

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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February 11, 2014
Start: 9:55 a.m.
Recess: 10:23 a.m.

HELD AT: 250 Broadway - Committee Rm,
16th Fl.

B E F O R E:
MARK WEPRIN
Chairperson

COUNCIL MEMBERS:

Ruben Wills
Antonio Reynoso
Daniel R. Garodnick
David G. Greenfield
Vincent Gentile
Vincent Ignizio

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

Philip Montante
General Manager
Red Rooster
Harlem, NY

Eugene Travers
Land Use Attorney
GoldmanHarris, LLC

2 CHAIRPERSON WEPRIN: Oh, okay.

3 Alright, are we ready to start? It's on already?

4 Okay. Oh, good, sorry. Good morning. My name is
5 Mark Weprin and I'm chair of the Zoning and
6 Franchises Subcommittee and I thank everyone for
7 being here today. We're joined by the following
8 members of the subcommittee Ruben Wills; Antonio
9 Reynoso, Dan Garodnick. We're here with our chair
10 of this... of the Land Use Committee, David
11 Greenfield, an ex-officio member of the
12 subcommittee and myself, Mark Weprin.

13 So, we have on the agenda today we have
14 two sidewalk cafes, the first of which Pig N'
15 Whistle on 3rd, which is 20145204. That is in
16 Council Member Garodnick's district and he informs
17 me we have a mutual agreement on that café, so that
18 item we will not have anyone here to testify, but
19 we're okay with it and is there anyone here to
20 testify on Pig N' Whistle by any chance? Alright,
21 seeing none, I am going to close the public hearing
22 on Land Use Number 15, Pig N' Whistle on 3rd.

23 We will now call up our witness on the
24 Red Rooster of Harlem, Phil Montante is it? Mr.
25 Montante, would you please head over to the table

1
2 there? Sergeant-at-Arms, make sure he gets the mic
3 right. Please state your name for the record and
4 discuss... I know this is in Council Member Dickens
5 district and you have an agreement letter you want
6 to read into the record. Thank you, sir.

7 [background voices]

8 PHILIP MONTANTE: Okay, good morning.
9 My name is Philip Montante. I'm reading the letter
10 that I already submitted via mail. Since the
11 initial permit was approved and issued, we have
12 organized our sidewalk café solely within the
13 parameters of the NYCDCA approved plans, which is
14 15 by 26 feet. There is no impediment anywhere
15 within our site. Our sidewalk café does not block
16 any entrances, bus stops or pedestrian walkways.
17 Concurrent with the mandate of this process, we
18 sent notarized letters via registered mail to each
19 of the required civic entities, as well as our
20 neighbors in the prescribed adjacent vicinity
21 announcing the renewal. All items on the DCA
22 renewal application checklist were sent with all of
23 our packet and documents and verified receipt by
24 the DCA staff at this point.

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2 CHAIRPERSON WEPRIN: Alright, thank you
3 very much, sir. We also have a letter here from
4 Council Member Dickens, so the members of the panel
5 will realize that she now supports this. I will
6 read it briefly, since it has some nice things to
7 say about you as well.

8 Red Rooster presents a great economic
9 benefit and cultural destination for the people of
10 Harlem, the city of New York and the rest of the
11 world. Visitors from across the world are enjoying
12 and partaking in the cultural vibrancy that Harlem
13 is known for. They have made Red Rooster one of
14 their favorite restaurant and a must visit
15 destination. I agree with the general population
16 and find the food and atmosphere to be a welcoming
17 treat worthy of repetition. It is my pleasure to
18 support and endorse their sidewalk café application
19 as long as the necessary rules and regulations
20 regarding the boundaries of the café are
21 continuously met and they are, so not only do you
22 get the approval, but you get an endorsement. Look
23 at that. So, do any members of the panel have any
24 questions? Seeing none, thank you very much, sir.
25 We're sorry to keep you waiting and we're going to

1
2 close that hearing assuming nobody else is here for
3 Red Rooster, correct? Alright, thank you very
4 much, sir.

5 PHILIP MONTANTE: Thank you so much.

6 CHAIRPERSON WEPRIN: We appreciate it.

7 [Pause]

8 CHAIRPERSON WEPRIN: Okay, now we're
9 going to call up Land Use Number 11945 2nd Avenue
10 and I'd like to call up Eugene Travers. There he
11 is. This is in Council Member Garodnick's
12 district, who we're happy to have with us here
13 today. Mr. Travers, whenever you're ready,
14 [background voice] just please make sure the mic is
15 on. State your name for the record and please
16 describe the application. Thank you.

17 EUGENE TRAVERS: Good morning, Chair
18 Weprin and council members. My name is Eugene
19 Travers. I'm a Land Use attorney with
20 GoldmanHarris, LLC. This is a private application
21 for amendment to Section 32-421 of the Zoning
22 Resolution. The applicant is a small business
23 owner and operates the Crave Fishbar Restaurant
24 located at 945 2nd Avenue and East 50th Street in
25 Midtown Manhattan. Approval of the amendment would

1 allow the restaurant to expand from its ground
2 floor at its existing location to the second floor.
3 By way of background, the restaurant's former
4 location was destroyed by a fatal crane collapse in
5 2008. The applicant relocated almost directly
6 across the street, only to learn that the zoning
7 prohibited a use of the second floor for commercial
8 use, which is why it's pursuing this amendment.
9 Specifically, the former location was a larger
10 corner lot. The new location is a very narrow 25-
11 foot wide interior lot that needs to enlarge to the
12 second floor to remain viable. The current zoning
13 Section 32-421 permits second floor commercial use
14 in certain districts only if the building was built
15 after September 17th, 1970. The applicant's
16 building was built in 1962. This limitation was
17 designed to protect second floor residential uses
18 and to a lesser extent community facility uses in
19 older building. Under the new text, which would
20 apply only in Community Board 6, second floor
21 commercial use would be allowed in pre-1970
22 building, provided that three conditions are met.
23 The first is that the second floor cannot be
24 occupied by residential or community facility use
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2 on May 1st, 2013; that's the referral date of this
3 application; up until the time that a DOB permit is
4 filed. Second, the subject building must be
5 located on a block front that includes at least one
6 other second floor commercial use. This is a
7 contextual protection. And finally, as an added
8 protection, the chairperson of the City Planning
9 Commission must certify that the first two
10 conditions have been met. The practical impact of
11 the text is extremely limited. Second floor
12 commercial use of post-1970 buildings would not be
13 affected as that's already permitted as-of-right.
14 Only pre-1970 buildings located within Community
15 Board 6 that satisfy all three conditions would be
16 allowed to have second floor commercial use, so
17 it's a very small universe that this site would
18 apply to. With that, I hope you'll vote to approve
19 this application and I'd be happy to answer any
20 questions.

21 CHAIRPERSON WEPRIN: Thank you. Mr.
22 Garodnick has a comment or a question.

23 COUNCIL MEMBER GARODNICK: Yes, one of
24 each. First of all, I support this application and
25 I just think it's worth your clarifying for the

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2 record since we don't ordinarily see such a
3 complicated list of community board actions. This
4 one's all over the lot where you have Community
5 Boards 6 and 1. We have the Queens Borough
6 President, who had no response. Can you explain
7 what exactly was going on here because I think it's
8 important for the record?

9 EUGENE TRAVERS: Yeah, absolutely. So
10 this was originally referred out as a citywide text
11 amendment and based on the subject zoning districts
12 it went to nine community boards including one in
13 Queens. Over the course of the review process,
14 most... the overwhelming majority of community
15 boards asked, "Why is this being referred out to
16 us? This is a restaurant in Community Board 6,"
17 and they didn't comment on it. City Planning
18 decided it would make sense to narrow this down to
19 Community Board 6 and that's where the current text
20 is.

21 CHAIRPERSON WEPRIN: And does the
22 language say just Community Board 6 or do they
23 specifically draw in and would it just affect
24 Community Board 6?
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2 EUGENE TRAVERS: It's just a text
3 amendment, so the new text itself says within
4 Community Board 6, so you know it's limited to
5 that.

6 CHAIRPERSON WEPRIN: Okay, any other
7 questions? Any other members of the panel have any
8 questions? Oh, okay. Great.

9 EUGENE TRAVERS: Thank you very much.

10 CHAIRPERSON WEPRIN: It's great to
11 start on noncontroversial. So we're going to...
12 anyone else here to testify on this item? Mr.
13 Garodnick, you're not going to give an endorsement
14 of the restaurant like Miss Dickens did? Alright.
15 Okay.

16 COUNCIL MEMBER GARODNICK: I thought I
17 did.

18 CHAIRPERSON WEPRIN: Okay, alright,
19 thank you. He says he's been, but he didn't
20 comment on the food, sorry, for the record.
21 Anyway, so I'm going to close the hearing on Land
22 Use Number 11, 945 2nd Avenue and 130232ZRY and I'm
23 going to call on Anne McCoy [phonetic] [background
24 voice] Oh.

25 [Pause]

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2 CHAIRPERSON WEPRIN: Oh, sorry. Also,
3 yes, we have another item that was on the agenda,
4 which was Land Use Number 12, the North Conduit
5 Avenue Rezoning, Land Use Numbers 12 and 13, which
6 are related. That is in Council Member Wills'
7 district and that item has been withdrawn and we
8 have a letter of withdrawal here and the applicant
9 is withdrawing the application and will be making
10 a motion to file pursuant to a letter of
11 withdrawal, and so that item is off the agenda for
12 now. I am now going to call on Anne McCoy to
13 please call the roll.

14 LEGAL COUNSEL: Chair Weprin.

15 CHAIRPERSON WEPRIN: Aye.

16 LEGAL COUNSEL: Council Member Gentile.

17 COUNCIL MEMBER GENTILE: Aye.

18 LEGAL COUNSEL: Council Member
19 Garodnick.

20 COUNCIL MEMBER GARODNICK: Aye.

21 LEGAL COUNSEL: Council Member Wills.

22 COUNCIL MEMBER WILLS: Aye.

23 LEGAL COUNSEL: Council Member Reynoso.

24 COUNCIL MEMBER REYNOSO: Aye.
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LEGAL COUNSEL: By a vote of five in the affirmative, zero abstentions and zero negatives, Land Use Items 11, 15 and 16 are approved and referred to the Full Land Use Committee and Land Use Items 12 and 13 motion to file pursuant to a letter of withdrawal are approved and referred to the Full Land Use Committee.

CHAIRPERSON WEPRIN: Great. That was an easy one and so that's it for today. We are going to keep the rolls open for a while to see... we have two members who are on their way who had told me they were on their way, so we're going to leave the rolls open for them and with that in mind, the meeting is now adjourned. Thank you.

[gavel]

[Pause]

CHAIRPERSON WEPRIN: We're going to open the roll just... okay, we're going to open the roll now and for Anne McCoy to call on Council Member Ignizio.

LEGAL COUNSEL: Council Member Ignizio.

COUNCIL MEMBER IGNIZIO: I vote aye.

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2 CHAIRPERSON WEPRIN: Thank you and at
3 the moment we're still holding the roll open.
4 There just to check on traffic let's say.

5 [Pause]

6 LEGAL COUNSEL: Final vote on
7 Subcommittee on Zoning and Franchises Land Use
8 Items 11, 15 and 16 are approved by a vote of six
9 in the affirmative, zero abstentions and zero
10 negatives and Land Use Items 12 and 13 motion to
11 file pursuant to letter of withdrawal are approved
12 by a vote of six in the affirmative, no
13 abstentions, no negatives and all items are
14 referred to the Full Land Use Committee.

15 CHAIRPERSON WEPRIN: Thank you very
16 much. With that in mind, we are going to close the
17 roll and with that in mind, the Zoning and
18 Franchises Subcommittee is now adjourned. [gavel]
19 Thank you.

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C E R T I F I C A T E

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



Date: 02/14/2014