, from the recent exchange. This... the concept of viability for industrial zones, a lot of you kind of spoke to not having an impact on these, these proposals not really having an impact on the industrial... and the viability of industrial zones, it sounds like there's some expertise that you might have on the viability of industrial zones, tell me... tell me a little bit about what, what makes... what creates viability in industrial zones from your perspective and then second in the... in the... in the world of an A text proposal where you would have to create industrial, industrial business... or increase capacity for industrial businesses what makes you... the best for creating viability, viability in that market of, of, of businesses?

BEN MARGOLIS: I'm not quite sure we totally understand the question, but I'll start rambling and hopefully I... [cross-talk]

COUNCIL MEMBER MENCHACA: Okay, let me... [cross-talk]

BEN MARGOLIS: ...get in the right direction... [cross-talk]



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COUNCIL MEMBER MENCHACA: ...just make it, make it clear on an... and I... and I guess actually you're kind of... you made it pretty clear that, that no, no restrictions is important and we want... you want to kind of create even a larger base for, for growth but for the association if this is a... in the right direction for, for A text with, with the, the kind of compromise of unlocking private investment, increasing bonus with the creation of industrial space what makes the, the association believe that that's a... that's a... that's a role that self, self-storage industry wants to play?

JON DARIO: We don't actually, we, we don't believe that putting self-storage operators in the position of, of developing space for industrial purposes and being a... being a landlord to industrial uses is in the... is in the best interest of either the operators or the city for that matter, it's, it's just a situation that, that allows for a reduced negative impact on the industry and we believe that there's... as I said there's, there's still... you know we would rely on the members of the association of which SNL is one to, to provide economic feasibility data and, and to be able to decide for themselves

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whether they can develop a particular property under the particular conditions that exist at that site...

COUNCIL MEMBER MENCHACA: Got it. So, none of you came up with this idea?

JON DARIO: No.

COUNCIL MEMBER MENCHACA: Okay, that's good to know, thank you.

JON DARIO: We did...

BEN MARGOLIS: No, no, we, we did come up with the idea...

COUNCIL MEMBER MENCHACA: Sorry, you... [cross-talk]

BEN MARGOLIS: I'm happy to... [cross-talk]

COUNCIL MEMBER MENCHACA: ...you came up with the A text idea?

BEN MARGOLIS: We, we came up with the cross-subsidy content.

COUNCIL MEMBER MENCHACA: Okay...

BEN MARGOLIS: So... and I'm happy to speak a little bit to that.

COUNCIL MEMBER MENCHACA: Okay, you can... [cross-talk]

BEN MARGOLIS: You'd, you'd asked before I believe you said what puts us in a... in a position

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2 to determine the, the viability of the industrial or  
3 something, something along that line, we can say  
4 right off the bat as you've heard a number of other  
5 times a good proportion of, of self-storage  
6 facilities are, are at least by small businesses so  
7 right off the start... it does... there does seem to be a  
8 little bit of a... of a... of a compatibility between the  
9 idea of building new manufacturing space in one of  
10 these facilities because well the facilities are  
11 already greatly uses by existing manufacturers and  
12 small businesses. From there what puts the self-  
13 storage industry in a good position to build new  
14 industrial manufacturing space, there is an existing  
15 consumer demand for self-storage and the self-  
16 storage... Safe N Lock does care about the viability of  
17 manufacturers in, in industry within IBZ's so if, if,  
18 if we're one of the users that in this, this moment  
19 has demand I think that puts us in a... in a... in a  
20 position to, to, to make some change and, and... but  
21 we're... but we're saying to you today is that as  
22 presently drafted the, the numbers just don't work  
23 and so we're not... we're not going to make that change  
24 that we could conceivably make. So, some of the  
25 opposition who came up before was talking about some

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2 of the other uses that, that are having a... are  
3 appearing to have a, a... an impact on existing  
4 manufacturers and causing some displacement whether  
5 they be hotels or entertainment uses or offices and I  
6 know that the city of New York has started to flirt  
7 with the idea of using some of these other industries  
8 that, that are having high demand, offices in the  
9 North Brooklyn area, using offices to leverage the  
10 construction of, of manufacturing space, well in  
11 areas that might not be suited for the development of  
12 high rent tech offices in North Brooklyn say out in  
13 East Brooklyn or in the Bronx or in the Queens... in  
14 Queens kind of looks like we're, we're in the best  
15 position to contribute to manufacturing base in the  
16 city. So, we are absolutely in a position to, to, to  
17 provide new space for small batch, batch  
18 manufacturers or existing manufacturers who are  
19 looking for a new footprint, it's just that... it, it  
20 just has to work and right now it just doesn't... it's  
21 not working.

22 CHAIRPERSON RICHARDS: Thank you. You...  
23 so, everyone cites that, that businesses... that the  
24 majority of the people who use self-storage are  
25

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2 businesses, where do you get your analysis from or  
3 you say... or they 30 percent... [cross-talk]

4 JON DARIO: We... [cross-talk]

5 CHAIRPERSON RICHARDS: ...right... [cross-  
6 talk]

7 JON DARIO: We, we agree with the 30  
8 percent number that's been talked about several times  
9 today.

10 CHAIRPERSON RICHARDS: But where do you  
11 draw your analysis from on that?

12 JON DARIO: Just from knowing our  
13 customers, while there's a, a number of business,  
14 business users who rent storage under an LLC or a...  
15 under a personal name because they are an LLC or a  
16 privately-owned business... [cross-talk]

17 CHAIRPERSON RICHARDS: And what type of  
18 things do they store, I'm just interested in knowing  
19 what sort of businesses is, is it... [cross-talk]

20 JON DARIO: Everything... yeah, everything  
21 from inventory to business supplies to business  
22 records and in some cases, they, they use their  
23 storage space for both personal and business use  
24 together mixed in the same... in the same facility or  
25 in the same unit... [cross-talk]

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2 CHAIRPERSON RICHARDS: But it's safe to  
3 say no scientific analysis has been done on who  
4 actually utilizes... [cross-talk]

5 JON DARIO: There's...

6 MARC SHARINN: Jon, may I?

7 JON DARIO: There have... yeah, go ahead.

8 MARC SHARINN: This year we commissioned  
9 the first survey of its kind and what we found is  
10 that 30 percent of the business... oh excuse me, 30  
11 percent of the self-storage users are businesses, are  
12 locally based businesses.

13 CHAIRPERSON RICHARDS: So, 30 percent are  
14 locally... and, and you said you got your analysis from  
15 where?

16 MARC SHARINN: We hired a professional  
17 third party... [cross-talk]

18 CHAIRPERSON RICHARDS: Okay... [cross-talk]

19 MARC SHARINN: ...market research firm to  
20 conduct that study.

21 CHAIRPERSON RICHARDS: Okay and that's  
22 across all of the particular... how many particular  
23 self-storages buildings did they analyze for... I'm  
24 just interested in drilling down a, a little bit  
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deeper, if... it's okay if you don't have the, the  
answer here... [cross-talk]

MARC SHARINN: I can answer... [cross-talk]

CHAIRPERSON RICHARDS: ...but if you... if  
you can provide a copy of the study... [cross-talk]

MARC SHARINN: Brooklyn... yes, we would be  
happy to submit the...

CHAIRPERSON RICHARDS: And state your  
name for the record again?

MARC SHARINN: Marc...

CHAIRPERSON RICHARDS: Marc... [cross-talk]

MARC SHARINN: Sharinn.

CHAIRPERSON RICHARDS: Okay, great. Okay,  
got it. I'm going... Council Member Torres.

COUNCIL MEMBER TORRES: Thank you, I have  
a question about the, the assumptions that underlie  
the first... the original version of the text  
amendment, alright, the text amendment was based on  
the assumption that self-storage is the enemy of  
manufacturing, it's displacing manufacturing uses and  
if only we ban it or impede self-storage development  
to a special permit then manufacturing uses would  
emerge that seems to have been the assumption of the

1  
2 original text amendment. Has there ever been any  
3 study that has proven that empirically?

4 JON DARIO: Not to my knowledge... [cross-  
5 talk]

6 BEN MARGOLIS: Not that I've seen.

7 COUNCIL MEMBER TORRES: Not one  
8 demonstrating any connection between siting self-  
9 storage and undercutting... [cross-talk]

10 BEN MARGOLIS: I'm, I'm not sure if this  
11 is appropriate but I'll, I'll, I'll quote... or try to  
12 quote a, a line of testimony at the City Planning  
13 Commission hearing when one of the individuals from  
14 the Pratt Institute had appeared to testify then and,  
15 and he was asked by one of the commissioners whether  
16 or not this has been studied and he responded quite  
17 flatly that no that what was studied was the impact  
18 of the development of hotels and the entertainment  
19 industry and that self-storage was not part of their  
20 ongoing long term study of, of displacement in  
21 manufacturing districts and this goes back I believe  
22 around 20 years of, of studying quantifiable data.

23 COUNCIL MEMBER TORRES: So, it is  
24 qualitative?

25 BEN MARGOLIS: Right.



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COUNCIL MEMBER TORRES: So, it would.. it would seem to me if the idea is evidence based policy making we should study the subject and find evidence before we proceed with policy making.

BEN MARGOLIS: Absolutely.. [cross-talk]

COUNCIL MEMBER TORRES: That would be my, my approach to policy making generally. Another claim that has been made is that there's been an explosion of self-storage facilities in, in IBZ's so self-storage facilities account for what percentage of space in IBZ's?

JON DARIO: 1.6 percent..

BEN MARGOLIS: 1.6 percent of IBZ's, right?

COUNCIL MEMBER TORRES: Okay. So, that sounds like an explosive number, how many IBZ's are built every year?

BEN MARGOLIS: How many self-storage facilities are built.. [cross-talk]

COUNCIL MEMBER TORRES: Yeah, in IB.. [cross-talk]

BEN MARGOLIS: ..every year.. [cross-talk]

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COUNCIL MEMBER TORRES: ...I'm, I'm sorry, how many self-storage facilities are built in IBZ's every year?

BEN MARGOLIS: On average, two in IBZ's every... [cross-talk]

COUNCIL MEMBER TORRES: Two... [cross-talk]

BEN MARGOLIS: ...year... [cross-talk]

COUNCIL MEMBER TORRES: Okay. So, two every year, 1.6 percent of overall space, no study. I think the philosophical foundations for this text amendment are highly questionable. Now could there be a situation where self-storage development could be conducive to manufacturing so I want to explore the concept of mixed use, right, we obviously are living in an age of deindustrialization where manufacturing struggles to exist on its own without public subsidy, is the industry capable of cross subsidizing manufacturing uses sufficiently so that the public no longer has to subsidize? Could you imagine a scenario where that could work?

BEN MARGOLIS: Yes, as I said earlier we do but the way that these projects pencil out, you know there's, there's an existing business model, there's an existing financing model, there's an

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existing, you know type of investor, type of lender, type of... you know alternative lenders that, that come into play on this and so from an underwrite... writing standpoint the, the self-storage component of the new development has to be able to underwrite the project... [cross-talk]

COUNCIL MEMBER TORRES: Right... [cross-talk]

BEN MARGOLIS: So, it, it, it can't... it can't be viewed from an economic standpoint of okay, this is how many... [cross-talk]

COUNCIL MEMBER TORRES: We, we can't pluck numbers out of thin air, right, they have to... [cross-talk]

BEN MARGOLIS: We can't pluck numbers out of... [cross-talk]

COUNCIL MEMBER TORRES: ...add up, right... [cross-talk]

BEN MARGOLIS: ...out of thin air because, because even though you could pull comps of, of what maybe a, a new manufacturing space is going for left and right in, in a given area as I'm sure the opposition would, would agree and as City Planning testified to earlier there is no... there's no common

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2 manufacturer they're all... they're, they're, there are  
3 maybe common industries that are, are, are having  
4 greater pull than others but each one of them is  
5 different so getting back to like the business and  
6 financing model from... no new self-storage is going to  
7 get built where the project is penciling on some, you  
8 know thought out get for the, the M space and that,  
9 that is, is, is a fact that has been accepted by, by  
10 various policy makers in regards to other subsidized  
11 zoning models is that... is that the, the, the larger  
12 use, the primary use really has to be able to pencil  
13 out and, and then the, the incentive use is then  
14 possible to build. Can I hand this off?

15 MARC SHARINN: We believe that our  
16 compromise would build approximately 250,000 square  
17 feet of new industrial space.

18 COUNCIL MEMBER TORRES: Without public  
19 subsidy?

20 MARC SHARINN: Correct.

21 COUNCIL MEMBER TORRES: Alright. Okay.  
22 So, I, I would make two points, I, I think first we  
23 should crap policy on the basis of empirical data  
24 rather than anecdotal observation, right, if there  
25 was a study that demonstrates that self-storage is

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undermining or displacing manufacturing I'd be more than happy to reassess my position in light of new evidence I have no settled position on the subject. Second, I would... I see an opportunity to embrace the logic of MIH just like an MIH we harness the power of the private market to create affordable housing why not harness the private capital that self-storage attracts to create affordable manufacturing without public subsidy, I see the makings of a win, win here so those are my two overarching observations. Thank you, Mr. Chair.

CHAIRPERSON RICHARDS: Thank you Council Member Torres. Last question, have you... oh Reynoso, I have Reynoso next. Have you witnessed any other mixed-use storage facilities outside of the city or are you working with any other industries around the country or no, so this would be a new model for...  
[cross-talk]

JAMES COAKLEY: Chairman... [cross-talk]

CHAIRPERSON RICHARDS: ...the industry...  
[cross-talk]

JAMES COAKLEY: ...just speaking on a... in a... as an individual basis, you know as an owner and developer with a relationship with the city where we

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had provided some community use facilities as part of... [cross-talk]

CHAIRPERSON RICHARDS: Say that again, I'm sorry?

JAMES COAKLEY: Community use facility... [cross-talk]

CHAIRPERSON RICHARDS: Community use... [cross-talk]

JAMES COAKLEY: ...as part of a self-storage giving that particular location it kind of made sense but yeah, there's no, no hard and fast rules and I think as you've heard testimony manufacturing is... industrial folks, you know they range from one end of the spectrum to the other but... [cross-talk]

CHAIRPERSON RICHARDS: So, your industry hasn't partnered with retail or any other specific...

JAMES COAKLEY: Go ahead Jon.

JON DARIO: There, there are definitely examples, it's not... and I'm not sure it's an industry wide situation but my company operates a mixed-use building in the Inwood section of Manhattan.

CHAIRPERSON RICHARDS: And what is... [cross-talk]

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JON DARIO: With retail and United

Cerebral Palsy and, and similar, similar arrangements on the ground floor of that building.

CHAIRPERSON RICHARDS: Okay. Council Member Reynoso.

COUNCIL MEMBER REYNOSO: Thank you. I just wanted to ask a couple of questions, how... what is your... the, the share of the percentage of businesses outside of the IBZ that are self-storage, so, I think its 80 percent outside of IBZ's, self-storage pretty much, 80/20?

JON DARIO: It's somewhere... it's, it's... it, it depends on the... it depends on the location, but it ranges between 80... 70 to 80... [cross-talk]

COUNCIL MEMBER REYNOSO: In New York... [cross-talk]

JON DARIO: ...percent... [cross-talk]

COUNCIL MEMBER REYNOSO: ...New York City, I'm asking you... [cross-talk]

JON DARIO: Yeah so... yeah, between 70 to 80 percent, it, it still can get up to 70... get down to 70... [cross-talk]

COUNCIL MEMBER REYNOSO: Let's say 75 to be safe, somewhere in the... [cross-talk]

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JON DARIO: Yes... [cross-talk]

COUNCIL MEMBER REYNOSO: ...middle, 75 percent of businesses that are self-storage tend to be outside of the IBZ and 25 percent in the IBZ... [cross-talk]

JON DARIO: Oh I'm... [cross-talk]

COUNCIL MEMBER REYNOSO: ...so, one point... [cross-talk]

JON DARIO: ...sorry... I'm sorry, I misunderstood your question, yeah, I misunderstood your question, yes.

COUNCIL MEMBER REYNOSO: So, can... so, do you understand... [cross-talk]

JON DARIO: You're, you're... [cross-talk]

COUNCIL MEMBER REYNOSO: ...it now... [cross-talk]

JON DARIO: ...right... yes.

COUNCIL MEMBER REYNOSO: So, can you answer it now?

JON DARIO: Yeah, it's... yes, so 75... well... still actually... I think the numbers... I think the numbers that were given were 80 out of 240 were, were in the IBZ, right?

COUNCIL MEMBER REYNOSO: Right...



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JON DARIO: So, that was... that was...

[cross-talk]

COUNCIL MEMBER REYNOSO: So, 66... [cross-talk]

JON DARIO: ...67 percent... [cross-talk]

COUNCIL MEMBER REYNOSO: ...percent... yeah, 67 percent... [cross-talk]

JON DARIO: That's... yeah, yeah... [cross-talk]

COUNCIL MEMBER REYNOSO: Alright, so 67 percent and so can you just... the 1.6 percent, I just want to know so you're saying it's 1.6 of the floor area in IBZ's is self-storage?

BEN MARGOLIS: Lot size...

JON DARIO: Oh yeah, lot size.

COUNCIL MEMBER REYNOSO: Lot size...

BEN MARGOLIS: Not floor area.

COUNCIL MEMBER REYNOSO: Okay, so, so does that account for height? So, so lot size... so, if, if it's 100,000 square foot on the... on the first floor whether it's a 20-story building or whether it's a two-story building was not accounted for in your 1.6 percent per se... projection?

JON DARIO: Correct... [cross-talk]

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BEN MARGOLIS: Correct... [cross-talk]

COUNCIL MEMBER REYNOSO: Correct, so I just... you know the information you gave Council Member Ritchie Torres is deceiving to say the least, so I just want to clearly state that yes, 1.6 of your floor area in, in the buildings are 1.6 but in industry city for example there are tall self-storage buildings that are a lot more than just one floor or one story. That's all I'm saying is that, that 1.6 number does not speak to, to FAR across the city of New York. I think the... that, that there's another way to do it and I'm going to ask... and I'm going to try to do that here just for clarification. In your testimony you said ten percent of the set aside that... you said that the right way to do it would be to have ten percent set aside for something that you called industrial uses which pretty much you, you've self-declared that the 90 percent that would... that would be a part of what you would be building wouldn't be considered industrial use because you said 90 percent for small storage and ten percent for set aside for industrial uses in... over 100,000 square foot properties... 50, 50,000 square feet, okay, because

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2 100... so, 100,000 square feet you feel like you will  
3 probably do more?

4 BEN MARGOLIS: Sorry... [cross-talk]

5 COUNCIL MEMBER REYNOSO: So, can you just  
6 read the testimony the sentence before the ten  
7 percent set aside for industrial uses quote, unquote?

8 BEN MARGOLIS: I'll clarify... [cross-talk]

9 COUNCIL MEMBER REYNOSO: I'll, I'll try  
10 to find it here as well, so I can help you out.

11 JON DARIO: Page two.

12 BEN MARGOLIS: To clarify our, our, our  
13 suggested amendment to the A text we proposed that  
14 on, on zoning lots 50,000 square feet or larger...  
15 [cross-talk]

16 COUNCIL MEMBER REYNOSO: Uh-huh... [cross-  
17 talk]

18 BEN MARGOLIS: ...that self-storage  
19 facilities would be able to be built with... to 100  
20 percent of their maximum permitted FAR but that 100  
21 percent of its maximum permitted FAR would subsidize  
22 an additional ten percent of the permitted floor area  
23 that would be set aside for a specific list of  
24 industrial users.  
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COUNCIL MEMBER REYNOSO: So, do that one more time.

BEN MARGOLIS: Can I do it by... [cross-talk]

COUNCIL MEMBER REYNOSO: ...so, I just want... [cross-talk]

BEN MARGOLIS: ...can I do it by... [cross-talk]

COUNCIL MEMBER REYNOSO: ...I just want to...

BEN MARGOLIS: ...can I do it by example? So, on a... on a site... [cross-talk]

COUNCIL MEMBER REYNOSO: Yeah, exactly an example... [cross-talk]

BEN MARGOLIS: ...over 50... yeah... [cross-talk]

COUNCIL MEMBER REYNOSO: Example exactly, give me a 100,000 facility... you're saying in 50,000 square feet, alright.

BEN MARGOLIS: Let's, let's do M11, 50,000 square foot site... [cross-talk]

COUNCIL MEMBER REYNOSO: Yeah... [cross-talk]

BEN MARGOLIS: 50,000... which allows 50,000 square feet of floor area, the, the... a 50,000-

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2 square foot self-storage facility would be able to be  
3 developed and an additional 5,000 square feet towards  
4 industrial specific... [cross-talk]

5 COUNCIL MEMBER REYNOSO: Okay, well use  
6 exactly... [cross-talk]

7 BEN MARGOLIS: ...industrial use... so, the,  
8 the building would eventually... would, would in turn  
9 be 55,000 square foot building... [cross-talk]

10 COUNCIL MEMBER REYNOSO: Right... [cross-  
11 talk]

12 BEN MARGOLIS: ...1.1 and... [cross-talk]

13 CHAIRPERSON RICHARDS: So, so it's only  
14 5,000 square feet... [cross-talk]

15 BEN MARGOLIS: Ten percent... [cross-talk]

16 COUNCIL MEMBER REYNOSO: Let's say 5,000  
17 square feet for a 50,000 square foot space which is  
18 ten dollars... which is ten percent of the square  
19 footage which is... so, you're saying in this case that  
20 we can get 250,000 square feet is a statement that  
21 you've made, 250,000 square feet of subsidized  
22 manufacturing space that would be built out so... and  
23 accounting for your math that's 2.5 million square  
24 feet of self-storage that will come to the city to,  
25 to be able to do the 250,000 square feet of

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2 manufacturing space that we would... that we would be  
3 able to get so, so another thing is that Council  
4 Member Ritchie Torres spoke about the opportunity for  
5 the subsidized manufacturing space through this and I  
6 would agree with him that if we can do that we should  
7 have a conversation about it and, and see if we can...  
8 we can have... but, but your math and you're saying the  
9 pencil... right, you want to pencil it in, the math has  
10 to work for you to be able to do this work and in  
11 your estimates ten percent is the maximum that you  
12 can do in a 50,000 square foot facility and that's  
13 additional to the 50,000 square feet that you're  
14 already getting. So, if the text amendment that  
15 they're writing is unacceptable to us because it's  
16 too much for you and you're saying it's too little  
17 and your math you can't even subsidize a significant  
18 amount of manufacturing space within the IBZ then I,  
19 I think it's like self... it's, it's just... it's very  
20 clear here that the original version is the best  
21 version because if not there's no other way for self-  
22 storage to survive. What you're doing is pretty...  
23 you're essentially doing it for us, you're pretty...  
24 you're pretty much saying in the... and I'm, I'm sorry  
25 I keep looking at the city when I'm saying it that A

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2 text would pretty much get rid of self-storage for  
3 us, it would... it would help us... you won't be able to  
4 do it, it won't financially make sense, you won't be  
5 able to create 50 percent of your square footage to  
6 be manufacturing space unless you're selling it for  
7 like five times the rate which would never be sold,  
8 you know to, to anyone because nobody's going to buy  
9 manufacturing space for 100 dollars a square foot,  
10 they're only going to buy it for about 25, 24  
11 maximum. So, we would essentially be doing the same  
12 thing, the policy that we're trying to achieve is to  
13 make it so that you have a special permit to be able  
14 to come into the IBZ's, outside of that which is our  
15 ultimate goal is to get rid of self-storage in the  
16 IBZ for me, that's Antonio Reynoso speaking, so, so  
17 I'm, I'm okay with... so, I, I would love to have a  
18 conversation with DCP because I think we're going to  
19 get rid of you either way and you guys have been  
20 doing a great job with, with your lobbying by the  
21 way, it's, it's second to none how an organization  
22 like yours can assert itself into the last... the last  
23 rungs of this and completely flip the city, it was  
24 remarkable how you guys made that happen so good job  
25 there but I think we're essentially going to be able

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2 to accomplish our goals either way whether its 50  
3 percent or whether it's a special permit because  
4 they're saying that it financially doesn't make sense  
5 and so... thank you Chair.

6 CHAIRPERSON RICHARDS: Thank you Council  
7 Member Reynoso, thank you all for your testimony, we  
8 look forward to continuing the dialogue. Alright,  
9 we're going to call the last panel here; Michael  
10 Vicney [sp?]; Darryl Holland, Holland, Hollend; Aron  
11 Kurlander, Greater Jamaica Development Corporation;  
12 Quincy Ilicate [sp?]. So, Michael Devicney [sp?];  
13 Quint... from Business Outreach Network; Quincy Ilicate  
14 [sp?]; I believe this is Aaron, Greater Jamaica  
15 Development Corporation; Darryl Holland and we're  
16 going to really ask you to stick to your two-minute  
17 timeline because we have another hearing to get to,  
18 we're running behind. Alright.

19 DARRYL HOLLAND: Okay, who's going first?

20 [off-mic dialogue]

21 MICHAEL DEVINEY: Check... good morning  
22 Chair Richards and members of the Zoning and  
23 Franchises Committee. Thank you for the opportunity  
24 to testify. My name is Michael Deviney and I am the  
25 Industrial Business Program Assistant at Business



1  
2 Outreach Center Network. As you may already know our  
3 organization is contracted by the city to provide  
4 business services to industrial and manufacturing  
5 companies throughout East Brooklyn and Central  
6 Queens. This is in addition to advocating for the  
7 protection of these businesses and the high quality  
8 and relatively well-paying jobs that they provide to  
9 working class New Yorkers. I would add to this though  
10 it is our business to protect the affordable  
11 industrial spaces and the jobs unlike some other  
12 parties here. My colleagues and I are here to urge  
13 the Zoning and Franchises Subcommittee to support the  
14 original version of the self-storage text amendment,  
15 amendment not the A text. We argue that the original  
16 proposal gave the industrial community a better  
17 footing in the city by limiting a specific competing  
18 non-productive use in the industrial business zones.  
19 The A text is in fact... sort of flip the original  
20 proposal on its head by continuing, continuing to  
21 allow self-storage as of right and it seems that it  
22 would incentivize self-storage development with  
23 density bonuses and no guarantees for affordable  
24 industrial space. This is not supportive of  
25 industrial businesses and their hard-working

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2 employees and it undercuts the ULURP process. The A  
3 text represents a display of special interest being  
4 prioritized over the community's broad support for  
5 the original proposal. Time and time again I... you  
6 know I've spoken to woodworkers and food producers...  
7 food producers throughout the IBZ's and over and over  
8 again they have expressed that they need more space  
9 and they also need affordable space. So, this A text  
10 is really... it only exacerbates the problem for them,  
11 it's a twofold problem of affordability and more  
12 space that they need. I would say that you can't put  
13 a printshop in a storage unit and you can't brew beer  
14 in a storage unit, you can't build furniture in a  
15 storage unit and in the city where land is scarce we  
16 need to ensure that a productive space we have is  
17 maintained. Council Members I believe that we need  
18 the buildings in our industrial business zones to be  
19 economic engines, I request your vote for the  
20 original proposal not the A text which would lead to  
21 more of the damage we've already seen. Thank you.

22 CHAIRPERSON RICHARDS: Thank you.

23 DARRYL HOLLAND: Thank you, good morning.  
24 Good morning... good morning Chair... [cross-talk]

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CHAIRPERSON RICHARDS: And pull the mic closer to you, yes there you go...

DARRYL HOLLAND: Good morning Chair Richards and members of the Zoning and Franchise Subcommittee. Thank you for the opportunity to testify. My name is Darryl Holland and I am the Industrial Business Service Provider for the Business Outreach Center Network. We are here to urge the Zoning and Franchises Subcommittee to change the A text version of the self-storage text amendment back to its original version. While the original proposal would set a solid foundation for protecting the jobs within the industrial business zone, A text fails to address the challenge of competing uses making it harder for industrial and manufacturing businesses to afford to stay in the city. By passing the original proposal the, the city will establish the future growth of the industrial business zones across New York City and centers for good paying jobs and common-sense land use policy. I provided a menu of services to the New York City Department of, of Small Businesses Services geared towards the growth of industrial manufacturing businesses in the Flatlands Fairfield and the East New York Industrial Business

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2 Zones. I'm going to give a specific example; the  
3 50,200-square foot and 3,600-unit storage box  
4 facility at 5601 Forester Avenue in the Flatlands  
5 Fairfield IBZ is a strong example of the displacement  
6 storage facilities created for small industrial  
7 manufacturing businesses and one of the defining  
8 reasons that a special permit to erect the storage  
9 facility, facility in any one of the city's 21 IBZ's  
10 is, is essential. 5601 Forester Avenue was once three  
11 locations which included East 56<sup>th</sup> Street address and  
12 a Preston Court address, the photos attached denote  
13 two of the three locations now 5601 Forester,  
14 Forester Avenue. They, they housed three, three... four  
15 different businesses, two steel fabricators on  
16 Forester Avenue, a commercial distributor and a  
17 shipping company on, on Preston Court. A storage  
18 facility occupying four times the space of the  
19 previous tenants only.. as, as tenants only employs 25  
20 percent on average of the employees the manufacturing  
21 and industrial businesses carry. Storage facilities  
22 jobs are not middle-class wage living jobs with  
23 incomes paying about 25,000 dollars where  
24 manufacturing jobs pay 52,000 dollars and provide in  
25 most cases health insurance. So, we, we, we impress

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2 upon you to, to please support the original A text..  
3 the original self-storage text amendment. Thank you.

4 CHAIRPERSON RICHARDS: You may begin.

5 QUINCY ILICATE: Alright. Good morning or  
6 good afternoon Chair Richards. I'd like to apologize  
7 if I fall asleep, my wife had a baby five days ago  
8 and it doesn't like to sleep at night.

9 CHAIRPERSON RICHARDS: So, father of a  
10 one year old I definitely can understand.

11 QUINCY ILICATE: Alright...

12 CHAIRPERSON RICHARDS: You look well  
13 though.

14 QUINCY ILICATE: I don't feel well. My,  
15 my name is Quincy Ilicate, I am the Manager of  
16 Industrial Business Services at the BOC Network,  
17 Business Outreach Center. We work with industrial  
18 businesses in Maspeth, Ridgewood, Woodside, Steinway  
19 up to College Point in Flushing in Queens, Flat,  
20 Flatland Fairfield and East Brooklyn IBZ. In 2015 the  
21 industrial action plan put out... put forth an  
22 initiative to limit competing uses in the IBZ's to  
23 preserve and protect for industrial jobs. This, this  
24 was basically to limit non-compatible uses, but it  
25 was also to fight speculation of real estate prices.

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2 We, we are in the IBZ's every day and we see  
3 businesses being shuttering and leaving because of  
4 the real estate rents, we're seeing businesses trying  
5 to locate here but they're not able to because of the  
6 expensive costs. So, now two years later we're  
7 looking at what was a common sense industrial policy  
8 that would preserve and protect industrial jobs in  
9 New York City to an amended text which actually  
10 provides a bonus density and further incentive to  
11 develop self-storage within the IBZ's. And any  
12 evidence that self-storage... self-storage provides  
13 jobs in the IBZ's or... for New Yorkers these jobs are  
14 not well paying and on a 200,000-square foot facility  
15 five jobs that are not paying well. So, I urge you to  
16 pass or put forth the original proposal and strike  
17 down any amendment that has been put forth today.  
18 Thank you.

19 CHAIRPERSON RICHARDS: Thank you all for  
20 your testimony today. Thank you. Alright, are there  
21 any other members of the public who wish to testify  
22 on this issue? Alright, seeing none I will now close  
23 the public hearing on Land Use Item Number 817. We'll  
24 take a five-minute recess and our next hearing is on  
25 preconsidered Land Use East River Fifties/Sutton

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2 Place, an application for a zoning text amendment by  
3 the East River Ferry... Fifties Alliance. This text...  
4 this text amendment would establish a modified  
5 version of the standard tower on a base regulation  
6 for certain zoning lots in R10 districts roughly  
7 bounded by the Queensboro Bridge, 1<sup>st</sup> Avenue, East  
8 51<sup>st</sup> Street and the East River in Community Board six  
9 in Manhattan. And once again we'll take a five-minute  
10 recess and then we'll begin. Well good afternoon we  
11 are back, and we are joined by Council Member Kallos  
12 who... is one of the... is the applicant, wow, Jane  
13 Jacobs would be proud. So, we are joined by Senator  
14 Liz Krueger who will begin and Jim Caras, Manhattan  
15 Borough... from the Manhattan Borough President's  
16 Office; Karen Mehra, one of the applicants for the  
17 East River Fifties text amendment and then Sandy  
18 Hornick, East River Fifties Alliance as well. So,  
19 with that I'm going to turn it over to our State  
20 Senator... oh actually we'll go to Council Member  
21 Kallos first and then we'll go to our State Senator  
22 who has been so patient with us and we are so  
23 grateful to have you and I got some great lessons on  
24 how to shop at Costco's from her during our  
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2 intermission so I'm forever grateful to you for that.  
3 Alright, we're going to go to Council Member Kallos.

4 COUNCIL MEMBER KALLOS: Thank you to  
5 Chair Richards, thank you to our State Senator for  
6 being on time for our 11:30 a.m. hearing on the East  
7 River Fifties Alliance Application that has now  
8 starting at 1:05. I also want to... [cross-talk]

9 CHAIRPERSON RICHARDS: That is pretty  
10 timely considering...

11 COUNCIL MEMBER KALLOS: I, I, I also want  
12 to acknowledge that we were joined by Council Member  
13 Dan Garodnick who is the co-applicant on this however  
14 he is currently chairing a hearing on East Midtown  
15 rezoning at 22 Reed Street so I, I read this on  
16 behalf of our community and the city as a whole.  
17 We're seeing super tall buildings go up in commercial  
18 midtown at 432 Park, 111 West 57<sup>th</sup> Street and we  
19 believe they have no role in quite side streets in  
20 fully residential neighborhoods. When I first took  
21 office, I began discussions with the City Planning  
22 Department, the City Land... City Council Land Use,  
23 Community Board six and eight on how to provide  
24 contextual zoning to my districts. Soon however I  
25 learned that the situation was most serious in the



1  
2 far East Fifties where super tall buildings can be  
3 built under the current zoning on quite side streets  
4 in a fully residential neighborhood. I wanted to do  
5 something about this so that Billionaires Road does  
6 not expand to become Billionaires Island. We work... we  
7 worked with residents from the Sutton area to form  
8 the East River Fifties Alliance, the community  
9 coalition leading this application which consists of  
10 over 45 buildings representing co-op boards, condo  
11 boards, individual owners and over 2,600 individual  
12 supporters living in more than 500 buildings within  
13 and beyond the zoning area. Joined by three more  
14 elected officials and we filed the rezoning that  
15 we'll be hearing today. As you'll hear the rezoning  
16 corrects an accident of history that left Sutton area  
17 the only residential neighborhood in the city with  
18 uncapped R10 zoning without any further protections.  
19 This application supports real housing for real New  
20 Yorkers including affordable housing instead of 800-  
21 foot-high, full story penthouse built to serve as  
22 investments often for foreign speculators, seeks to  
23 impose tower on base zoning which would result in  
24 squatter more human scaled buildings with a dense  
25 space and shorter tower adding more units to our

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2 housing stock which will be filled with real New  
3 Yorkers not foreign investments for billionaires. We  
4 began this effort very publicly in 2015... in April  
5 2015 writing a op in our local paper and by May 2015  
6 the community board passed a resolution requesting a  
7 zoning change to provide contextual height caps. Our  
8 organizing efforts soon caught the attention of the  
9 New York Times and on January 2016 we submitted the  
10 first ever community led rezoning. There's a... in, in  
11 April 2016 the developer named Bauhaus Group entered  
12 bankruptcy on the site at East 58<sup>th</sup> Street and fell  
13 within the catchment area of our proposed rezoning,  
14 the site was approved for sale out of bankruptcy in  
15 September of 2016 to Gamma Real Estate who had pre..  
16 provided initial funding. The sale took place over a  
17 year. After our effort was first publicized on the  
18 intentions of the community to rezone the district  
19 were cited in the bankruptcy case. Further when  
20 representatives of Gamma reached out to my fellow  
21 elected officials and I we made it clear that our  
22 rezoning was moving forward and would affect their  
23 site if they intended to build a super tall as had  
24 been reported. Despite this Gamma moved forward with  
25 their plans for a super tall in full knowledge, by

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2 the time they were ready to build it may no longer be  
3 allowed in the zoning text. Fortunately the City  
4 Planning Commission chose to add a grandfathering  
5 clause to... so... in the negotiations the City Planning  
6 Chair suggested that we move forward with the tower  
7 on base in, in replacing an, an initial affordable  
8 housing... sorry, let me just restart this for a  
9 second... we started the conversation before MIH even  
10 came to the council, in that conversation we talked  
11 about trading height for affordability what we  
12 eventually got to was proposing even before MIH, 210  
13 on the side street with 260 feet for affordable  
14 housing. After we had this negotiation and we had  
15 this proposal that's actually very similar to what  
16 the city actually ended up adopting for MIH. With  
17 that being said based on guidance from Department of  
18 City Planning MIH was not appropriate for this  
19 location though I continued to pressure the Mayor to  
20 bring MIH to my district and so what we put forward  
21 was an optional inclusionary housing program that  
22 would have bought... brought affordable housing to  
23 Sutton area that the community wanted. With that  
24 being said the City Planning Chair felt that given  
25 differences between inclusionary housing the best

1  
2 thing we could actually do for affordable housing was  
3 to bring a tower on base with the existing  
4 inclusionary housing program to this location. We  
5 accepted the Chair's recommendation which did not  
6 include a grandfathering clause. Unfortunately, the  
7 City Planning Commission chose to add a  
8 grandfathering clause to allow this building to  
9 proceed in the event the council passes this rezoning  
10 change. I believe this unusual move undercuts the  
11 purpose of the zoning as one super tall building  
12 completely changes the character of a small  
13 residential neighborhood, it was also against  
14 everything that we did to begin with. The city  
15 already has a mechanism for ensuring that developers  
16 in this situation have recourse through an appeal to  
17 the Board of Standards and Appeals, for these reasons  
18 I will be supporting the council not only pass this  
19 rezoning but will be making motion to remove the  
20 grandfathering clause thus treating this rezoning and  
21 this development the same way we do every other  
22 zoning change, I want to thank my... again the Land Use  
23 team, our Subcommittee on Zoning Chair for his  
24 support, I will be taking over and we now turn to our  
25 State Senator Liz Krueger who is one of our co-

1  
2 applicants, has been with us since the start and it  
3 has, has been moving mountains for our community.

4 LIZ KRUEGER: Thank you very much. I have  
5 full testimony that I have submitted but I don't  
6 think I'm going to read this whole testimony because  
7 frankly Council Member Kallos pretty much just went  
8 through every item I was going to testify on. I am  
9 glad to be here as a co-applicant with the ERFA  
10 Rezoning Coalition. It is clear after two years of  
11 working together that we need these changes and we  
12 need you to move rapidly as the city council. As  
13 you've already heard we went through the process  
14 multiple times with City Planning, this is a  
15 community that is very much in support of affordable  
16 housing not hostile to development per se but rather  
17 recognizing that we need to think through what kind  
18 of development there is and that it's actually... if we  
19 have this rezoning we are far more likely to get more  
20 affordable housing in this community rather than  
21 super tall towers for perhaps the absent owners which  
22 we're seeing in other parts of my district in the  
23 Fifties going across from the East to the West where  
24 we're building super tall towers, we're giving tax  
25 exemptions, we're getting no affordability and

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2 ironically apparently we don't even get any people  
3 living in the buildings. So, this community has been  
4 working hard to make sure that the council in  
5 conjunction with City Planning and the City Hall is  
6 actually thinking through the right kind of zoning  
7 moving into the future. As Council Member Kallos  
8 already expressed this is a very broad coalition of  
9 people who live in the community; City Planners, the  
10 elected officials on the city and state level. He  
11 highlighted so I'm also just going quickly point out  
12 that it's really an accident of history that the  
13 Sutton area, the area of this rezoning would impact  
14 is the only residential neighborhood in the entire  
15 city that is zoned R10 still subject to standard  
16 tower regulations on narrow streets, every other  
17 residential neighborhood in the city of New York  
18 zoned R10 has some kind of height limit or contextual  
19 protection either historic district designation,  
20 R10/A contextual zoning or tower on base controls on  
21 the wide streets. As a result, the Sutton area is  
22 uniquely vulnerable to the development of super tall  
23 towers of unlimited height mid-block on narrow side  
24 streets, a building form that was neither  
25 contemplated nor architecturally possible when R10

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2 zoning was created in 1961. For those of us who live  
3 in Manhattan we understand how the super tall towers  
4 are not meeting the residential character or needs of  
5 our communities. We're not opposed to development, go  
6 anywhere in my district on the East side of Manhattan  
7 there is non-stop development but what has to think  
8 through what is the right contextual development as  
9 we are moving forward so quickly. I've often pointed  
10 out I don't think any of us want to live in  
11 Singapore, you could go there but I don't think  
12 Manhattan ought to become Singapore South of 96<sup>th</sup>  
13 Street or North of 96<sup>th</sup> Street and so this kind of  
14 contextual zoning is critical for ensuring the  
15 continued livability not just of this community but  
16 of the city as a whole. Yeah and I'm skipping most of  
17 the testimony. I just want to highlight that there is  
18 one change being made in the application by City  
19 Planning that I believe is unnecessary and  
20 inappropriate. Following the Commission's hearing  
21 last month, the Commission modified the proposed text  
22 to add a special vesting provision that will benefit  
23 a single property owner and undermine the uniform  
24 application of the new role... rule. I oppose this  
25 modification and urge the council to remove it. As

1  
2 the members of the committee know existing law  
3 already exempts developers from zoning changes if a  
4 building's foundation is completed before the  
5 effective date of a zoning change. The zoning  
6 resolution also provides an opportunity for  
7 developers to apply to the Boards of Standard... the  
8 Board of Standards and Appeals for authorization to  
9 continue a project as originally planned if a  
10 building's foundation was started but not completed  
11 before the effective date of the zoning change. There  
12 is simply no reason to create an additional special  
13 exemption for any developer impacted by the zoning,  
14 so I do urge the City Council to modify the proposal  
15 by City Planning and move forward as quickly as  
16 possible. The community has already worked in good  
17 faith for nearly two years with city government and  
18 has continually been willing to modify their  
19 proposals based on discussions with city government.  
20 So, I urge you to move forward with the amended  
21 modification as proposed by, I believe Council Member  
22 Kallos and I'd be happy to answer questions after  
23 other people have testified. Thank you very much.

24 CHAIRPERSON RICHARDS: Thank you, thank  
25 you for your testimony Senator.



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LIZ KRUEGER: Thank you.

COUNCIL MEMBER KALLOS: Jim.

JIM CARAS: Good morning Chair Richards,  
Council Member Kallos and members of the Subcommittee  
on Zoning and Franchises. I'm Jim Caras here on  
behalf of Manhattan Borough President Gale Brewer to  
speak in support of the application by ERFA of which  
the Borough President is a co-applicant along with  
Council Member's Kallos and Garodnick and Senator...  
State Senator Liz Krueger. We believe this  
application represents an opportunity to provide  
greater protections for our residential neighborhood  
that has been left without the tools it needs to  
compete with a growing desire for luxury towers  
throughout Manhattan. Sutton Place is effectively the  
only residential neighborhood in New York City still  
subject to an R10 zoning designation without any  
contextual protections. Virtually all other R10 areas  
are either mapped R10A with contextual protections,  
protected by R10 infel regulations as is the case  
with community board seven, located in historic  
districts or are on wide streets and therefor subject  
to tower on a base regulation. The super tall  
buildings which this neighborhood is trying to

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2 prevent were not contemplated in 1961 when the R10  
3 zoning was adopted. Unforeseen changes in  
4 construction techniques have propelled building  
5 heights upward making these giant towers feasible on  
6 smaller and smaller footprints. In the case of the  
7 project area covered by this application current  
8 rules would allow a super tall development that would  
9 exceed the typical neighborhood building height by a  
10 factor of more than four. The proposed development  
11 that brought the lack of protections for this  
12 neighborhood to our attention was originally slated  
13 to be more than 900-foot-tall tower on East 58<sup>th</sup>  
14 Street, a narrow street. This was a wake-up call to a  
15 residential community in which according to our EAS  
16 all, but eight buildings are less than 300 feet and  
17 all but one are less than 400 feet. So, with much  
18 hard work and compromise on the part of ERFA and  
19 feedback from the Department of City Planning the  
20 proposed text amendment would essentially apply  
21 modified tower on a base rule to ten tax blocks in  
22 the bounded area. The accompanying packing base and  
23 setback rules would prevent unlimited lot mergers,  
24 and this would prevent the development of super  
25 towers on these mid blocks and encourage development

1  
2 that is at least not at extreme odds with the  
3 existing neighborhood context. Reasonable controls in  
4 residential areas are not without precedence in this  
5 part of Manhattan. If you review zoning sectional map  
6 8D there are numerous areas mid-block portions in  
7 particular that are R8B districts with a maximum  
8 building height of 75 feet. Some of these areas, for  
9 example, East 48<sup>th</sup> to East 59<sup>th</sup> Streets between 1<sup>st</sup> and  
10 3<sup>rd</sup> Avenues are significantly closer to East Midtown  
11 and less fully residential in character than is this  
12 neighborhood. One concern that has been raised is the  
13 limited number of soft sites identified in the EAS.  
14 We have disagreed at times with the Department's  
15 criteria for determining vulnerable sites, let me  
16 give you one example. In December 2015 our office  
17 along with other local elected wrote to DCP urging  
18 the Department to reconsider a proposal for a  
19 contextual rezoning of University Place and Broadway  
20 Corridors between East 8<sup>th</sup> Street and East 14<sup>th</sup> Street  
21 in the wake of an unannounced out of scale  
22 development. DCP took the position that there were no  
23 other potential development sites within the area and  
24 therefor would not move forward with the rezoning.  
25 Unfortunately, since then construction commenced for

1  
2 two additional out of scale buildings with the plans  
3 for more development within the proposed area, none  
4 of these sites were initially identified by DCP. In  
5 the case of the original Bauhaus development that  
6 began the push for some reasonable restrictions in  
7 the neighborhood reports were that some co-ops were  
8 actually negotiating to sell their buildings to  
9 developers. Such circumstances would have been  
10 unthinkable at any point in time and underscore the  
11 need for reasonable neighborhood protections because  
12 obviously the more lots they can accumulate the  
13 taller and taller they can go. We want to emphasize  
14 that we still support the more far reaching aims of  
15 our first application which included height  
16 limitations and a higher minimum of affordable  
17 housing units than required under the R10 voluntary  
18 program. With that said if we understand that these  
19 applications go through a back and forth and despite  
20 the adjustments to the plan before you it  
21 accomplishes the primary objective of protecting a  
22 residential neighborhood on a more equal footing with  
23 similarly situated residential neighborhoods. We  
24 believe the compromised plan does reflect the spirit  
25 of the testimony and feedback we heard through

1  
2 community board meetings and public hearings where  
3 the overwhelming majority of those who testified felt  
4 that the current zoning in this area was flawed  
5 because it lacked protections against super tall  
6 towers. However, as Senator Krueger and the Council  
7 Member stated we are concerned about the  
8 grandparenting clause for the development on East  
9 58<sup>th</sup> Street. We believe that to keep this provision  
10 only serves to undermine that which the text  
11 amendment is trying to accomplish. Moreover, as has  
12 been stated relief is available through the BSA.  
13 Finally, as Council Member Kallos said the current  
14 developer gained control of this site long after the  
15 process resulting in this application was underway.  
16 It is overly generous to the developer at the expense  
17 of the community to provide additional relief in the  
18 form of this grandparenting provision and we urge the  
19 council to remove it and approve the text amendment.  
20 Thank you.

21 COUNCIL MEMBER KALLOS: I'll start with  
22 just the elected representatives and then I would  
23 like to excuse them and then go on to the attorneys  
24 and land use planners for the applicant... for all of  
25 as applicants. So, I guess the first question we've

1  
2 seen a characterization of the, the... of why this is  
3 happening in, in the media so I guess to, to the  
4 Senator and the Borough President's Office, have you  
5 received outreach from the community, is this about  
6 one building or is this about a number of buildings  
7 or, or who... are... so I guess one question is are you  
8 hearing concerns from folks out, outside of just one  
9 building and... I will start with that?

10 LIZ KRUEGER: No, I have heard from  
11 people who live in buildings ranging from the  
12 immediate Sutton area Place as far North as the 70's  
13 and 80's, as far West... because my district in the  
14 Fifties goes all the way to the West side, people are  
15 extremely aware and concerned about the over  
16 development of super tall buildings and as the  
17 Borough President's representative just pointed out  
18 the fact that even when people are told it will just  
19 be this one and there's no other scenarios that might  
20 happen in the neighborhood, we see over and over  
21 again that once you establish a precedence that's out  
22 of context with a residential community you start to  
23 see them popping up everywhere and I have observed  
24 and had information shared with me about the purchase  
25 of lots to actually trade air rights so that each

1  
2 developer can get the ability to do super tall  
3 towers, it was actually explained to me along the  
4 57<sup>th</sup> Street how air rights were traded like baseball  
5 cards so that each developer could figure out how to  
6 get the as of rights super tall towers with the  
7 access to even negotiating not interrupting each  
8 other's views while building these monstrous towers  
9 for billionaires without any ability by the community  
10 to have any input at all. So, we do see this, and I  
11 hear from constituents constantly that the precedence  
12 of even one more building in a location that hasn't  
13 had one of these towers has a domino effect, so it is  
14 one of the key issues for us. It's not a one building  
15 story, it's an entire residential community by  
16 residential community facing a future of this  
17 problem.

18 JIM CARAS: I would just agree that in  
19 this... in the area covered by this application we have  
20 heard from residents and from buildings throughout  
21 the proposed area and, and throughout Manhattan  
22 people are saying the same... we're having the same  
23 problems in, in various communities but this was in  
24 some ways even more pronounced because this area was...  
25 as, as far as we could find was sort of the, the

1  
2 largest really residential in character and  
3 neighborhood in Manhattan with no protections at all.

4 COUNCIL MEMBER KALLOS: Have you had  
5 occasion where you have tenants who may be rent  
6 regulated or rent stabilized and therefor in  
7 affordable housing who were facing harassment, the  
8 city councils passed a law that says that if you keep  
9 coming to somebody and knocking on their door at all  
10 hours with buyout offers that that's also considered  
11 harassment, are, are you... are you seeing that and is  
12 there a duty for elected officials to protect those  
13 tenants?

14 LIZ KRUEGER: I feel very strongly that  
15 it is a duty of elected officials to protect tenants  
16 from harassment and losing their affordable homes and  
17 yes, we're very glad that the city council did pass  
18 their new package of tenant harassment bills giving  
19 older bills real teeth to do something, why is that  
20 so important because as there is continuing...  
21 continual growing pressure for building these super  
22 tall extremely expensive towers, some people in  
23 development become exceptionally aggressive about  
24 doing almost anything to try to move the people who  
25 live there out to try to get buildings emptied out so



1  
2 that they can put together their packages for super  
3 tall to move people out so that they can reconstruct  
4 and charge much higher rates. This is not news to the  
5 city council, we have a... affordability crisis  
6 throughout the city of New York. When you look at the  
7 Mayor's newest plans to expand affordable housing,  
8 the vast majority of it statistically is  
9 preservation, right, in order to preserve affordable  
10 housing, you have to ensure that you're not tearing  
11 down the existing affordable housing and that you're  
12 not allowing tenants to be harassed out of their  
13 housing so that the prices can skyrocket. So, I  
14 challenge that there's one city council district in  
15 the city of New York that isn't seeing these stories  
16 but since you Senator... Assembly... Council Member, I  
17 got to pick a name for you... Council Member Kallos you  
18 overlap my district, you and I both know that this is  
19 literally a crisis going on in our communities.

20 COUNCIL MEMBER KALLOS: Other folks have,  
21 have... it, it seems from your testimony our... is this  
22 the only place you are considering trying to restrict  
23 super tall or is there perhaps an, an effort to make  
24 sure that they're not happening in other residential  
25 parts of your neighborhood that you represent and,

1  
2 and it's for both the Senator and the Borough  
3 President?

4           LIZ KRUEGER: So, I am delighted that  
5 Borough President Gale Brewer has been very on top of  
6 these issues for the entire island of Manhattan and I  
7 know that we are continuing to have discussions about  
8 how we ensure that zoning and contextual zoning is  
9 modernized as the pressures grow certainly in the  
10 70's and 80's East of 3<sup>rd</sup> Avenue is an ongoing  
11 discussion and we think actually this rezoning is an  
12 important precedent for understanding what the city  
13 is able and should be doing. For neighborhoods I know  
14 that outside my own district on the East side of  
15 Manhattan primarily there's efforts in a variety of  
16 different neighborhoods that probably Gale Brewer  
17 staff is better able to articulate.

18           JIM CARAS: Clearly our office has great  
19 concern about this and has been working on this a  
20 long time, you know we're concerned about the sort of  
21 lack of transparency around zoning lot mergers that  
22 allow these things to be announced. We have worked  
23 with, I believe it was community board five that had  
24 the task force on super tall, we stopped what we  
25 thought was an insanely out of context residential

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tower in the South Street Sea Port so it's something we're working on all over the city and it is, you know a tremendous concern to our office.

COUNCIL MEMBER KALLOS: We've been joined by the Land Use Chair David Greenfield who has a question he'd like to ask for our elected official representatives before we excuse them.

COUNCIL MEMBER GREENFIELD: Thank you Council Member. Thank you all very much and thanks for your advocacy on behalf of your constituents. I'm just... and just because I'm sure it will come up later today, so I want to give you the opportunity to speak about it. As you know the Department of City Planning and City Planning Commission actually included a grandfathering clause that relates to obviously one specific project, what, what is your take on that, do you think... do you think that should be in or it should be removed and why?

LIZ KRUEGER: Okay. So, we each just did testify and address that so when, when you have a chance to look at our written testimony I think you'll see for more detail but we, we both strongly support the council overriding the City Planning grandfathering section of the proposal. As I said in

1  
2 the testimony that specific developer does have  
3 multiple options available under existing law and the  
4 grandfathering seems to be just a step too far for  
5 this site. The concern is that it took so long to get  
6 here because it took I think 18 months to negotiate  
7 with City Planning in a variety of different  
8 proposals and draft proposals, the next testifiers  
9 are the experts on that process that we find out  
10 ourselves at this moment in time where frankly the  
11 need to not allow grandfathering is probably the most  
12 critical component at this moment to ensure that the  
13 door isn't open to the super tall towers in the  
14 residential neighborhood of Sutton Place.

15 JIM CARAS: I would agree with State  
16 Senator Krueger, I mean here, you know it's really a  
17 policy question whether to allow... whether to have a  
18 grandfathering provision and here we... there's already  
19 an out for them if they want to go to the BSA, they..  
20 and again they knew about this application when the  
21 current developer gained control of the site, this  
22 application had already been underway for quite some  
23 time, they were aware of it and we think if you need  
24 to weigh the interest here, the balance has, has to  
25 be struck in favor of the community and in favor of

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accomplishing the contextual nature of the text amendment which is to prevent out of context towers.

COUNCIL MEMBER GREENFIELD: Okay, thank you.

COUNCIL MEMBER KALLOS: I'd like to excuse our elected represent... our elected official and representative for the Borough President, we'd like to now turn to the applicants for their testimony.

LIZ KRUEGER: Thank you very much...  
[cross-talk]

JIM CARAS: Thank you... [cross-talk]

LIZ KRUEGER: ...for letting us testify...  
[cross-talk]

COUNCIL MEMBER KALLOS: Thank you. We've also been joined by Council Member Andy Cohen.

KARAN MEHRA: Good morning Council Member Kallos and members of the... of the Land Use... of the Zoning and Franchises Subcommittee, Chair Greenfield. My name is Karan Mehra and with me is Sandy Hornick and we represent the applicants for the East River Fifties text amendment. I'm not going to belabor the points that have already been made by the prior speakers, but we wanted to have an opportunity to put

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2 some... give you some illustrations of some of what  
3 people have been talking about. Let's see... can you...  
4 Julie can you... I'm having a little technical  
5 difficulty how to... how do we... pardon? How do I get to  
6 the next slide, sorry about that... arrow, okay thank  
7 you... yep, good... okay, so we already know who... we've  
8 already talked about the applicants, I just want to  
9 emphasize that the East River Fifties Alliance is a  
10 coalition that includes 45 member buildings, over  
11 2,600 individual supporters from all over upper  
12 Manhattan and... within and beyond the rezoning area  
13 and I also want to mention that, that quite a... over  
14 190 people submitted testimony to the City Planning  
15 Commission in favor, in support of this rezoning. I  
16 know the city council commit... or the City Planning  
17 Commission report emphasizes the, the spoken  
18 testimony but I wanted to get on the record that  
19 there were about 190 ERFA supporters who also wrote  
20 to the City Planning Commission to express their  
21 support for this rezoning. Okay, so the project area  
22 for those who are not yet familiar with this  
23 application is on the very far East side, it's the  
24 R10 area that extends from North of 51<sup>st</sup> Street up to  
25 59<sup>th</sup> Street and if... I'm not sure you can see that on

1  
2 this image but at 59<sup>th</sup> Street of course is the  
3 entrance to the Queensboro Bridge so that's sort of  
4 a, a, a... a border on the neighborhood and then to the  
5 right of course is the... to the East is the East River  
6 and then 1<sup>st</sup> Avenue is the Western most border and  
7 all of those blocks are zoned R10 without any  
8 contextual protections as, as some of the other  
9 speakers have already pointed out and when we say  
10 without contextual protections we mean it's not  
11 historic districts or it does not go through Land Use  
12 review or the wide streets do have tower on a base  
13 the narrow streets do not and none of it is zoned  
14 R10A, it's all R10. Let's see... and this just puts in  
15 a broader context. I think as Jim Caras just noted,  
16 you know this is well to the East of East Midtown,  
17 there are two R8B neighborhoods just to the west. So,  
18 this really is a very residential neighborhood. As  
19 has been discussed this is a unique condition in the  
20 city, residentially zoned neighborhoods do not permit  
21 towers except for here and except for a couple of  
22 partial blocks here and there. To the extent towers  
23 are allowed elsewhere in the city they are in mixed  
24 commercial and residential neighborhoods not purely  
25 residential neighborhoods. Do you want to chime in?

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2 okay, and so again this neighborhood's uniquely  
3 vulnerable. Now this image which is from the City  
4 Planning guidelines is about 40 stories tall but as  
5 has been discussed these rules actually allow towers  
6 much higher because there is no minimum tower  
7 coverage requirement and as we all know it has... have  
8 watched throughout the city primarily in, in central  
9 business districts there have been much higher towers  
10 that were not possible back in 1961 when this zoning  
11 was first imposed on this neighborhood. And just to  
12 underscore the residential context of the  
13 neighborhood you can see from this slide the tan  
14 color that predominates within the red border of, of  
15 the project area that's multifamily elevator  
16 buildings, there's also a number of multifamily walk  
17 up buildings and someone and two-family townhouses.  
18 To the extent there's any commercial at all it tends  
19 to be on... I think there's only two... a maximum of two  
20 FAR of commercial allowed on... along 1<sup>st</sup> Avenue and  
21 along 59<sup>th</sup> Street and so to the extent there's any  
22 mixed use it's still primarily residential with a  
23 very little bit of, of commercial. And commercial is  
24 the, the reddest color on this slide and so if you  
25 look you see that it's not for two whole avenues that



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2 you see any substantial commercial and office  
3 building uses in this area. So, you know a number of  
4 speakers has said that very tall towers would be out  
5 of context with this neighborhood, we wanted to take  
6 a, a couple of minutes to look at the context of the  
7 neighborhood. The vast majority of the neighborhood  
8 say... almost half the buildings are large multifamily  
9 apartment buildings that are between 14 and 20  
10 stories. This view down Sutton Place is a very good  
11 example, you can see looking down the street that  
12 these are... that these are not towers, these are, you  
13 know 16 to 20 story buildings, that's also very true  
14 on Sutton Place... or no, this is Sutton Place, on 57<sup>th</sup>  
15 Street. When you go to the side streets you get more  
16 of a mix, here's a midrise apartment building on one  
17 of the side streets, I believe it's 55<sup>th</sup>. There are  
18 also quite a, a number of buildings that are lower  
19 rise particularly around Sutton Square and here's an...  
20 this is actually on 58<sup>th</sup> Street on the Eastern end of  
21 58<sup>th</sup> Street, you can see there's a four-story  
22 building, a five story and a six story there centered  
23 on the... in the photo and there's a number of, of  
24 those types of buildings in the neighborhood. There  
25 are some towers based on the 1961, you know zoning

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2 allowing towers, they tend to be... here's an example  
3 of one, this one is a midblock tower, its 363 feet  
4 high. There are I think as, as one of the former  
5 speakers said there's a... about eight or nine towers  
6 that... in this neighborhood and that's out of over 100  
7 buildings, I think about 120 buildings. So, towers  
8 are... there, there are absolutely some towers, they  
9 tend to be between 300 and 380 feet and... with one  
10 outlier and that is the Sovereign located on 59<sup>th</sup>  
11 facing the Queensboro Bridge and that... and that is  
12 485 feet tall. So, as you can see from the existing  
13 context there are no buildings that are 600 feet, 700  
14 feet, 800 feet, 900 feet, 1,000 feet high and, and  
15 the predominate context is about 200 feet. So, so the  
16 purpose of the rezoning here as, as has been  
17 discussed by a number of people we've been working  
18 with City Planning for quite a while to come up with  
19 a solution, how can we address this issue while also  
20 at the same time recognizing that the city has a  
21 great need for housing, the population is growing so  
22 whatever solution we're coming up with needs to be  
23 able to accommodate housing growth. So, the new tower  
24 on a base rules are... will apply on narrow streets in  
25 the rezoning area in lieu of standard tower rules and

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2 like tower on a base on wide streets they have a  
3 minimum tower coverage requirement of 30 percent and  
4 a maximum tower coverage of 40 percent but the  
5 packing rule for, for this new narrow street tower on  
6 a base is 45 to 50 percent of FAR, must be below 150  
7 feet, that... it's a little more lenient than the  
8 packing rule on wide streets and that makes it  
9 possible to get a little bit more FAR on your  
10 building and again that is a change that is intended  
11 to accommodate growth. Like tower on a base on wide  
12 streets the... well there has to be a setback on narrow  
13 streets that's 15 feet and the base height needs to  
14 be 60 to 85 feet and I want to emphasize that the  
15 FAR, the allowable FAR did not change, the applicants  
16 in an earlier exploration of options would have liked  
17 to have increased the FAR for the area however they  
18 are already at the state cap and that's ten... 12 FAR  
19 with inclusionary bonus. And here's an example of how  
20 these rules would play out on a potential development  
21 site and so what you're looking at is a 35 story  
22 building with a 60 to 85 foot base that is matching  
23 to the shorter buildings adjacent and I'm not sure if  
24 you can see from this rendering but this building is  
25 taller than essentially all the buildings on the same

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2 block, it's a... it's... so, it is... it is accommodating  
3 additional FAR not only from its... all the FAR from  
4 its own site but also able to absorb FAR from some  
5 merged zoning lot and that would be from the two, two  
6 yellow buildings adjacent. So, the point is that this  
7 solution is, is a balancing of the desire for the  
8 community to, to maintain a certain scale while also  
9 ensuring that there's room for growth in the future.  
10 And let... I'm going to turn it over to Sandy and see  
11 if there's anything he would like to add to...

12 SANDY HORNICK: So, so you know the first  
13 thing is of course that the objective here is to  
14 accommodate towers that, that match the surrounding  
15 locations reasonably and the thing I really want to  
16 do is get into the question that Councilman Kallos  
17 says before about investing and I should begin by  
18 saying my name is Sandy Hornick, I'm a Land Use  
19 Consultant to the East River Fifties Alliance and  
20 thank members of the Council for the opportunity to  
21 speak. The Planning Commission modified the East  
22 River Fifties proposal to allow the existing permits  
23 to continue and I... we believe that this is a serious  
24 flaw in the proposal as it's a, a draft in the zoning  
25 has a very long standing and very specific rules

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2 about when projects that are in process vest, this  
3 project... as you've said the text has been in the  
4 works for two years before the current ownership  
5 actually took title to the property, they've known  
6 that a proposal was in the works and might be adopted  
7 at... by Fifties plans. There have been occasional  
8 instances where the zoning has accommodated projects  
9 that are already in process, I think the key issue  
10 that distinguishes this that distinguishes most  
11 rezonings from the handful of situations where some...  
12 projects are grandfathered is the degree... the degree  
13 to which the buildings that are being grandfathered  
14 vary from the public policies that are being sought  
15 in the rezoning and I'll give you an example, way  
16 back in 1982 when the special Midtown district was  
17 first adopted it was very, very vigorous testimony  
18 about many, many projects that were in process and  
19 that they should be grandfathered and in the end... at  
20 that point it was the Board of Estimate and the City  
21 Planning Commission did not grandfather them and the  
22 main reason as I understood it back then was that the  
23 re... it wasn't height because height settlement  
24 heights are allowed in, in, in Midtown but there was  
25 a public policy objective about getting pedestrian

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2 space and public space in conjunction with rezonings  
3 and allowing all those buildings would continue to  
4 exacerbate the existing pedestrian space problems in  
5 Midtown and so the... nobody was grandfathered. In this  
6 instance we've got a proposed building that is 300  
7 feet taller... more than 300 feet taller than the  
8 tallest building in this neighborhood, the urban  
9 design announced as provided by the applicants in  
10 support of their... the... by the developers in support  
11 of their application says nine... over 90 percent of  
12 the buildings are contextual in nature below, you  
13 know let's just say 210 feet, less than ten percent  
14 of the buildings are in the second category which in...  
15 goes up in their analysis up to 474, in our analysis  
16 its up 485 so there a, a difference between the  
17 contextual and the non-contextual is less than 300  
18 feet, this proposed building exceeds that limit, that  
19 amount by another 300 plus feet. It's, it's just an  
20 incredibly out of character building, they have every  
21 opportunity to vest under the existing procedures and  
22 if they don't vest by the time this is adopted if it  
23 is adopted they have opportunities to seek regress at  
24 the Board of Standards and Appeals as does everybody  
25

1  
2 else, we believe that's the appropriate way to handle  
3 it. Thank you.

4 KARAN MEHRA: Can... may I just add one or  
5 two more things very quickly, okay. So, I know when,  
6 when we were before the City Planning Commission  
7 there were some commenters who, who asserted that,  
8 that this proposal was spot zoning and I just want to  
9 address that directly, you know spot zoning happens  
10 when you treat a site differently than...  
11 inconsistently with the overall well considered plan,  
12 I think that what has been discussed here is that  
13 this neighborhood has been treated differently than  
14 other residential areas in the city in that it... you  
15 have this unique vulnerability and we see this, this,  
16 this text amendment as correcting that and, and  
17 making this residential neighborhood consistent with  
18 the city's treatment of other residential  
19 neighborhoods throughout and ultimately the City  
20 Planning Commission, you know concluded that this was  
21 not... spot zoning was not an issue, that this was  
22 about that there was a well-considered plan, that  
23 there was a, a land use rational for this rezoning  
24 and so I just wanted to mention that. The other thing  
25 I want is, is... there were some concerns about whether

1  
2 tower on a base was the proper land use solution to,  
3 to the issue and I think as Sandy had pointed out to  
4 us if you go back and look at the commission report  
5 adopting tower on a base regulations back in 1994 the  
6 point of tower on a base was not so much to match the  
7 existing fabric as to tie the disparate elements  
8 together and that's... so, you have... you have a narrow  
9 side street that has some low buildings that has a  
10 tower that's set back and then you have some mid-rise  
11 apartment buildings, tower on a base by having both a  
12 base, a street wall and, and also towers sort of...  
13 sort of weaves everything together and that's why we,  
14 we think this is an appropriate solution in, in  
15 addition to the other reasons we already mentioned.  
16 Thank you.

17 COUNCIL MEMBER KALLOS: There's been  
18 some... in my remarks and some of the other applicants  
19 remarks so just hoping to get a little bit of that  
20 into the record. So, when did the preapplication  
21 process begin with City Planning and were there  
22 meetings before the preapplication started?

23 SANDY HORNICK: We think August but  
24 certainly by the fall... early fall of, of... [cross-  
25 talk]



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KARAN MEHRA: 15... [cross-talk]

SANDY HORNICK: 15.

KARAN MEHRA: 2015...

COUNCIL MEMBER KALLOS: So, this goes all the way back to 2015 so there were... [cross-talk]

SANDY HORNICK: Yes... [cross-talk]

COUNCIL MEMBER KALLOS: ...meetings with City Planning where... and, and so in the fall of 2015 actually pretty much started in the summer with preliminary meetings but I think you came... you were retained and brought in by fall of 2015 and so in those meetings was there ever a proposal for mandatory or consideration of mandatory inclusionary housing on the part of applicants?

SANDY HORNICK: So, our... yes, and, and actually our proposal was supposed to have mandatory inclusionary housing and to increase the permitted density and... [cross-talk]

COUNCIL MEMBER KALLOS: And, and so, we then... at, at what point did we submit our preapplication?

KARAN MEHRA: I believe that was in January of 2016, yes.

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COUNCIL MEMBER KALLOS: And that preapplication included based on planning feedback it was no longer mandatory, but it was optional, but it still included additional density in order to build community facilities?

KARAN MEHRA: That's correct.

COUNCIL MEMBER KALLOS: And, and then following our preapplication mandatory inclusionary housing was proposed by the Mayor, can you share just how closely that may have tracked to what we were proposing?

SANDY HORNICK: So, so the city's proposed that they have adopted mandatory inclusionary housing maps, a mandatory inclusionary housing district in which somewhere between 20 and 30 percent depending on the option that's chosen and the... and the income strata is mapped wherever there was a zoning change that substantially increases the residential... potential residential development so, you could be going from an M zone to an R zone and that would trigger it, or you could be going from a lower density residential zone to a higher density residential zone wherever that was significantly substantial it would trigger it. In our original

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2 proposal that's part of the reasons we were adding  
3 density. When you went to the... early on we were still  
4 proposing an inclusionary bump up in, in the FAR, the  
5 city had concerns, expressed concerns to us that,  
6 that was in effect conditional zoning that you, you  
7 can't get the increase in FAR without it changing the  
8 residential FAR or without it changing the state  
9 legislation.

10 COUNCIL MEMBER KALLOS: And, and what..  
11 why, why can't you is there some sort of... what, what  
12 is the current maximum FAR in... [cross-talk]

13 SANDY HORNICK: So, so... [cross-talk]

14 COUNCIL MEMBER KALLOS: ...the neighborhood  
15 and what... [cross-talk]

16 SANDY HORNICK: The current maximum..  
17 [cross-talk]

18 COUNCIL MEMBER KALLOS: ...is the current  
19 under the law and why, why can't we just..

20 SANDY HORNICK: So, the current maximum  
21 FAR is ten bonus-able to 12 through the provision of  
22 inclusionary housing and we had proposed to go to a  
23 maximum of 13 and to actually in... to move from the  
24 current R10 inclusionary housing program to an  
25 inclusionary housing designated area program which

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has a higher percentage of affordability and, and to that in conjunction with an increase in FAR but the increase in FAR is also capped by the state multiple dwelling law which is ten, we thought there was potentially a way around that, that... would say but the, the, the Department of City Planning felt that that would be conditional and that they couldn't... would not certify such an application so we ultimately dropped that.

COUNCIL MEMBER KALLOS: So, so we made additional changes on the front, we go into preapplication we have the optional piece, how long did it take from when we were in preapplication to when... so, so if you can just share for the record, so preapplication... that mean we can just file an application immediately, the city council I think we recent... did we... hold on, did we... so, so the city council... so, how long was the preapplication period?

[off-mic dialogue]

SANDY HORNICK: So, that, that... and, and during that period was this... was this a secret...

[cross-talk]

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COUNCIL MEMBER KALLOS: So, that, that...  
and, and during that period was this... was this a  
secret... [cross-talk]

SANDY HORNICK: No... [cross-talk]

COUNCIL MEMBER KALLOS: ...was this all  
happening in, in back rooms, was this a back room  
deal or was the, the preapplication process public  
and widely reported and everybody actually knew about  
it?

SANDY HORNICK: It was discussed openly,  
it was publicized, it was presented at several public  
meetings to the community board at least some where  
representatives of the ownership who are present so,  
it was absolutely public.

COUNCIL MEMBER KALLOS: So, so I just...  
for, for the record the city council has introduced  
legislation and to pass legislation to remove this  
preapplication... 18-month preapplication period so, if  
that preapplication period were, were, were... would no  
longer happen and this would have happened how, how  
many years would it have shaved off this whole  
process, this would have all happened back in 2016?

SANDY HORNICK: Well you have greater  
faith... you have great faith in the ability to

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2 actually alter how... the speed in which government  
3 operates. My long career in government tells me that  
4 there, there's always been unanticipated surprises in  
5 that, so it would be hard to say exactly how much but  
6 clearly... [cross-talk]

7 COUNCIL MEMBER KALLOS: It, it would have  
8 shaved... [cross-talk]

9 SANDY HORNICK: ...we, we, we could...  
10 [cross-talk]

11 COUNCIL MEMBER KALLOS: ...18 months off...  
12 [cross-talk]

13 SANDY HORNICK: ...we could have saved some  
14 time.

15 COUNCIL MEMBER KALLOS: So, so at, at  
16 least a, a... if, if you subtract 18 months there it  
17 wouldn't have actually even had been time for a  
18 change in ownership on that property.

19 SANDY HORNICK: Probably, yeah.

20 COUNCIL MEMBER KALLOS: Okay, so we, we...  
21 when did we file our application?

22 [off-mic dialogue]

23 SANDY HORNICK: Well you know it's... we  
24 just say that... you file the application... the way it  
25 really... the way it works is you spend a lot of time

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in preapplication and when City Planning is finally satisfied with the preapplication that's when you file the application so you don't really file the application until you're through the whole preapplication process so, you know if this was referred at a juvenile matter on the date... but it was probably like May, right, maybe April or something like that.

COUNCIL MEMBER KALLOS: And that's 2016?

SANDY HORNICK: 2017 because you're in the process...

COUNCIL MEMBER KALLOS: Got it. Okay and then we, we had negotiated this for, for more than 18 months at that point was it immediately certified or, or, or was there more public notice on this? I believe it was certified in... around... was it certified in June?

KARAN MEHRA: It was certified I think June 5<sup>th</sup> if I'm... [cross-talk]

COUNCIL MEMBER KALLOS: Okay... [cross-talk]

KARAN MEHRA: ...remembering the date...

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COUNCIL MEMBER KALLOS: And at that point how many hearings had the community board had done on the East River Fifties rezoning?

KARAN MEHRA: I want to say two or three, but I would have to... [cross-talk]

SANDY HORNICK: I'm, I'm pretty sure there... [cross-talk]

KARAN MEHRA: ...check, at least... [cross-talk]

SANDY HORNICK: ...were three... [cross-talk]

KARAN MEHRA: ...two.

COUNCIL MEMBER KALLOS: Be, before then and then... [cross-talk]

KARAN MEHRA: ...probably... [cross-talk]

COUNCIL MEMBER KALLOS: ...there were, were invited in... on numerous occasions to participate in those hearings beginning as early as 2015 through June and then in June I believe there were two hearings of community board six with one joint with the Borough President, is that correct?

KARAN MEHRA: Well there was the committee and then there... the committee was joint with the Borough President and then there was the full board.



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2 COUNCIL MEMBER KALLOS: And, and was  
3 there ever occasion for the Department of City  
4 Planning and the, the City Planning Chair to  
5 recommend rather than the application that had put...  
6 been put forward of 210 feet as of right and 260 feet  
7 with affordable housing, was there ever a  
8 recommendation to pivot to tower on base and was that  
9 ever made publicly?

10 KARAN MEHRA: There was a letter that,  
11 that's clearly circulated widely in, in as much as it  
12 was referenced in, in press, press statements but  
13 that... it was a letter to the elected officials  
14 advising of... from Chair Lago to the elected official  
15 applicants which... oh I'm sorry, I take that back, I  
16 believe it was actually from Bob Tuttle to the  
17 applicants in February of 2017 advising that...  
18 advising that they recommended a tower on a base  
19 approach and that was in February of 2017.

20 COUNCIL MEMBER KALLOS: And, and I think  
21 I first read that... [cross-talk]

22 KARAN MEHRA: From Bob Tuttle... [cross-  
23 talk]

24 COUNCIL MEMBER KALLOS: ...in the press...  
25 [cross-talk]

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KARAN MEHRA: ...and then... and then the Chair talked about concerns with the application at certification in June of 2017.

KARAN MEHRA: Sure and, and so in the recommendations from Bob Tuttle or the Chair did they suggest a grandfathering clause?

KARAN MEHRA: They did not.

COUNCIL MEMBER KALLOS: And based on the recommendation of a tower on base did the applicant accept the very public recommendation and modify the application and present the application based on the specific recommendations made by the Chair and the staff?

KARAN MEHRA: Yes, we did.

COUNCIL MEMBER KALLOS: Great and, and so we, we, we make it today and, and so I think that is helpful. Similarly, just one other line of questioning before I turn it over to.. I know one of my colleagues has a question, Council Member Cohen. During the bankruptcy was this rezoning unknown to the bankruptcy estate, was there occasion for the applicants to receive legal demands and perhaps even threats from attorneys for the bankruptcy or others involved in the transaction?

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KARAN MEHRA: I'm not going to... I... you know I didn't represent either of the parties in the bankruptcy so I'm not going to get into what was or wasn't done but I will say that I know many of the documents referenced the potential rezoning as an issue in the bankruptcy.

COUNCIL MEMBER KALLOS: I, I, I will... I will just say I, I got numerous cease and desists and other... with, with similar flowery... [cross-talk]

KARAN MEHRA: Well that's true, right, yes, yes...

COUNCIL MEMBER KALLOS: I, I received similar cease and desists and was also... [cross-talk]

KARAN MEHRA: You're correct, I had forgotten about that, you're absolutely 100 percent correct.

COUNCIL MEMBER KALLOS: And, and I seem to remember some flowery language around legal consequences for my failure to do so. So... we've been joined by Council Member Ritchie Torres, Council Member Andy Cohen.

COUNCIL MEMBER COHEN: Thank you Council Member. I'm just trying to educate myself on this issue around grandfathering and I'm not even sure if

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2 this panel is... if, if, if you are... can answer my  
3 questions but it's, it's my understanding and maybe  
4 I'm... and maybe I'm misinformed but as, as a practical  
5 matter that it, it seems that this applicant... this  
6 project, the, the East 58<sup>th</sup> Street Project if it went  
7 before BSA would be... would be approved based on the  
8 substantial completion of the foundation, does anyone  
9 know as a... as a practical matter is that... am I... do I  
10 understand that correctly?

11 KARAN MEHRA: It's, it's entirely  
12 possible and we've said that all along, we now... the  
13 point is that there is... as Senator Krueger stated  
14 there's a set of uniform rules that people are aware  
15 of and understand what their... you know what the risk  
16 they're undertaking when they decide to move forward  
17 at the same time as a zoning proposal and so, so I...  
18 you know I don't know exactly what the state of any  
19 particular developer's project is so I can't speak to  
20 that but I will say that it's possible... [cross-talk]

21 COUNCIL MEMBER COHEN: No, I, I  
22 understand there's a process but as a practical  
23 matter as a Council Member, you know I, I just want  
24 to understand what I'm voting on and if it... you know  
25 and what is the practical effect of what we're doing

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2 that's, that's why I ask not... I, I certainly  
3 understand, and I don't know... again if either of you  
4 have an opinion on...

5 SANDY HORNICK: Well I, I actually spoke  
6 a little bit to this at the City Planning Commission  
7 hearing. First of all, we are not going to judge, we  
8 are not the judges of whether they've proceeded far  
9 enough, I wouldn't view myself as competent to make  
10 that decision. Normally or often when, when  
11 rezoning's are done various projects in the  
12 development process try to expedite and, and some  
13 vest and some don't and those are the rules of the  
14 game and we believe in playing by the rules of those  
15 games. I think... the... there are two practical  
16 outcomes, one is the possibility that for whatever  
17 reason they're not... they won't vest and by the way  
18 they testified at the City Planning Commission... was  
19 it... was it testify or something similar that, that,  
20 that they would... they, they, they would not vest I  
21 think but that isn't to say that they won't, and the  
22 board would grant them the right. The... I would go  
23 beyond even the specifics of this case which is  
24 sometimes the council or the Planning Commission  
25 grandfathers people, the question is what is the

1  
2 comparison between what you're grandfathering, what  
3 do you... and what the public policy is. The public  
4 policy is that the building can be twice... more than  
5 twice as tall as the overwhelming majority of the  
6 buildings, more than 300 feet tall if that's the  
7 precedence that the council's comfortable with it's  
8 not the precedence that the community is comfortable  
9 with, it's not the precedence we as advisors to the  
10 community believe people should be comfortable with  
11 but in, in the end of the day it's, it's your, your  
12 decision.

13 COUNCIL MEMBER KALLOS: Recognizing  
14 Council Member Torres from the Bronx.

15 COUNCIL MEMBER TORRES: I, I don't know  
16 if I heard you correctly... [cross-talk]

17 COUNCIL MEMBER KALLOS: ...followed,  
18 followed by Land Use Chair Greenfield.

19 COUNCIL MEMBER TORRES: I think you  
20 indicated that the developer should know the risk of  
21 proceeding with the development knowing that there's  
22 a zoning action, did... am I accurately representing  
23 what you said?

24 KARAN MEHRA: Yes, that's, that's what I  
25 was saying... [cross-talk]

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COUNCIL MEMBER TORRES: So, so... [cross-talk]

KARAN MEHRA: ...is that... is that any, anybody at any point in time this committee... [cross-talk]

COUNCIL MEMBER TORRES: ...yeah... [cross-talk]

KARAN MEHRA: ...the Land Use Committee is rezoning properties and it... as Council Member Kallos pointed out it often takes a very long time because of the preapplication process so if I'm someone with a project in an area that's being discussed for rezoning and I move forward with a proposal that is quite different from the, the proposed rezoning being considered I'm, I'm taking into account... [cross-talk]

COUNCIL MEMBER TORRES: Can you explain the timing for like how far back does... the development date and how far back does your application date? Because you're suggesting that the developer knew the application that you were pursuing just as he was proceeding with the development so do you have answers as to the timing?

KARAN MEHRA: The time frame that we... as, as Council Member Kallos was asking earlier we

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started talking about this in 2015, we filed a preapplication statement in 2016 at that time there was extensive press about the application after that time there were a number of community board meetings where... [cross-talk]

COUNCIL MEMBER TORRES: When, when did the... [cross-talk]

KARAN MEHRA: ...the application... [cross-talk]

COUNCIL MEMBER TORRES: ...process officially... [cross-talk]

KARAN MEHRA: ...was... [cross-talk]

COUNCIL MEMBER TORRES: ...begin like when did it go through community board review and then borough board review and then make its way to the City Planning and then the... [cross-talk]

KARAN MEHRA: Well it didn't... [cross-talk]

COUNCIL MEMBER TORRES: ...council... [cross-talk]

KARAN MEHRA: ...get into ULURP... it didn't... it wasn't referred out by, by the city until 2017 but there were many public discussions about the proposal



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at... in the community board, in the press that...

[cross-talk]

COUNCIL MEMBER TORRES: But it, it, it...

[cross-talk]

KARAN MEHRA: ...representatives in... on all  
sides... [cross-talk]

COUNCIL MEMBER TORRES: ... it sounds like...

[cross-talk]

KARAN MEHRA: ...were involved... [cross-  
talk]

COUNCIL MEMBER TORRES: ...there is a  
possibility that the development was in the works  
before your application officially began but, but I'd  
be curious to know more details about the timing.

KARAN MEHRA: You know I... [cross-talk]

COUNCIL MEMBER TORRES: What, what's the  
status of the development at the moment?

KARAN MEHRA: I, I believe  
representatives from the developer will be speaking  
later and you can ask... I can't speak for them so...

[cross-talk]

COUNCIL MEMBER TORRES: Okay, is it...

[cross-talk]

KARAN MEHRA: ...I don't... [cross-talk]

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COUNCIL MEMBER TORRES: ...is it... [cross-talk]

KARAN MEHRA: ...you know we're here to, to... [cross-talk]

COUNCIL MEMBER TORRES: Is it almost complete, is it half complete, is it... is... not even a brick has been... [cross-talk]

KARAN MEHRA: They're working... [cross-talk]

COUNCIL MEMBER TORRES: ...been laid... [cross-talk]

KARAN MEHRA: ...on their... well from what we see they're working on their foundations but I, I... again you can discuss the... I, I'm not going to speak for anyone else except the applicant... [cross-talk]

COUNCIL MEMBER TORRES: Okay, so I'll those questions of the developer... [cross-talk]

KARAN MEHRA: Yes, exactly... [cross-talk]

COUNCIL MEMBER TORRES: ...then, thank you... [cross-talk]

KARAN MEHRA: Thank you so much Council Member.

COUNCIL MEMBER GREENFIELD: Thank you Council Member. So, obviously we're all asking

1  
2 similar questions today. First of all, I want to  
3 congratulate you, I know that this has been a long  
4 time coming both Karen and Sandy and I think it's a,  
5 a sign of the perseverance not just on your end but  
6 on all the elected officials including Council Member  
7 Kallos and the Borough President and the State  
8 Senator who have been advocating for this and, so I  
9 think... [cross-talk]

10 KARAN MEHRA: Uh-huh... [cross-talk]

11 COUNCIL MEMBER GREENFIELD: I think this  
12 is a sign of how the system is supposed to work so  
13 we're very pleased to have you here today so  
14 congratulations to both of you Karen and Sandy. So,  
15 let me ask you this on the same... on the same vein, we  
16 have an obvious... it's an obvious flag, right, which  
17 is that there's a particular project and the question  
18 of whether the project should be grandfathered verses  
19 vested, the Department of City Planning has weighed  
20 in over here so from a policy perspective, right, it  
21 could obviously go both ways and I think Sandy you  
22 worked at the Department of City Planning so perhaps  
23 you want to weigh in on this. Earlier this morning we  
24 had another hearing about self-storage and in that  
25 particular case the Department of City Planning did

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2 in fact in that case suggest as well to grandfather  
3 an existing self-storage and in fact to allow them to  
4 be complying as opposed to in noncompliance so, why  
5 do you feel from a public policy perspective weighing  
6 all the policy issues when the Department of City  
7 Planning actually put this recommendation in, more  
8 than a recommendation that's actually in their text  
9 why do you feel like we should carve it out, so from  
10 a policy perspective it's obviously a significant  
11 issue so I'm wondering as to what your thinking is on  
12 this Sandy as the planner who, who's responsible...  
13 [cross-talk]

14 SANDY HORNICK: So... [cross-talk]

15 COUNCIL MEMBER GREENFIELD: ...for the ERFA  
16 application?

17 SANDY HORNICK: ...I, I spent 38 years at  
18 the Department and I worked on a number of... several  
19 projects, I can't actually remember which ones at the  
20 moment but there were a couple where either the, the  
21 Department of City Planning or the Board of Estimate  
22 or the City Council add, added provisions  
23 grandfathering people and others where as I cited the  
24 Midtown one earlier they did not... and I think that  
25 the, the fundamental question is well how much does

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this vary our goal if we... if, if we... it's not me,  
I've got to stop saying we... if the public sector  
grandfathers and so I have not been involved in the  
self-storage question but, but if you grandfather one  
building... [cross-talk]

COUNCIL MEMBER GREENFIELD: I'm just  
raising it to sort of... [cross-talk]

SANDY HORNICK: But, I'm, I mean... it's  
trying to... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...make a point  
have you ever... [cross-talk]

SANDY HORNICK: ...use it... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...seen a  
grandfather... the reason I was bringing it up is  
because we routinely do grandfather items as you  
mentioned in different applications, we happened to  
have that discussion this morning, it's a  
continuation of a discussion, it's not something  
that's unprecedented obviously so that's why I was...  
[cross-talk]

SANDY HORNICK: That's correct... [cross-  
talk]

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COUNCIL MEMBER GREENFIELD: ...raising it because we've been here since the morning... [cross-talk]

SANDY HORNICK: That's right so, so... [cross-talk]

COUNCIL MEMBER GREENFIELD: Yes...

SANDY HORNICK: So, in, in the IBZ and self-storage question you've got... and I don't know how many such buildings there are, I think we just cited one, you've got all of the IBZ's which have thousands of acres of space in which you're trying to preserve space over time for industrial activity and the leaving of one or two or three projects to go forward doesn't really alter that long term objective of, of preserving space for industry. In this case the proposal is about neighborhood character, right, the presence of those eight or nine towers is the argument that's used against putting... just putting an R10A contextual height limit, the presence of a few buildings that are taller, right and the presence of one building that's taller than 363 feet, there's only one building taller than that so... well one because we got the 1<sup>st</sup> Avenue building, right, but... which is also under 400 feet I might add are enough

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2 to shift the perception of the neighborhood, the  
3 discussion of the neighborhood, this building, you  
4 know imagine you got one set of height limits here,  
5 one set of height limits here and another set of  
6 height... and then another building here that's what  
7 that is, alright and we're saying that that is so at  
8 variance from the public policy that is before you  
9 today about adopting this that they have a right to  
10 proceed if they are successful and they may very well  
11 be successful and we have been honest with our  
12 clients from the beginning that that might in the end  
13 turn out to be the case but that's... those are the  
14 ground rules and we should... if not... making an  
15 exception for this that 800 foot tall building will  
16 be there as close to... forever as is possible for us  
17 humans to conceive.

18 COUNCIL MEMBER GREENFIELD: Okay Sandy  
19 I'm, I'm enjoying this conversation as you may know  
20 I... I'm an adjunct law professor at Brooklyn Law so...  
21 [cross-talk]

22 SANDY HORNICK: Right... [cross-talk]

23 COUNCIL MEMBER GREENFIELD: ...I'm going to  
24 go one step further and just for the academic nature  
25 of the conversation well what do you think about the

1  
2 vesting putting aside for a moment the constitutional  
3 takings questions that requires a Board of Standards  
4 and Appeals perhaps... I'm just curious to get your  
5 views, do you think that we shouldn't have vesting  
6 provisions in the law which are obviously separate  
7 from this but occur based on that similar public  
8 policy argument that you're making, I'm just trying  
9 to understand how far you're going in terms of your  
10 policy argument?

11 SANDY HORNICK: Well I'm, I'm, I'm not  
12 going any further to... we, we have vesting rules,  
13 right and the... you know again you're the law  
14 professor, I'm... [cross-talk]

15 COUNCIL MEMBER GREENFIELD: You're the  
16 planner... [cross-talk]

17 SANDY HORNICK: You know... [cross-talk]

18 COUNCIL MEMBER GREENFIELD: ...you've been  
19 doing it for 38... [cross-talk]

20 SANDY HORNICK: ...I'm, I'm a planner I'm  
21 not... [cross-talk]

22 COUNCIL MEMBER GREENFIELD: ...years...  
23 [cross-talk]

24 SANDY HORNICK: ...an attorney... [cross-  
25 talk]



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COUNCIL MEMBER GREENFIELD: Yes, yes...

[cross-talk]

SANDY HORNICK: ...so... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...you're the  
policy guru... [cross-talk]

SANDY HORNICK: ...a little shaky ground  
here... [cross-talk]

COUNCIL MEMBER GREENFIELD: Yes... [cross-  
talk]

SANDY HORNICK: ...but of course that  
probably never stopped me before and you know I, I  
think the vesting is, is this balance between its...  
you know when does the fairness scale say you've  
proceeded too far and you shouldn't be penalized by  
changing the rules and there's a set of rules for  
that and there's a set of rules that everybody plays  
by, right and then there are... you know clearly some  
individual cases where people say well the rules are  
fair but, but, you know it wouldn't be the worst  
thing in the world to, to do it and I'll give you a  
case of point, the... there's a special permit in...  
allows larger homes in, in parts of Brooklyn,  
community board ten recently sought to get out of it  
and did get out of it and the council grandfathered

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some buildings now as it happens the community board was not opposed to those buildings they were opposed to the special permit because of its unlimited nature, right and so it was entirely reasonable for the council in my opinion... [cross-talk]

COUNCIL MEMBER GREENFIELD: To be fair not all the buildings actually made it, there was... there had to be a cut off at one point, some... [cross-talk]

SANDY HORNICK: Well there is a... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...of the folks... [cross-talk]

SANDY HORNICK: ...cut off but... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...yes... [cross-talk]

SANDY HORNICK: ...but, but the council said... [cross-talk]

COUNCIL MEMBER GREENFIELD: I'm very familiar with it because it's actually very popular in community board 14 and 15 it's just not popular in community board ten... [cross-talk]

SANDY HORNICK: And, and... [cross-talk]

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COUNCIL MEMBER GREENFIELD: But yes...

[cross-talk]

SANDY HORNICK: ...I am the... one of the authors of that text so, so... [cross-talk]

COUNCIL MEMBER GREENFIELD: Okay... [cross-talk]

SANDY HORNICK: ...you don't have to convince me and I, I personally think that more homes should be... the... we have an old housing stock and how you accommodate a housing stock is, is a big question not subject to this hearing but... is a big question not just in board of 15... 14 and 15 but the point there that I was trying to make about that is that there was... there was a... the amount of area that these particular buildings were seeking the exception from the under... from the underlying zoning through the special permit was not so great that the, the, the community was opposed to it and in that context it made perfect sense for the council in my opinion to, to grandfather it. In this case we're not... it's not like we have a 500-foot-tall building and then we have a 550-tall building or 520-foot-tall building, we have a 500... a 475-foot-tall building with another building on top of it.

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COUNCIL MEMBER GREENFIELD: Okay, so to, to get back to the original point at the Chair's request we happen to be enjoying this conversation, I'm sorry... I'm sorry if you... [cross-talk]

COUNCIL MEMBER KALLOS: I suggest the... [cross-talk]

COUNCIL MEMBER GREENFIELD: Yes... [cross-talk]

COUNCIL MEMBER KALLOS: ...Land Use Chair hold a forum for planners to get together and have this sort of conversation... [cross-talk]

COUNCIL MEMBER GREENFIELD: I do... I do... I did it last year at Brooklyn Law School, we did the 100... the next 100 years of Brooklyn zoning so we actually did discuss it but... [cross-talk]

CHAIRPERSON RICHARDS: You should invite Sandy next time.

COUNCIL MEMBER GREENFIELD: Yes, I definitely will so Sandy so just to... just to wrap up this point, so you're okay with the vesting and you're saying that's... the rules are as it is, your argument is that it goes too far when it comes to this particular zoning to grandfather someone in even

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2 if in fact this particular applicant may in fact  
3 become vested is what you're saying?

4 SANDY HORNICK: He has a right... if he has  
5 a right to be vested he should... he has a right to  
6 that and, and there are rules... [cross-talk]

7 COUNCIL MEMBER GREENFIELD: So, does it...  
8 final question for you, does it matter to you if we  
9 end up discovering that this candidate in fact will  
10 get vested, right and that... everybody agrees the  
11 candidate will get vested, does it matter to you  
12 still whether or not the grandfathering is in or out?

13 SANDY HORNICK: Yes and, and, and this  
14 has nothing to do with our clients, you asked me my  
15 question and I think that the precedential nature of  
16 doing a grandfather to something that is this far  
17 different from what is... the zoning would allow will,  
18 I don't want to say haunt be... but it, it is something  
19 that will color every... many future rezonings in ways  
20 that we don't even know.

21 COUNCIL MEMBER GREENFIELD: Thank you.

22 COUNCIL MEMBER KALLOS: Just want to  
23 follow along with the Land Use Chair's questioning,  
24 so the City Planning Commissioner made a  
25 recommendation for a tower on base without

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2 grandfathering, DCP made that same recommendation,  
3 you as an applicant put in exactly what they  
4 recommended and so in order... and, and then at the  
5 last meeting last week of City Planning which was  
6 immediately before the City Council stated session  
7 when we can vote things out as a body, what is the  
8 effect on timing of adding the grandfathering clause  
9 such as if the grandfathering clause had not been  
10 added at the last minute and the city PC had voted it  
11 as it was and then handed it to the council to do as  
12 we tend to do a land use hearing on the November 16<sup>th</sup>  
13 we could of done the vote on the 16<sup>th</sup> and it would  
14 have been over and done with on November 16<sup>th</sup>, does  
15 adding the grandfathering clause perhaps as what some  
16 might call a red herring so that the council then has  
17 to amend it out and perhaps from the 16<sup>th</sup> to the 30<sup>th</sup>  
18 so an additional two weeks for the BSA process?

19 KARAN MEHRA: When the council modifies  
20 an application it has to go back to the City Planning  
21 Commission for a determination as to whether or not  
22 the modification is within scope so it, it adds time  
23 to the application.

24 COUNCIL MEMBER KALLOS: So, so, so  
25 perhaps just for my colleagues who had questions

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about this the, the dance we are doing here may only be a red herring to add two weeks to the process over to Andy Cohen.

COUNCIL MEMBER COHEN: Thank you. I just wanted to follow up on, on a question from Chair Greenfield because I, I... again I'm not really looking at it exactly from a, a public policy perspective but I'm not sure I follow your testimony, is your... is your concern about the carve out, the grandfathering that this... that this particular building is significantly taller like would you not object to the grandfathering if it was somewhere in the middle like taller than the other buildings but not as tall as it is, I'm not... [cross-talk]

SANDY HORNICK: Well... [cross-talk]

COUNCIL MEMBER COHEN: ...you seem to be saying both now so I'm not sure...

SANDY HORNICK: So, I got asked some theoretical questions which I tried my best to answer, our position is that the ERFA position is that the grandfathering rules or the vesting rules should... they're, they're time tested, everybody operates under and they should remain in effect, we got asked a lot of questions about whether or not... I

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2 got asked a lot of questions about whether or not if  
3 I knew this was going forward again, etcetera,  
4 etcetera so our view is there's a good rule in place,  
5 it's, it's a vesting provision that my understanding  
6 is based on the court decisions from decades ago, it,  
7 it is the standard operating procedure and that's  
8 what should remain in effect, right, people have  
9 pointed out that there are examples where, where  
10 people... where the council or the... or the City  
11 Planning Commission and the council or... have included  
12 vesting provisions... grandfathering provisions and  
13 that's true and my only point is that where... those  
14 places where it has been done are ones that are more  
15 akin... what's being allowed is more akin to what's  
16 already there.

17 COUNCIL MEMBER COHEN: I think that the  
18 testimony was that there are eight nearby towers, but  
19 none are as tall as this tower, if... [cross-talk]

20 SANDY HORNICK: They're all under 500  
21 feet, this is over... this is 800 feet.

22 COUNCIL MEMBER COHEN: So... but if this  
23 building... if this tower were 500 feet it would still  
24 not be in compliance with the new zoning but would  
25 you... would you be... would you be objecting to the



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grandfathering under that circumstance... I'm just...  
again I'm just trying to understand what the nature  
is of the objective?

SANDY HORNICK: Well, it would be a hard...  
it would be a harder argument to make.

COUNCIL MEMBER COHEN: Okay, thank you  
very much.

COUNCIL MEMBER KALLOS: Last questions to  
Council Member Torres.

COUNCIL MEMBER TORRES: So, City Planning  
added the grandfather clause, if, if the... if the  
grandfather clause has been absent from the text  
amendment do you think City Planning would have  
approved the text amendment?

SANDY HORNICK: I can't answer that  
question.

COUNCIL MEMBER TORRES: Okay, do you have  
a sense?

SANDY HORNICK: No.

COUNCIL MEMBER TORRES: Okay...

SANDY HORNICK: We weren't... we weren't in  
on the deliberations there and... [cross-talk]

COUNCIL MEMBER TORRES: Okay, is, is  
there anything in testimony that would suggest how

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2 critical the grandfather clause was to City  
3 Planning's decision, if, if you don't know the answer  
4 to that question I can find out on my own but...

5 SANDY HORNICK: I... you know they put it  
6 in, so it was part of their consideration but...

7 [cross-talk]

8 COUNCIL MEMBER TORRES: Okay... [cross-  
9 talk]

10 SANDY HORNICK: I can't tell you if it  
11 wasn't there what they would do...

12 COUNCIL MEMBER TORRES: Because it could  
13 be the case that but for the grandfather clause City  
14 Planning would not have approved the text amendment  
15 and then it would have never come before the City  
16 Council so, so that... [cross-talk]

17 KARAN MEHRA: I wouldn't... [cross-talk]

18 COUNCIL MEMBER TORRES: ...that's a fact  
19 that I would... [cross-talk]

20 KARAN MEHRA: ...I wouldn't... [cross-talk]

21 COUNCIL MEMBER TORRES: ...want to find out  
22 be... [cross-talk]

23 KARAN MEHRA: ...I wouldn't assume that,  
24 the City Planning Commissioner's all... you know at the  
25 beginning had a number of questions about whether,

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whether this was spot zoning and... as, as... whether it was... whether tower on a base was the appropriate planning rational, whether it was part of a well-considered plan and at the end of the day many of them said on the record that they felt that this was... this was an appropriate plan, that this neighborhood absolutely shouldn't have very tall towers and...

[cross-talk]

COUNCIL MEMBER TORRES: Right, I guess the question is with the grandfather clause so, in the absence of one I'd be curious to know what City Planning would have ultimately decided but I understand you can't answer that question... [cross-

talk]

SANDY HORNICK: So, so I, I... [cross-talk]

KARAN MEHRA: I can't... I can't look into their... [cross-talk]

COUNCIL MEMBER TORRES: So, I don't think they can... I, I will take the liberty of doing so, if you watch the hearing there were several City Planning Commissioners who are upset about the grandfathering clause and wanted the previous non-tower on base application that would of included the height for affordability component and I will say

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2 with certainty based on the recommendation of the  
3 Department of City Planning and the Chairs of the  
4 commission on this... of City Planning Commission that  
5 they're recommendation was, was without a grandfather  
6 clause and so my, my belief is that the Chair when  
7 issuing a statement just as our speaker speaks for  
8 the body.

9 COUNCIL MEMBER KALLOS: I, I want to just  
10 ask a, a clarifying question just to follow up on  
11 Andy Cohen. So, does... is there a height limit on  
12 tower on base?

13 SANDY HORNICK: No.

14 COUNCIL MEMBER KALLOS: Okay, so there is  
15 no height limit on this site and so that I think is  
16 a, a clarifying piece, what it does is it changes the  
17 form and so if a person puts together a large enough  
18 assemblage and has a base they can build as tall as  
19 the block and lots allow.

20 KARAN MEHRA: The tower on a base creates  
21 a... instead of a tower a long... a tall skinny tower  
22 requires more of the FAR below 150 feet, it also has  
23 a minimum tower coverage requirement which means you  
24 can't keep adding more and more however it's... the  
25 City Planning Commission's report says that they

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2 expected this provision to allow buildings in the  
3 range 300 to 500 feet and you know we gave... we showed  
4 you a rendering of a 35 story building so these are  
5 not small buildings and these are buildings that are  
6 substantially taller than 90 percent of the buildings  
7 in the neighborhood so these are... so, there's  
8 absolutely nothing preventing someone from building  
9 buildings of, of those heights.

10 COUNCIL MEMBER KALLOS: I believe we've  
11 gotten everyone's questions answered on this  
12 application, we've gotten questions answered on the  
13 next 100 years of zoning for the city and a  
14 commitment for Brooklyn Law School to have a forum on  
15 this in the future, perhaps so I'd like to excuse the  
16 applicants and just recess for five minutes.

17 SANDY HORNICK: Thank you.

18 KARAN MEHRA: Thank you.

19 COUNCIL MEMBER KALLOS: We inadvertently  
20 left out one representative for an elected official,  
21 David Leeds on behalf of representative Carol Maloney  
22 who I'll invite to give testimony. After that we will  
23 hear from Gamma Real Estate; Kramer, Kramer Levin as  
24 well as the Real Estate Board of New York followed by  
25 a panel in favor. Yes, no worries. You may begin.

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2           DAVID LEEDS: Hi, my name is David Leeds,  
3 I'm here today on behalf of Congresswoman Carolyn  
4 Maloney to present testimony. I am pleased to thank  
5 the Subcommittee on Zoning and Franchises for  
6 allowing me to present testimony today. I strongly  
7 support the East River Fifties Alliance's text  
8 amendment to the zoning resolution of the city of New  
9 York and ask that the City Council vote to approve  
10 the proposed rezoning but without the modification  
11 made by the City Planning Commission on November  
12 15<sup>th</sup>, 2017. The area of Manhattan Community District  
13 six East of 1<sup>st</sup> Avenue and North of East 51<sup>st</sup> Street  
14 is the only area of Manhattan where R10 zoning which  
15 allows buildings to have a floor area ratio of 10.0  
16 or even 12.0 of certain allotments where inclusionary  
17 housing is met applies on side streets. This area is  
18 a low rise and midrise residential community yet  
19 current zoning law enables super tall buildings to be  
20 constructed with no regard for context or for  
21 potential impacts on the neighborhood. Recent  
22 advances in architecture and engineering have made it  
23 easier than ever thought possible to construct super  
24 tall buildings in excess of 700 feet tall. With the  
25 zoning regulations currently governing construction

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2 in the relevant area of CD six there is nothing  
3 preventing the proliferation of soaring towers. These  
4 buildings either end up being apartment sized bank  
5 accounts for wealthy absentee owners and private  
6 equity funds or they create an influx of residents  
7 that overwhelm the local infrastructure overcrowding  
8 schools, transportation and parks. Overdevelopment  
9 poses a threat to the character of this low and  
10 midrise community as a result of its current R10  
11 zoning. Super tall buildings would block nearby resident's  
12 light and air and overshadow all low-rise buildings  
13 in the immediate vicinity. Additionally, it is  
14 inappropriate to allow huge towers to build in the  
15 middle of residential blocks. Traditionally and for  
16 good reason taller buildings have been reserved for  
17 avenues while mid-block buildings are lower in scale.  
18 The proposed text amendment to the zoning resolution  
19 which draws inspiration from the city's tower on a  
20 base development rules would be far more suitable for  
21 the East River Fifties area. The rezoning proposal  
22 would require that new buildings be constructed with  
23 at least 45 percent of their total floor area located  
24 in stories either partially or entirely below a  
25 height of 150 feet, it will prevent the kind of out

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2 of scale development that is possible under the  
3 current R10 zoning and block the construction of mid-  
4 block super tall. Tower on a base packing rules will  
5 also ensure the construction of buildings with  
6 appropriate heights and contextual street walls. In  
7 short, the zoning regulations currently effecting the  
8 relevant area of CD six includes serious oversights  
9 that jeopardize the neighborhoods character many of  
10 which the proposed text amendment would successfully  
11 remedy. However, the value of this proposed rezoning  
12 would be undermined if the city council were to  
13 approve the modification added by the City Planning  
14 Commission. This provision would authorize projects  
15 that have not yet completed their foundations to  
16 proceed with construction pursuant to the zoning  
17 regulations currently in place and thus would  
18 undermine the very purpose for which the zoning  
19 change is being made, the prevention of super tall  
20 structures in a residential community. Changing the  
21 zoning but allowing a non-contextual building to go  
22 up would be bad precedence, there is a reason for the  
23 traditional rule that foundations must be complete,  
24 there is no rational for making an exception here  
25 when the City Planning Commission has acknowledged



1  
2 that the building in question is totally out of scale  
3 for this location. At a putative 67 stories and 800  
4 feet tall this would be the... this tower would be the  
5 tallest building on the Upper East Side. In fact,  
6 it's 800-foot height would be roughly equivalent to  
7 an 80-story building. This building would dwarf its  
8 neighbors in the Sutton Place area and would alter  
9 the neighborhoods historic character as a community  
10 with brownstones and low to mid rise apartment  
11 buildings. The construction of such an out of place  
12 super tall would be a result of precisely the kind of  
13 zoning oversight that the proposed text amendment is  
14 meant to correct. Under normal circumstances a  
15 building permit lapses if it's foundation has not yet  
16 been completed by the date of enactment of a change  
17 in applicable zoning. Given that the building's  
18 foundation has not yet been completed it defies  
19 reason that the city would go out of its way to  
20 rubber stamp this out of scale development at the  
21 same time that it approves a proposal to rezone the  
22 area to prevent out of scale developments. This  
23 grandfather clause would effectively spot zone this  
24 lot to the benefit of the developer which filed plans  
25 for this tower only in December 2016 by which point

1  
2 the East River Fifties Alliance had already  
3 demonstrated the scale of this community's opposition  
4 to overdevelopment and support for better zoning  
5 regulations. The developer knew that this change was  
6 coming but failed to get their foundation done. I  
7 strongly urge this committee to approve the proposed  
8 text amendment and to turn down the City Planning  
9 Commission's added provision. Thank you.

10 COUNCIL MEMBER KALLOS: Thank you very  
11 much. We're going to excuse you and thank the  
12 Congressmember for sending you in her seat and for  
13 her support, it means a lot. Our next panel, we're  
14 going to hold the Real Estate Board of New York in  
15 opposition to the following panel. We have Gary  
16 Tarnoff on behalf of Gamma Sutton 58; Stanley Schlein  
17 appearing on behalf of Gamma; Anthony Austin of  
18 Lendlease; Jeff Mulligan of Kramer Levin and Jonathan  
19 Kalikow of Gamma Real Estate. And Michael Slattery of  
20 Real Estate Board of New York, you will be on the  
21 next panel after this one.

22 GARY TARNOFF: Good afternoon, I'm Gary  
23 Tarnoff of the law firm of Kramer Levin. We represent  
24 Gamma Real Estate, the owner of the residential  
25 development currently under construction at 430 East

1  
2 58<sup>th</sup> Street. I'm here to urge the committee to not  
3 remove the grandfather provision that was added by  
4 the City Planning Commission to propose the zoning  
5 text amendment. The text amendment application by the  
6 East River Fifties Alliance is an effort by a well-  
7 funded group of residents who have one goal in mind,  
8 to protect their river views by stopping our  
9 development. While they've conveniently cloaked their  
10 application as preserving the character of a  
11 neighborhood they're own environmentalist statement  
12 identified our site as the one and only development  
13 site within the rezoning area, there are no others.  
14 So, this entire application is to use the word that  
15 was just used by the other side, spot zoning, a  
16 blatant attempt to just stop one project. We are  
17 thankful that the Planning Commission listened  
18 carefully to our testimony and added a grandfathering  
19 provision that allows to continue... allows us to  
20 continue construction, they did it by the way without  
21 us requesting them to do it. The commission  
22 accurately acknowledged in its report that quote, "a  
23 level of certainty with regard to as of right  
24 development is a reasonable expectation for the  
25 development community and benefits the public, the

1  
2 use of zoning to undermine this predictability will  
3 be detrimental to the investment necessary to support  
4 the city's building stock and it's needs for growth  
5 and will be of grave concern to the commission". We  
6 had someone at the commission of the date of the vote  
7 and from our office, almost all of the commissioners  
8 I think except for two said they were voting for this  
9 only because of the grandfathering provision.  
10 Commissioner Knuckles, Vice Chair said the following;  
11 "I do not believe that land use application should be  
12 wielded to stop individual developments, New York  
13 City's property owners have reasonable expectations  
14 of predictability that we should take into account.  
15 As with many areawide text amendments that come  
16 before us I believe it to be important that we  
17 include a grandfathering provision to ensure that  
18 property owners are not left in the lurch with the  
19 rules that change midstream". If grandfathering is  
20 removed by the council, we will apply to the Board of  
21 Standards and Appeals to vest under the current  
22 zoning. However, a vesting application takes many  
23 months of review and public hearings at the BSA.  
24 During this time no construction activity can occur  
25 and approximately 100 construction workers will be

1  
2 immediately put out of work the moment the council  
3 adopts this rezoning right before the holiday season,  
4 300 additional construction workers who are ready to  
5 start once the foundations completed will not be  
6 employed. Although we are highly confident that we  
7 will ultimately prevail the removal of grandfathering  
8 will allow the applicants to be successful in  
9 achieving their sole and selfish intent of this spot  
10 zoning our site, stopping the construction of a  
11 building all be it temporarily forcing us to waste  
12 time and money to prove to the BSA what the CPC after  
13 careful consideration has already concluded that we  
14 should be grandfathered. The council's removal of  
15 grandfather to protect river views of wealthy  
16 residents would also be in a front to lower income  
17 neighborhoods that have been asked to in recent years  
18 to except taller buildings, additional density in  
19 exchange for more affordable housing. Thank you.

20 COUNCIL MEMBER KALLOS: Yes, Stanley  
21 you're next.

22 STANLEY SCHLEIN: Good afternoon, my name  
23 is Stanley Schlein...

24 COUNCIL MEMBER KALLOS: Mic...

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STANLEY SCHLEIN: Good afternoon members...

[cross-talk]

COUNCIL MEMBER KALLOS: Press the red  
button.

STANLEY SCHLEIN: Sorry, thank you very  
much. I'm going to address a number of procedural  
issues and let others address the substance of what  
Mr. Tarnoff just said and, and, and others will say.  
I was Chief of Staff to this institution from 1974  
through 1982 at a time when the Board of Estimate  
existed, an institution that the United States  
Supreme Court thought was no longer appropriate based  
on a one person, one vote edict. During that time the  
Board of Estimate had sole authority over land use  
decisions in this city that opportunity with a  
debacle of, of... and the demise of the Board of  
Estimate was then rendered to a city charter  
commission for consideration. That commission and its  
infinite wisdom decided to evolve the land use  
authority unto this institution thereafter. At the  
time of those hearings then speaker Peter Vallone  
spoke about the potential of corruption that such an  
opportunity would give to this institution. What it...  
he was afraid of and others have proven unfortunately

1  
2 is be devolving that authority here and co-joining  
3 that opportunity with the right of veto by a single  
4 Council Member who does not like a project in their  
5 district will create the kind of corruption bar none  
6 that, that we will all face. Let me give you an  
7 example of what I'm talking about, the new Yankee  
8 Stadium that was recently built in 2005 through  
9 including 2009 was opposed by the Council Member of  
10 the district at that time and now Commission Helen  
11 Foster, she didn't think enough people of color were  
12 going to be obtaining jobs either in construction or  
13 in the new stadium, totally false but she sided with  
14 a bunch of community activists from Manhattan to  
15 oppose that project. In fact, the leadership of the  
16 council under then Speaker Quinn made it... a holistic  
17 decision to allow the zoning to be approved, the  
18 project to be built, there are now 3,000 full time  
19 worker most of... most of which are people from the  
20 Bronx, people of color having very progressive jobs  
21 at that institution. The opposite of that occurred on  
22 the eve of the election of the Speaker, Gifford  
23 Miller, when in fact his contest for Speaker involved  
24 another Council Member from Brooklyn, Councilman  
25 Rodriguez at the time and he decided to have a

1  
2 discussion with a proposed developer of a housing  
3 project in his district and under arduous conditions  
4 that project was adopted, the problem was that  
5 Councilman Rodrigues ate at the table, he then  
6 thereafter went into federal court, was convicted of  
7 the appropriate crimes and wound up making big rocks  
8 into small ones. I would suggest to the leadership of  
9 this committee that giving veto power to a single  
10 Council Member over a project is the wrong way to  
11 proceed. So, I am talking about that procedure but  
12 let us talk about further progressive issues  
13 involving this particular project. In September 2017  
14 the conversations and emails by and between the  
15 proponents of this ERFA proposal, two members of this  
16 institution and the Borough President and the Senator  
17 were solicited by FOIL requests by the folks on this  
18 side of the table. We are still waiting today for a  
19 response reviewing those simple and transparent  
20 emails, what do they have to hide, I asked that  
21 question of this institution, what do you have to  
22 hide but again we're a progressive and transparent  
23 institution, so we will talk about the transparency  
24 of what happens with this project if the council  
25 decides to adopt an amendment to the City Planning



1  
2 Commission text amendment and remove the  
3 grandfathering. I would like to defer that question  
4 and that answer to my colleague to the left and my  
5 colleague to the right.

6 ANTHONY AUSTIN: Hello, my name is  
7 Anthony Austin, I'm an employer... I'm an employee at  
8 Lendlease. I was brought into Lendlease as a regular  
9 laborer. Lendlease gave me the opportunity to become  
10 a foreman on my job, I now run a crew of mine over on  
11 Presbyterian Hospital helping everybody out with  
12 their issues. The gentleman to my right, I never met  
13 him a day in my life and I'll let you know for one  
14 thing he is telling the truth about the Yankee  
15 Stadium project because I was an employee at the  
16 Yankee Stadium project. So, they did put minorities  
17 to work, okay, I say that they keep the grandfather  
18 in this matter and let this process keep going  
19 because it's changed my life. All my colleagues  
20 sitting in this room they... it's changed their lives,  
21 they have something to talk about now, we have houses  
22 now, we have responsibilities now, we are able to  
23 look our kids in the face and say that we can and  
24 will be there for them. Stopping this job will  
25 definitely harm and put a lot of families out on the

1  
2 street literally. I'm born and raised in the Bronx,  
3 the old Lincoln Hospital, I don't know if you aware  
4 with that sir being from the Bronx, I'm a native New  
5 Yorker, I love my city. I've seen this city diminish  
6 and grow from little to everything and everything  
7 that is done inspired me. I don't want to have to  
8 leave after I retire from my job, I don't want to  
9 have to leave to go live in another state, I want to  
10 be able to live in my state, New York is my state. I  
11 love where I live, I love where I work, I love  
12 Lendlease because they took the chance to instill  
13 responsibilities in me and I will continue to uphold  
14 that. I thank you.

15 JEFF MULLIGAN: Good afternoon Council  
16 Members, Jeff Mulligan from Kramer Levin for the  
17 applicant Gamma. This application has been pushed  
18 through the public review process with a lack of  
19 transparency that poorly serves the public and is  
20 intended to only stop Gamma's development. Community  
21 Board six after an unannounced caucus at a full board  
22 meeting in September voted to waive their review of  
23 this application and it's this application the tower  
24 on a base application not the previous application  
25 that was discussed they, they voted to waive their

1  
2 review of this application even before it was  
3 referred by the City Planning Commission. The Borough  
4 President did the same the next day, the City  
5 Planning Commission at the request of the Community  
6 Board held their hearing just two weeks after  
7 reviewing it... after referring it out. Fortunately,  
8 after testimony at the Commission's public hearing  
9 and in follow up discussions the Commissioners  
10 recognized the unfairness of stopping Gamma's  
11 development and how absurd it would be to force Gamma  
12 to shut down their construction project for many  
13 months and have to go to the BSA when they are so  
14 close to vesting. The Commission wisely and fairly  
15 included a grandfathering provision for our site as  
16 you know. Council Member Kallos however immediately  
17 after the Commission's vote made statements even  
18 before today's hearing or before any public  
19 deliberation at the council that the council is going  
20 to strip out the grandfathering clause. Now only do  
21 we think it's wrong for the Council Member to make  
22 this statement on what the council is going to do but  
23 we believe it is doubly wrong for the Council Member  
24 as a co-applicant for the application to make that  
25 statement. The Council Member is also looking to

1  
2 remove the key provision that the Commissioners felt  
3 it was important to add after they took the time to  
4 listen to Gamma and their representatives at the  
5 hearing. And this... he is also looking to do this  
6 after orchestrating a campaign with certain residents  
7 of the neighborhood since construction began to shut  
8 down Gamma's job with repeated calls to 3-1-1 and 9-  
9 1-1. We urge the council to follow the Commission's  
10 lead and actually weigh the merits of the  
11 grandfathering provision and to not follow the heavy-  
12 handed push to remove a fair and equitable provision.  
13 Thank you.

14 JONATHAN KALIKOW: My name is Jonathan  
15 Kalikow and I'm President of Gamma Real Estate, the  
16 developer of the site in question. When we first  
17 learned about the ERFA rezoning it was well into our  
18 lender on this project, we began lending to the  
19 borrower late 2014 so we also never really thought  
20 that the rezoning would ever occur and we tip our  
21 hats to ERFA for having achieved their goal of  
22 Sutton's rezoning frankly, we're very surprised, we  
23 fought against it and they got it rezoned and now  
24 both ERFA and Council Member Kallos can use that as a  
25 springboard to rezone the rest of the Upper East Side

1  
2 as was reported in the press. However, our excavation  
3 at our site is complete, has been for some time,  
4 Department of Buildings has issued us a full building  
5 permit and our foundation is expected to be  
6 completely finished in about three weeks. Under the  
7 DCP's current amendment, text amendment was... if we  
8 were to have to go before BSA we would almost  
9 certainly be grandfathered and therefor the only  
10 upshot of removing the grandfathering clause would be  
11 to punish us monetarily but also to displace and  
12 furlough a whole bunch of workers who really don't  
13 deserve it. Everything that was said by both Karen  
14 and Sandy earlier about the 1961 oversight and all  
15 that we could even agree that it's potentially true  
16 but that actually defines why this is a rezoning, it  
17 was never addressed until now, it was never addressed  
18 until this building was discovered in the press and  
19 once it was it was an as fast as we can move attempt  
20 to get it stopped, that's basically the definition to  
21 spot zoning. So, for all those reasons and on behalf  
22 of all the workers here today and those at the site  
23 we hope the council does the right thing and keeps  
24 the amendment included in the text provisions by DCP.  
25 Thank you.

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COUNCIL MEMBER KALLOS: I want to thank all of you for your testimony and for being with us until approximately two or so in the afternoon for a hearing that was originally called for 11:30. I guess I, I... just to, to be clear it appears that Gamma and, and your representatives have been aware of the rezoning going back to perhaps even its origins in 2015 when we first started with the community board resolution, would you stipulate or agree to that?

GARY TARNOFF: Well let's be specific when you say aware of the rezoning, we were aware that a group of people wanted to rezone the property, is that a basis for a property owner not to go forward with a project when they've made a big investment, I don't think so. As a matter of fact, your first rezoning which you put forward at the city... at the City Planning Commission and which was certified in June had to be withdrawn because the City Planning Commission told you it wasn't going to be approved. So, why would a property owner who made a... hundreds of million-dollar investment assume that the property was going to be rezoned when the Planning Commission in June and throughout the summer told us, they told everybody it was in the press that

1  
2 your application was not going to be re... not going to  
3 be approved.

4 COUNCIL MEMBER KALLOS: So, I, I think  
5 just to, to establish I think... [cross-talk]

6 GARY TARNOFF: And, and to answer your  
7 question if you heard what Mr. Kalikow said, if you  
8 listened to him... [cross-talk]

9 COUNCIL MEMBER KALLOS: Uh-huh... [cross-  
10 talk]

11 GARY TARNOFF: ...Mr. Kalikow said that he  
12 was involved in lending in this property from... since  
13 2014 which is well before you had any idea of  
14 rezoning the... rezoning the area.

15 COUNCIL MEMBER KALLOS: And so, I, I  
16 think it's clear to all of us that you are aware of  
17 all the things we have been up to as a community and  
18 as an elected official in terms of the rezoning and  
19 the fact that we're also seeking to do this for my  
20 entire district, so I guess the next question along  
21 that is when a... when money is loaned is there risk  
22 and is there ever compensation for that risk?

23 STANLEY SCHLEIN: Yes, usually in the  
24 form of interest.

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COUNCIL MEMBER KALLOS: Was this a high-risk loan?

STANLEY SCHLEIN: We thought it was a high-risk borrower, we didn't believe it was high risk loan based on the as of right nature of the underlying collateral.

COUNCIL MEMBER KALLOS: And, and, and so that, that was reflected and what was the maximum interest on this project, on the initial financing?

STANLEY SCHLEIN: The initial financing when you include points and fees it was around 20 percent.

COUNCIL MEMBER KALLOS: And, and... I... in reviewing the bankruptcy filing I believe it may have actually exceeded 25 percent.

STANLEY SCHLEIN: We made a second loan and on the second loan there were fees that would have brought it up closer to that number, yes.

COUNCIL MEMBER KALLOS: And, and I guess just to be clear there is no request by the, the, the opposition for the city to guarantee the loans and the, the loans... sorry, there's no... we shouldn't have to guarantee the loans and make sure that if a loan is made that the person making the loan... [cross-talk]



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STANLEY SCHLEIN: That... [cross-talk]

COUNCIL MEMBER KALLOS: ...makes money back  
on that loan?

STANLEY SCHLEIN: That's absolutely  
correct, nor do we believe... but we believe we have  
the right to protect our investment which means  
playing by the rules as dictated in the zoning code  
of New York.

COUNCIL MEMBER KALLOS: And I... we, we...  
before this we started with a, a... we, we, we do these  
hearings all, all, all the time and we make laws that  
have effects on people's pecuniary interest so I  
guess was the, the rezoning that was happening or, or  
at least the, the conversations around it, the  
resolution from the community board do you believe  
that that had an impact on, on the project or its  
value?

STANLEY SCHLEIN: Oh absolutely... [cross-  
talk]

COUNCIL MEMBER KALLOS: Or anyone on the  
application, I don't want to single you out just  
folks can feel free to jump in.

STANLEY SCHLEIN: We think that the press  
around the project has certainly been a negative to

1  
2 value for sure, nobody likes to be in the spotlight  
3 when it comes to something like this. However, we  
4 believe that in playing by the rules we've certainly  
5 met and then basically exceeded all that would be  
6 necessary to get grandfathered so at this point it's  
7 not about protecting our investment because this  
8 building is going to get built, it's about who's  
9 getting hurt now. Yeah, it's going to cost us several  
10 million dollars to go through BSA but we're at 95  
11 percent, we're almost done, the only people that are  
12 going to really get hurt are the... are the workers at  
13 the site.

14 COUNCIL MEMBER KALLOS: So... and, and I  
15 just want to make clear this isn't personal, this  
16 isn't about you, it's not about the previous  
17 developer this is about I think at least for me and  
18 what you heard from the Senator and the Borough  
19 President's Office is just a concern with super tall  
20 development and trying to work within the zoning  
21 framework to ensure that we have buildings that are  
22 in context. So, I think just with regards to the  
23 bank... yeah... [cross-talk]

24

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1  
2 JONATHAN KALIKOW: Let me just... let me  
3 just interject, if... with the Council Member's...  
4 [cross-talk]

5 COUNCIL MEMBER KALLOS: Sure... [cross-  
6 talk]

7 JONATHAN KALIKOW: ...permission at this  
8 point, I think your point is exactly right, you don't  
9 want to super tall building or the other sponsors of  
10 this ERFA application don't want this singular super  
11 tall building plus there is no other component of  
12 that site that is encompassing the text amendment  
13 that can be built on to create anything other than  
14 this site. So, let us focus on the reality and the  
15 reality is it was as of right when it started, it was  
16 as of right during its development, the initial ERFA  
17 application to put a height limitation on that site  
18 was rejected by City Planning, an alternative zoning  
19 methodology came to the fore and now two weeks before  
20 a complete and thorough completion of the foundation  
21 is the question that comes before this council, who  
22 gets punished, these workers so that the leadership  
23 of this ERFA group can take a victory lap that we  
24 delayed the construction of a project because that  
25 project will be built under all rational

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understanding of the laws of this city and of this state. So, that's the question that all of you need to face when you vote on this proposed amendment.

STANLEY SCHLEIN: If I could add one thing Council Member?

COUNCIL MEMBER KALLOS: I, I would love to get back to question and answer if... [cross-talk]

JONATHAN KALIKOW: I'm sorry... [cross-talk]

COUNCIL MEMBER KALLOS: ...if no, no, no worries just trying to run through and just get the facts out into the record. Please.

STANLEY SCHLEIN: Oh, thank you. I know that the proponents of... or... on behalf of ERFA Karen and Sandy earlier mentioned a 35-story building according to our zoning experts and architects in, in order to build a building that tall we would have to displace at least eight rent stabilized tenants in order to increase the mass of our base. Given our current owned 6,000 square foot lot it would be impossible to go that high.

COUNCIL MEMBER KALLOS: And, and I think that's where I'd like to... let me just get a little bit... take a couple steps back so there's been Bauhaus

1  
2 they've secured funding from you and so, so can you  
3 tell me a little bit about what happened with the  
4 previous developer and what happened between when  
5 they secured the original funding, the second loan  
6 and then the bankruptcy which you... and, and who may  
7 have initiated the bankruptcy situation... proceedings?

8           STANLEY SCHLEIN: The first loan was a  
9 short term loan meant to secure the fee simple area  
10 upon which the development will be built, it was  
11 three townhomes with all the in place tenants being  
12 under contract to be purchased bought out prior to  
13 our getting involved, it was the condition of our  
14 loan that we would lend on vacant buildings because  
15 we wanted to ensure that we could have a site that  
16 was developable as of right however we never in any  
17 of those instances spoke to any of those tenants. The  
18 loan, the second loan which was made six months later  
19 enabled the FAR to be increased by purchasing air  
20 rights from the surrounding buildings and I believe  
21 it was 11 buildings. Additionally, over 70,000 feet  
22 of affordable housing inclusionary certificates were  
23 purchased on behalf of the project from a Fisher  
24 Brothers Project on 39<sup>th</sup> Street also within community  
25 board six. Once the total massing was complete Mr.

1  
2 Beninati had about eight months to either secure a  
3 development partner or sell the site, he decided to  
4 not sell the site go forward and he eventually ran  
5 out of runway and defaulted. At his default we  
6 offered him his investment back in exchange for the  
7 title on the property to avoid any messy conflict  
8 instead of doing that he declared bankruptcy threw  
9 out a whole bunch of allegations against us during  
10 bankruptcy, we were stuck in bankruptcy for nearly a  
11 year at which point our hands were really tied being  
12 not the owner of the property although we petitioned  
13 the court to do things like finalize the raising of  
14 the building which were in, you know very terrible  
15 shape having had demolition stopped halfway through.  
16 We also petitioned the court to allow us to speak to  
17 our... the neighboring buildings so they knew that in  
18 the event that we were to gain the title, you know  
19 things would be different under us and as a matter of  
20 fact one of the first things we did after getting  
21 title was speak to those neighboring buildings and  
22 assure them that we were not looking to harm them in  
23 any way and any ill effects from our construction we  
24 would, you know remedy as quickly as possible and  
25

1  
2 that's actually has been what's been happening  
3 especially with the property to our East.

4 COUNCIL MEMBER KALLOS: So, you're,  
5 you're in bankruptcy, where... what... was the same  
6 institution that you are here representing today  
7 Gamma Real Estate the lender or was it a different  
8 commercial... corporate vehicle?

9 STANLEY SCHLEIN: No, it was... well Gamma  
10 Real Estate is the parent entity, the vehicle lending  
11 was Sutton 58 Associates I believe at the time.

12 COUNCIL MEMBER KALLOS: Okay, so Sutton  
13 58's associates, an individual corporation recognized  
14 by Citizens United as practically a person made a  
15 loan, there was a bankruptcy and was Sutton 58  
16 associates one of the, the lead creditor or the...  
17 what... where... what was your... [cross-talk]

18 STANLEY SCHLEIN: Sole... well it was the  
19 sole first lien holder, there were... [cross-talk]

20 COUNCIL MEMBER KALLOS: Okay... [cross-  
21 talk]

22 STANLEY SCHLEIN: ...some unsecured  
23 creditors with whom we cut deals to make sure they  
24 got paid because Mr. Beninati was unable to pay them  
25 so... [cross-talk]

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COUNCIL MEMBER KALLOS: Okay, so they were the sole creditor, you... at... so, so... and you're also affiliated with the Sutton 58 Associates?

STANLEY SCHLEIN: Yes.

COUNCIL MEMBER KALLOS: So, Sutton 58 Associates goes to the bankruptcy estate says we would like to be made whole, the bankruptcy estate sells the property... sorry, sorry, sells, sells it... sorry, if, if you can... [cross-talk]

STANLEY SCHLEIN: Yeah, sure... [cross-talk]

COUNCIL MEMBER KALLOS: ...talk without having me butcher it... [cross-talk]

STANLEY SCHLEIN: So... [cross-talk]

COUNCIL MEMBER KALLOS: ...if you can just go into the technicalities of the parties, the amounts of the estates, how the estate was split up and what was purchased by whom?

STANLEY SCHLEIN: So, our... part, part of what happens in bankruptcy is the size of our claim, you have adjudicate it, essentially, we had both the first lien and M.E.S. debt we told the court to ignore our M.E.S. debt for a sake of speed and ease and essentially the size of our first lien was at



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2 that time, again I'm going to round, 175 million  
3 dollars which meant that when the property went for  
4 sale in order for it to exit bankruptcy we as the  
5 senior creditor could bid up to that amount without  
6 having to essentially come out of pocket. So, when  
7 the auction was held at the culmination of bankruptcy  
8 there wound up being only one other bidder and we  
9 wound up being the successful purchaser of the  
10 property at approximately 86 million dollars.

11 COUNCIL MEMBER KALLOS: So, we in this  
12 case is which entity?

13 STANLEY SCHLEIN: I'm using them  
14 interchangeably, the parent and the actual lending  
15 entity. Part of our business in making loans has a  
16 bunch of different entities that make the actual  
17 loans but I'm referring to it as one organization.

18 COUNCIL MEMBER KALLOS: So, did 58  
19 Associates after being able... so, let, let me just  
20 simplify, do, do you know who the other bidder was?

21 STANLEY SCHLEIN: Yes.

22 COUNCIL MEMBER KALLOS: Who were they and  
23 how much did they bid?

24 STANLEY SCHLEIN: It was a group, I  
25 believe it's called Cornell run by a fellow named

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Isaac Hager out of Brooklyn. The bidding started at 81 million dollars went a few rounds, they bowed out after we bid 86.

COUNCIL MEMBER KALLOS: And, and just to, to be clear and, and, and it may have been a loss but 58... Sutton 58 Associates could have allowed Cornell to purchase for 81 million or, or more because they made a bid and could have taken that and, and that, that... you, you made the loan for 175, you get 81 back you don't lose all your money you lose a, a large portion but half but you, you still walk away from something from the table as bankruptcy tends to be getting fifty cents on the dollar and the bankruptcy is actually better than most people have done especially with like Delphi and others that I worked on.

STANLEY SCHLEIN: We could have done that however we believed that it was not the optimal strategy.

COUNCIL MEMBER KALLOS: And, and, and that, that is fair and so the entity that purchased the asset was Sutton 58 Associates?

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STANLEY SCHLEIN: Or, or a similarly named wholly owned entity, it, it could have been Sutton 58 Holdings I don't want to... [cross-talk]

COUNCIL MEMBER KALLOS: But same, same partnership... [cross-talk]

STANLEY SCHLEIN: Same, same exact ownership, yes.

COUNCIL MEMBER KALLOS: Fair enough so, so... but I, I think just the key thing that I want to just have there on public is that there, there was a bankruptcy piece that gets handed to the estate, it got... it got purchased back and, and I think we've had conversations and it is fair to say you're, you're allowed to try to... still try to make, make money on it, there's no reason folks have to lose. So, we... you, you do the bankruptcy and so when did that all wrap up, when did you take title?

STANLEY SCHLEIN: We took title in mid-March of 2017.

COUNCIL MEMBER KALLOS: Okay, so you take title in mid-March, at the time that you did were you aware that the East River Fifties Alliance was in preapplication with the City Planning Commission?

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STANLEY SCHLEIN: We were aware of ERFA's desire to have the zoning in, in this district changed, we did not know exactly where they were in trying to achieve that goal.

COUNCIL MEMBER KALLOS: And at the estate and I'm just trying to get clarification I seem to recall reporting that there was purchasing the zoning lots and then there was the purchase of air rights, can you... [cross-talk]

STANLEY SCHLEIN: Yes... [cross-talk]

COUNCIL MEMBER KALLOS: ...clarify?

STANLEY SCHLEIN: So, this is... the actual site upon which a building can be built that we own, the actual fee simple owned site is 60 feet wide, 100 feet deep however we also purchased air rights from approximately 12 surrounding buildings which obviously increases the size of that footprint under the zoning regulations however it doesn't change the fact that we could only build on 6,000 feet but it increased the amount that could be built there, yes.

COUNCIL MEMBER KALLOS: How much was the 60 by 100 lot fee simple and how much was the air rights accumulated from the 12 buildings plus the air rights purchased from Fisher Brother, I believe the

1  
2 Fisher Brothers was target... was, was coupled with the  
3 nearby buildings?

4 STANLEY SCHLEIN: it was... yeah, I mean it  
5 was all really done simultaneously, everything was in  
6 contract at once, I don't exactly remember what the  
7 break, breakage was between one or the other because  
8 to us it was pretty fundable.

9 COUNCIL MEMBER KALLOS: And, and this is  
10 for, for everyone at the table I guess, one question  
11 is in, in bankruptcy you, you have an opportunity  
12 sometimes to revisit contracts and sadly even... not  
13 even have to deal with pension obligations anymore,  
14 that's part of the reasons I went into elected office  
15 after the Delphi bankruptcy, was there occasion or  
16 opportunity through the bankruptcy to go back to some  
17 of the 12 surrounding buildings that had sold air  
18 rights to renegotiate those contracts and, and  
19 recover funds and money from those buildings which I  
20 have on good authority would have actually and may  
21 still today be willing to buy back their air rights  
22 at the rate they paid?

23 STANLEY SCHLEIN: So, unlike corporate  
24 bankruptcy where you would have contracts outstanding  
25 here the contracts were actually closed, there.. the

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2 transactions were finished and undoing them was never  
3 even discussed, it would be tantamount to buying a  
4 building and then a year later going back to that  
5 seller and saying I don't want your building I want  
6 to undo it at that price. So, it, it really was  
7 nothing that ever actually came up in discussions.

8 COUNCIL MEMBER KALLOS: Thank you,  
9 forgive me I just... what, what... I was curious about  
10 that piece given our mutual, mutual experience in  
11 bankruptcy so you, you, you purchased the building,  
12 it's mid-March, you're aware of what's... of, of our  
13 desires hoping against hope it sounds and we're,  
14 we're still working and so at the... let's talk about  
15 the development so you have 60 by 100 so you, you  
16 have 60... you have 6,000... you have a 6,000 foot FAR  
17 piece... [cross-talk]

18 STANLEY SCHLEIN: Yes... [cross-talk]

19 COUNCIL MEMBER KALLOS: ...and... sorry,  
20 6,000 square feet to build on, you have 10 FAR so  
21 have 60,000 FAR just from the lot, how much do you  
22 have in air rights that you acquired from Fisher  
23 Brothers?  
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STANLEY SCHLEIN: From Fisher Brothers it was approximately call it 70,000, I don't remember the exact number but that'll be close.

COUNCIL MEMBER KALLOS: And, and, and so the amount of air rights from Fisher Brothers is actually more than the air rights from the actual site itself?

STANLEY SCHLEIN: Yes.

COUNCIL MEMBER KALLOS: Okay and then for the zoning lots how much do you have from that?

STANLEY SCHLEIN: It would be another approximately 140,000 feet.

COUNCIL MEMBER KALLOS: Okay, now this is... this is something that we've also talked about before and has been reported but the 70,000 FAR from Fisher Brothers you now own that?

STANLEY SCHLEIN: Yes.

COUNCIL MEMBER KALLOS: Is that FAR that 70,000 tied to this site only and it cannot be used anywhere else in district six or within one and a half miles of 30 something Street?

STANLEY SCHLEIN: It's not specifically tied to this site, if we wanted to sell it to another

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2 developer theoretically we could do that, I believe..  
3 [cross-talk]

4 COUNCIL MEMBER KALLOS: Okay.. [cross-  
5 talk]

6 STANLEY SCHLEIN: ...I'd have to check with  
7 the lawyers, but I don't... let's assume we could, I'm  
8 assuming we could if we wanted to.

9 COUNCIL MEMBER KALLOS: Okay and, and so  
10 if, if we passed this and you are not successful at  
11 the BSA and there had to be a... and the tower and base  
12 was in would you be able to sell or apply the 70,000  
13 FAR from Fisher to another site?

14 STANLEY SCHLEIN: While theoretically  
15 possible it really doesn't come into our calculus  
16 because the price paid for the underlying land if you  
17 look at that individually was well, well in excess of  
18 market value, if you look at the price that was paid  
19 to certain tenants by the borrower to buy them out it  
20 was again in the millions of dollars as well so the  
21 reason that it was okay to overpay for the actual  
22 site upon which we were going to build was because  
23 when you averaged it in with the other air rights you  
24 get to a very reasonable total price so if you try to  
25 undo that you'd be left with very, very expensive



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component parts that you otherwise would not have bought.

COUNCIL MEMBER KALLOS: And, and, and there in is some of the risk on real, real estate investments. So, you purchased it, you have it in mid-March, we're still moving forward, we get certified in June at the time of certification I, I believe the, the prior record just from today shows that we had already received guidance from Department of City Planning regarding their preference for tower on base, were you aware of it at the time in March or at the certification time in June or..

STANLEY SCHLEIN: No, I don't believe we were aware of... let me say this, I don't remember the exact time, I know that the Chair had made reference to tower on base at some point, but we also knew that the ERFA application did not contemplate tower on a base and we therefor did not really believe that it was going to be an impediment to the project.

COUNCIL MEMBER KALLOS: Have, have you had occasion to make business decisions based on the pending ERFA application and the tower on base such that you may have acquired the right to cancel leaver

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2 over additional properties in, in preparation for  
3 this instant rezoning?

4           STANLEY SCHLEIN: We did not like Mr.  
5 Beninati's plan for the building it was way too tall  
6 and way out of context. So, one of the things that we  
7 did as soon as we came out of bankruptcy was trying  
8 to cancel leaver over our neighbors to the East and  
9 West to increase our floor plate, enable to shrink  
10 the building and, and we actually did do that, so we  
11 had a, a window of opportunity that we gave ourselves  
12 out, out of bankruptcy, we were able to do it  
13 essentially on both the East and the West so both  
14 neighbors obviously agreed.

15           COUNCIL MEMBER KALLOS: So, so I think  
16 it's just fair to say that whether for, for design  
17 reasons or, or for other reasons that now you will  
18 have a, a larger tower on which to have a larger  
19 base?

20           STANLEY SCHLEIN: The base will actually  
21 stay the same on the 6,000 square feet and that it  
22 will come out to either side approximately, a little  
23 over ten feet and then go up from there. We believe  
24 that it enables the design to be much more contextual  
25 in the neighborhood, it enabled the buildings height

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2 to like I said be diminished by over 20 percent from  
3 what it was and is a much more... it's much more high-  
4 quality representation of architecture in New York  
5 which was something that the former architectural  
6 critic of the New York Times stated at the DCP  
7 hearing.

8 COUNCIL MEMBER KALLOS: With regards to  
9 a, a question that I brought to the applicants is  
10 there a difference in where you would have been... so,  
11 so I guess if you were to rate how substantially  
12 complete you are as of November 16<sup>th</sup> when I believe  
13 we could have passed this rezoning without the  
14 grandfather provision, I know that my colleague  
15 Council Member Torres have been asking the applicants  
16 about where we are in terms of completion, you...  
17 [cross-talk]

18 STANLEY SCHLEIN: We... [cross-talk]

19 COUNCIL MEMBER KALLOS: ...don't have to  
20 answer... [cross-talk]

21 GARY TARNOFF: Stanley I got this one..  
22 with all due respect how could you have possibly  
23 passed this on November 16<sup>th</sup> when it was only  
24 approved by the Planning Commission on November 15<sup>th</sup>,  
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when were you... when would you have your land use hearing, when... [cross-talk]

COUNCIL MEMBER KALLOS: We, we would have done so on the 16<sup>th</sup> as we have happened before and done so before.

GARY TARNOFF: You were going to have the land use... you were going to have your subcommittee hearing the day before... the day after the Planning Commission held the... their public hearing?

COUNCIL MEMBER KALLOS: Absolutely.

GARY TARNOFF: I see... [cross-talk]

JONATHAN KALIKOW: Of course they would... of course they waived the hearings on the community board and they waived the Borough President's hearings in advance of the determination even being made by City Planning...

GARY TARNOFF: So then why would a grandfathering stop you if they acted on the 15<sup>th</sup> why didn't you do it on the 16<sup>th</sup>, it was no... the report came out the same that makes no sense.

COUNCIL MEMBER KALLOS: Let me... let me answer your question though... [cross-talk]

GARY TARNOFF: The Planning Commission report came out on the 15<sup>th</sup>, it would have come out

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on the 15<sup>th</sup> whether it had grandfathering or not so why didn't you have your hearing on the 16<sup>th</sup>?

COUNCIL MEMBER KALLOS: It has to go back to City Planning either way, this is... [cross-talk]

GARY TARNOFF: No, you're, you're misinformed... [cross-talk]

COUNCIL MEMBER KALLOS: This is... this is a fun turn of events. So, let, let me...

GARY TARNOFF: It has to go back to City Planning... it has to go back to City Planning after today, but it would have had to go back to City Planning after the 16<sup>th</sup>.

COUNCIL MEMBER KALLOS: It would not have had to if they didn't have... any, anyway so, where, where were you on the... on the... [cross-talk]

STANLEY SCHLEIN: So, when we came out of bankruptcy we had not obviously designed the building and when we were talking about design elements to the building the first and foremost crucial element was to make sure it was a functional building, safe and, and very, you know well built which is why we hired folks like Lendlease which is why we hired Urban, you know unlike the prior owner, you know union guys at this stage were extremely important to us, New

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2       Yorkers on the job were extremely important to us,  
3       our, our architectural team both New Yorkers. So, it  
4       was a complete sea change. One of the early thoughts  
5       was to do a foundation that could be built quickly,  
6       it would have been okay technically and structurally,  
7       but it wasn't to the quality or design that we all  
8       agreed was more important, so we actually wound on  
9       tacking on about three months to the job to get a  
10       foundation that we actually wanted instead of one  
11       that would have just been expeditious. So, under the  
12       hypotheticals had we done certain things perhaps with  
13       lesser workers we could have gotten there a lot  
14       quicker but given the quality of the design that we  
15       chose to employ in the foundation and the quality of  
16       the crews we are where we are. We, we would not have  
17       finished the foundation on the 16<sup>th</sup> nor are we  
18       finished today, nor will we be finished in a week, so  
19       I don't necessarily know that to us the time would  
20       have really been all that relevant except as it would  
21       have played at BSA as to whether we were 90 percent  
22       finished or 95 percent finished.

23                   COUNCIL MEMBER KALLOS: I, I just want  
24       to... I... in terms of choice for labor I was advised  
25       that the previous developer on this site had signed a

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PLA, are you operating under the same PLA or are you operating under a new PLA?

STANLEY SCHLEIN: PLA with regards to what?

COUNCIL MEMBER KALLOS: I, I believe that there... so, so I'd been advised I'm... project labor agreement for this site, so I was just curious... [cross-talk]

STANLEY SCHLEIN: There was no project labor agreement under the prior owner, as a matter of fact the prior owner is specifically on record in writing as stating he will use no union labor on this job because it will be a cost savings of approximately 30 percent across the board. That was not a contract I remember ever seeing during loaner and bankruptcy.

COUNCIL MEMBER KALLOS: That, that, that is fair information and I, I... let me... let me make an affirmative statement as it were, I'd prefer not to go into questioning specific folks but I, I'd see a, a 79 sticker, I actually represented local 79 as a union-side labor lawyer and I think one of the great things about that is just some of the knowledge of knowing that Lendlease is a big firm, they have many

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2 sites throughout the city that they have other job  
3 sites that workers can go to, that's part of why we  
4 have a, a negotiated prevailing wage and people have  
5 wage rights so they, they can go from one site to  
6 another, they can go from one employer to another and  
7 I also know that the local 79 has an amazing hiring  
8 hall so that in, in the chance that Lendlease doesn't  
9 have other construction and... in the news last week  
10 there's more construction in my district than  
11 anywhere else in the city and there's amazing job  
12 sites everywhere which I would love to see local 79  
13 on so I, I think that it... there are jobs... there are  
14 many jobs for folks whether it's at Lendlease or at  
15 other employers or through the hiring hall so I just  
16 want to make sure that I say that, my brothers and  
17 sisters are here that we are making sure that it, it  
18 is not about them so...

19 ANTHONY AUSTIN: So, I just want to make  
20 a note of you said the 79, the labor board... 79 union,  
21 if you go to the 79 union you'll see it's about 2,000  
22 or more people out of work right now today looking  
23 for jobs waiting for jobs. I have people that I know  
24 personally that has been out of work for six months,  
25 seven months at a time, they are currently now



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looking for work, work in this industry 79 right now is very hard to come by, I know what I'm talking about because I'm out there in the world, everybody is talking about what they read in the papers or what they say, I'm living proof of what's going on in New York today. Seventy-nine has 2,000 or more people out of jobs right now, alright and we are fighting nail and tooth head over heel day and night to get a job. I'm right now I live check by check, alright because... it's not because I want to, it's because it's a struggle for me. So, for you to say that there's work out there all over the place that is not fair to say because it is not like that.

COUNCIL MEMBER KALLOS: If, if you would like to join me and your brothers and sisters at 79 I will come with you to many of the Gilbane Constructions sites in my district and... [cross-talk]

ANTHONY AUSTIN: Gilbane has... [cross-talk]

COUNCIL MEMBER KALLOS: ...work with you... [cross-talk]

ANTHONY AUSTIN: ...nothing to do with 79 sir.

1  
2 COUNCIL MEMBER KALLOS: I'm, I'm just  
3 hoping that we can get more jobs there, thank you...

4 [cross-talk]

5 ANTHONY AUSTIN: Gil... Gilbane... Gil...

6 [cross-talk]

7 COUNCIL MEMBER KALLOS: I will go to  
8 Council Member Torres for questions.

9 COUNCIL MEMBER TORRES: Okay, the  
10 grandfather clause, I had asked the previous panel  
11 that if, if, if... would City Planning have approved  
12 the text amendment in the absence of a grandfather  
13 clause and you have reason to believe that the answer  
14 would have been no?

15 GARY TARNOFF: Well the Commissioners  
16 spoke when they approved the, the zoning text  
17 amendment and the overwhelming majority of the  
18 Commissions who spoke said that they were doing so  
19 because the grandfathering part... clause was part of  
20 the text.

21 COUNCIL MEMBER TORRES: Right, so absent  
22 a grandfather clause the text amendment would have  
23 never even come before the City Council?

24 GARY TARNOFF: That's... well or it  
25 wouldn't... we would not be here, correct.

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COUNCIL MEMBER TORRES: Okay and, and then your contention is that the text amendment is effectively a spot zoning masquerading as a tower on a base text amendment, is that... is that... would that be a fair representation of your... [cross-talk]

GARY TARNOFF: Since the... since it's not a city application, it's a private application, since the application there's only one soft site identified in the environmental assessment statement that would potentially be impacted by the zoning that's our site, our contention is that this was intended and it's clear from every statement that's been made by ERFA that the intention was to stop this project and that's the purpose of the... of, of, of the rezoning.

COUNCIL MEMBER TORRES: And what was the original proposal, did the original proposal shed light on the intent of the present text amendment or...

GARY TARNOFF: The original proposal at least the proposal that was certified last June provided for two different height limits, a height limit of 260 feet on the wide streets and a height limit of 230 feet not 210 feet Council Member on the... on the narrow streets and prior to that being certified the applicant was told at least in

1  
2 correspondence that we saw from the Planning  
3 Commission that the staff of the Department of City  
4 Planning felt that that was not appropriate for this  
5 area but they never let... and that they... tower and a  
6 base may be appropriate if, if it was studied but the  
7 applicant insisted on going forward and they went  
8 forward and ultimately the application had to be  
9 withdrawn.

10 COUNCIL MEMBER TORRES: So, since the  
11 applicant could not stifle the development with the  
12 first proposal it was repackaged as a tower on a base  
13 text amendment?

14 GARY TARNOFF: That's correct... [cross-  
15 talk]

16 COUNCIL MEMBER TORRES: To achieve the  
17 same... effectively the same text?

18 GARY TARNOFF: That's correct, well it's  
19 a... it's a different amendment, it's different text.

20 COUNCIL MEMBER TORRES: Okay... [cross-  
21 talk]

22 GARY TARNOFF: And the first we learned  
23 about it was about the day before the application was  
24 filed on September 18<sup>th</sup> and then we were told that  
25 there was going to be a, a... it was going to be

1  
2 certified two weeks later at the city... City Planning  
3 Commission on October 2<sup>nd</sup>, the Community Board as I  
4 said waived their right to hold a hearing on, on  
5 September I think 19<sup>th</sup>, the Borough President waived  
6 her right to handle the hearing the, the same day and  
7 then the public hearing at the Planning Commission  
8 was on October 16<sup>th</sup> and we were told that the vote  
9 was going to be on November 2<sup>nd</sup>, we, we had a robust  
10 hearing which was a lot of discussion and the  
11 Planning Commission decided there were things to look  
12 at and so that the vote ended up being postponed  
13 until the 15<sup>th</sup> and then it was... then that was last  
14 week.

15 COUNCIL MEMBER TORRES: And I imagine you  
16 have extensive experience with ULURP actions, would  
17 that be...

18 GARY TARNOFF: I've been involved in  
19 ULURPs over the years, yes.

20 COUNCIL MEMBER TORRES: Okay, how unusual  
21 is it for the community board to forego public  
22 review, is that common, is that uncommon, I...

23 GARY TARNOFF: I've never seen it on a  
24 local application, I've never seen a Borough  
25 President waive on a local application, I think there

1  
2 is some citywide applications that may have... maybe  
3 zoning text for an entire city and that Community  
4 Boards that aren't really involved or don't have an  
5 interest some of those would... may waive but I've  
6 never seen a community board and a Borough President  
7 waive their rights on a... on an area... on a... on a  
8 specific application covering a certain area.

9 COUNCIL MEMBER TORRES: Because one of  
10 the arguments against your position is that there are  
11 remedies for substantially completed foundations, the  
12 BSA but, but the truth is that if this process had  
13 gone through a normal... the normal process of public  
14 review your project would have been completed by now  
15 and... [cross-talk]

16 GARY TARNOFF: Well... [cross-talk]

17 COUNCIL MEMBER TORRES: ...then... [cross-  
18 talk]

19 GARY TARNOFF: I think if this... if this...  
20 if this application had taken the time period... you  
21 know people come to us with rezoning text amendment  
22 applications, you know fairly frequently and we tell  
23 them it usually takes once the application is  
24 certified and is complete it usually takes six to  
25 seven months, maybe five months if it... if things

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2 break well, I've never seen... again I've been doing  
3 this for 30 years, I've never seen an application  
4 approved... certified on October 2<sup>nd</sup>, approved on  
5 November 15<sup>th</sup>, that's unheard of.

6 COUNCIL MEMBER TORRES: But if the  
7 application had gone through a full process of public  
8 review the foundation would have been completed and...  
9 [cross-talk]

10 GARY TARNOFF: I'm confident that that's  
11 the case... [cross-talk]

12 COUNCIL MEMBER TORRES: And this  
13 conversation would be mute?

14 GARY TARNOFF: That's correct.

15 COUNCIL MEMBER TORRES: Okay. So, if the  
16 text amendment goes forward what impact will that...  
17 what's the immediate implications that it will have  
18 for your development, what happens to the building  
19 permit?

20 GARY TARNOFF: If the text amendment goes  
21 forward with, with the grandfathering with or without  
22 the grandfathering?

23 COUNCIL MEMBER TORRES: Without the  
24 grandfathering?  
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GARY TARNOFF: If it goes forward without the grandfathering then when the... when this gets adopted at... by the council we will stop work and when we get a stop work order we will apply to the Board of Standards and Appeals for a, a... for vesting under the grandfathering provision... grandfathering provisions in the zoning resolution and that's a... that's an appeal process, it's going to take probably five or six months before we get a... before we get heard, at the... at... and so the project will stop. It will stop... it will stop the day that this... that the rezoning gets adopted.

COUNCIL MEMBER TORRES: And how close are you to completion?

GARY TARNOFF: Well we're approximately... [cross-talk]

STANLEY SCHLEIN: About three weeks.

GARY TARNOFF: Three weeks away from the completion of the foundation, we started construction on May 22<sup>nd</sup>.

COUNCIL MEMBER TORRES: So, the text amendment without the grandfather clause would have the effect of effectively criminalizing a development



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2 that is three weeks away from completion, is that a  
3 fair characterization?

4 GARY TARNOFF: Well without the  
5 grandfather it would stop it, it, it would require us  
6 to stop as we would not go forward until we were  
7 vested by the BSA, correct.

8 COUNCIL MEMBER TORRES: And I want to  
9 understand more clearly how many workers are  
10 affected?

11 STANLEY SCHLEIN: There are over 100 on  
12 the project right now and by mid-summer should the  
13 grandfathering remain there would be approximately  
14 300.

15 COUNCIL MEMBER TORRES: And if, if the  
16 text amendment without the grandfathering clause were  
17 to go forward what is the immediate impact on the  
18 workers.

19 STANLEY SCHLEIN: Work, work has to fully  
20 stop.

21 COUNCIL MEMBER TORRES: Okay, in the  
22 midst of the holidays?

23 STANLEY SCHLEIN: In... yep.

24 COUNCIL MEMBER TORRES: So, I want to  
25 know what does that mean for your families?

1  
2 JONATHAN KALIKOW: And may I add, these  
3 workers... and I'll let you answer that certainly,  
4 these workers do not receive unemployment benefits,  
5 they are hourly workers and they're paycheck stops  
6 forthwith, the first week in December.

7 ANTHONY AUSTIN: If this movement was to  
8 stop it would technically stop my life, it would.. it  
9 would stop everything that I worked for all year, it  
10 would stop me from going down to Florida in March to  
11 see my daughter graduate, I promised that I would buy  
12 a little car for her graduation, it would stop  
13 everything that I love, it would stop all my fellow  
14 workers from workers and you got to understand if it  
15 stops me it stops my wife, it stops my kids, it stops  
16 my grandkids, it stops all the generations that comes  
17 after us and that's what we're trying to instill in  
18 this world to keep people working, to keep people  
19 honest so people don't have to walk down the street  
20 looking over their shoulders to see if somebody's  
21 going to hurt them or something just to try to get a  
22 dollar for something to eat. It's, it's, it's  
23 something.. I, I feel like I'm a leader now, I lead  
24 people and I lead by example because Lendlease gave  
25 me this chance to do this now if you stop the

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grandfather that's coming in from coming my life stops so, you want to know what happens, my life stops, their lives stop also that's as clearly as I can bring it... [cross-talk]

COUNCIL MEMBER TORRES: And, and I guess... we're going to destabilize your life, we're going to destabilize your family and I... the question is toward what end because the truth is that... [cross-talk]

ANTHONY AUSTIN: I mean... [cross-talk]

COUNCIL MEMBER TORRES: Yeah... [cross-talk]

ANTHONY AUSTIN: ...after, after it's all said and done, I mean you can't just lay down and die, you know you can't... you can't stop moving forward with your life and everything like that but... [cross-talk]

COUNCIL MEMBER TORRES: There is no... [cross-talk]

JONATHAN KALIKOW: May I... may I?

COUNCIL MEMBER TORRES: Okay.

JONATHAN KALIKOW: The three requirements for grandfathering has to be have a full building permit in place, we've had one for quite a period of time now; complete your excavation of your

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2 foundation, that's been done finished and over with;  
3 and have substantial progress on the construction of  
4 the foundation. Substantial progress can be defined  
5 as low as 30 percent, there's case law on that. We  
6 will be 95 plus or minus percent complete if the city  
7 council votes in its current schedule to eliminate  
8 the grandfathering. So, what will have been achieved  
9 and I've said this in my direct testimony, I said it  
10 in response to Council Member Kallos's question, I  
11 will say it again, what will be achieved is that  
12 these gentleman will be put out of work with no check  
13 and then six months later the project... or seven  
14 months later when the BSA finally conducts its  
15 hearing and hears the testimony we'll recommence,  
16 we'll reconvene and tell DOB we have substantially  
17 made progress, give us our permits back seven months  
18 later at a cost of a million plus or whatever it  
19 costs, they will be out of work for that seven month  
20 period.

21 COUNCIL MEMBER TORRES: So, it sounds  
22 like just to sum up we're not actually changing an  
23 outcome here, we're simply... [cross-talk]

24 JONATHAN KALIKOW: No... [cross-talk]

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COUNCIL MEMBER TORRES: ...delaying an outcome and doing so... [cross-talk]

JONATHAN KALIKOW: You're delaying the inevitable... [cross-talk]

COUNCIL MEMBER TORRES: ...and, and doing so at the cost of dislocating... [cross-talk]

JONATHAN KALIKOW: Right... [cross-talk]

COUNCIL MEMBER TORRES: ...hundreds of workers and causing what would seem to be senseless suffer?

JONATHAN KALIKOW: May I just say one more thing about the history of this council... [cross-talk]

COUNCIL MEMBER TORRES: Sure... [cross-talk]

JONATHAN KALIKOW: ...of recent history... [cross-talk]

COUNCIL MEMBER TORRES: ...a history that preexists... [cross-talk]

JONATHAN KALIKOW: Recent history Council Member Torres. You have considered under, under Council Member Greenfield's leadership a number of zoning initiatives over the last number of years, the net result of most of them when... to be up zoned

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2 communities of color certainly East Harlem, certainly  
3 the Bronx on Jerome Avenue is a... is a work in  
4 progress and others in Brooklyn the one community  
5 that you are seeking to downzone right now is Sutton  
6 Place, I ask you to make that comparison what is  
7 being achieved here.

8 COUNCIL MEMBER TORRES: Well look I hope  
9 that you're... you will have a stable livelihood  
10 through the holidays, its, its, its odd for a Council  
11 Member with a six-figure salary and benefits and  
12 health insurance to vote upon your livelihood and  
13 fate but... and I'm sure employment opportunities are  
14 much harder to come by than others might appreciate...  
15 [cross-talk]

16 STANLEY SCHLEIN: Thank you sir... [cross-  
17 talk]

18 COUNCIL MEMBER TORRES: ...thank you.

19 COUNCIL MEMBER GREENFIELD: Thank you  
20 Council Member. So, I just want to follow up on some  
21 of those... on some of those questions. So, Jeff you're  
22 a resident BSA expert, is that fair to say, worked  
23 there for a couple of years?

24 JEFF MULLIGAN: Yes...  
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COUNCIL MEMBER GREENFIELD: Okay, so what is... in your professional opinion what is the likelihood of you getting the BSA to agree to the vesting of this project?

JEFF MULLIGAN: Well I think we... I think it'll be a very good application for vesting but, you know it's as others have said it takes months for these applications to go through the BSA process so while we may ultimately be successful that's after... [cross-talk]

COUNCIL MEMBER GREENFIELD: Well that was part two... [cross-talk]

JEFF MULLIGAN: ...the project has been shut down... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...of my question so before you get to part two of my question which was going to be how long is it going to take, what do you think the likelihood of success is, seriously what do you think the likelihood of success is...

JEFF MULLIGAN: I think it's a good likelihood of success.

COUNCIL MEMBER GREENFIELD: Okay, fair enough and how long do you think that would take

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under the new BSA regime, as you know things have changed a little bit since your hay day?

JEFF MULLIGAN: You know it's, it's hard to say, there haven't been many vesting applications, I don't... we may be the first one under the, the current administration but I know that there are... there is a backlog of applications at the BSA, our firm is involved with another appeal application that was filed I think last month and the hearing may not be until March.

COUNCIL MEMBER GREENFIELD: Okay, so roughly approximate time span, what do you think?

JEFF MULLIGAN: Six months, seven months.

COUNCIL MEMBER GREENFIELD: Until you actually get the... [cross-talk]

JEFF MULLIGAN: No, I think we would probably have a hearing before that time but through the process... the entire process.

COUNCIL MEMBER GREENFIELD: Six to seven months, okay. So, I guess the, the next... the next question is does work actually have to stop during that time, I'm really... so, I'm not clear on that point why would you say pause that work has to stop?



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GARY TARNOFF: Well for one thing a... once the rezoning takes place our building won't comply with the new zoning, so the Department of Buildings will issue a stop work order and revoke our building permits.

COUNCIL MEMBER GREENFIELD: I see what you're saying... so, you... in theory you could still build under the new zoning scheme but then you'd have to go back in and to reapply for all those relevant permits in order to allow you to do that?

JONATHAN KALIKOW: We, we couldn't build under the new one because we don't have plans that would conform.

GARY TARNOFF: It's, it's a different building and... [cross-talk]

COUNCIL MEMBER GREENFIELD: No, I understand... [cross-talk]

GARY TARNOFF: ...you know... [cross-talk]

COUNCIL MEMBER GREENFIELD: ...so I said in theory, in practice it would be difficult, I mean in theory you could go and submit the plans, but it wouldn't make sense... [cross-talk]

GARY TARNOFF: We also don't control... [cross-talk]

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COUNCIL MEMBER GREENFIELD: ...in terms of...  
[cross-talk]

GARY TARNOFF: ...we only control our... we  
only have one footprint site... [cross-talk]

COUNCIL MEMBER GREENFIELD: Yeah... [cross-  
talk]

GARY TARNOFF: ...and the whole tower on a  
base regime has a minimum tower size and so given the  
size of the zoning lot we have... we have 13 lots on a  
zoning lot, we wouldn't meet the minimum tower size  
unless we started subdividing the zoning lot, giving  
back properties, losing the monies from doing that so  
it's really not feasible for us to build anything  
under the new zoning.

COUNCIL MEMBER GREENFIELD: Okay, so  
Jonathan back to your point, so how many folks are  
currently working on the project and how many folks  
are you predicting would be out of work in the  
interim?

JONATHAN KALIKOW: Right now the  
project's scheduled to scale to about 300 come mid-  
summer that's when the vertical has already taken  
off, right now there's about 100.

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COUNCIL MEMBER GREENFIELD: A hundred people?

JONATHAN KALIKOW: Yes.

COUNCIL MEMBER GREENFIELD: Okay and over the next six to seven months, what do you anticipate, is that going to grow or roughly stay the same?

STANLEY SCHLEIN: It, it will ebb and flow, but it certainly will not fall significantly. During different stages of construction there's different complexity, certain workers have to do certain things first before the next teams can come in but for example there were over, you know 55 workers or... closer to 60 I should say on site Saturday, this past Saturday alone during the holiday season.

COUNCIL MEMBER GREENFIELD: Got it and as far as actually completing the foundation you don't think you can get that done by the end of the month?

STANLEY SCHLEIN: No, unfortunately. We, we tried to optimize things but when... so... I'm sorry, when we went through... we did not want to sacrifice anything in terms of quality, you know certainly adherence to our foundation plan so there's only so much you can do quickly and unfortunately towards the

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2 latter half of December is the soonest we're going to  
3 be getting it done.

4 COUNCIL MEMBER GREENFIELD: Got it, okay.  
5 Very helpful, thanks for the information.

6 COUNCIL MEMBER KALLOS: So, I just want  
7 to wrap up with a couple more questions. So, under  
8 the... when, when you made your initial lending what  
9 was the initial height that Baohaus was... had  
10 initially sought or, or... and, and where did they end  
11 up in terms of their height before they went into  
12 bankruptcy?

13 STANLEY SCHLEIN: Baohaus building at one  
14 point was 950 feet which then elevated up to closer  
15 to 1,100 feet on... both under Fosters design.

16 COUNCIL MEMBER KALLOS: Okay and then at  
17 the community board... had the community board actually  
18 with, with guidance ask... asked for an R8B which is  
19 contextual in the other parts so if you go over  
20 between 1<sup>st</sup> and 2<sup>nd</sup> there's an R8B in the mid-block  
21 which translates to a height cap of 75 feet so that  
22 was... are... were you familiar with the... had... with the  
23 community board six resolution in April or May of  
24 2015 for the 75-foot height cap?

25 STANLEY SCHLEIN: No, no, no.

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COUNCIL MEMBER KALLOS: Fair enough, we can send, send... we can... and, and in the due diligence as you were doing the lending and, and the secondary loan did your attorneys or others come across the CB six resolution for the 75-foot height cap?

STANLEY SCHLEIN: No, I... would it have applied to our site?

COUNCIL MEMBER KALLOS: Yes.

GARY TARNOFF: I'm, I've never seen that, I'm not aware of it.

COUNCIL MEMBER KALLOS: We'll, we'll get... [cross-talk]

GARY TARNOFF: I'm not saying it's not the case but... [cross-talk]

COUNCIL MEMBER KALLOS: No worries, we'll, we'll get you... [cross-talk]

STANLEY SCHLEIN: ...I don't believe we've ever seen it.

COUNCIL MEMBER KALLOS: No worries, we will get you that resolution from the community board, it... I think... [cross-talk]

GARY TARNOFF: It's not necessary, you don't have to.

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COUNCIL MEMBER KALLOS: No worries. And then we... we'll, we'll get to the bottom of whether its 210 or 230 on, on the mid-block but that was the application that we... that was certified in June, is that correct?

GARY TARNOFF: Yeah, that's correct.

COUNCIL MEMBER KALLOS: Okay and so versus... so, so we started at 1,100, we started at 75 from the community board, it eventually became 230 and 260, under the tower on base how tall do you believe you could build?

STANLEY SCHLEIN: On our site maybe, maybe... [cross-talk]

GARY TARNOFF: Well we can't build unless we go... unless we break up the site, right?

STANLEY SCHLEIN: We could probably... you could build to about 150 feet but not much higher than that.

GARY TARNOFF: We can't build on our site unless we break up the zoning lot and try and... [cross-talk]

COUNCIL MEMBER KALLOS: Well and I think... [cross-talk]

GARY TARNOFF: ...subdivide... [cross-talk]

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COUNCIL MEMBER KALLOS: ...I think the testimony goes into you'd have to move the air rights that you acquired from, from other sites and, and I... [cross-talk]

GARY TARNOFF: Well and, and you have to assume also to use the other sites in the with action scenario and the environmental assessment statement, you're assuming that occupied buildings some with rent stabilized tenants are going to be taken down, yes that's exactly what the... your environmental assessment statement shows, it shows two towers approximately 35 stories high on 58<sup>th</sup> Street, one on our site and one on the site next to us which is an occupied residential building and the only way that happens is if it... if, if that building is demolished.

COUNCIL MEMBER KALLOS: If I may be clear and unequivocal please do not display any rent regulated tenants ever for, for... whether, whether it is to, to you or any developer, anyone watching at home please just leave our rent regulated tenants... [cross-talk]

GARY TARNOFF: That's what your application says is going to happen.

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COUNCIL MEMBER KALLOS: I, I, I would disagree with you and so... [cross-talk]

GARY TARNOFF: Its right... it's black and white... [cross-talk]

COUNCIL MEMBER KALLOS: That... you, you are...

GARY TARNOFF: I have it right here if you want to see it.

COUNCIL MEMBER KALLOS: So, I... we've been... I think we've been... I think folks showed up for fireworks and we're not going to give them those fireworks. So, with that being said does the testimony that was given by applicants that tower on a base allows buildings between 300 and 400 even 500 would, would you agree that such tower on base, base buildings can be constructed and have been and that it's within the form?

STANLEY SCHLEIN: They absolutely could be constructed but not on our plot. With our plot and because of engineering specs as to... for example elevators going up 300 feet just cannot happen. So, you really basically at 150 and then it gets pretty complicated above that, maybe get a, a... if you got a couple more feet but in order to get the 350 feet and



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2 above it would require us buying neighboring sites  
3 expanding our lot.

4 COUNCIL MEMBER KALLOS: I have... not, not  
5 to, to make marriages but I, I, I have a development  
6 in the site that I'm... in my district that's also over  
7 400 feet and what do you know, we have concerns about  
8 skyscrapers in residential neighborhoods, I believe  
9 that they have a... I think it's 60 feet wide, it's  
10 just over the sliver law and I think they're going to  
11 reach 560 feet in a tower on base form at 180 East  
12 88<sup>th</sup> with DDG.

13 STANLEY SCHLEIN: One... 180 East 80<sup>th</sup>, I'm  
14 unfamiliar with building. We, we actually studied it  
15 and I've... as a lender I seen a bunch of these  
16 buildings, there are buildings that do go up that  
17 high and have, you know one elevator serving 100  
18 apartments, it's really not a functional well-built  
19 building that anybody would want. The, the thesis  
20 behind our building was because nothing like it  
21 exists you have a lot of empty nesters in 5<sup>th</sup> Avenue,  
22 Madison Avenue, Park Avenue who might leave the city  
23 now have proximity to the FDR, to Connecticut, to  
24 Long Island and have the ability to stay without  
25 suffering that 30-minute drive from Midtown to the

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2 FDR. So, our building really is for New Yorkers who  
3 would live there and as such needs to be built in a  
4 functional way so given the parameters we gave to the  
5 architects they, they could not get even to 200 feet.

6 COUNCIL MEMBER KALLOS: Thank you very  
7 much for being with us today. I want to thank my  
8 colleagues who are here, and we will excuse this  
9 panel and we're in a recess until four o'clock...

10 [cross-talk]

11 GARY TARNOFF: We have one more to speak...

12 COUNCIL MEMBER KALLOS: Huh?

13 GARY TARNOFF: We have... the, the Real  
14 Estate Board is here to testify as well.

15 COUNCIL MEMBER KALLOS: We're, we're just  
16 going to... we'll... we're going to recess until four and  
17 then Real Estate Board of New York and then we'll  
18 have more from the community and applicants. We are  
19 back from recess and we're continuing the opposition  
20 panel with Michael Slattery from the Real Estate  
21 Board of New York.

22 MICHAEL SLATTERY: Thank you, I'm Michael  
23 Slattery representing the Real Estate Board of New  
24 York and we're here to oppose the proposed rezoning.  
25 There's been a lot of talk about the contextual,

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2 contextual zoning when it came about it was really  
3 designed for the wide cross-town streets in Manhattan  
4 as well as Broadway where there really was a clear  
5 and identifiable built form. This neighborhood really  
6 has a real diversity of architectural forms and  
7 really doesn't fit the definition of contextual. It's  
8 also been said that the... that this is a... the new  
9 proposal is really impacting the bulk which is the  
10 more appropriate terminology for this but packing the  
11 bulk when it was introduced was really intent to  
12 basically limit building heights as well as limiting  
13 air right transfers and this is... was especially  
14 punitive to small sites, with small... with small base  
15 requirements. The, the packing when it was done  
16 intentionally was really done really as a community  
17 wide effort to control development through the entire  
18 neighborhood and not singly designed to stop one  
19 site. The other is that the fact that it wasn't  
20 provided to this neighborhood maybe we should suggest  
21 that the R10 was the appropriate zoning for this  
22 neighborhood and that it wasn't there for a  
23 particular reason. Similar I think it's not much of a  
24 justification to say that we want it too because  
25 someone else has it, that's not a planning

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2 justification. Lastly, I think the, the speed with  
3 which this process or the packing the bulk  
4 application went forward is just seemingly  
5 unprecedented, I think for, for our point of view  
6 this issue really jeopardizes as of right development  
7 when applications can move this quickly through the  
8 process. In that context I think we believe the  
9 grandfathering is a suitable remedy to... not to allow  
10 these kinds of activity to really jeopardize as of  
11 right development so if we're going to move forward  
12 with this application we ask that you strongly keep  
13 the grandfathering provision in here. thank you.

14 COUNCIL MEMBER KALLOS: Thank you very  
15 much. We will excuse you and bring on the.. [cross-  
16 talk]

17 MICHAEL SLATTERY: Thank you.

18 COUNCIL MEMBER KALLOS: Final panel in  
19 support. We have Bob Shepler; Elizabeth Fagan; Robert  
20 Joseph of the Municipal Arts Society and Jessica  
21 Osborn. And thank you for your patience of waiting  
22 till four o'clock for our 11:30 a.m. hearing. If we  
23 can have Municipal Art Society open and then we'll go  
24 to the residents in the neighborhood.

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ROBERT JOSEPH: Good afternoon. My name is Robert Joseph and I'm a Project Manager at the Municipal Art Society of New York. Over the past year the Municipal Art Society of New York has proudly supported the East River Fifties Alliance's rezoning proposal as an effective community driven plan designed to prevent out of scale development and promote affordable housing in Sutton Place. During that time ERFA worked in good faith with the Department of City Planning. The two parties ultimately agreed on a proposal that was consistent with the planning and development goals of the city and offered acceptable, acceptable protections from development that would not be consistent with the character of the Sutton Place neighborhood. Although we would have preferred the inclusion of an affordable housing component and more stringent limitations on building height MAS was encouraged by the compromise and looked forward to the expedient approval of the proposal. We believe ERFA's proposal was grounded in sound comprehensive community planning. The CPC has in effect changed a plan that work... that had been worked out over a long period of time and represented reasonable compromise between

1  
2 DCP and ERFA. We believe any deviation from this  
3 vision would be in front to the Sutton Place  
4 community as well as the effort and resources that  
5 have been put into crafting this plan with DCP. We  
6 urge the city council to pass the rezoning text  
7 amendment as, as the originally agreed upon proposal.  
8 This process should serve as a model of what  
9 community based planning and efforts in New York can  
10 be not one more example of private development  
11 winning, winning out over thoughtful neighborhood  
12 voices. Thank you for the opportunity to... opportunity  
13 to provide comment on this critical proposal.

14 COUNCIL MEMBER KALLOS: Thank you for all  
15 the great work that your organization does starting  
16 with the accidental skylines report and also some of  
17 the 1976 reports on the BSA that I'm fond of.

18 JESSICA OSBORN: Turn it on, okay. Good  
19 afternoon, my name is Jessica Osborn, I've been a  
20 resident of the East River Fifties for over 30 years  
21 and I am the Vice President of the East River Fifties  
22 Alliance. Our rezoning application grew out of the  
23 jolting discovery that the East River Fifties is the  
24 only residential neighborhood in the city still zoned  
25 R10 without any type of contextual protections. That

1  
2 aberration leaves our neighborhood uniquely  
3 vulnerable to the development of super tall towers.  
4 Our rezoning proposal is intended to provide our  
5 residential streets with the same protections against  
6 out of scale development that exists in other  
7 residential areas. Applying modified tower on a base  
8 rule as we propose would prevent construction of  
9 towers with unlimited heights while also comporting  
10 with the city's overall housing goals. I strongly  
11 urge the city council to approve our rezoning  
12 application with one change, when the City Planning  
13 Commission approved the new zoning text last week the  
14 Commissioners modified it by inserting a special  
15 vesting provision. Although the language of that  
16 provision is neutral as a practical matter it would  
17 work to benefit a single property owner and undermine  
18 the uniform application of the new rule. I believe  
19 the special vesting provision is unwarranted and  
20 should be removed. I urge the council to do so. I  
21 cannot emphasize enough how important this rezoning  
22 is to us. To put it in human terms our neighborhood  
23 has a look and feel that fosters a sense of community  
24 associated with small towns far different from the  
25 impersonality that is too often the dark side of

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2 urbanization. Super towers are inimical to that  
3 ambience partly because of their sheer size but also  
4 because they tend to attract absentee owners rather  
5 than people who live and work in the city. A wide  
6 swath of people has pulled together to collectively  
7 address the problem. Our rezoning application is  
8 supported by 45 buildings represented by co-op  
9 boards, condo boards, and individual owners, over  
10 2,600 individuals from over 500 buildings who live  
11 within and outside of our proposed rezoning area and  
12 numerous civic organizations. Please help us preserve  
13 the character of our community by approving our  
14 rezoning application.

15 ELIZABETH FAGAN: Thank you Council  
16 Member Kallos. My name is Elizabeth Fagan and I'm the  
17 Director of Preservation at Friends of the Upper East  
18 Side Historic Districts. Since our founding in 1982  
19 Friends has worked to preserve the livability and  
20 sense of place of the diverse neighborhoods that  
21 comprise the Upper East Side. This concern for  
22 neighborhood preservation necessitates sound planning  
23 as a vital tool of balance for urban development. The  
24 East River Fifties Alliance rezoning proposal seeks  
25 to do just that kind of sound planning for the



1  
2 future. Friends supports the proposed East River  
3 Fifties Alliance text amendment on the condition that  
4 the clause which would grandfather in the Gamma Real  
5 Estate tower on East 58<sup>th</sup> Street is removed from,  
6 from the proposal. The application of tower on base  
7 building form to the Sutton area is not only  
8 consistent with the East side's character but it will  
9 help to ensure reasonable scaled development in this  
10 neighborhood in the future. It will significantly  
11 sky-high towers from encroaching on this residential  
12 neighborhood while permitting reasonable and welcome  
13 growth. Having been mapped in 1993 the tower on base  
14 was developed specifically to address high density  
15 residential development on the East side. The City  
16 Planning Commission's own report from the ULURP in  
17 1993 states that such development has quote, "all too  
18 frequently been out of scale with its context". The  
19 street wall scale and neighborhood context has been  
20 eroded as towers have become increasingly taller and  
21 thinner. Working with early computer simulations the  
22 Department of City Planning developed a tower on base  
23 form with a purpose to reinforce neighborhood  
24 character. The amendment under current consideration  
25 would extend that purpose to a stretch of the East

1  
2 side that was in improperly left out of these  
3 discussions 25 years ago. Additionally, inclusion of  
4 a grandfather clause would completely undermine the  
5 intent of this text amendment and would improperly  
6 give special treatment to a single out of context  
7 building form. The grandfather clause would also  
8 permit a new building to be built that is not in  
9 compliance with the amended zoning text. Across the  
10 city and especially on the East side we have  
11 increasingly felt squeezed by the pressures of out of  
12 scale development encroaching on our neighborhood.  
13 The rise of as of right super towers marching up our  
14 Avenue is one of the major contributors with the  
15 greatest potential to negatively affect our light and  
16 air as well as our schools, parks, open space and  
17 small businesses. Friends urges the city council Land  
18 Use Committee to vote in support of the East River  
19 Fifties text amendment without the grandfather  
20 clause. Thank you.

21 ROBERT SHEPLER: Good afternoon, my name  
22 is Robert Shepler and like my neighbor I've also been  
23 a resident in the East River Fifties neighborhood for  
24 over 30 years. I'm here today to add my support to  
25 the proposed East River Fifties text amendment that

1  
2 corrects an historic zoning inequity. Our  
3 neighborhood is currently operating under 1961 zoning  
4 which permits as of right construction of buildings  
5 with unlimited heights. Such super tall buildings  
6 would be completely inconsistent with the character  
7 of our residential community. In fact, we've learned  
8 that we are the only residential community in the  
9 city without protections against this type of out of  
10 scale development. The East River Fifties text  
11 amendment will ensure that future development is  
12 appropriately contextual while still accommodating  
13 future housing growth, it will do so through the  
14 application of proposed tower on a base rule that  
15 have been developed thoughtfully over months of  
16 discussion with the Department of City Planning. I  
17 therefore urge the city council to vote yes on the  
18 East River Fifties text amendment. I understand the  
19 City Planning Commission modified the proposed text  
20 to add a special vesting provision that would benefit  
21 a single property owner and undermine the consistent  
22 application of the well-considered land use plan  
23 contemplated by the text and supported by the  
24 Department of City Planning staff. I strongly oppose  
25 that modification and urge the council to remove it.

1  
2 thank you for the opportunity to speak this  
3 afternoon.

4 COUNCIL MEMBER KALLOS: Thank you very  
5 much for your testimony and for waiting for so long.  
6 Throughout this process the... it, it has been alleged  
7 that this is only about residents of one building  
8 and, and so that building has been alleged to be the  
9 sovereign. Mr. Shepler do you live in the sovereign?

10 ROBERT SHEPLER: No, I don't live in the  
11 sovereign, I live at 435 East 57<sup>th</sup> Street.

12 COUNCIL MEMBER KALLOS: Okay and to, to  
13 Friends and Municipal Art Society is this only about...  
14 do, do you even have members in the sovereign or why  
15 does... why... does this... is... does this only matter to  
16 one building in the city or why... is this a citywide  
17 issue you, you are one, a citywide organization and  
18 another a neighborhood wide organization?

19 ROBERT JOSEPH: This is a big issue  
20 across the city but in terms of this particular text  
21 amendment I can tell you that there are at least five  
22 tax blocks within the rezoning district that have in  
23 access of 100,000 square feet of development rights  
24 that are not currently being used that means that  
25 those areas are also in danger of potential super

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2 tall development that... this is not a singular  
3 development issue, this is the whole Sutton Place  
4 area and we've looked into those development rights  
5 and we think that there is a real possibility of  
6 other super tall buildings being erected in those... in that... in  
7 that area.

8 ELIZABETH FAGAN: And for Friends of the  
9 Upper East Side we have members from across the city  
10 who are interested and concerned about this and  
11 outside of the Sutton area we have a number of  
12 upcoming super tower developments, it was mentioned  
13 earlier at 180 East 88<sup>th</sup> Street so it's definitely  
14 not just a very small issue, it's happening all  
15 across the city and on the Upper East Side we're  
16 feeling those pressures as well.

17 COUNCIL MEMBER KALLOS: My final question  
18 is again we keep reading over and over again it's  
19 only about one building when it seems that it's not  
20 only a neighborhood wide but citywide issue, I said  
21 so on the record but while we have you I'd like to  
22 hear it from you as the organizers how many people  
23 are involved in the East River Fifties Alliance, how  
24 many buildings, how many from the neighborhood, how  
25 many from all over and how many members and how, how

1  
2 many people show up to your monthly morning Town  
3 Halls?

4 ROBERT SHEPLER: Well again for the  
5 record we have over 2,600 supporters throughout the  
6 city; 45 buildings and condos who are supporting the  
7 East River Fifties Alliance, of the 2,600 supporters  
8 I believe others have said they live in over 300  
9 buildings both within the zoning area and outside of  
10 the zoning area. Typically, we have 50 to 60 people  
11 at our monthly Town Halls, we've often had over 100  
12 and the Town Halls are held in various places  
13 throughout our community.

14 COUNCIL MEMBER KALLOS: Thank you, I'd  
15 like the record to reflect that other community  
16 organizations has submitted testimony in support for  
17 the record, also I'd like to correct the record  
18 indicating that this is a downzoning, it is not...  
19 there is no reduction in FAR, I think the record also  
20 shows that this was originally proposed as a  
21 mandatory inclusionary up zoning but based on CPC  
22 recommendation which is also public record it became  
23 a tower on base and last but not least there was a  
24 rezoning that was a downzoning that I did have the  
25 privilege and honor of voting on which was not in

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Sutton sadly, I would love to have done the R8B as originally recommendation but was actually in Bronx Community Board 12C160065ZMX which converted an R7A district to an R4A in the Woodland rezoning Land Use Number 355. So, we are hoping for the same equity as the Bronx had, if we could achieve that downzoning but in this case, we're hoping for affordable housing in the neighborhood. I want to thank all of the residents who have been through this process for years upon years and for my colleagues for coming out and it, it shows that residents should have a say in what their neighborhoods look like for now and for the future. Are there any members of the public who wish to testify on this item? Seeing none I will now close the public hearing on preconsidered Land Use East River Fifties Sutton Place.

[gavel]

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

November 30, 2017