

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON ZONING AND FRANCHISES

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October 8, 2009
Start: 9:45am
Recess:

HELD AT: Council Chambers
City Hall

B E F O R E:
TONY AVELLA
Chairperson

COUNCIL MEMBERS:
Simcha Felder
Daniel R. Garodnick
Alan J. Gerson
Robert Jackson
Melinda R. Katz
Joel Rivera
Larry Seabrook
Helen Sears

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2 CHAIRPERSON AVELLA: I'd like to
3 reconvene the Zoning and Franchises meeting from
4 Monday. We laid over two items for a vote. The
5 vote on the MOMA application and also a vote on a
6 sidewalk café application by the Corner Deli.
7 There has been an agreement as it relates to the
8 Corner Deli application and I will call on Council
9 Member Gerson to read into the record, briefly,
10 what the agreement is.

11 COUNCIL MEMBER GERSON: Page one
12 of--no. With respect to the Corner Deli outdoor
13 café at 106 Kenmore Street the agreement is as
14 follows: the number of seats will be no more than
15 26 within the sidewalk café area, of course.

16 The hours of operation of the
17 sidewalk café will be as follows: the sidewalk
18 café will be closed, meaning there will be no
19 seating and the seating will be removed no later
20 than 11:00 pm on Friday evenings, Saturday
21 evenings and the evenings before a national
22 holiday and no later than 9:30 pm on all other
23 days.

24 Three, the owners reserve the right
25 to request amendment, changes, support for

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2 amendments of changes from the community and
3 community members as part of their ongoing
4 negotiations. The community will give every
5 reasonable consideration to such request by the
6 community over the course of the license.

7 The outdoor take out window will be
8 used at any time only for delivery personnel to
9 retrieve items from within the establishment
10 through the window and that practice will cease by
11 9:30 or at the later hours of operation of the
12 sidewalk café.

13 During the operations of the
14 sidewalk café, the owners will have a security
15 person, at all times during such hours, on the
16 sidewalk in the immediate vicinity of the sidewalk
17 café. In addition, the owners will provide
18 additional training for security crowd control,
19 traffic control to managerial staff. And at all
20 times, with or without the sidewalk café, there
21 will be a door person present at the door of the
22 establishment.

23 All windows of the establishment
24 will be closed. Windows and doors will be closed
25 at all times, except obviously when the doors open

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2 and close for entrance and egress and except as
3 noted for the "outdoor take out window" mentioned
4 earlier.

5 The owners will agree to re-examine
6 their queuing system and to implement a queuing
7 system that minimizes if not totally avoids a line
8 up of people on the street, wherever feasible and
9 possible.

10 And finally, the owners will meet
11 on monthly basis with the neighborhood advisory
12 committee to discuss ongoing issues. With these
13 stipulations and we will provide the written
14 document, I will urge the committee, with all of
15 these stipulations to vote yes.

16 CHAIRPERSON AVELLA: Thank you
17 Council Member Gerson and I'm sure that took quite
18 a bit of negotiations. What we're going to do is
19 call the vote on this item and then we will move
20 to the MOMA item so there will be two separate
21 votes. Chair recommends approval and asks counsel
22 to call the vote on the Corner Deli application.

23 COUNSEL: Chairman Avella.

24 CHAIRPERSON AVELLA: Aye.

25 COUNSEL: Council Member Rivera.

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COUNCIL MEMBER RIVERA: I vote aye.

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COUNSEL: And on previous items?

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COUNCIL MEMBER RIVERA: And I vote aye on those as well. Thank you. If I can, I would like to vote on all items on the agenda for the next four years.

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COUNSEL: Council Member Felder.

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COUNCIL MEMBER FELDER: Yes, I pass.

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COUNSEL: Council Member Jackson.

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COUNCIL MEMBER JACKSON: I pass, too.

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COUNSEL: Council Member Katz.

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COUNCIL MEMBER KATZ: Aye.

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COUNSEL: Council Member Seabrook.

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COUNCIL MEMBER SEABROOK: I vote aye and aye on all.

19

COUNSEL: Council Member Sears.

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COUNCIL MEMBER SEARS: Aye.

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COUNSEL: Council Member Felder.

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COUNCIL MEMBER FELDER: I'm passing on the vote. Don't bother calling my name.

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COUNSEL: Council Member Jackson.

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COUNCIL MEMBER JACKSON: I vote

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2 aye.

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COUNSEL: Council Member Felder

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COUNCIL MEMBER FELDER: Yes.

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6 affirmative, none in the negative, no abstentions,
7 L.U. 1217 is approved and referred to the full
8 Land Use committee.

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10 CHAIRPERSON AVELLA: Now we will
11 move to a vote and discussion, if necessary, on
12 the MOMA application. I'm going to call on
13 Council Member Melinda Katz to make the motion.

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15 COUNCIL MEMBER KATZ: Good
16 afternoon everyone. Good morning everyone and
17 thank you for your patience on this item that is
18 in Speaker Quinn's district. This is an expansion
19 of MOMA, the Museum of Modern Art. This expansion
20 will take the museum to about under 100,000 square
21 feet of hotel space. It will expand the use of
22 the gallery and the exhibition space for MOMA to
23 51,949 feet. It will have about 495,000 square
24 feet of residential floor area.

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This is a project that has been
long awaited by the City of New York. It has been
worked on tirelessly over the past few months, and

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2 especially over the last few days by the Speaker
3 of the Council, by all of the interested parties.
4 It is also a project that will take in and help
5 neighboring non for profits like St. Thomas Church
6 which has a zoning lot and the air rights
7 will be transferred to the Museum of Modern Art.

8 It is a project that was originally
9 1,250 and was taken down 200 feet by the City
10 Planning Commission center over here and we have
11 accepted their amendments. Our amendments to
12 this, the City Council's amendments will include
13 that the hotel will be under 100,000 square feet.
14 That, by virtue of the law but also by virtue of
15 an agreement that was made no matter what, will
16 eliminate a loading dock for the building.

17 Also the MOMA will be responsible
18 for maintaining the lot that this was on in case
19 the project takes any longer than has been
20 anticipated. And the last amendment will be that
21 the applicant has agreed to improve the visibility
22 of the garden from the street to enhance and
23 enliven the pedestrian experiences, whatever that
24 means, along West 54th Street, adjacent to the
25 wall that is there.

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2 That is the application. It is a
3 special permit to be moved forward by the City
4 Council. And Mr. Chair, I make a motion to
5 approve with the modifications.

6 CHAIRPERSON AVELLA: Thank you.
7 I'll ask counsel to call the vote. Council Member
8 Garodnick.

9 COUNCIL MEMBER GARODNICK: Thank
10 you Mr. Chairman. While I'm not a member of the
11 Zoning sub committee I just wanted to make a
12 comment on this application. Obviously as Char
13 Katz noted, this is a project with many benefits.
14 With the ability to fund ongoing preservation
15 plans for local landmarks and of course with
16 support of the endowment for MOMA, which is a
17 critically important cultural institution for the
18 city. And also will generate tens of millions of
19 dollars for the city with jobs.

20 The proposal, at the end of the
21 day, is for a breathtakingly tall building on a
22 narrow lot without access to the avenue and that's
23 a cause of great concern to my constituents who
24 are across the street. I believe that because of
25 the unique circumstances there that it will have

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2 impacts that we can not, unfortunately, deal with
3 through those changes which you mentioned Madam
4 Chair.

5 Of course, we do believe those are
6 positive changes; the elimination of a loading
7 dock and dealing with the pedestrian wall and
8 efforts to make sure that the hotel is done right.
9 But unfortunately despite those welcome changes,
10 the big picture concern still exists and that's
11 particularly because of the position of this
12 building, next to a special Midtown preservation
13 sub-district.

14 So I just want to know that at this
15 point I will be voting no on this.

16 CHAIRPERSON AVELLA: Thank you
17 Council Member and now I will call on counsel to
18 call the vote on this item.

19 COUNSEL: Chair Avella.

20 CHAIRPERSON AVELLA: I'm going to
21 be voting no on the item and I won't repeat what
22 Council Member Garodnick said but I think his
23 points were very well taken. While the MOMA does
24 need additional funding, they don't take city or
25 state financing, which I think is to their credit.

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2 The overwhelming issue here is the height of the
3 building. It may be a beautiful building but it
4 is too high given the neighborhood so I'm voting
5 no.

6 COUNSEL: Council Member Rivera.

7 COUNCIL MEMBER RIVERA: I vote aye.

8 COUNSEL: Council Member Felder.

9 We're still in Zoning.

10 COUNCIL MEMBER FELDER: I

11 apologize. I vote yes.

12 COUNSEL: Council Member Jackson.

13 COUNCIL MEMBER JACKSON: I vote

14 yes.

15 COUNSEL: Council Member Katz.

16 COUNCIL MEMBER KATZ: Aye.

17 COUNSEL: Council Member Seabrook.

18 COUNCIL MEMBER SEABROOK: I vote

19 aye.

20 COUNSEL: Council Member Sears.

21 COUNCIL MEMBER SEARS: Aye.

22 COUNSEL: By a vote of six in the
23 affirmative, one in the negative, no abstentions,
24 L.U. 1219 and 1220 are approved with modifications
25 and referred to City Planning.

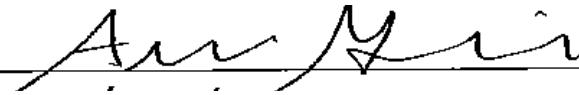
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CHAIRPERSON AVELLA: Thank you
everyone. This closes this meeting of the sub-
committee on Zoning and Franchises and nobody
leave for Land Use.

C E R T I F I C A T E

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

Signature

A handwritten signature in cursive script, appearing to read "Amber Gibson", written over a horizontal line.

Date October 21, 2009