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CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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September 17, 2018

Start: 10:06 a.m.

Recess: 2:42 p.m.

HELD AT: 250 Broadway-Committee Rm, 16<sup>th</sup> Fl.

B E F O R E: FRANCISCO P. MOYA  
Chairperson

COUNCIL MEMBERS:

- COSTA G. CONSTANTINIDES
- BARRY S. GRODENCHIK
- RORY LANCOUNCIL MEMBERAN
- STEPHEN T. LEVIN
- ANTONIO REYNOSO
- DONOVAN J. RICHARD LOBELS
- CARLINA RIVERA
- RITCHIE J. TORRES
- JAMES G. VAN BRAMER

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

Rachel Scall

Associate at Greenberg Traurig on Behalf of Red Apple Real Estate

Ralph Zirinsky

Development Manager at Red Apple Real Estate

Jeremiah Candreva

Zoning and Land Use Attorney, Partner at Troutman Sanders LLP

Michael Kramer

Owner of Michael B. Kramer and Associates

Gary Spindler

President of Kalodop II Park Corporation

Brad Hoylman

New York State Senator, Representing the 27<sup>th</sup> Senate District

Tara Duvivier

AICP, Urban Planner for Community Board's One, Three and Six

Margaret Gardiner

Executive Director of the Merchant's House Museum

Justin Spivey

Senior Associate at Wiss, Janney, Elstner Associates, WJE

Kurt Hirschberg

Architectural Designer with Jan Hird Pokorny Associates

Michael Hiller

Founding Member of Hiller PC Law Firm

Howard Weiss

Senior Member of Davidoff Hutcher and Citron, LLP

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

1  
2  
3 Zella Jones  
President of NoHo Bowery Stakeholders

4  
5 John Krawchuk  
Executive Director of the Historic House of Trust  
Of New York City

6  
7 Jan Cermak  
Geotechnical Engineer, Associate Partner at  
Mueser Rutledge Consulting Engineers

8  
9 Anita Brandt  
Co-Chair of Community Board Two Land Use

10  
11 Birgitte Philippides-Dulaney  
Resident of the Village

12  
13 Roberta Belulovich  
Visitor Services Coordinator and Weekend Site  
Manager at the Merchant's House Museum

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15 Joseph Reiver  
Executive Director of Elizabeth Street Gardens

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17 Christabel Gough  
Society for the Architecture of the City

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19 Michelle Barshay  
Docent at the Merchant's House Museum

20  
21 Simeon Bankoff  
Executive Director of the Historic Districts  
Council

22  
23 Monica Rittersporn  
Lifelong New York City Resident

24  
25 Cordelia Persen  
Executive Director of the NoHo Business  
Improvement District

Jane Nevins  
Volunteer at the Merchant's House Museum,  
Resident of District Two

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

Audrey Horwitz  
Volunteer at the Merchant's House Museum

Giorgio Bovenzi  
Resident of 25 East Fourth Street

Nick Nicholson  
Senior President of Decorative Arts at Freeman's  
Auction in Philadelphia, Chair of the Board of  
Merchant's House Museum

Peter Feld  
Editor of the New York Observers Parenting  
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David Mulkins  
Co-founder of Bowery Alliance of Neighbors and  
East Fifth Street Block Association

Glen Umberger  
Speaking on Behalf of the New York Landmarks  
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Andrew Berman  
Executive Director of the Greenwich Village  
Society for Historic Preservation

Grace Markman  
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Merchant's House Museum

Carol Putrachez  
Member of the East Fifth Street Association

Emily Hill-Wright  
Communications and Programs Manager at the  
Merchant's House Museum

Ann Hijaad  
Volunteer Docent and Researcher at the Merchant's  
House Museum

Kirsten Theodos  
Resident of District Two

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

Vincent Plescia  
Independent Consultant for Fine and Decorative  
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Danine Romero  
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Land Use and Zoning Attorney at Sheldon Lobel, PC

Genevieve Michel  
Executive Director of Government Affairs for the  
Department of Housing Preservations and  
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Albert Shirian  
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Damien Peslini

Hal Fetner  
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Edward Wallace  
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Sheila Lewandowski  
Second Vice Chair of Community Board Two

Pedro Gomez  
President of the Court Square Civic Association

Peter Johnson  
Homeowner, Tax Payer, Resident of Long Island  
City, Member of Hunters Point Community Coalition

Frank Wu  
Resident of Court Square, Long Island City

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

Unidentified Male  
Doorman of Court Square, Long Island City

Mark LaVia  
President of Long Island City

Patrick Smith  
Native New Yorker, 20 Year Resident of Queens,  
Homeowner on Jackson Avenue

Brad Swanson  
Representing the Queens Chamber of Commerce and  
Executive Director Tom Grech

Brent O'Leary  
President of the Hunter's Point Civic Association

Maim Bradley  
Resident of Long Island City, Member of the Long  
Island City Coalition

Thomas Pano  
Officer with the Hunter's Point Community  
Coalition

David Rothenberg  
President of Tishman's Realty Corporation

Wesley O'Brien  
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Bill Higgins  
Principal of Higgins Quasebarth and Partners, LLC

Morris Adjmi  
Architect at Morris Adjmi Architects

Stephen Lefkowitz  
Real Estate of Counsel Resident in Fried Frank

Mike Bradley  
32 BJ Member, Reading for Hannah

Reggie Thomas  
Senior Vice President for Governmental Affairs at  
The Real Estate Board

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Justin Pascone  
Director of Policy at the New York Building  
Congress

Jeff Brault  
Director of External Affairs at the Manhattan  
Chamber of Commerce

Jack Davies  
Policy and Campaigns Manager at Transportation  
Alternatives

Monica Munn  
Director of Economic Development at the Union  
Square Partnership

Victoria Crane  
President of the Lee Strasberg Theatre and Film  
Institute

Teresa Uthurralt  
Native New Yorker, Representing East Fourth  
Street Block Association

Dan Unger  
Chief Development Officer for Tishman Realty

[gavel]

COUNCIL MEMBER TORRES: Good morning and welcome to the meeting of the Subcommittee on Zoning and Franchises, I'm City Council Member Ritchie Torres and I will be filling in today until Chair Moya arrives. We are joined by Council Members Donovan Richards and Carlina Rivera. Today we will be holding public hearings on a number of items, if you are here to testify on any item on the calendar please fill out a white speaker slip with the Sergeant At Arms and indicate the name of the application you wish to testify on, on that slip. LU 206, the Victory Boulevard rezoning will be laid over. LU's 192, 193 and 194, the 80 Flatbush application will also be laid over. We will not be voting on these applications today. We have many hearings on today so other than the applications... applicant panel each speaker will be granted two minutes to testify. Our first hearing will be on LU 216, the 180 Myrtle Avenue text amendment application submitted by Red Apple Real Estate regarding ground floor use regulations within the special downtown Brooklyn district. The proposed zoning text amendment would allow non-residential uses permitted by the



1  
2 underlying zoning district within the required  
3 special ground floor uses for buildings fronting on  
4 Myrtle Avenue between Ashland Place and Fleet Place  
5 in Majority Leader Cumbo's district in Brooklyn. I  
6 now open up the public hearing on this application,  
7 counsel please swear in the panel.

8 COMMITTEE CLERK: Before responding  
9 please hit your mic and state your name. Do you swear  
10 or affirm that the testimony that you're about to  
11 give will be the truth, the whole truth and nothing  
12 but the truth and to answer all questions truthfully?

13 RACHEL SCALL: Yes.

14 RALPH ZIRINSKY: Ralph Zirinsky, yes.

15 RACHEL SCALL: Rachel Scall, yes.

16 [off mic dialogue]

17 RACHEL SCALL: Sorry, before... are we  
18 supposed to pull up the PowerPoint or... sorry.

19 [off mic dialogue]

20 CHAIRPERSON MOYA: Please begin.

21 RACHEL SCALL: Good morning, my name is  
22 Rachel Scall, I'm here from Greenberg Traurig, we're  
23 here on behalf of Red Apple Real Estate, the  
24 applicant for the 180 Myrtle Avenue text amendment  
25 application and I'm joined by Ralph Zirinsky of Red

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 Apple. This application affects the South side of  
3 Myrtle Avenue in Brooklyn in Brooklyn between Fleet  
4 Place and Ashland Place, that block is improved with  
5 three buildings owned by Red Apple. Going from left  
6 to right we have 218 Myrtle Avenue which was  
7 completed in 2010, 180 Myrtle Avenue completed in  
8 2016 and 81 Fleet Place completed in 2015. The  
9 buildings contain about 530 residential units and  
10 about 34,000 square feet of ground floor space in  
11 here. they are... on a site plan blocks one... or lots  
12 110, lot one and lot 101 on block 2061. This is a  
13 request for a text amendment affecting the downtown  
14 Brooklyn special zoning regulations. We are looking  
15 at Article X, appendix EMAP II and section 101-11 of  
16 the zoning resolution which currently require the  
17 ground floor retail within 50 feet of designated  
18 streets in downtown Brooklyn. This application would  
19 lift those restrictions on this block to allow all  
20 uses, all non-residential uses permitted by the  
21 underlying zoning which would essentially permit  
22 community facilities in the spaces in these three  
23 buildings; uses such as medical facilities or day  
24 care facilities and I will turn it over to Ralph to  
25

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 give you a little bit more information about the  
3 buildings themselves.

4 RALPH ZIRINSKY: So, as Rachel said  
5 there's about 30,000 square feet of retail space  
6 across these three properties. The first building  
7 went online in 2010, the other two in 2015 and 2016.  
8 So, in that time period only about 50 percent of the  
9 retail has... is currently occupied, we've seen limited  
10 interest from traditional retailers where we have  
11 seen interest from there are medical uses and day  
12 care centers which would be a benefit in two ways  
13 just to liven the block and bring more activity to  
14 this area while providing services to the surrounding  
15 community that's why we're seeking the tax amendment  
16 from traditional retail to allow some additional  
17 types of uses on these ground floors.

18 RACHEL SCALL: Happy to answer any  
19 questions.

20 COUNCIL MEMBER TORRES: How much retail  
21 space is presently in each building?

22 RALPH ZIRINSKY: The two buildings on the  
23 right have 10,000 square feet each give or take and  
24 the building on the left has 20,000 square feet,  
25 10,000 square feet above grade which is occupied by a

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 CVS and 10,000 square feet below grade which is  
3 currently vacant.

4 COUNCIL MEMBER TORRES: So, so, what's  
5 the full extent of the vacancy, it's 10,000?

6 RALPH ZIRINSKY: The full extent of the  
7 vacancy presently is 10... about 23,000.

8 COUNCIL MEMBER TORRES: 23,000 and is the  
9 high asking price playing a role in causing the  
10 vacancy... [cross-talk]

11 RALPH ZIRINSKY: No, our rents are  
12 actually significantly lower, I can... the... we've done  
13 deals in the high 50's and low 60's for square foot,  
14 we remain negotiable and flexible, with full free  
15 rent concession packages, it's just... it's not  
16 necessarily a lack of, of... or a high asking price  
17 we've just seen a lack of demand and even offers on  
18 the space.

19 COUNCIL MEMBER TORRES: And, and what's  
20 the level of traffic in that corridor?

21 RALPH ZIRINSKY: The foot traffic? There  
22 is foot traffic but it... to say... to go a block away  
23 into metro tech it's like night and day, there's just  
24 far less foot traffic there so we're looking at uses  
25 that, that's more destination focused retail to drive

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 people to the block versus kind of pop in retail  
3 where you need that foot traffic to be successful.

4 COUNCIL MEMBER TORRES: That's the extent  
5 of my questions, any of my colleagues have questions?  
6 Okay, thank you so much for your testimony... [cross-  
7 talk]

8 RALPH ZIRINSKY: Thank you.

9 RACHEL SCALL: Thank you.

10 [off mic dialogue]

11 COUNCIL MEMBER TORRES: Okay, are there  
12 any other members of the public who wish to testify?  
13 Seeing none I will now close the public hearing on  
14 this application and it will be laid over. Our next  
15 hearing will be on LU's 203, 204, and 2015, the 27<sup>th</sup>  
16 East Fourth Street application for property in  
17 Council Member Rivera's district in Manhattan. The  
18 applicant, Kalodop Park Corporation seeks a zoning  
19 text amendment to special permit 74-712 and seeks two  
20 special permits under that section to allow a  
21 transient hotel and retail use at the project site  
22 and to modify bulk regulations to allow the proposed  
23 building to reach a height of 90 feet without  
24 setback.

25 [off mic dialogue]



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1  
2 potential increase of instability. By virtue of it  
3 having been constructed as a row house, the museum's  
4 lack of full adjacent support by other buildings  
5 makes it very fragile. There is precedence to my  
6 community's concern about the structure being  
7 adversely affected by construction next door since  
8 demolition on the now vacant neighboring lot in the  
9 late 1980's resulted in damage to the house.  
10 Additionally, the interior original plaster work if  
11 damaged irreparably reduces the historical value of  
12 one of the best-preserved historical homes in our  
13 city if not the nation. Since the first part of the  
14 Zoning Committee hearing on these issues I have met  
15 with the museum stakeholders and the development team  
16 to discuss alternatives and updates. For example,  
17 whether engineers from both sides were able to  
18 establish a path forward. Unfortunately, engineers  
19 have not been able to meet yet and therefore we are  
20 left with the same differing evidence we had prior.  
21 I'm looking forward to hearing additional information  
22 from all parties today including members of the NoHo  
23 community as we consider this contentious  
24 application. Thank you.

SUBCOMMITTEE ON ZONING AND FRANCHISES

COUNCIL MEMBER TORRES: Counsel swear in the panel.

COMMITTEE CLERK: Before responding please hit your mic and state your name. Do you each swear or affirm that the testimony you're about to give will be the truth, the whole truth and nothing but the truth and that you'll answer all questions truthfully?

MICHAEL KRAMER: Michael Kramer, yes.

JEREMIAH CANDREVA: Jeremiah Candreva, yes.

GARY SPINDLER: Gary Spindler, yes.

CHAIRPERSON MOYA: You may proceed.

JEREMIAH CANDREVA: Thank you Mr. Chairman, members of the Land Use Committee. My name is Jeremiah Candreva, I'm Land Use Council to the applicant Kaladop II Park Corporation. We're here before you with a proposal to construct a new 8 story contextual street wall building at 27 East Fourth Street. The development would be utilized for either office or hotel use above the level of the second story. The proposed uses to be located below the level of the second story include ground floor restaurant, hotel lobby or office lobby as well as



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2 accessory back of the house hotel or office use and  
3 restaurant use on the cellar level. As Council Member  
4 Rivera mentioned the, the development site is  
5 adjacent to the Merchant's House Museum and interior  
6 and exterior individual landmark and because the site  
7 is located in the NoHo historic district extension  
8 the demolition of the existing building and the  
9 construction of the proposed building require  
10 Landmarks Commission approval which we received on  
11 April the 8<sup>th</sup>, 2014 when LPC voted to approve the  
12 demolition of the existing structure and the  
13 construction of the proposed building. Further, on  
14 April the 6<sup>th</sup>, 2018 Landmarks issued a design only  
15 certificate of appropriateness for our proposed  
16 building. Before the Committee today are three zoning  
17 actions, a zoning text amendment as well as two  
18 special permits. We presented those items to the  
19 Subcommittee on Land Use at the last hearing, I  
20 believe on September the 5<sup>th</sup>. The text amendment  
21 involves a... an amendment to the provisions of 74-712  
22 and the special permits involve a special permit  
23 pursuant to 74-712(a) and 74-712(b) to permit a  
24 height and setback waiver above the level of the  
25 sixth story or 85 feet and essentially that is a, a

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 waiver for the 7<sup>th</sup> and 8<sup>th</sup> floor in the initial  
3 setback distance and the sky exposure plain as well  
4 as to permit on the ground floor commercial use,  
5 hotel lobby as well as the restaurant. I'd like to  
6 just briefly state the history of the amendments of  
7 74-712 that have occurred prior; in 1997 the City  
8 Planning Commission amended 74-712 to permit  
9 modification of bulk modifications, accept FAR by  
10 special permit on vacant lots within historic  
11 districts. In its report 970654ZRY the commission  
12 stated that it believes that the new tool would help  
13 promote development of buildings that are more  
14 contextual to historic districts and buildings that  
15 might be developed on an as of right basis. This is  
16 exactly what the applicant is proposing to do,  
17 develop a landmark permission... landmark preservation  
18 commission approved contextual street wall building  
19 with massing that is more consistent than that which  
20 is available on an as of right basis. The provisions  
21 of 74-712 have been amended for... over the last 20  
22 years to include use waivers and expand the list of  
23 sites that are eligible for use and bulk by special  
24 permit if those sites were in the historic district  
25 located in the M1-5A and or M1-5B zoning districts.

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 Examples of those zoning amendments occurred in 2003  
3 and 2006 under 030489ZRY, 060201ZRY to allow use and  
4 bulk regulations on land with minor improvements or  
5 on sites where not more than 20 percent were occupied  
6 by an existing building. In the 2003 compendium  
7 report by the City Planning Commission with respect  
8 to the application for 465 Broadway, the Commission  
9 noted that it does not believe that the replacement  
10 of any of these buildings with new structures  
11 approved by landmarks would be averse to the historic  
12 district of contrary to public policy. Recent  
13 approvals of new structures in historic districts by  
14 the Landmarks Commission demonstrate how these can be  
15 compatible with the historic character of the  
16 district. The Commission further noted in 2006 in the  
17 compendium report and special permit application for  
18 311 West Broadway that it believes that the  
19 modifications of bulk would be compatible with the  
20 scale and characters of the surrounding SoHo  
21 neighborhood, the Commission note... noted that the  
22 design of the building resulted from changes that  
23 were made at the request of Landmarks and which led  
24 to the subject request for bulk modifications and  
25 that they respond to the scale and character of the

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1  
2 surrounding community. Again, this is exactly what  
3 the applicant is proposing to do, develop a landmarks  
4 preservation commission approved contextual street  
5 wall building with massing that resulting in changes  
6 that were made during the LPC review and approval  
7 process. I also note of significance that the  
8 commission, the Landmarks Preservation Commission  
9 degree... disagreed with the community board to  
10 maintain existing street wall requirements and noted  
11 that requiring buildings to be built pursuant to the  
12 proposed text to comply with underlying M1-5 height  
13 and setback would conflict with the original intent  
14 of this section. Lastly, other examples of text  
15 amendments to 74-712 occurred in 2013 and 2016 in  
16 which the Commission stated in it's consideration of  
17 it's application for 300 Lafayette Street that it  
18 believed that vacant lots and underutilized sites in  
19 these areas detract from the fabric of SoHo cast iron  
20 and NoHo historic districts and that allowing both  
21 modifications for the use and bulk regulations by  
22 special permit would facilitate development on vacant  
23 and underutilized sites and help strengthen the  
24 historic character... district's built character. And  
25 lastly and the most recent application in 2016

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 amendment to 74-712 with respect to the property  
3 located at 150 Brewster Street the Commission noted  
4 that the expanded applicability of the zoning text  
5 would provide enhanced opportunities to fill in gaps  
6 along SoHo's mid blocks and avenues, three- and four-  
7 foot scales, street wall continuity and predominate  
8 built out character. Again, this is exactly what the  
9 applicant is proposing to do, fill in gaps that exist  
10 from the existing one-story mid-block building and  
11 replace it with a new Landmarks Preservation  
12 Commission approved contextual street wall building.  
13 I'd like to turn the mic over to my colleague Michael  
14 Kramer.

15 MICHAEL KRAMER: Okay, thank you Jed. I  
16 guess we should start by stating for the record that  
17 we all like the Merchant's House and nobody is trying  
18 to do any damage to the Merchant's House and that we  
19 will be a better neighbor to the Merchant's House  
20 when the new building is built, the new building  
21 being the building that you see to the... exactly to  
22 the West of the Merchant's House an eight story  
23 building. It was originally designed as a ten-story  
24 building, it's gone down to nine and now eight  
25 stories. We know that the community is very upset

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2 about this and we want to completely address the  
3 issues that you're upset about. We went to the  
4 Merchant's House website, call to arms and we learned  
5 that the Merchant's House would suffer catastrophic  
6 structural damage and likely collapse during  
7 construction. We think there's a lot of  
8 misinformation that's out there and we think we can  
9 trace the misinformation to a 2012 report that was  
10 done by the geotechnical engineers that stated that  
11 they had concerns about construction next to the  
12 Merchant's House when the applicant was proposing a  
13 ten-story building. This building has been under  
14 design and under review since 2011, it's gone through  
15 every city agency that it had to go through and when  
16 it went through all those different city agencies the  
17 plan was improved. The plan was improved so... and we...  
18 and this is something that we, we described at the  
19 last hearing on September the 5<sup>th</sup>, we won't bore you  
20 with the details of the extraordinary methods of  
21 construction that we will undertake in order to make  
22 sure that we don't have a problem with the Merchant's  
23 House, it's not in our best interest to have a  
24 problem with the Merchant's House. The problem we  
25 have is that the Merchant's House has been crying

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1  
2 wolf, if, if that's the right word, since that 2012  
3 report and we've been trying to get the engineers to  
4 talk to each other because their engineering staff  
5 needs to hear from our engineering staff to  
6 understand the extraordinary methods that we will  
7 undertake to do the construction. We finally heard  
8 from their engineering staff at two minutes of five  
9 o'clock last Friday, September the 14<sup>th</sup> and they  
10 asked us for the new data to update a report that was  
11 done in 2012, another words all of this hyperbola is  
12 about a report that no longer exists on a project  
13 that never happened so, we want to prepare you to  
14 realize that the proposal before you today is for a  
15 smaller and lighter commercial building. Our  
16 construction plan has been vetted by the Department  
17 of Buildings, Parks, Landmarks and three outside  
18 firms. There are plenty of examples, there are lots  
19 of historic preservations in this audience, there are  
20 plenty of examples of new buildings that have been  
21 carefully constructed adjacent to landmark sites. The  
22 second concern that Merchant's House has, has  
23 publicized is that the zoning text amendment is  
24 illegal spot zoning benefiting the developers alone,  
25 Jed just described all these other examples when

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 their applications have been approved, let's remember  
3 that the City Planning Commission last month  
4 unanimously approved this project, they would not  
5 unanimously approve an illegal spot zoning and  
6 Community Board two, many months ago, was presented  
7 by us of many... of the information about many  
8 successful applications for zoning text amendments  
9 and they're very... they're very experienced in this  
10 particular zoning text amendment. The third call to  
11 arms was that an eight-story hotel is undesirable and  
12 unnecessary at this location, that the community  
13 neither wants nor needs another hotel. Now let's  
14 remind everybody that we are proposing an eight-story  
15 commercial building, we haven't finalized what it's  
16 going to be, and it replaces a one-story non-  
17 contributing eyesore. This... nobody is going to make  
18 the argument that this contributes to the NoHo  
19 historic district extension and is, is consistent  
20 with such, it's a gapped tooth and it's really a  
21 building that is out of date. Our design has been  
22 approved by LPC as being consistent with the  
23 aesthetics and the public benefit is that we're going  
24 to create many more jobs here which will  
25 significantly increase the value of this site for



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1  
2 real estate tax purposes and when you have an  
3 economic engine you're generating income for the city  
4 treasury which can be used for public benefits. The  
5 next concern was that the developer could shift the  
6 hotel project around the corner to 403 Lafayette  
7 removing all risk to the Merchant's House. Now back  
8 in 2004 which is when we started this process, we've  
9 owned this building for over 20 years, we've been a  
10 good neighbor to the Merchant's House for over 20  
11 years, we know the people very well. In 2004, we went  
12 to Landmarks and we were discouraged about shifting  
13 all the available air rights to 403 Lafayette Street,  
14 if we had not been discouraged back then and told too  
15 that we should focus our attention on 27 East Fourth  
16 Street none of us would be in this room today. Let's  
17 remember that the parking lot at 403 Lafayette Street  
18 is very successful and provides a neighborhood  
19 benefit to neighborhood people, the garage at 27 East  
20 Fourth Street houses hot dog vendor carts which  
21 frankly provides no public benefits. The building is  
22 more than 80 years old, it's functionally obsolete,  
23 it was originally a gas station with automotive  
24 repairs, I don't think you want us to go back to  
25 that, there's data about whether the two lots are

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 contiguous which is a, a zoning technique to transfer  
3 the air rights between two different buildings and if  
4 we were to enlist the help of our neighbors at 25  
5 East Fourth Street it's, it's doubtful because  
6 they've already told us in, in no... in very clear  
7 words that they oppose our project and they're  
8 protecting their own self-interest, it was a joint  
9 living, working building, loft tenants, artists and  
10 you have lot line windows there so there is always  
11 the possibility that you're not going to have the  
12 appropriate light and air for the bedrooms that you  
13 might have built in that... in that building. So, it's  
14 just not reasonable for us to expect that we're going  
15 to get the cooperation from the next-door neighbor.  
16 With all that said, it's not unusual for Merchant's  
17 House to have work done both inside and outside of  
18 the building. Back in 2010 there was a 598,000 dollar  
19 grant from the Parks Department and, and I'm sure it  
20 was from Rosie, the city Council Member which allowed  
21 them to do major repairs to the building; there have  
22 been emergency maintenance, there has been ongoing  
23 maintenance in 2011, 2015, broken windows, temporary  
24 tarps, vibration monitoring work, boiler repairs,  
25 appraisal for pre-construction documentation. Back in

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 2015, we thought that we were at the point where we  
3 were going to reach an agreement, a licensing  
4 agreement that defined how we were going to do the  
5 construction with the Merchant's House and how we  
6 could help mitigate any inconvenience that would  
7 cause and their lawyer wrote up the, the licensing  
8 agreement and then they fired their lawyer and we  
9 haven't gotten anywhere since. So, we're, we're  
10 frustrated here, we have the Parks Department who  
11 have told us that as long as we do a comprehensive  
12 pre-construction condition survey that we can move  
13 ahead, we haven't been granted access for a pre-  
14 construction condition survey. We have been told that  
15 the Landmarks routinely approves new construction  
16 adjacent to historic buildings as long as it occurs  
17 safely and appropriately, we would love for our  
18 engineers to be talking to their engineers so that we  
19 could do so. We filed all the necessary protection  
20 plans, we've heard from the Landmarks that the  
21 excavation will... has to be supervised by professional  
22 licensed engineers. The licensee... the licensed  
23 engineering firm that we work with is recommended by  
24 the New York Landmarks Conservancy under their find a  
25 professional engineer category. We're doing

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 everything we're being asked to do, Buildings says  
3 that as a condition of approval we have a registered  
4 design professional engineer acceptable to Parks and  
5 DOB. To summarize, we've been trying to get this  
6 project moved forward from 2011, we've worked with  
7 all of the city agencies, all of the elected  
8 officials and you can't convince me otherwise that  
9 this building is such a contributing, beautiful  
10 building that it should stay there, it's an eyesore.  
11 Before we start construction activities we expect to  
12 enter into an industry standard commercially  
13 reasonable construction protection agreement with our  
14 neighbors, that's both on the... on the, the  
15 residential loft side, building side as well as  
16 Merchant's House. On August the 13<sup>th</sup> we met with the  
17 Council Member Rivera and she asked that we  
18 facilitate a meeting between our engineers and the  
19 Merchant's House... the Merchant's House engineers and  
20 that still hasn't happened. We've offered to engage  
21 and fund a geotechnical engineer who prepared, I'm  
22 sorry, the report for Merchant's, Merchant's House in  
23 2012, that needs to be updated as it does not reflect  
24 the proposal that you see before you today that  
25 everybody has gotten upset about. We got our response

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 from Merchant's House at 4:48 p.m. on Friday, we  
3 responded at 7:53 in the morning on Saturday. We're  
4 local residents, we understand the importance of  
5 making a commercial building a good neighbor, we've  
6 gone to extraordinary lengths to come up with a  
7 construction plan that has been vetted by three  
8 separate firms. The project is now literally shovel  
9 ready, it needs final approvals, there's a lot of  
10 misinformation that has been fed to you that has  
11 brought you here today and we wish to clarify the  
12 record. Thank you very much.

13 COUNCIL MEMBER TORRES: Thank you for  
14 your testimony, we'll proceed to questions, Council  
15 Member Rivera.

16 COUNCIL MEMBER RIVERA: Thank you for  
17 your presentation. I have a, a lot of questions and I  
18 know that you went through somewhat of a presentation  
19 the last time at the last hearings, so I want to  
20 thank you for being here again and going over  
21 everything. So, let's talk a little bit about what  
22 you would do during construction since we are hearing  
23 this application today. So, would you agree that any  
24 additional above the... any additional bulk above the  
25 as or right would potentially cause more soil to

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 shift than the as of right scenario and can you tell  
3 me about the procedures that you'd follow when the  
4 vibration or survey reached the trigger values and  
5 how would you go about making sure that, again you're  
6 a good neighbor during construction given the  
7 instability?

8 JEREMIAH CANDREVA: Yes, well yeah, again  
9 we, we... last time, you know we, we were here we  
10 brought our engineer team with us and today we  
11 figured we'd keep the presentation short so we did  
12 not bring the team with us so I will answer as best I  
13 can but I would assume that when the trigger monitors  
14 go off all construction stops, the site safety super  
15 on site will conduct a, a visual analysis, engineers  
16 would be called in. I don't know... myself I don't know  
17 what the protocol is in getting the DOB involved but  
18 I believe the monitoring system... the monitoring  
19 system we proposed will also notify the DOB at the  
20 same time we get notification, it's a... it's an  
21 advanced monitoring situation that will send out  
22 emails to the appropriate parties.

23 COUNCIL MEMBER RIVERA: So, it, it  
24 sounds... and from... based again on the presentation  
25 that we had last time that a lot of people weren't

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 here for, your engineer clearly has experience with  
3 preservation and historic houses?

4 JEREMIAH CANDREVA: Yes, GMS is on the  
5 list of, of Landmark's preferred engineer teams.

6 COUNCIL MEMBER RIVERA: And so, you're  
7 aware of the damage that occurred during 1988 in that  
8 demolition, how would this be any different?

9 JEREMIAH CANDREVA: That demolition was  
10 done by a cowboy, it was done partially unauthorized,  
11 very quickly and they did not stop when they were  
12 notified of potential damage ongoing to the  
13 Merchant's House Museum. Our... again, we had a 2012  
14 design building that when we started to work with the  
15 Parks Department and DOB completely changed; the  
16 foundation changed from a full foundation  
17 underpinning the Merchant's House Museum, taking down  
18 our east wall to our old building, the complete  
19 design has changed, we now have a step back  
20 foundation, we're, we're leaving our old wall in  
21 place to increase the stability of the Merchant's  
22 House Museum, we are no longer underpinning the  
23 Merchant's House because of that step back  
24 foundation, we're actually... our foundation is going  
25 to be about seven feet away of the Merchant's House

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 foundation keeping it out of the angle of influence,  
3 minimizing any effects to the Merchant's House  
4 Museum. We are also building... we're also going to  
5 excavate using hand tools, we are going to keep that  
6 one story structure in place during that excavation  
7 and foundation that will minimize any damage, if you...  
8 most of us walk by construction sites on a regular  
9 basis and when it rains you see all the puddles that  
10 form underneath, those puddles ultimately will cause  
11 settlement or damage to the adjoining buildings by  
12 keeping the rainwater out of our exposed pit will  
13 definitely minimize any effects to the Merchant's  
14 House Museum and so we're... you know we're confident  
15 that if the engineers met like they were supposed to  
16 do about a month ago if they met and traded comments  
17 or looked at our new building and accepted our  
18 analysis they would, would agree we've gone above and  
19 beyond and that the plan has changed immensely since  
20 2012.

21 MICHAEL KRAMER: Let me just add that  
22 between 2011 and 2013 when the Parks Department  
23 renovation took place at Merchant's House they stayed  
24 open and let me also add, at least to the best of my  
25



SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 memory that they were open even though there was  
3 significant damage done by DEP and, and the cowboys.

4 COUNCIL MEMBER RIVERA: I, I want to  
5 clarify your statement from the last hearing date, I  
6 asked if you would commit to using the same  
7 construction methods and mitigation as you were  
8 currently proposing should your application be  
9 disapproved by the council today, well not today, the  
10 vote is not today everyone, will you commit to  
11 following all the guidelines you have proposed in an  
12 as of right construction scenario?

13 JEREMIAH CANDREVA: You know after I made  
14 that statement I went back and discussed it with my,  
15 my partners and my team and they said we would have  
16 to take consideration to minimize any, any damage to  
17 the Merchant's House but we'd have to take also a  
18 look at the, the funds and, and what kind of building  
19 is ultimately approved at the site for an as of right  
20 condition, either way we'd still have to go back  
21 through Landmarks so they're going to have some  
22 control over that type of construction and  
23 foundation.

24

25

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 COUNCIL MEMBER RIVERA: And if your  
3 application is disapproved what could you build on  
4 site?

5 JEREMIAH CANDREVA: If the application...  
6 if we go back to Landmarks and the applications is  
7 approved we can build a six story building up to 85  
8 feet before we get a setback, if Landmarks approves  
9 the setback we set the building back at six stories  
10 or 85 feet whichever comes first and then we can  
11 build up from there, you know we can build a 12 or 14  
12 story building, you know not that Landmarks would  
13 probably approve it but with... you know up to six  
14 stories or 85 feet is an as of right building and  
15 we're here, we're, we're, we're... we, we... the proposed  
16 building which is approved by Landmarks is eight  
17 stories, 90 feet so we're just asking for a little  
18 bit of relief at this point.

19 MICHAEL KRAMER: Sure, and let me also  
20 add that building an as of right building or building  
21 the building that is before you today requires the  
22 same foundation.

23 JEREMIAH CANDREVA: Yeah.

24 COUNCIL MEMBER RIVERA: So, as you know  
25 the Borough President, community groups,

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 preservationists they've expressed support for some  
3 type of development at your other property at 403  
4 Lafayette Street and I know that you briefly  
5 mentioned about the lots and how difficult that could  
6 be, so you had expressed doubts because you didn't  
7 believe LPC would approve such a development and you  
8 didn't think that you can move this type of building  
9 over to Lafayette which I think most people here  
10 would agree is a little bit more appropriate for, for  
11 a building of this height. So, I want to ask... you  
12 know we received a lot of letters from groups like  
13 Lower East Side Preservation Initiative, from the  
14 Salmagundi Club, from the NoHo Bid, the Bowery  
15 Alliance of Neighbors, the Co-chair of CB2's Land Use  
16 Committee, East Fourth Street Block Association,  
17 historic districts council all supporting this idea  
18 for the move of 403... to 403 Lafayette Street so why  
19 would you not consider such an option when these  
20 groups, some of the strongest advocates on  
21 preservation issues have indicated that they would  
22 work with you and they would support you throughout  
23 the agency approval process?

24 GARY SPINDLER: May I just jump in and  
25 just a slight correction, we're talking about an

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 eight-story building existing at... or to be built at  
3 27 East, East Fourth, it's not going to be a small  
4 building, it'll be, you know very much consistent  
5 with the streetscape of East Fourth Street. The  
6 building next to us is a nine-story building, the  
7 building next to that is an eight-story building,  
8 eight stories is consistent with the streetscape is  
9 all I'm trying to say, it's not a small building.

10 COUNCIL MEMBER RIVERA: And on Lafayette  
11 there's a ten-story building so...

12 GARY SPINDLER: Yes, thank you.

13 JEREMIAH CANDREVA: Well you know again  
14 at the urging and support doesn't bring guarantees  
15 and until somebody says there's a guarantee at  
16 Landmarks, we're going to work with you, we're going  
17 to get you a building that, that ultimately, not just  
18 a building just to get a building but that will work  
19 for the future, that the building will be able to be  
20 a, a feasible building to maintain and to, you know  
21 lease up but I haven't heard any, any guarantees yet  
22 and here we have a project that the building we  
23 bought before was landmarked, we get Landmarks so now  
24 we took it through Landmarks, got approved with the  
25 help of DOB and the Parks Department, City Planning

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 says the text amendment that we're seeking is not out  
3 of character, they voted to give us the text  
4 amendment so here we are we're at like the goal line  
5 and so just like Michael said the, the project is  
6 shovel ready and we're prepared to begin the project.  
7 I also want to state that besides the continuity  
8 issues, 403 Lafayette is an ongoing business, there's  
9 a business there, it services the community residents  
10 and business owners, we have several hundred vehicles  
11 that park there, we have a rent-a-car that helps  
12 benefit the community, there is no short term plan at  
13 the moment for that building so that's why we're  
14 focusing on 27 East Fourth Street. I've mentioned in  
15 the past that I'm willing and I'm open to the idea of  
16 transferring the air rights to 403 Lafayette, but we  
17 need to have something approved here today and then  
18 we can continue those discussions once there's other  
19 guarantees in place.

20 MICHAEL KRAMER: And if I might also add  
21 that Council Member Rivera I believe the Council... the  
22 Committee's Council that's sitting at the dance with  
23 you has advised you that the transfer of air rights  
24 to 403 is not possible given the lack of continuity  
25 between our parcel and 403 in that any potential

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 transfer of air rights from 27 East Fourth Street to  
3 403 Lafayette would require an additional parcel of  
4 property that would make a contiguous area of at  
5 least ten linear feet with 403 Lafayette Street and  
6 until such time as the continuity issue is resolved  
7 it is not possible under our stead, we would have to  
8 have an agreement with 25 East Fourth Street to  
9 provide us as a pass through lot to establish  
10 continuity and that is I think something that is the  
11 only pathway forward if continuity is to be  
12 established but it, it does not exist today within  
13 our own parcels.

14 COUNCIL MEMBER RIVERA: Do you co-own the  
15 lot behind the building, do you pay... [cross-talk]

16 MICHAEL KRAMER: Excuse... [cross-talk]

17 COUNCIL MEMBER RIVERA: ...taxes on...  
18 [cross-talk]

19 MICHAEL KRAMER: ...me... [cross-talk]

20 COUNCIL MEMBER RIVERA: ...the lot, the  
21 alley way?

22 MICHAEL KRAMER: That I don't know, you  
23 know we, we get the tax bill for 403 and we get a tax  
24 bill for 27 East Fourth, we do not get any additional  
25 tax bill for any type of easement or whatever, you

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 know the alley way, I mean it's... there's a... I think  
3 it's called Stable Court and Shinbone Alley, I'm not  
4 sure what... if we pay any taxes on those.

5 JEREMIAH CANDREVA: I'm not quite sure of  
6 the relevance of the question Council Member, I can  
7 tell you... [cross-talk]

8 COUNCIL MEMBER RIVERA: Let me just...  
9 [cross-talk]

10 JEREMIAH CANDREVA: ...that... [cross-talk]

11 COUNCIL MEMBER RIVERA: ...hold on... hold on  
12 one second... [cross-talk]

13 JEREMIAH CANDREVA: Yeah...

14 COUNCIL MEMBER RIVERA: Because you, you  
15 got to give a whole thing just earlier and, and tell  
16 me what my council told me, so let me also remind you  
17 what I told you in our meeting on Friday, which is as  
18 impossible as the transfer is to 403, I, I disagree  
19 with that statement, I think that... I told you that I  
20 would support you, I agree nothing is guaranteed but  
21 with some patience and political will and the support  
22 of the groups that are here today who all want to see  
23 the project move to 403 I think that we could  
24 eventually get there. I realize that that would be  
25 some time and maybe you're not interested but what I

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1  
2 want to get on record is that I told you that based  
3 on all of the letters that I've received and all of  
4 the groups that are involved who want to see this  
5 project move to 403 there is a pathway so it's not  
6 impossible. I realize that you want a show of good  
7 faith and, and a yes on this application but that's  
8 not how this would work so I just want to be clear  
9 about that and I, I appreciate you answering  
10 questions at the last hearing and on this hearing, I  
11 really do appreciate your time in trying to go into  
12 some of the technicalities of it and what it would  
13 take so I, I just want to say thank you, thank you  
14 for all the answers to the questions, I know that  
15 you're looking at East Fourth Street, you're going to  
16 hear... and I encourage you to stay for all of the  
17 testimony, you're going to hear from people today on  
18 how much the Merchant's House Museum means to them  
19 and why they would support a move to 403 so I just,  
20 again I want to thank you for, for answering all of  
21 the questions and, and at this time I have no further  
22 questions.

23 COUNCIL MEMBER TORRES: Council Member...  
24 and we've been joined by Council Member Grodenchik

25



SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 who has questions but also the Land Use Chair,  
3 Council Member Rafael Salamanca.

4 COUNCIL MEMBER GRODENCHIK: I just... I, I...  
5 I'm sorry I was a little late this morning. I, I  
6 just... as Parks Chair I'm very concerned that, you  
7 know we have a, a structure that's closing in on 200  
8 years old, it looks to me like a masonry structure  
9 and it... I'm just concerned about given the proximity  
10 which couldn't be any closer to the... your proposed  
11 building, the protections for that and how you're  
12 going to guarantee to the people of the city of New  
13 York who own this building that, you know we're not  
14 going to be damaging this structure.

15 JEREMIAH CANDREVA: Once again we didn't  
16 bring out our professional engineers with us today,  
17 there is... have been ongoing meetings with the Parks,  
18 Parks Department, it's... I believe it's in the  
19 package, wrote a letter outlining the steps to be  
20 taken to, to move forward and once again we will  
21 follow all the guidelines recommended by both DOB,  
22 Parks Department and any third-party engineers to  
23 minimize the effects on Merchant's House Museum.

24 COUNCIL MEMBER GRODENCHIK: Well, well...  
25 [cross-talk]

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 JEREMIAH CANDREVA: And just as, as we  
3 stated earlier we're not... we're not inventing the  
4 wheel here, there have been new buildings constructed  
5 next to landmarked structures.

6 COUNCIL MEMBER GRODENCHIK: And I  
7 understand it's an old city and it happens every day,  
8 I am concerned that if there was major damage done to  
9 this property it's not replaceable obviously and I  
10 don't know what your liability would be but you can't  
11 really replace a building like this because you just  
12 don't know if there was a major accident god forbid  
13 or something like that...

14 MICHAEL KRAMER: Sure, we have the same  
15 concern, which is why our plan was vetted by three  
16 other outside firms and why each city agency put us  
17 through the wringer before they told us that they  
18 would allow us to do this, this project. So, you know  
19 we, we... there's a... there's misinformation out here,  
20 I'm sorry that you came a little late... [cross-talk]

21 COUNCIL MEMBER GRODENCHIK: I, I, I  
22 haven't heard the misinformation if it is  
23 misinformation because, you know I got 400 things to  
24 do every day as I'm sure my colleagues do as well I'm  
25

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 just expressing my opinion as the Chair of the Parks  
3 Committee because... [cross-talk]

4 MICHAEL KRAMER: Right... [cross-talk]

5 COUNCIL MEMBER GRODENCHIK: ...part of my  
6 job is to protect... I work very closely with  
7 Commissioner Silver and his staff, but I also have an  
8 independent point of view as does the council, so I  
9 just wanted to put that out there. I appreciate your  
10 concern for the building, but I thought it was good  
11 to put on the record this morning and I thank you Mr.  
12 Chairman for indulging me. Thank you, gentleman.

13 MICHAEL KRAMER: I'd, I'd just like to  
14 add one more thing, as you walk through the  
15 Merchant's House Museum we all know that the house  
16 has been negotiated with over the years; repairs  
17 made, electrical equipment added so should... again,  
18 should something happen to the house a repair would  
19 be made just like any other construction site we will  
20 have liability insurance in place that they can tap  
21 into. Like, like Michael said we will enter into a  
22 licensing agreement with them that will outline the  
23 type of insurance that we all agree on so once again  
24 I want to remind you that all across the globe things  
25 happen to preserved buildings and repairs are made

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 and it's an ongoing process and nobody is saying that  
3 if no building is build there that tomorrow some of  
4 the plaster might not fall down.

5 COUNCIL MEMBER GRODENCHIK: No, listen  
6 anything is possible... [cross-talk]

7 MICHAEL KRAMER: Exactly.

8 COUNCIL MEMBER GRODENCHIK: We, we all  
9 lived... [cross-talk]

10 JEREMIAH CANDREVA: Anything is possible...  
11 [cross-talk]

12 COUNCIL MEMBER GRODENCHIK: ...through  
13 Sandy we get that, and I know we can take acts of God  
14 because we can't repel them but I just... acts of  
15 mankind are different but I appreciate that, and I  
16 appreciate your understanding of my concerns, thank  
17 you very much.

18 MICHAEL KRAMER: Right and, and I would  
19 just add that you know we, we've not had the  
20 opportunity to do a pre-construction survey of the  
21 interior of, of Merchant's House, we would certainly  
22 encourage the Parks Department to do so as well, we  
23 would... we'd share that information with them because  
24 if nothing else this project has brought... has been  
25 brought to the attention of Parks Department, I know

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 Parks has... I don't it's 150 historic buildings under  
3 their... under their... [cross-talk]

4 COUNCIL MEMBER GRODENCHIK: I don't think  
5 it's that many but it's a lot.

6 MICHAEL KRAMER: It's a lot... [cross-talk]

7 COUNCIL MEMBER GRODENCHIK: And, and each  
8 one of them is different.

9 MICHAEL KRAMER: And, and this is... and  
10 this is, you know a building that has not been funded  
11 by Parks in any significant manner since 2010 so I'm  
12 sure that, you know the, the, the opportunity to  
13 bring the problems of Merchant's House to light are  
14 opportunities the government is hearing as well.

15 COUNCIL MEMBER GRODENCHIK: Well Parks  
16 Department funding is a whole... that's the next  
17 hearing later today, actually it's not about that but  
18 it is a concern of mine obviously, there is a lot of  
19 money in the... in the pipeline, over four billion  
20 dollars over the next ten years but it is an ongoing  
21 concern of mine, certainly my colleagues and I thank  
22 you all for your concern as well. Thank you, Mr.  
23 Chairman.

24 COUNCIL MEMBER TORRES: I have... I have a  
25 quick question, so your engineers have found that

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 there would be no impact on the structural integrity  
3 then the Merchant's House engineers have come to the  
4 opposite conclusion, has there been a finding from  
5 the engineers of either the Landmarks Preservation  
6 Commission or the Parks Department that your  
7 construction would have no bearing on the structural  
8 integrity of the adjacent property?

9 JEREMIAH CANDREVA: Once, once again, you  
10 know we met at Council Rivera's office I believe  
11 around August 13<sup>th</sup>, she urged the engineers to focus  
12 on some outside or open comments, we at that time we  
13 learned that they were basing a lot of decisions off  
14 a 2012 plan with settlement that they thought might  
15 cause damage to the.. to the Merchant's House Museum  
16 since then we've redesigned the building as I  
17 explained before and the foundation and we were urged  
18 to share that information with the Merchant's House  
19 Museum. On August 15<sup>th</sup> I reached out and I said I  
20 would... I would be... I would engage their third-party  
21 consultant to do this review to move the project  
22 forward or to move the discussion forward so that all  
23 engineers would meet, none... on August 20<sup>th</sup>, I racked  
24 from Council Member Rivera's office also urged them  
25 to keep the process moving not until September 14<sup>th</sup>

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 at a... just before five o'clock did we hear anything..  
3 [cross-talk]

4 COUNCIL MEMBER TORRES: Yeah, I'm, I'm  
5 asking a separate question... [cross-talk]

6 JEREMIAH CANDREVA: Yes... [cross-talk]

7 COUNCIL MEMBER TORRES: ...so, I'm asking,  
8 have the city's engineers independent of both parties  
9 found that your construction would have no bearing on  
10 the structural integrity of Merchant's House?

11 MICHAEL KRAMER: We have a... we have  
12 approved plans from the Department of Buildings, the  
13 Senior Chief Engineer, Timothy Lynch was the  
14 gentleman who issued the letter to us and made some  
15 recommendations as a condition for that approval,  
16 that approval has been made and the Merchant's House  
17 engineering firm that reached out to us at two  
18 minutes of five, well on Friday said it would  
19 facilitate their update of the settlement analysis if  
20 we could have the most recent design loads imposed on  
21 this soil at the bottom of the map foundation which  
22 we're using the settlement announcement by GIS or  
23 you... your geotechnical consultant could you share  
24 those with us last minute.  
25

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 COUNCIL MEMBER TORRES: But, but it  
3 sounds to me like there was never a finding either  
4 from LPC or the Parks Department that your  
5 construction would have no adverse impact on  
6 Merchant's... [cross-talk]

7 JEREMIAH CANDREVA: They approved our  
8 plans.

9 MICHAEL KRAMER: Well they... we don't  
10 have... [cross-talk]

11 COUNCIL MEMBER TORRES: Does... [cross-  
12 talk]

13 MICHAEL KRAMER: ...final approved plans  
14 but... [cross-talk]

15 COUNCIL MEMBER TORRES: ...does... [cross-  
16 talk]

17 MICHAEL KRAMER: ...they, they... [cross-  
18 talk]

19 COUNCIL MEMBER TORRES: Does the... was the  
20 approval based on a finding, was there an actual  
21 finding that your construction would have no impact..  
22 [cross-talk]

23 MICHAEL KRAMER: The senior engineers  
24 went through our plans and worked with us as were... as  
25 well as Landmarks.



SUBCOMMITTEE ON ZONING AND FRANCHISES

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COUNCIL MEMBER TORRES: Yeah but  
Landmarks was commenting... wasn't commenting on the  
structural integrity of Merchant's... [cross-talk]

MICHAEL KRAMER: No, that... [cross-talk]

COUNCIL MEMBER TORRES: ...or the façade.

JEREMIAH CANDREVA: The Buildings  
Department has that responsibility and Tim Lynch was  
working with us on it.

COUNCIL MEMBER TORRES: Uh-huh. Any  
further questions? Okay...

[off mic dialogue]

COUNCIL MEMBER TORRES: Okay, this panel  
is dismissed, thank you very much, we're going to  
pause for a moment to take a vote. We will vote to  
approve LU's 199 and 200, the 57 Caton Place rezoning  
application in Council Member Lander's district in  
Brooklyn. Applicant, 57 Caton Partners LLC seeks a  
rezoning from C8-2 to R7A/C2-4 to facilitate the  
development of a nine-story mixed use building with  
approximately 107 apartments and ground floor retail.  
MIH option one is also proposed with an amendment to  
the special Ocean Parkway district tax which would  
result in approximately 27 affordable units. We will  
also vote to approve LU's 201 and 202, the 1881-1883

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 McDonald Avenue rezoning application for property  
3 located in Council Member Yeger's district in  
4 Brooklyn. Applicant Quintin Plaza LLC seeks to rezone  
5 property from R5 to R7A/C2-4 and to apply MIH option  
6 one and two to the rezoning area to facilitate a new  
7 eight story building with approximately 35 apartments  
8 and ground floor commercial space with approximately  
9 11 affordable units under MIH option two. We will  
10 vote to approve LU 207, the O'Neil's rezoning for  
11 property located in Council Member Holden's district  
12 in Queens. While the property in the rezoning area is  
13 currently rezoned R4, the rezone to R5D, R5D/C2-2 and  
14 R4/C2-2 would bring existing buildings into zoning  
15 compliance and as to the project site located on the  
16 corner of 53<sup>rd</sup> Drive and 65<sup>th</sup> Place would allow the  
17 enlargement of O'Neil's restaurant with a second-  
18 floor catering. I now call for a vote to approve LU's  
19 199, 200, 201, 202, and 207; counsel please call the  
20 roll.

21 COMMITTEE CLERK: Reynoso?

22 COUNCIL MEMBER REYNOSO: I vote aye.

23 COMMITTEE CLERK: Richards?

24 COUNCIL MEMBER RICHARD LOBELS: Aye.

25 COMMITTEE CLERK: Rivera?

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COUNCIL MEMBER RIVERA: Aye.

COMMITTEE CLERK: Torres?

COUNCIL MEMBER TORRES: I vote aye.

COMMITTEE CLERK: Grodenchik?

COUNCIL MEMBER GRODENCHIK: Aye.

COMMITTEE CLERK: Lancman?

COUNCIL MEMBER LANCOUNCIL MEMBERAN: Aye.

COMMITTEE CLERK: The Land Use Items are approved by a vote of six in the affirmative, no negatives and no abstentions and referred to the full Land Use Committee.

COUNCIL MEMBER TORRES: We are going to resume the hearing on LU's 203, 204 and 205, the 27 East Fourth Street application. I will call up the next panel; State Senator Brad Hoylman and Tara Duvivier on behalf of Gale Brewer, Borough President Gale Brewer. Senator thank you for joining us.

BRAD HOYLMAN: Thank you, thank you, it's good to be here. I'm, I'm State Senator Brad Hoylman, I represent the 27<sup>th</sup> Senate District and I'm a colleague of Council Member Rivera and very proud to serve with her and to be here today. Ordinarily it's, it's tough for all the legislators to get down to City Hall but I feel like this is such an important

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 issue to my constituents and I felt very, very moved  
3 by the fact that our history is potentially slipping  
4 out from under us. As you know there is a lot history  
5 with the Merchant's House, the fact that it was the  
6 first designated New York City residential landmark  
7 in, in and of itself I think deserves particular  
8 attention and, and appreciation by the... by the city  
9 of New York. It really is a, a miraculous survivor of  
10 the past, it's 186-year-old time capsule, I, I don't  
11 know how many of your colleagues Council Member  
12 Rivera have actually toured it, but it is a  
13 remarkable, remarkable survivors and we should all be  
14 proud as New York City residents that we protected it  
15 up to now. I want to say that I was alarmed by some  
16 of the testimony that we heard just a few minutes  
17 ago, in particular the comment that should something  
18 happen to the house repairs will be made. Well that's  
19 exactly what we have to safeguard against and this is  
20 not a case of things happening as the developer said,  
21 this is a case of us making sure that things don't  
22 happen and the reason I oppose this application in  
23 addition to the fact that I believe there hasn't been  
24 a full examination of the dangers to the Merchant's  
25 House, the Merchant's House as you've heard has been

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 attempting to meet with design professionals under  
3 the guidance of Council Member Rivera and the  
4 developer but hasn't made any progress so why on  
5 earth would we be approving this application if the  
6 two sides have not come to some agreement as to how  
7 to safeguard the property. Secondly, as you know this  
8 is a one-of-a-kind property, there really is no other  
9 example like it in New York City and it's not just  
10 the exterior that's so phenomenal but the interiors  
11 which are one of kind. During the tour that I took  
12 the staff of Merchant's House showed us the cracks in  
13 the walls that existed since that 1988 debacle and  
14 there is concern that those cracks are expanding even  
15 further so we have to make sure that that does not  
16 happen. Third, the community board as I know you know  
17 has unanimously rejected the developer's proposed  
18 text amendment and I have to say for a community  
19 board to unanimously agree on anything is a rarity  
20 but, in this case, they feel so strongly like I do  
21 about the Merchant's House that they are united in  
22 opposition. Fourth, you have here testimony from the  
23 Borough President who has been a champion on historic  
24 preservation issues and I think alone merits  
25 rejection to this application. And fifth as was

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 discussed, there's another location, 403 Lafayette  
3 would be workable, it's owned by the same developer  
4 and it would actually provide a larger hotel that  
5 wouldn't require a text amendment and wouldn't  
6 imperial this city, state and national treasure. So,  
7 for all those reasons I urge rejection of this  
8 application and there is time for us to reconsider it  
9 once the parties get together and determine how to  
10 proceed forward but now is not that time, you know  
11 I'm the father of a one year old and a seven year old  
12 and to me this kind of history is one of the reasons  
13 why I'm in public office which is to ensure that they  
14 get to enjoy these kinds of treasures like the rest  
15 of us have. Thank you very much.

16 [applause]

17 SERGEANT AT ARMS: No applause please.

18 COUNCIL MEMBER TORRES: Yeah...

19 TARA DUVIVIER: Alright, my name is Tara  
20 Duvivier, I'm here to give testimony on behalf of  
21 Manhattan Borough President Gale Brewer. Good morning  
22 Chair Torres and members of the Subcommittee, thank  
23 you for the opportunity to testify on the proposed  
24 project at 27 East Fourth Street. In order to satisfy  
25 the requirement of the special permit, the applicant

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1  
2 must demonstrate to our satisfaction that the  
3 proposed development would have minimal adverse  
4 effect, effects on conforming uses in the surrounding  
5 areas. The location of this proposed development in a  
6 historic district and adjacent to a beloved and  
7 fragile landmark makes this very challenging. The  
8 proposed project is adjacent to the Merchant's House  
9 Museum which is a historic landmark that is nearly  
10 200 years old. The age of the building, the  
11 structural condition and concern over the impact of  
12 the construction and the... of the proposed development  
13 could have on the exterior and interior of the museum  
14 must be considered carefully. While the applicant has  
15 been working with the museum since 2014 to mitigate  
16 any potential damage if its project were to proceed,  
17 there's still no agreement on whether or not these  
18 efforts would be effective or sufficient given the  
19 condition of the museum building. At the present  
20 moment the museum building's owner, the Parks  
21 Department has not taken on any capital needs  
22 assessment of the building and acknowledges that such  
23 an assessment is needed, the Borough President  
24 believes that therefore before the applicant... the  
25 current application is approved an independent

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 assessment conducted by an expert in historic  
3 properties must be conducted under the auspices of  
4 Parks and the application should not move forward  
5 unless a construction plan is developed that has an  
6 extremely high probability of success without damage  
7 to the museum. However, before those steps are taken  
8 the Borough President strongly believes another route  
9 may be... may prove advantageous. During review of this  
10 application it was discovered that the applicant also  
11 owns another property within the same zoning lot  
12 which is 403 Lafayette Street, it is presently a  
13 three-story parking garage and preliminary  
14 conversations between this office and the New York  
15 City Department of City Planning indicates that a  
16 transfer of development rights is possible depending  
17 on what the applicant were to propose to construct.  
18 Landmarks Preservation Commission would also need to  
19 evaluate whether or not a building at this new site  
20 with the transfer of development rights would be  
21 appropriate. The office believes this, this location  
22 of this alternate site is more appropriate for hotel  
23 use by the applicant given the size of the lot and  
24 the location on a major street. While this office  
25 sympathizes with the applicant at the thought of



SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 starting over with a new site, this alternative could  
3 also benefit the applicant as they would be able to  
4 build a bigger project therefore the Manhattan  
5 Borough President recommends disapproval until the  
6 applicant makes all reasonable efforts to develop the  
7 project at 403 Lafayette Street. If the applicant is  
8 unable to develop on the alternate site after  
9 exhausting all efforts then the city of New York  
10 through the Department of Parks and Recreation should  
11 obtain an independent expert assessment that should  
12 result in a plan to ensure the structural stability  
13 of the museum building throughout construction of the  
14 project prior to... excuse me, final approval of the  
15 application. There should be a restrictive  
16 declaration as a condition of the special permit and  
17 that declaration should require that the development...  
18 the developer should adhere to conditions and  
19 safeguards to minimize adverse effects on the  
20 adjacent Merchant's House. The Department of Parks  
21 and Recreation should also be responsible for  
22 overseeing implementation of the conditions and  
23 safeguards to ensure the stability of the museum is a  
24 treasured landmark for generations to come.

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 COUNCIL MEMBER TORRES: Thank you for  
3 your testimony, any questions Council Member Rivera?  
4 Yeah...

5 BRAD HOYLMAN: Thank you.

6 COUNCIL MEMBER TORRES: Thank you so  
7 much.

8 BRAD HOYLMAN: Thank you very much.

9 COUNCIL MEMBER TORRES: The next panel  
10 will consist of Margaret Gardiner, who's the  
11 Executive Director of the Merchant's House; Arthur  
12 Goldstein, representing the Merchant's House; Michael  
13 Hiller, representing the Merchant's House; Justin  
14 Spivey, an engineer. Forgive my mispronunciation,  
15 Curt Hirschberg, Preservation Architect.

16 [off mic dialogue]

17 COUNCIL MEMBER TORRES: And Howard Weiss,  
18 representing the Merchant's House. Okay. Absolutely,  
19 you may proceed.

20 MARGARET GARDINER: Good morning, my name  
21 is Margaret Gardiner known as Pi and I've been  
22 Director of the Merchant's House Museum for almost 30  
23 years which means that I know it very, very well. I  
24 am starting off and I probably don't need to remind  
25 you, but I will of exactly what the city has at stake

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1  
2 here today. The Merchant's House is a unique and  
3 irreplaceable New York City landmark and cultural  
4 institution, it's significance in the history of the  
5 city is undisputed, it is also much beloved and  
6 extremely fragile, a museum open to the public since  
7 1936, it is the city's only family home preserved  
8 intact from the 19<sup>th</sup> century complete with the  
9 family's furnishings and personal possessions even  
10 their clothes. As such, it offers visitors a view of  
11 domestic life in New York's... in 19<sup>th</sup> century New York  
12 that is unparalleled in its authenticity. Of no  
13 surprise the late federal and Greek revival  
14 Merchant's House has every landmark designation under  
15 the sun; federal, state and city. In New York City it  
16 was among the first 20 landmarks designated and  
17 Manhattan's first in 1965. It is one of only 120  
18 interior landmarks in the city and one of only six  
19 residences. It's ornamental plaster work is  
20 considered the finest surviving from the period and  
21 when those monitors go off the damage is done, it's  
22 irreplaceable. Now let me outline the many, many  
23 reasons to vote no. First, if approved construction  
24 of the eight-story hotel next door would in fact  
25 cause irreversible damage to and the possible

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 collapse of the Merchant's House... Museum... of the  
3 museum's extremely fragile 186-year-old building  
4 which already has a decades long history of damage  
5 caused by work at adjoining properties. To the west  
6 in 1946, the four story 1826 building was demolished,  
7 and the one-story garage there today erected, in  
8 exposing our west wall... our west party wall that  
9 demolition, demolition ensured decades of future  
10 restoration work. Currently, the wall needs 350,000  
11 dollars in critical repairs before a shovel could go  
12 in the ground next door. As a city capital project,  
13 the timeline is a long one, work isn't likely to  
14 begin for close to four years. The buildings to the  
15 east were demolished in 1988 causing major structural  
16 damage, a cost to us of one million dollars. At that  
17 time every city agency just like today was involved  
18 and the developers promised, and I quote, "to take  
19 the building next door down brick by brick, hand  
20 tools", they didn't do that, it caused a major  
21 structural damage to us and at a cost of a million  
22 dollars. Second, even if all risks could be removed  
23 and it cannot, as a museum in the public trust we  
24 would still have to close for two years in order to  
25 ensure protection i.e. removal and archival storage

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 of our collection of 3,000 items and to undertake the  
3 stabilization of the landmark interior. Third, the  
4 proposed zoning text amendment is illegal spot zoning  
5 and finally, and I think this is the good news as  
6 we've been hearing today, we believe there is a  
7 viable solution. The developer could build a larger  
8 thus more profitable hotel on his lot around the  
9 corner at 403 Lafayette Street. This option has  
10 strong support from the community as Council Member  
11 Rivera said. Let me reiterate, Council... community  
12 board number two, Greenwich Village Society of  
13 Historic Preservation, historic districts council,  
14 Bowery Alliance of Neighbors, East Fourth Street  
15 Block Association, NoHo bid, Lower East Side  
16 Preservation Initiative and the Elizabeth Street  
17 Garden to start and obviously shifting the location  
18 to Lafayette Street would of course remove all risks  
19 to the Merchant's House. Thank you.

20 JUSTIN SPIVEY: Good morning. My name is  
21 Justin Spivey, I'm with WJE Engineers and Architects,  
22 consultants to the Merchant's House Museum over the  
23 past six years and I've provided a letter for your  
24 review today that's the fifth in a series of letters  
25 over the past six years documenting our efforts to

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1  
2 reach agreement with the developer's consultants over  
3 reasonable protective measures for the Merchant's  
4 House Museum during construction and I think you can  
5 see from the number of open issues in that letter  
6 that we've met with less than complete success to  
7 reach agreement. A phrase that I use a lot in the  
8 letter is to limit the risk and it's important to  
9 understand that while we cannot completely eliminate  
10 risks during construction we can limit them, the  
11 question whether they can be limited to an acceptable  
12 level and it's my understanding from hearing some of  
13 the other testimony here in the previous hearings  
14 that any loss of irreplaceable historic fabric at the  
15 Merchant's House Museum would be unacceptable. So, as  
16 we've continued to work with the developer's  
17 consultants to evaluate their plans on paper we've  
18 addressed issues from vibration, ground movement,  
19 water infiltration, everything down to dropped tools  
20 still not completely satisfied the proposed measures  
21 are acceptable. Furthermore it's, it's... there's a  
22 distinction between plans that are made on paper and  
23 agreed to before construction starts, it's another  
24 thing entirely the success of implementing the agreed  
25 upon measures once construction starts and what is

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 done if things do not go as predicted or planned. So,  
3 in conclusion we've been unable to reach agreement  
4 about the measures required to limit risks to an  
5 acceptable level and we'll continue those efforts but  
6 I just, you know am not confident based on six years  
7 of history, five review letters written that we will  
8 get to such a point. Thank you.

9 KURT HIRSCHBERG: Good morning, Kurt  
10 Hirschberg with Jan Hird Pokorny Associates, we've  
11 been the preservation architects for the Merchant's  
12 House Museum since 1989 and I personally have been  
13 working on the building for over 21 years at this  
14 point. Protection during construction aside, one  
15 thing we're very concerned with is vibration and  
16 settlement. All of you have a copy of information  
17 that came out of a report that was done by a very  
18 prestigious structural engineering firm that analyzed  
19 the settlement of the development next door, the  
20 proposed loading of the soil and the proposed impact  
21 on the structure and I must stress in spite of what  
22 was said earlier, this documentation has been  
23 updated, it has been updated at least twice based on  
24 revisions to the proposed building next door. One  
25 thing you will see in here basically doing a finite

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 analysis of the building, it looks at the loading of  
3 the soil, how that changing of the loading of the  
4 soil will cause additional settlement and how that  
5 settlement will act on the building and based on that  
6 you can get a computer generated probability of  
7 movement and settlement within the building and we're  
8 able to with some degree of accuracy identify  
9 locations where cracking will occur. The predominate  
10 areas of the building to receive damage are the  
11 ground floor, the first floor and the second floor  
12 which are the three most significant historically  
13 interpreted spaces within the building. You will see  
14 especially on the ground floor and the first-floor  
15 significant damage to plaster finishes will occur. It  
16 was also noted earlier that the building has received  
17 repair, yes, any building of that age has received  
18 repair. The location specifically that are being  
19 called out as likely candidates for receiving damage  
20 as a result of the building once it's complete are  
21 areas that in most instances are untouched and have  
22 not been repaired, they are original materials and in  
23 most of these locations these materials are in good  
24 condition right now, they have been well maintained  
25 and well preserved. We've looked at it independently



SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 both the exterior walls and how the masonry will  
3 react as a result to settlement, it's also been  
4 looked at the interior walls and how wood frame walls  
5 of plaster will react and no matter how you look at  
6 it there will be damage. And lastly, you know it was  
7 also, also mentioned that work done on the building  
8 before the building was able to remain open to the  
9 public, that is true, we've done several restoration  
10 projects there where it was an integral part of the  
11 interpretation of the building to be able to show the  
12 process of doing repairs and restoration. Given the  
13 nature of stabilization that has to be performed to  
14 ensure as much protection of the plaster that can be  
15 done is done, it entails installation of scaffolding  
16 in almost every space within that building. So,  
17 there's no physical way to put an adequate level, the  
18 bare minimum required of protection we need to do and  
19 still have this building open to the public and have  
20 the contents in the building. Thank you very much.

21 MICHAEL HILLER: Michael Hiller of Hiller  
22 PC. Good morning and thank you for giving us the  
23 opportunity to address the panel... the, the  
24 Subcommittee today. My firm is a firm that is  
25 dedicated to the preservation of New York's

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 neighborhoods and New York's environment and it's  
3 designated landmarks and historic districts although  
4 at one point just ten percent of our practice four  
5 years ago today, land use, zoning and preservation  
6 work on behalf of neighborhoods now represent 60  
7 percent of our work but of all the work that we're  
8 doing on behalf of neighborhoods nothing concerns me  
9 more than this particular project and in particular  
10 not only that the stakes are high and the risks great  
11 and that the legality is dubious but also that  
12 there's a... something of a disinformation campaign  
13 going on, on behalf of the developer and that's  
14 unfortunately where I need to begin. Today you heard  
15 a presentation from the developer's team that they..  
16 and also you heard last week that conveyed the  
17 sentiment that the developer loves and respects the  
18 Merchant's House, the developer has been working  
19 tirelessly with the Merchant's House but has been  
20 getting stonewalled and that despite the Merchant's  
21 House alleged failure to respond to the overtures of  
22 the developer, they have supposedly addressed all  
23 concerns that have been raised but that's just a  
24 story unfortunately and you've already heard from Mr.  
25 Spivey who has sent no less than five reports and

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 letters to the, the developer's team specifically  
3 identifying a series of problems and concerns that he  
4 has about the... these potential structural compromise  
5 posed by the work that's planned and in each instance  
6 they come back each time they say we've resolved your  
7 issues lets move forward with a licensing agreement  
8 when in fact they don't resolve any of the issues and  
9 that is a continuing problem. They say one thing and  
10 they do another. Today you heard from the developer  
11 that they responded immediately to try to work with  
12 the... with the... with the engineer and that they were  
13 trying to work with us on this new information that  
14 was requested. This is what they actually wrote back;  
15 it says here, this request feels disingenuous that we  
16 are being asked to share our reports at this time, we  
17 have been transparent the whole time and will  
18 continue to be if it holds for both sides. Where does  
19 your client stand on working with us to create a path  
20 so that we can develop this property and the next  
21 email they sent talked all about a licensing  
22 agreement and what is troubling to me is that each of  
23 those answers presupposes that they are going to move  
24 forward with this project irrespective of the answers  
25 they get from the engineers. The answer they should

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 have given is I think, let's see if we can do this  
3 project safely rather than, you know... you know... you  
4 know get to us with a licensing agreement let's move  
5 forward with the project. In addition, I remember the  
6 first community board I... meeting I attended with the  
7 developer's team, they spoke and then I spoke and  
8 then afterwards I went to the developer's council,  
9 handed my business card to them, he refused to take  
10 my business card and wouldn't meet with me. The next  
11 time we met with them at the... at the Merchant's House  
12 which I urged them to do they came into the meeting  
13 and unfortunately the principal question they asked  
14 us was how much money the Merchant's House was  
15 willing to contribute to paying for the costs of  
16 preserving it while their construction was going on,  
17 that is the level... that's the cooperation for getting  
18 here. The developer and, and... the developer's  
19 engineering team is focused on, on building a hotel  
20 that's what they want to do, the, the engineers at  
21 the Merchant's House are look... are focused on  
22 preserving the Merchant's House and that's what needs  
23 to be done. I just want to talk about two more  
24 issues; one is the notion and I think you can hear  
25 this from the geotechnical engineer who's going to be

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 speaking on the next panel but the question is even  
3 if they try to do everything right, is the Merchant's  
4 House going to be safe and of course it's a big if,  
5 if they're going to try to do everything right but I  
6 just want to point out there's a, a, a development  
7 site in Park Slope, Brooklyn that was vetted by the  
8 Department of Buildings and approved and after that  
9 happens, a substantial excavation nine buildings  
10 sustained catastrophic damage, one had to be  
11 evacuated in the middle of the night by the Red Cross  
12 and, and had to be partially demolished. The reason I  
13 mention that is the same geotechnical engineer on  
14 that project is the geotechnical engineer that they  
15 referred to earlier today. So, I'm just saying that  
16 they can... they can say they're going to do their best  
17 but even when you do your best and I have no doubt  
18 that he tried to do his best in Park Slope, there is  
19 real risk here and if there is risk we have to  
20 consider what those consequences would be in this  
21 case a one of a kind building. The last thing I want  
22 to mention is 403 Lafayette Street, you know our  
23 zoning analysis confirms that they can build 59,000  
24 square feet as of right at that location which is  
25 three times the size of what they would build in this

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 location, there would be no text amendment necessary,  
3 they could build a better hotel and if they want to  
4 preserve parking I'm sure there's a way for them to  
5 do that too because they're concerned about losing  
6 the parking at that location, well let them build a  
7 hotel there, put parking underneath it and they can  
8 move forward with their project and be successful,  
9 that would be a win, win because we could preserve  
10 the Merchant's House and they could get their project  
11 and, and ultimately that's what Merchant's House  
12 wants to come out of this, they don't want to hurt  
13 the developer but they also want to make sure that  
14 one of New York's most precious landmarks, a one-of-  
15 a-kind building that will exist nowhere else is  
16 preserved forever. Thank you.

17           HOWARD WEISS: Good morning, Howard  
18 Weiss, Davidoff Hutcher and Citron. I chair our  
19 firm's land use practice, in the 33 years that I've  
20 been practicing land use at the firm this is the  
21 first time I've appeared before the council in  
22 opposition to an application and that's because the  
23 plight of the Merchant's House cries out for that  
24 kind of representation. I will tell you prior to my  
25 tenure at the firm I served as a senior attorney at

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 the Law Department where I represented the city's  
3 Land Use agencies, before that I served in the office  
4 of the Deputy Mayor for Policy and Planning and  
5 before that I served in the office as a chair of the  
6 City Planning Commission and I'm here this morning to  
7 tell you emphatically and unequivocally as a matter  
8 of law that what you have before you by way of the  
9 text amendment is spot zoning. I know it's been  
10 suggested that spot zoning, that doctrine only  
11 applies in the instance of rezoning's, I've provided  
12 the committee and the council this morning with a  
13 memorandum and I, I have additional copies with me  
14 that shows without doubt, without question by  
15 decisions from the Court of Appeals, from the  
16 Appellate Division of the third and fourth  
17 departments, by lower court decisions that zoning  
18 text amendments, things of the nature that you have  
19 before you now are subject to review and in fact are  
20 subject to potential determination of a legality on  
21 the basis of spot zoning and the concept is very  
22 simple, if the evidence before you reveals as it does  
23 in this instance that the zoning action was not  
24 enacted to benefit the community as a whole and it  
25 was enacted without regard to the community and

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 without regard to the comprehensive zoning plan and  
3 it's for the benefit of a single property owner or  
4 small group of property owners then it is illegal  
5 spot zoning and you only need to look at the report  
6 of the City Planning Commission and with that I'm  
7 going to close, which said the proposed text  
8 amendment would result in only one potentially  
9 eligible site that to avail itself of a special  
10 permit for waivers pursuant to the amended ZR section  
11 74-721. Aside from this site that is the subject of  
12 this application. This additional site is located at  
13 53 Great Jones Street, all excess development rights  
14 belonging to 53 Great Jones were previously conveyed  
15 to the property located at 48 Bond therefore this  
16 amendment would not be applicable to that site and it  
17 only leaves 27 East Fourth Street as the beneficiary  
18 and I, I just want to say one other thing if I may  
19 because I do practice frequently before the Landmarks  
20 Preservation Commission and I also I lecture on, on  
21 the subject in continuing legal education on, on  
22 zoning and, and Landmarks Preservation, it's  
23 interesting sometimes the, the direct conflict  
24 between our landmarks law and the zoning law and it's  
25 very difficult to... I will wrap up, it's very



SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 difficult to provide for harmony but we're in fact,  
3 the Landmarks Commission may want to go one direction  
4 if, if zoning prohibits it then it has to fail and  
5 that's what should have happened here. Thank you.

6 COUNCIL MEMBER TORRES: Thank you for  
7 your testimony unless there's any... are there any  
8 questions?

9 COMMITTEE CLERK: This is the continued  
10 vote on the Land Use Items on today's calendar, 188,  
11 200, 201, 202 and 207, Moya?

12 CHAIRPERSON MOYA: Aye.

13 COMMITTEE CLERK: Constantinides?

14 COUNCIL MEMBER CONSTANTINIDES: Aye.

15 COMMITTEE CLERK: The Land Use Items are  
16 approved by a vote of eight in the affirmative, no  
17 negatives and no abstentions and referred to the full  
18 Land Use Committee.

19 CHAIRPERSON MOYA: Thank... I just want to  
20 thank my colleague, Council Member Ritchie Torres for  
21 holding down the fort before I got here and thank you  
22 for your patience as well. I want to take this  
23 opportunity to turn it over to Council Member Rivera  
24 for a couple of questions.

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 COUNCIL MEMBER RIVERA: Thank you for all  
3 of your testimony today. So, the developer says that  
4 other new developments have successfully been built  
5 next to landmarks, how is this project different?

6 MICHAEL HILLER: I'm just going to ask  
7 the structural engineer to speak to that issue.

8 JUSTIN SPIVEY: Well the, the developers  
9 often referred to the building code requirements and  
10 building department requirements for construction  
11 adjacent to landmark buildings and a lot of the  
12 underlying research and documents that are the basis  
13 for those regulations are for structures of ordinary  
14 historic importance in typical condition and it's our  
15 opinion that the Merchant's House is... fits in neither  
16 of those categories that it is a structure of  
17 exceptional historic importance in a particularly  
18 sensitive condition that results from being the, the  
19 last remaining number of a row of row houses that  
20 were intended to stand as a unit and it's now  
21 standing alone. So, on, on the basis of its  
22 significance and it's condition it differs from the  
23 typical historic structures that the regulations are  
24 intended to protect therefore... [cross-talk]

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2           HOWARD WEISS: Council Member I'd just  
3 like to... oh, I'm sorry...

4           JUSTIN SPIVEY: ...therefore it, it merits  
5 some special treatment that is beyond the minimum  
6 that's established in regulatory requirements.

7           KURT HIRSCHBERG: I'd like to add one  
8 other point, we had a client a number of years ago on  
9 18<sup>th</sup> Street who had a private residence, nine story  
10 apartment building was constructed next door,  
11 followed the letter of the law, they had Landmarks  
12 approval, they had Building Department approval,  
13 everything was fully reviewed and vetted. The  
14 construction that they were building resulted in  
15 change of underground water flow which severely  
16 compromised the structure of what was an 1840's  
17 townhouse resulting in what best could be described  
18 as a fissure that started in the sidewalk, went  
19 through the building, went through the rear garden  
20 and the rear garden house and that resulted in at  
21 that time it was about 750,000 dollars' worth of  
22 damage to that building.

23           HOWARD WEISS: I just wanted to add like  
24 humans, the elderly are frail... sometimes more frail  
25 than some of us who are younger, and it's been my

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 experience, I've had applications before Landmarks to  
3 proceed in historic districts adjacent to old  
4 buildings but they could be 40 years old, 30 years  
5 old, 70 years old but this is a particularly frail  
6 building and in fact so it raises issues and a  
7 general statement that construction can proceed be...  
8 adjacent to landmarked buildings is really  
9 meaningless.

10 COUNCIL MEMBER RIVERA: And can you give  
11 me the... I guess this question is more for Pi, can you  
12 give me the total of kind of the non-physical impacts  
13 so for example you'll need to close, moving the  
14 collection?

15 MARGARET GARDINER: Well... [cross-talk]

16 COUNCIL MEMBER RIVERA: And what is your,  
17 your assessment thus far of, of what it would cost  
18 you in terms of finances?

19 MARGARET GARDINER: Well moving the  
20 collection, we got an estimate from our handlers  
21 Gander and White and just for the front parlor it  
22 would cost 61,000 dollars to pack up and store the  
23 furniture and furnishing in that room and it would  
24 cost 4,500 dollars per month in order to... for the  
25 duration of the construction so two years, I mean

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 that alone is I think something 500,000 dollars. We  
3 have eight period rooms, it's a four-story hotel... a  
4 hotel, not... it's a four story... four story... I feel  
5 like I live there, four story museum, eight period  
6 rooms, we have the office floor, cellar, attic and  
7 the estimate could be as much as a million seven just  
8 to store the collection. Then there's also preparing  
9 the interior landmark, the historic fabric, the  
10 plaster, I believe that's a million dollars. We had  
11 done a conditions assessment in 2015, work that  
12 needed to be done before any construction could begin  
13 what was termed and Kurt can speak to that, of  
14 critical and hazardous and that's about a million  
15 four, we updated those numbers yesterday or over...  
16 last week and so it all comes out to something like  
17 4.9 million dollars that we would need to spend in  
18 order to properly care for and protect the, the  
19 collection and the interior historic fabric and, and  
20 the museum will be closed for two years which is, you  
21 know... and we're in the public trust and we wouldn't  
22 be able to have visitors and that would cost us  
23 something like 800,000 dollars for two years and we  
24 got to rent space for museum offices...

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 COUNCIL MEMBER RIVERA: Reaper

3 Administrative...

4 MARGARET GARDINER: Yes.

5 COUNCIL MEMBER RIVERA: Okay, so I guess...

6 my last question is, even with more time do you think  
7 you would ever have been able to come to an agreement  
8 with the developer, I guess it's for the engineers  
9 and the architects, even with more time, with more  
10 discussion, with a meeting of the engineers actually  
11 happening, with... do you think you ever would have  
12 been able to come to an agreement with the developer?

13 JUSTIN SPIVEY: Well I think the, the  
14 fundamental disagreement is over the acceptable level  
15 at risk and the developer's team seems to be of the  
16 opinion that once the risk is limited to a certain  
17 level any damage that does occur can be repaired and  
18 whereas my client their team and the advocates beyond  
19 them are of the opinion that any loss of historic  
20 fabric is unacceptable and that the risks of some  
21 loss are too great and cannot be eliminated for a  
22 project of this size of these constraints on the  
23 adjacent site. So, I, I think the, the disagreement  
24 here is we, we can talk and even reach agreement on  
25 some reasonable measures to limit risk but the

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 opinion is that some remaining level... the developer's  
3 opinion is that some remaining level of risk is  
4 appropriate, it's alright, any damage can be repaired  
5 after the fact and you can replace historic finishes  
6 with new material, you cannot put back 170 year old  
7 stuff that's no longer there or damage beyond repair.

8 COUNCIL MEMBER RIVERA: Thank you.

9 JUSTIN SPIVEY: Thank you.

10 CHAIRPERSON MOYA: Thank you. The next  
11 panel I'd like to call up Robert Thibault, did I say  
12 that right, t h I g... oh b a u l t; Zella Jones, come  
13 on up; John Krawchuk and do we have Robert?

14 ROBERT THIBAUT: Right here.

15 CHAIRPERSON MOYA: Oh, Robert, okay so...  
16 Zella? Zella Jones, no Zella Jones? Yep.

17 [off mic dialogue]

18 CHAIRPERSON MOYA: You have to push that  
19 button just state your name and just a reminder we  
20 have two minutes...

21 ROBERT THIBAUT: Two minutes, perfect...

22 [cross-talk]

23 CHAIRPERSON MOYA: ...each, thank you.

24 ROBERT THIBAUT: My name is Robert  
25 Thibault, New York City, Not One More Block. There is

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 an ethnic and cultural cleansing taking place in New  
3 York City, it is called rezoning, rezoning's first  
4 gentrification a form of systemic violence based on  
5 white supremacy that continues the racist legacy of  
6 urban renewal. In 1857, the city of New York used  
7 eminent domain to displace what included the largest  
8 community of free African American property owners in  
9 New York from an area of Central Park. Now the Mayor,  
10 the City Council that includes all of you, the  
11 Department of City Planning and the Department of  
12 Buildings is conspiring its large real estate firms  
13 and the real estate Board of New York are utilizing  
14 zone... rezoning to displace not only communities of  
15 color but history itself. The Merchant's House Museum  
16 is now faced with being permanently displaced by  
17 these co-conspirators in the same evil system of  
18 play. Clearly Marisa Lago and the City Planning  
19 Commission are compromised, the CPC approved this  
20 spot rezoning after both community board two and the  
21 Manhattan Borough President Gale Brewer recommended  
22 to deny this rezoning, why did they choose to ignore  
23 all the evidence presented at CB2 that showed that  
24 the 186 year old Merchant's House Museum will be  
25 destroyed by the construction of a hotel that would



SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 rise 110 feet high? Were they paid off by the dark  
3 money that drives New York real estate, maybe a visit  
4 from bribe New York changed their minds, it's not  
5 clear. What is clear is that the city charter states  
6 that every community board must have a planner, no  
7 community board has yet to receive funds to hire a  
8 planner. Furthermore New York City is the only major  
9 U.S. city that has never approved a comprehensive  
10 master plan, rezoning is not comprehensive community  
11 planning. Vote no on the spot rezoning being asked  
12 for by developer Kalodop II Park to build a hotel  
13 that would rise 110 feet high on a lot to the west...

14 [cross-talk]

15 CHAIRPERSON MOYA: Thank you... [cross-  
16 talk]

17 ROBERT THIBAUT: ...of a 186-year-old...

18 [cross-talk]

19 CHAIRPERSON MOYA: Thank... [cross-talk]

20 ROBERT THIBAUT: ...Merchant's... [cross-  
21 talk]

22 CHAIRPERSON MOYA: Thank you... [cross-  
23 talk]

24 ROBERT THIBAUT: ...House Museum, thank  
25 you.

SUBCOMMITTEE ON ZONING AND FRANCHISES

CHAIRPERSON MOYA: Thank you, thank you for your testimony.

ZELLA JONES: Is this still on? Yes. My name is Zella Jones, I'm President of NoHo Bowery Stakeholders. NoHo Bowery Stakeholders is from the east side of Bowery to Mercer Street and from Astor Place to Houston Street. We have 500 paid members. We object to the granting of two special permits for the development of 27 East Fourth Street and the resulting spot zoning it represents. We are appalled that the Department of City Planning even considered it given the precedence of steps for every heavily defended zoning envelop in the city. At this location these special permits not only threaten the established zoning but the integrity of landmarked preservations and contextuality. The Merchant's House is a great value to our neighborhood and to this city, we feel that the city should further mandate a stringent construction protocol where now only guidelines exist. We are... we ask the City Council to red flag this application for frequent DOB inspections prior to, during and after construction. We would ask that the City Council mandate that all of the precautions of Merchant's House engineers

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prescribed be executed, all expenses in storage and  
protections be covered and that damages if any be  
covered by the applicant. Further the applicant  
should be responsible for lost revenue from ordinary  
tours advanced during the course of construction  
because the process will mandate the museums closure.  
As a treasured landmark this sets a precedent for all  
New York City landmarks to be treated carefully and  
with the same respect, a stance that the City Council  
as a whole can surely endorse. I wish to add one more  
comment, the proposal that this, this should be  
tabled for reconsideration at 403 Lafayette Street I  
think is ill advised, it damages and it effects a  
great deal more of NoHo and the... and the swap is not  
an even swap, we're looking at three times or more  
development in NoHo moving from the side of the  
Merchant's House to Lafayette Street, I have no  
disrespect for the Merchant's House but that that  
would be a totally nimby move on their part, thank  
you very much.

CHAIRPERSON MOYA: Thank you.

JOHN KRAWCHUK: Good morning..

CHAIRPERSON MOYA: Just push the button.

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 JOHN KRAWCHUK: Very sorry. Good morning  
3 Chair Moya and members of the Subcommittee on Zoning  
4 and Franchises. My name is John Krawchuk, I'm the  
5 Executive Director of the Historic House Trust of New  
6 York City. We are a non-profit 501C3 organization  
7 that works in partnership with the New York City  
8 Parks Department and we advocate for, promote and  
9 provide expertise to preserve 23 publicly owned  
10 historic houses throughout New York City. Full  
11 disclosure, I am actually also a Parks Department  
12 employee and so I am very closely aligned and  
13 affiliated with New York City Parks now for about 22  
14 years, I know these houses quite well. In this role  
15 we provide... my role at the Historic House Trust we  
16 provide expertise to our member sites in the form of  
17 technical assistance and best practice solutions for  
18 these remarkable historic house museums guiding  
19 maintenance, preservation, initiatives and  
20 collections. I'm here today to testify in this  
21 capacity in support of preserving and protecting one  
22 of our members, the Merchant's House, a fragile and  
23 significant landmark and to comment on the  
24 application before you for 27 East Fourth Street. As  
25 expert advisors we are intimately familiar with the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 Merchant's House and we raise our voices along with  
3 the supporters here today to implore the Subcommittee  
4 and the council to take action to protect the House.  
5 This could be achieved in a variety of ways that  
6 could be conditioned on the applicant. One, perform a  
7 detailed condition study of the house which was  
8 referenced a little earlier in this hearing, using  
9 preservation experts who can assess conditions that  
10 are concealed behind the finished plaster work and  
11 the floors. Two, perform remedial work to strengthen  
12 the house, 185-year-old plus historic features that  
13 are susceptible to damage from construction  
14 activities, monitoring alone in our opinion will not  
15 suffice and should be supplemented with the detailed  
16 conditions study by preservation experts who can  
17 assess conditions that are concealed behind the  
18 finished plaster work. We encourage the council to  
19 carefully consider the impacts to the house; the  
20 proposed construction, the history of past damage and  
21 to closely work with the applicant to explore the  
22 best option to reduce risk to the Merchant's House.  
23 Thank you.

24 CHAIRPERSON MOYA: Thank you, thank you  
25 all for your testimony.

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 COUNCIL MEMBER RIVERA: I want to ask  
3 about the environmental assessment that you are a  
4 parks employee and you're a part of a smaller entity  
5 that is specifically kind of charged with taking care  
6 of these historic houses, so what is your involvement  
7 and the Parks involvement with the Merchant's House  
8 in terms of environmental assessments or working with  
9 Pi and, and others, we're just trying to get a better  
10 idea of, of where... how you can assist or support in  
11 at least giving more information or what you can do  
12 to, to help with the application?

13 JOHN KRAWCHUK: So, the Historic House  
14 Trust we work in partnership with all of our historic  
15 houses and we essentially help to facilitate work  
16 between our licensees who are the Merchant's House  
17 Association in this case and the Parks Department and  
18 so with regard to environmental review there is a  
19 planning division within Parks that reviews all  
20 applications that effect parkland and so they would  
21 be the ones really primarily looking at any of the  
22 detailed EI... EAS's, EIS's what effect the Parks  
23 Department properties.

24 COUNCIL MEMBER RIVERA: But we're here  
25 like... in terms of the timeline nothing has been done

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 by Parks yet about what this building could  
3 potentially create, whether a shadow or... there has  
4 been no environmental assessment done by the Parks  
5 Department regarding this site and we're on a  
6 timeline right now that's pretty urgent.

7           JOHN KRAWCHUK: The, the, the city  
8 typically relies on the applicants to provide the  
9 information that are initially reviewed by the  
10 Planning... the Planning Department and then the  
11 Planning Department works in close relationship with  
12 the Parks Department to review anything of  
13 consideration. So, so we had commented earlier at the  
14 Planning Commission as to concerns that we had the  
15 Historic House Trust reviewing the application and  
16 brought forward a few things that we thought were,  
17 were of concern and I believe the Planning Commission  
18 felt per their vote that those things had been  
19 adequately addressed.

20           CHAIRPERSON MOYA: Thank you very much  
21 for your testimony today. I'd like to bring up the  
22 next panel. Jan Cermak; Anita Brandt; Birgitte  
23 Philippides Delaney and Roberta Beluvolvich.

24           [off mic dialogue]

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2           JAN CERMAK: Hello, my name is Jan  
3 Cermak, I'm with Mueser Rutledge Consulting  
4 Engineers. We are a foundation engineering firm  
5 that's more than 100 years old so it's not really as,  
6 as old as the Merchant's House. Generally speaking  
7 excavations and foundation construction adjacent to  
8 buildings that are supported on shallow foundations  
9 like the Merchant's House cause some settlement of  
10 those foundations. The goal of the design is to  
11 minimize those settlements and construction means and  
12 measures are then selected to further reduce any  
13 potential risks of ground settlement. Because of the  
14 many, many uncertainties in this type of work and not  
15 only in the design, the estimates but also in the  
16 actual construction a detailed instrumentation  
17 monitoring plan is typically implemented which is  
18 also proposed for, for this construction. I'm  
19 actually the, the engineer that wrote the 2012  
20 document and since then the, the design was changed  
21 to try to reduce the potential impact of... on, on the  
22 Merchant's House but in our opinion that risk still  
23 remains. From a technical point of view, the real  
24 issue with the museum is that the building is very  
25 sensitive, it's in a very sensitive condition not



SUBCOMMITTEE ON ZONING AND FRANCHISES

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only to vibrations but also to any ground settlement that may occur during the adjacent construction and in my opinion considering the sensitivity and the fact that the predictions of ground settlements are not really precise and the many uncertainties in this type of work there is a true concern that there won't be enough warning and enough time to arrest any settlements that may occur and cause damage to the building. Thank you.

ANITA BRANDT: Good morning, my name is Anita Brandt and I'm Co-chair of CB2 Land Use. In May CB2 voted unanimously to recommend a denial of this application. Our resolution is detailed and to, today I'd like to highlight just one of the deficiencies and inaccuracies specifically in the environmental assessment statement. The application asserts that there is no effect on a public resource, obviously this is not true. This museum and its garden is in fact publicly owned and the construction would require the museum to close and thereby not function as a public museum. The proposed museum would cast shadows in the garden so checking the box no effect in the EAS report is also not correct, a shadow study is called for. These and other inaccuracies effect

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the credibility of the application, before any special permission is granted on the modifications of use in bulkhead I think we should insist that they be investigated and corrected. With the little bit of time I have left I did want to speak as an architect and the importance of the house for students. In the late 1970's as a college student I was fortunate to meet and work with Joseph Roberto who dedicated his... decades of his life to preserve this building. I went on to write my undergraduate thesis and my concern is that we preserve and protect this important historic cultural New York landmark for the future students and preserve its uniqueness and inspire others to understand our past. Oh, you're next, sorry.

BIRGITTE PHILIPPIDES-DULANEY: Hi, my name is Birgitte Philippides-Dulaney and I'm not an architect, I'm not an engineer, I'm only a resident of the village for about 25 years and I'm here... I wasn't planning on speaking, I have nothing prepared except I'm going to speak from the heart that my husband and I recently went to the Merchant's House Museum and it was one of the most extraordinary museums we've ever been to in New York. It was also a story, a powerful immigrant story of the Irish

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 immigrants that were there and you do not have to be  
3 an expert to realize when you go and have a tour of  
4 this museum that building an eight story hotel will  
5 absolutely destroy it, you don't need an expert to  
6 tell you that all you have to do is look at the  
7 plaster, look at the walls and that's what I think  
8 the crux of it is that you don't have to be an expert  
9 to realize this is obvious and it was very disturbing  
10 to hear the developers use the term we have liability  
11 insurance. Now that can only mean one thing, that  
12 another words you have liability insurance so okay,  
13 if worse comes to worse it falls down or big destroy  
14 we have insurance, it's, it's an irreplaceable  
15 building, I think that's obvious. Thank you.

16 ROBERTA BELULOVICH: That's going to be a  
17 hard act to follow, thank you. My name is Roberta  
18 Belulovich, I am the Visitor Services Coordinator and  
19 Weekend Site Manager at the Merchant's House Museum.  
20 I'm a native New Yorker and when I grew up we used to  
21 run around as kids saying unique New York and we  
22 would do this tongue twister until we were like blah,  
23 blah, blah, well New York is not so much unique  
24 anymore and I think we all know this, I don't know  
25 anybody who would argue with it but there are still

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 remnants of unique New York and we the Merchant's  
3 House Museum are one of them maybe the premier one.  
4 We inform our present and we lay foundations for the  
5 future by holding what New York has been and where we  
6 came from in our hands and we express that for the  
7 public. We are an invaluable community resource, we  
8 give tours of the house and the neighborhood, we have  
9 exhibitions, lectures, living history programs,  
10 concerts and performances in the historic museum. We  
11 actually bring revenue into the city with 16,000  
12 visitors annually, these are tourists not only from  
13 New York but from all over the country and all over  
14 the world, we have scholars and students who come  
15 just to find out information that they can get  
16 nowhere else and by and large when tourists come and  
17 I see thousands of them every year when I am working  
18 as site manager, they say to me they're building  
19 something next door on your wall, this could not  
20 happen in my country and fill in the blank; England,  
21 Australia, Denmark, France just... Germany, any,  
22 anywhere, every single person says this to me, they  
23 are astounded that this could even be considered in a  
24 city like New York. Anyway, we are number 65 of all  
25 the trip advisors' top things to do in New York City

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 out of 1,124, I think that's a pretty good estimate.  
3 Thank you.

4 CHAIRPERSON MOYA: Thank you, thank you  
5 for your testimony. The next panel; Simon... Simeon  
6 Bankoff, Jeffrey, Jeffrey Weinstein [sp?], Joseph  
7 Reiver, Christabel Gough, okay. It was Jeffrey and I  
8 can't make out... from Quantum Forth, Jeffrey and I  
9 just can make out W e I and then I can't make out the  
10 rest, is there a Jeffrey? Yeah, once I can... Yeah,  
11 Simeon and... Christabel?

12 CHRISTABEL GOUGH: I'm here.

13 CHAIRPERSON MOYA: Okay, Joseph from  
14 Elizabeth Street Gardens, Joseph? And Jeffrey from  
15 Quantum Forth. Jeffrey, going once, going twice,  
16 okay. We have Joann... Joan, sorry, Wilet, Welit,  
17 Welts, Wailey; Joan, is there a Joan, Joan, no.  
18 Michelle Barsley, Bars... Barsley, Michelle Barsley  
19 from 33 Greenwich Ave, no. Michelle is here? Hi,  
20 Michelle, thank you. We'll start with you and make  
21 our way... [cross-talk]

22 JOSEPH REIVER: With me... [cross-talk]

23 CHAIRPERSON MOYA: ...down, yeah.

24 JOSEPH REIVER: Okay, yeah. So, my name  
25 is Joseph Reiver, I'm the Executive Director of

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 Elizabeth Street Garden and I'm in... I'm here in  
3 support of the Merchant's House. It was mentioned in  
4 the first testimony that the lots and... the vacant  
5 lots and the gaps are... they detract from the, the  
6 NoHo area but in fact I think it's more important to  
7 put emphasis on the... that the Merchant's House  
8 defines the spirit and the voice of the community and  
9 it's places like the Merchant's House that should be  
10 held to highest degree of priority because of that  
11 definition, because of the definition of the voice of  
12 the community and because of the definition of the  
13 spirit. It's so unique and we've heard so many  
14 different testimonies about how unique it is and all  
15 of the details and its history in its preservation  
16 and any sort of development that would jeopardize  
17 this should be reconsidered just point blank. We...  
18 many groups in the community are working together to  
19 set up a, a community walk where we tour different  
20 areas in the community that represent this unique  
21 quality and the spirit, the Merchant's House is the  
22 first stop on that tour so please consider a vote in  
23 favor of the Merchant's House. Thank you.

24 CHAIRPERSON MOYA: Thank you.  
25

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 CHRISTABEL GOUGH: Me? Hello, I'm

3 Christabel Gough from the Society for the

4 Architecture of the City. We've been monitoring the

5 Landmarks Preservation Commission since the early

6 1980's and we watched this item move through the long

7 process that brought it here. The agency approved the

8 construction of the hotel simply as a new building in

9 an historic district while taking the position that

10 the huge excavation required if carefully done could

11 be executed without harming the old Merchant's

12 Museum, that was not the universal opinion of

13 qualified restoration architects and engineers as you

14 have heard this morning. They saw the project as

15 risky at best and potentially catastrophic. Yes, the

16 LPC approved this project after years of hesitation

17 and much internal controversy ending in a split vote

18 but the reasoning behind the approval was clearly

19 based on procedural technicalities about what is

20 appropriate for a new façade in the historic district

21 which did nothing to enforce the agency's primary

22 mission as described in the Landmarks Law that is to

23 prevent the irreplaceable loss of exceptional old

24 buildings that are our heritage. In our opinion a

25 narrow view of the importance of reaching compromises

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 with investors has led the De Blasio administration  
3 to find that some risk to the museum is just fine, it  
4 was a regrettable decision. It... concerning  
5 Pennsylvania Station, the Art Times architecture  
6 critic, Ida Louise Huxtable once wrote, we will  
7 probably be judged not by the monuments we build but  
8 by those we have destroyed. The special permits and  
9 amendments this project require should be denied.  
10 Thank you.

11 CHAIRPERSON MOYA: Thank you.

12 SIMEON BANKOFF: Good morning, Simeon  
13 Bankoff, Executive Director of the Historic Districts  
14 Council. Since this proposal was originally approved  
15 by the holdover of Bloomberg appointee administration  
16 LPC in 2014 which at the time one of the  
17 commissioners said I'm only voting for this because  
18 I'm frankly exhausted by it. It has been a profound  
19 threat to the irreparable public asset of the museum  
20 next door. While the Historic Districts Council could  
21 not... would not say that development isn't possible  
22 next to the museum, any development that might happen  
23 here would need to be infinitely sensitive to the  
24 very fragile adjacent building and the scale of the  
25 proposed hotel is such that the necessary care and



SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 sensitivity seems nigh impossible. It is imperative  
3 to keep in mind that as has been discussed the  
4 Merchant's House is a publicly owned landmark inside  
5 and out and an entirely unique historic house in New  
6 York City in the integrity and fidelity of its  
7 historic interior, there's literally nothing else  
8 like it in New York. It's inconceivable to us that  
9 the City Planning Commission did not exercise its  
10 full powers of environmental review and ensure that  
11 any development that could affect the landmark was  
12 held by the highest standards of environmental  
13 sensitivity but that's the position we find ourselves  
14 in now. Keeping in mind the developers have permits  
15 in hand that would allow them to move forward with  
16 this catastrophic scheme, HDC urges the City Council  
17 to do everything in its power to convince them to  
18 reconsider this plan. The notion of redeveloping the  
19 garage building at 403 Lafayette Street is an  
20 intriguing idea and one who's advantages would most  
21 probably outweigh any possible detriments. Similar  
22 developments have been successfully done in Greenwich  
23 Village and Ladies' Mile historic districts where a  
24 number of historic garage buildings have been added  
25 to and incorporated into new housing. Such a... such a

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 solution if allowed would benefit the community by  
3 developing new housing while also preserving the  
4 public asset of the Merchant's House. While HDC  
5 cannot commit to a plan without reviewing the  
6 specific proposal we would support this plan in  
7 concept and would be very happy to provide any help  
8 possible to make sure that such a proposal would be  
9 successful. Thank you.

10 CHAIRPERSON MOYA: Thank you.

11 MICHELLE BARSHAY: Hello, my name is  
12 Michelle Barshay, I'm talking from a different point  
13 of view because I'm a docent at the... [cross-talk]

14 CHAIRPERSON MOYA: Talk into the mic...  
15 [cross-talk]

16 MICHELLE BARSHAY: Oh, sorry... [cross-  
17 talk]

18 CHAIRPERSON MOYA: Thank you.

19 MICHELLE BARSHAY: I'm talking from a  
20 different point of view because I'm a docent at the  
21 museum and it's given me enormous pleasure and joy to  
22 be there and volunteer and give it my time. When all  
23 the guests come into the museum and I give these  
24 tours it's amazing of the happiness that it brings to  
25 the people that come into the house, I mean I talk

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 about the history of the city from all the way down  
3 from the sea port times from when it has changed up  
4 until the 1850's, I talk about the family, I talk  
5 about the culture, we go outside, I talk about the  
6 street, the neighborhood and it's so important to  
7 preserve the history, the culture and where New York  
8 City came from as a commerce area up until the time  
9 of the house and it is, is just... the joy that it  
10 brings people coming through the house on... to see the  
11 tours, to see the house and to see that, that the  
12 items in the house are unique and it belonged to the  
13 family, it's not a reproduction so when you come in  
14 and you come into these wonderful rooms and you see  
15 the furniture and you see all the details that are  
16 still there in the house and the collections that  
17 this family saved, it's so important to preserve the  
18 history and to keep it going forward for future  
19 generations. Thank you.

20 CHAIRPERSON MOYA: Thank you, thank you  
21 to the panel. I'll be calling up the next panel;  
22 Daniel Ross, Monica Rittersporn, Beth Sapka, is that  
23 right, Sap, Sapka, Beth Sapka, Cordelia Persen, Pat,  
24 Pat... Persen, Pat... it's, it's Cordelia P e d... I

25

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 believe it says e r s e n. Do we have Daniel Ross?

3 I'm sorry can you just state your name,

4 CORDELIA PERSEN: Cordelia.

5 CHAIRPERSON MOYA: Cordelia, okay. I'm  
6 sorry ma'am, your name?

7 MONICA RITTERSPORN: I'm Monica  
8 Rittersporn.

9 CHAIRPERSON MOYA: Okay, so no Beth and  
10 no Daniel, Jane Nevins, Giorgio Bulvins, Bovenzi,  
11 Jane, okay. Thank you. So, yep.

12 [off mic dialogue]

13 CHAIRPERSON MOYA: We're going to start  
14 with you.

15 MONICA RITTERSPORN: Hi. Hello, I'm  
16 Monica Rittersporn, a lifelong New York City resident  
17 and I'm here to support the preservation of the  
18 Merchant's House Museum, a museum of the city of New  
19 York which is an extraordinary treasure as we have  
20 heard. I cannot understand how the city of New York,  
21 our city agencies would even consider doing anything  
22 that would damage this wonderful institution and how  
23 it could consider incurring expenses of over five  
24 million dollars in closing this museum, it's... it is  
25

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 just unbelievable that we are here, and I implore you  
3 not to let this happen. Thank you.

4 CHAIRPERSON MOYA: Thank you.

5 CORDELIA PERSEN: Hello, I'm Cordelia  
6 Persen, I am the Executive Director of the NoHo  
7 Business Improvement District and I'm here to hope  
8 that you're going to prevent the spot zoning of that  
9 site on East 27<sup>th</sup> Street and.. I mean, I'm sorry, 27  
10 East Fourth Street and consider working out a good  
11 proposal for the Lafayette location. Clearly I speak  
12 for one part of NoHo but NoHo and our history is  
13 really important to who we are as a neighborhood and  
14 we believe this is a crucial site telling a history  
15 that, you know we were the first neighborhood outside  
16 of downtown to come and this is a very important  
17 story to who we are and who we're becoming and the  
18 change that's happening on Lafayette is happening and  
19 I think this other site on 403 Lafayette really fits  
20 more into the neighborhood than more development on  
21 East Fourth Street.

22 JANE NEVINS: Hi, my name is Jane Nevins  
23 and I live in district two. I'm a voter and I'm a  
24 volunteer at the Merchant's House Museum. I work in  
25 tech and I'm originally from San Francisco, I moved

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1  
2 here about a year ago and could basically live  
3 anywhere in New York City and I moved to this  
4 neighborhood, you know NoHo, the East Village because  
5 of the historic character that the village provides  
6 and as this neighborhood looks to the future I think  
7 it's really important that we preserve it's history  
8 and it's character and that's really important to  
9 building... not just preserving the past but to  
10 building a bright future for that neighborhood. I  
11 think we have a responsibility to preserve the  
12 meaningful aspects of the past and so I oppose this  
13 spot rezoning.

14           GIORGIO BOVENZI: Good afternoon, thanks  
15 for the opportunity to speak here. My name is Giorgio  
16 Bovenzi, I'm a resident of 25 East Fourth Street and  
17 urge you to reject the ULURP application with respect  
18 to 27 East Fourth Street. There are many reasons to  
19 so; this is a spot zoning, it allows uses to, to the  
20 site which are undesirable and necessary but more  
21 importantly the proposed development puts the  
22 neighboring Merchant's House Museum at risk. The  
23 importance of the Merchant's House not only to New  
24 York City but also to the public and to the public  
25 interest at large is unquestionable and you have

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 abundantly heard about it today. What is also  
3 unquestionable is that any harm to the Merchant's  
4 House is going to be irreplaceable and there's no  
5 monitoring system that can prevent cracks or worse to  
6 this precious historical site from happening if the  
7 proposed development is approved and once the damage  
8 starts happening it's too late, the damage is done.  
9 The developer admitted today once again that they  
10 believe that it can minimize the amount of damage but  
11 even assuming that they're capable of minimizing  
12 damage which given what we've heard is questionable,  
13 that means they know they cannot possibly avoid  
14 damage. The zoning is also unnecessary because to the  
15 extent the development can shift, shift it to 403  
16 Lafayette that will resolve the problem. The  
17 developer stated today that they support... that  
18 support from 25 East Fourth is unlikely to come,  
19 that's factually wrong, I'm sitting here today as a  
20 member of 25 East Fourth Street and my building has  
21 officially approved the option provided by the air  
22 transfer of right... for air right transfer. Of course,  
23 the devil is in the detail, we all know that, but I  
24 respectfully submit that the air right transfer would  
25 be a considerably preferable option for all involved

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 constituencies. On a personal note I was born and  
3 raised in Naples, Italy and for those who don't know  
4 Naples is a city of incredible history but also  
5 incredible crime.

6 CHAIRPERSON MOYA: Thank you.

7 GIORGIO BOVENZI: Can I finish just...

8 [cross-talk]

9 CHAIRPERSON MOYA: We... [cross-talk]

10 GIORGIO BOVENZI: Three seconds?

11 CHAIRPERSON MOYA: Okay.

12 GIORGIO BOVENZI: Okay, it's also the  
13 city of despicable disorganization and corruption, I  
14 can testify here that even in Naples a development  
15 like this would not happen, even the camorra, the  
16 mafia and the corrupted... [cross-talk]

17 CHAIRPERSON MOYA: Alright, thank you,  
18 thank... [cross-talk]

19 GIORGIO BOVENZI: ...would not... [cross-  
20 talk]

21 CHAIRPERSON MOYA: ...you... [cross-talk]

22 GIORGIO BOVENZI: ...accept it... [cross-  
23 talk]

24 CHAIRPERSON MOYA: Thank you.

25 GIORGIO BOVENZI: Thank you.



1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 CHAIRPERSON MOYA: Thank you. The next...  
3 the next panel Peter Feld, Julie Blackburn, Dorothy  
4 Taylor and Nicholson Nicholas, excuse me one second.

5 COMMITTEE CLERK: Dorothy Tyler, Julie  
6 Blackburn, Audrey Horwitz, do we have Dorothy or  
7 Julie? David Mulkins, one person may begin.

8 AUDREY HORWITZ: Hello, I'm Audrey and  
9 I'm a volunteer at the Merchant's House. Earlier this  
10 summer I hosted an open mic night in the back garden  
11 of the Merchant's House, I set up for weddings there  
12 and after work... I sometimes go on Thursdays to help  
13 close up the house because they're open late on  
14 Thursdays. What I love about the Merchant's House is  
15 the community, I live on East Fourth Street, a few  
16 blocks East and when I think about my neighborhood  
17 and what there is to do what comes to mind is bars,  
18 restaurants, ice cream shops and waxing salons, I go  
19 to a lot of these places and I like a lot of them but  
20 I can think of nothing else like the Merchant's  
21 House. The Merchant's House is a community of mostly  
22 all volunteers and a few dedicated full timers who  
23 are all spending their time educating people about  
24 the history of the family who lived in this house and  
25 also the history of New York. When making your

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2 decision I ask that you consider not only the  
3 historical significance of the Merchant's House but  
4 also the thousands of museum guests and museum  
5 volunteers like myself who's community you'd be  
6 risking if you allow this hotel to be built. Thank  
7 you.

8           NICK NICHOLSON: Good afternoon, my name  
9 is Nick Nicholson and I am Senior Vice President of  
10 Decorative Arts at Freeman's Auction in Philadelphia,  
11 I started my career here in New York at Christie's,  
12 I've been a specialist in decorative arts for over 25  
13 years. For the last 15 years I've also been  
14 privileged to serve as the Chair of the Board of the  
15 Merchant's House Museum. A lot of the topics that I  
16 wanted to speak on have already been covered by other  
17 speakers today so what I'm going to do is focus and  
18 make a plea for the things that are in the  
19 Metropolitan... the... in the Metropolitan Museum too why  
20 not, lets cover all our bases, in the Merchant's  
21 House Museum, you can see how important it is to me.  
22 The decorative arts for people who are not aware of  
23 them are anything that isn't sculpture or a painting,  
24 that means the objects movable in the building. The  
25 Parks Department is responsible for the building but

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1  
2 the Board of the Merchant's House cares for the  
3 collections and the collections are the objects  
4 contained within the building that tell the story  
5 both of New York and of the Treadwell family. At my  
6 auction house we have eight sales a season, each of  
7 those sales moves between two to three hundred  
8 objects, I have eight specialists with master's  
9 degrees in art history on staff, I have a full staff  
10 of registrars and insurance specialists to handle the  
11 move that happens for all of those objects, every one  
12 of those objects is measured, photographed,  
13 catalogued, displayed, it's insured and we're  
14 responsible for what happens to it. That means we  
15 move about 1,500 objects a season, the Merchant's  
16 House has 3,000 objects, none of which have been  
17 properly completely catalogued, none of which have  
18 been entirely photographed, none of which have ever  
19 had viable condition reports done for them to  
20 estimate either their value or the possible  
21 replacement value. There are insurance estimates done  
22 at the museum from time to time, but these are vague  
23 and general and the specifics of what would happen to  
24 these objects if the museum were forced to close is  
25 of enormous concern to the Board of the Merchant's

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 House. Every single one of those objects would have  
3 to be dealt with and whereas I have a big staff out  
4 of Merchant's... at the... at Freeman's and whereas  
5 Christie's and Sotheby's has a big staff to do that,  
6 the two women who handle the day to day business of  
7 the Merchant's House are in this room, they are ill  
8 equipped and ill prepared to move and to store all of  
9 those objects. My final thing, I just have to return  
10 to what Pi Gardiner said, the cost of crating and  
11 storing one room is 61,000 dollars, eight period  
12 rooms, five floors, a full basement, a full attic  
13 it's a half a million dollars to start and it gets  
14 worse as time goes by. Thank you.

15 PETER FELD: Thank you. Thank you for  
16 your time and thank you for listening to the council,  
17 to my Council Member Rivera. My name is Peter Feld, I  
18 live on East Ninth Street, I was the editor of the  
19 New York Observers Parenting Magazine, Scooter and  
20 I've written about the history of Greenwich Village.  
21 Two issues are at stake I think in the Council's  
22 decision whether to approve this hotel; the first is  
23 whether as people have been testifying, New York City  
24 is able to preserve our price, priceless heritage for  
25 the benefit of all New Yorkers or see it turned into

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 dust for the sake of private profit. The second is  
3 whether we... whether or not we the public have any  
4 meaningful input into the decisions that affect our  
5 neighborhoods and our city. We've been told that the  
6 way to protect the Merchant's House was to  
7 participate in a process and we have showing up in  
8 large numbers to community board, committee meetings,  
9 the full board, enlisting support from our borough  
10 president, writing our Council Member but as with  
11 other recent efforts to protect our community we've  
12 run into a brick wall from the defiantly  
13 unaccountable City Planning Commission. We also have  
14 a similarly unaccountable Deputy Mayor for Housing  
15 and Economic Development who rejects community input  
16 and who's office bullies this council. Those players  
17 as well as the now take off your preservation hat,  
18 Landmarks Preservation Commission are the  
19 responsibility of a Mayor who travels this country  
20 posing as a progressive leader while here at home he  
21 wrecks our neighborhoods on behalf of his real estate  
22 donors, but we see him. Now the fate of this  
23 irreplaceable treasure that can transport any New  
24 York City boy or girl back in time is up to you. We  
25 saw it in last week's primaries and earlier this

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 summer across the city voters are demanding  
3 accountability from our local representatives and we  
4 are thrilled to vote to make sure that we get it. So,  
5 it's very fitting that a historic lower Manhattan  
6 home dating back to the early days of our democracy  
7 is now a test not only of whether we in New York can  
8 preserve that history but also what is the current  
9 state of that democracy here at the local level and I  
10 urge the council to listen to the community and  
11 disapprove this application. Thank you.

12 CHAIRPERSON MOYA: Thank you.

13 DAVID MULKINS: Hi, David Mulkins, Bowery  
14 Alliance of Neighbors and the East Fifth Street Block  
15 Association. The proposed plan to build a nine-story  
16 hotel tower next to the four-story Merchant's House  
17 Museum is a reckless plan that would have a  
18 catastrophic impact on the structural survival of  
19 this storied but fragile irreplaceable structure.  
20 Built in 1832 with late federal style exterior and a  
21 Greek revival interior, it is New York City's only  
22 family owned preserved in... only family home preserved  
23 intact both inside and out from the 19<sup>th</sup> century. On  
24 a personal note as a 25-year public high school  
25 history teacher I ask you to recognize that unlike

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1  
2 mere facades which we observe much like a painting on  
3 a wall, the Merchant's House Museum is for students  
4 of history a profoundly meaningful 3D experience  
5 allowing us to walk in the shoes of the people who  
6 lived, worked, laughed, loved and died there. It's a  
7 piece of the city's commercial history as well as a  
8 narrative of middle-class life and the lives of the  
9 women and the lives of Irish immigrant servants. Open  
10 to the public since 1936, this 186-year-old building  
11 is a vital irreplaceable New York City cultural  
12 institution that deserves to be protected. Please  
13 vote to reject the developer's application for 27  
14 East Fourth and instead please support the alternate  
15 construction site at 403 Lafayette Street which is  
16 around the corner and also owned by the developer.  
17 I'd also like to say that there were throngs of  
18 people that showed up today but were turned away  
19 downstairs because both rooms were filled up so  
20 there's lots of other people. Thank you so much.

21 CHAIRPERSON MOYA: Thank you. The next  
22 panel Glen Umberger, David Eisenbach, Grace Markman,  
23 Andrean Berman, Andrew, I'm sorry, Andrew. I see  
24 Andrew, Grace? Yeah, I... wait I'm just checking who we  
25

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1  
2 have. Do we have Glen, yep, David Eisenbach, no?  
3 Carol Putra... thank you. You may begin.

4 GLEN UMBERGER: Good afternoon Chair  
5 Moya, Council Members. I'm Glen Umberger speaking on  
6 behalf of the New York Landmarks Conservancy. The  
7 conservancy opposes the proposed new building at 27  
8 East Fourth Street adjacent to the Merchant's House  
9 Museum. The Merchant's House is a truly special place  
10 in its significance cannot be overstated, the New  
11 York Landmarks Preservation Commission recognized  
12 this when they designated this house as an individual  
13 landmark on its first day of existence in 1965. The  
14 Commission later designated the interior as a  
15 landmark in the... in the designation report that the  
16 old Merchant's House is a unique document of its  
17 period which shows with unrivaled authenticity how a  
18 prosperous New York merchant and his family lived in  
19 the mid-19<sup>th</sup> century. The house has also been listed  
20 on the national register of historic places and is a  
21 member of the city's history house trust. The  
22 building with its irreplaceable historic exterior and  
23 interior spaces should not be placed at undue risk.  
24 The proposed new building next door accordingly poses  
25 a real physical threat, adjacent construction of a



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1  
2 large building could result in significant and  
3 irreversible damage such as settling of the museum's  
4 rubble masonry foundation walls which in turn would  
5 cause damage to the interior's delicate plaster work  
6 and other notable architectural features. In 2012 at  
7 the time of the Landmarks Preservation Commission's  
8 hearing on this proposed project, preservation  
9 engineer Robert Silman who represented the Merchant's  
10 House Museum wrote that this construction has the  
11 potential to cause severe damage to the landmarked  
12 house. This concern is not theoretical, in 1988 the  
13 building was immediate... the building immediately to  
14 the East of the Merchant's House was demolished  
15 resulting in damage that required one million dollars  
16 of structural repairs and interior restoration work  
17 at the museum. Even if the most sophisticated  
18 monitoring system is employed for this construction  
19 project it will only track the damage, nothing can  
20 truly ensure that the landmark will remain unscathed  
21 through the excavation and construction phases. We  
22 are aware that there have been some discussions for  
23 the project to move forward on an alternative  
24 development site nearby and we would strongly  
25 encourage such a compromise to protect this

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1  
2 vulnerable building while allowing the developer to  
3 move forward with their plans. We urge the council to  
4 protect the Merchant's House Museum, one of the  
5 city's most irreplaceable architectural assets. Thank  
6 you.

7           ANDREW BERMAN: Thanks. My name is Andrew  
8 Berman, Executive Director of the Greenwich Village  
9 Society for Historic Preservation, large... we're the  
10 largest membership organization in Greenwich Village,  
11 the East Village and NoHo. I urge you to reject the  
12 proposed zoning text amendment and special permits  
13 for 27 East Fourth Street. The reasons to do so are  
14 many; first this is in essence a spot zoning in spite  
15 of what the applicants say. Secondly, approval of the  
16 application would allow uses which are undesirable  
17 and unnecessary at this location. Third and most  
18 importantly, approval of this application would  
19 facilitate a development which appears to present a  
20 grave danger to the neighboring Merchant's House  
21 Museum. The museum is one of New York's first  
22 designated landmarks, a rare interior and exterior  
23 landmark also located within a historic district, a  
24 federal and state landmark and New York City's only  
25 family home preserved intact inside and out from the

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1  
2 19<sup>th</sup> century. Since 1936 it has also been an  
3 invaluable historic cultural and educational resource  
4 open to the public. Given that the city of New York  
5 has invested millions of dollars over the years to  
6 buttress, restore and repair the Merchant's House,  
7 any decision to potentially endanger it in this way  
8 would be particularly confounding. It is also  
9 unnecessary; the developer controls the lot which  
10 extends all the way to Lafayette Street. An  
11 appropriately designed and scaled development could  
12 be shifted to that part of the site without  
13 endangering the Merchant's House or any other  
14 building. This would be a vastly preferable outcome  
15 not only for the Merchant's House but for this  
16 neighborhood and for New York City. It's not worth  
17 risking the catastrophic and irreversible damage  
18 which the Merchant's House Museum could suffer if  
19 this development moves ahead. I urge you to consider  
20 the much bigger picture here, reject the application  
21 before you and help ensure the survival of one of New  
22 York City's great historic and cultural gems. Thank  
23 you.

24 CHAIRPERSON MOYA: Push the button in.  
25

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1  
2 GRACE MARKMAN: Hi, I'm Grace Markman and  
3 I've worked for 30 years in district 39 with Brad  
4 Lander currently, I work with the Mayor's Office of  
5 Immigrant Affairs and I most importantly have worked  
6 11 years as a docent at Merchant's House Museum. I  
7 was totally squashed on the subway today, of course  
8 subway delays galore and I'm saying to myself as I'm  
9 looking at this crowded subway, hanging on who serves  
10 who in this city and I thought well Merchant's House  
11 Museum serves all of us in this city. First of all,  
12 it's owned by the city, invested heavily by the city  
13 with public funds and we all... it serves everyone  
14 here; New Yorkers, students, students from colleges,  
15 elementary school, seniors both nationally and  
16 internationally, we get lots of international guests  
17 as you have heard and it reflects the city's growth,  
18 it's energy and it's unique history. I really  
19 encourage you to think clearly about this issue and  
20 it looks like 403 Lafayette, the, the other lot the  
21 developer owns could be with good will by all serve  
22 this developer's needs and then I think well who's  
23 needs do the developers serve, the developers serve  
24 themselves, this museum serves all of us here in the  
25 city nationally and internationally. Thank you.

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CHAIRPERSON MOYA: You have to push the..

[cross-talk]

CAROL PUTRACHEZ: Oh, I did... I didn't...

[cross-talk]

CHAIRPERSON MOYA: Yeah, there you go...

[cross-talk]

CAROL PUTRACHEZ: Okay, sorry. My name is Carol Putrachez, I'm a member of the East Fifth Street Block Association and a 30-year resident of District two. The Merchant's House Museum is a precious historic treasure, if this were Paris or Rome we wouldn't be here today even discussing this subject but as New York City and REBNY and building owners and developers rule the roost, landmark issues be damned. Although the structural engineers hired by the developers are assuring us that they can shore up the Merchant's House and reinforce it to minimize structural damage during construction, let's look at the facts. The Merchant's House was built in 1832, it's 186 years old, do you really think the 186 year old mortar in between the bricks of this building or the hand hewn joists of the 1800's or the intricately carved interior plaster moldings can withstand the blasting necessary to build a foundation for the

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 building and blasting would be necessary, there's  
3 rock underneath that surface or can it sustain the  
4 vibration of heavy construction machinery only inches  
5 away, I don't think so. And what's the penalty when  
6 the Merchant's House's structure is compromised, none  
7 really, no fine, no jail time just oops we  
8 miscalculated, and the building might have to be  
9 demolished due to irreparable damage as has happened  
10 previously to another building in the area. As I walk  
11 the streets of the East Village, NoHo and even  
12 Chinatown I literally see a new hotel on every block,  
13 totally out of scale and character and  
14 architecturally inappropriate for the surrounding  
15 neighborhood. At the rate we're going New York City  
16 will look like Dubai in ten years. And as to changing  
17 the site for the building to 403 Lafayette, the  
18 developer really doesn't want to do that, it's a cash  
19 cow for him, he probably takes in about 50,000  
20 dollars a, a month as a parking garage with minimal  
21 maintenance. Thanks for listening.

22 CHAIRPERSON MOYA: Thank you. Thank you  
23 for your testimony today and the next panel that I'll  
24 be calling up is David..

25 [off mic dialogue]

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 CHAIRPERSON MOYA: Mulk... David Mulkins;  
3 Emily Hill-Wright; Ann Hijaad [sp?], yeah, okay;  
4 Dennis McAvena...

5 UNIDENTIFIED FEMALE: He had to leave.

6 CHAIRPERSON MOYA: He had to leave, okay.  
7 Is this Talisa, Teresa on... okay, got you Teresa;  
8 Kirsten Theodos, Kirsten, yeah. You can sit right  
9 there if you want, yeah.

10 EMILY HILL-WRIGHT: Sorry. Alright.

11 CHAIRPERSON MOYA: We'll start with you,  
12 yep.

13 EMILY HILL-WRIGHT: Good afternoon, my  
14 name is Emily Hill-Wright, I'm the Communications and  
15 Programs Manager at the Merchant's House. I am 50  
16 percent of the full-time staff at the museum. I'd  
17 like to speak very briefly about the scope of public  
18 opposition to this project. As you've heard today  
19 many, many neighborhood and preservation  
20 organizations have expressed opposition.  
21 Additionally, as you've heard government agencies and  
22 elected officials too have spoken in opposition, over  
23 6,100 individuals have sent letters of opposition to  
24 the city, individuals from all five boroughs from  
25 over 40 states and dozens of different countries.

SUBCOMMITTEE ON ZONING AND FRANCHISES

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Over 6,000 people from all over the city and all over the world have signed an online petition proposing the project. Additionally, over the last six years there have been many public hearings about this project and all the many, many hours of public testimony there has never been one person other than the developers themselves who has spoken in favor of the proposed development. Consistently the number one reason given for opposing the development is the severe risk to the Merchant's House. Whenever museum visitors or neighbors hear that there is an alternative that the development could be built around the corner at 403 Lafayette the words I hear most often is that that would be a win, win. Obviously, I can't speak for all the thousands of citizens who join me in my serious concerns about this project but if the primary reason to oppose the project at 27 East Fourth Street is risk to the Merchant's House I would expect widespread support for a development at 403 Lafayette. The developer today has asked for a guarantee, I'm only one person, I'm just a private citizen but I can guarantee that I will be here at all future public hearings in support



SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 of a project at 403 Lafayette Street and I'm sure I'm  
3 not alone in that. Thank you very much.

4 ANN HIJAAD: Good afternoon, my name is  
5 Ann Hijaad and I am a volunteer docent and researcher  
6 at the Merchant's House Museum and the Merchant's  
7 House Museum and the history that it represents is my  
8 passion and that is what... that is the aspect that I  
9 would like to address today. You know I have often  
10 noted that upon completion of their visit to the  
11 treasured and beloved Merchant's House Museum and  
12 before stepping back onto bustling East Fourth Street  
13 visitors will often pause in jewel boxed vestibule  
14 and comment, you know that was just like stepping  
15 into the past but what past was it exactly. The  
16 Merchant's House Museum is arguably the last  
17 surviving historic home that is a living link to the  
18 antebellum era in New York City, a period which  
19 despite its abundance of history making events is  
20 vastly underrepresented today in our city. The  
21 Treadwell family who occupied the Merchant's House  
22 witnessed and endured the rapid change that was going  
23 on in the world around them, from industrial and  
24 financial growth to the budding suffrage and social  
25 reform movements, from cultural milestones and the

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 evolution of fashion, to abolition and immigration  
3 and from epidemics and medical breakthroughs to civil  
4 war strife the Treadwell's saw it all and lived it  
5 all. The lives they lived is certainly reflected in  
6 the stunning Greek revival home itself but also in  
7 the archives, photographs, clothing and ephemera that  
8 make up their personal belongings. Though our tours,  
9 exhibitions, blog, public programming and our costume  
10 conservation visitors are granted entry into that  
11 world and are privileged to witness the unique  
12 cultural history of the Merchant's House Museum.  
13 Closing the museum would by necessity deny  
14 researchers and visitors access to these invaluable  
15 artifacts and I urge you to reject that proposal.  
16 Thank you.

17 TERESA UTHURRALT: Hi, I'm Teresa  
18 Uthurralt, I'm a native New Yorker and I've lived on  
19 East Fourth Street for ten years and I'm speaking on  
20 behalf of the residents of East Fourth Street and the  
21 East Fourth Street Block Association. I strongly urge  
22 you to vote against this amendment, the proposed  
23 zoning text amendment is an outrageous ask to serve  
24 the narrow financial interest of one wealthy  
25 individual at the expense of the people of New York

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 who are the rightful owners of the Merchant's House  
3 Museum. You... if you just go to East Fourth Street  
4 you'll know that it's a very, very narrow street,  
5 even if the Merchant's House wasn't there, it makes  
6 absolutely no sense to put a hotel on a one way  
7 street that the fire department needs for access but  
8 more importantly you've heard from many people far  
9 more qualified than me today on the engineering  
10 risks. I've read all the reports and I can tell you  
11 it's not fantastical, if you do a simple google  
12 search you will learn that it... adjacent construction  
13 damage is incredibly frequent in New York, it happens  
14 a lot even under the best of intentions and even in,  
15 in projects that are far more ambitious that have  
16 blue chip engineering firms and blue chip architects,  
17 there's been damage to adjacent structures and ones  
18 that are not as vulnerable as the Merchant's House  
19 and it's the sort of thing you can't really model the  
20 risk and I think other people have said this and to  
21 me the simplest way to think of it as a parent, its  
22 highly unlikely when I get in a car that I'm going to  
23 crash and my child is going to die but I still put  
24 in... still put them in, inside their, their own car  
25 seat every day. 403 Lafayette is the car seat here,

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 right, we, we can't model the risk here, we can't say  
3 well we're 80 percent certain the construction going  
4 to be safe. Finally, there is a petition online that  
5 others have referenced, six... over 6,000 people have  
6 signed it, I printed it out here today, so you can  
7 see their signatures, so... the people of... I've, I've  
8 gone to just about every single hearing, I too have  
9 never heard a single person speak in favor of this  
10 and I think in terms of the 403 Lafayette position I  
11 think it's really important to understand that  
12 development there is inevitable, right, so let's all  
13 be really smart and just make sure the car seats  
14 there. Thank you.

15 KIRSTEN THEODOS: Hi, my name is Kirsten  
16 Theodos, I live in district two, ten blocks away from  
17 the Merchant's House Museum and I strongly urge my  
18 Council Member Carlina Rivera of the City Council to  
19 redress... reject this egregiously offensive spot  
20 zoning application. One doesn't need to be a  
21 structural engineer to know a 19<sup>th</sup> century building  
22 is extremely fragile. Fortunately, the Merchant's  
23 House Museum has already been designated a landmark,  
24 unfortunately there's an application for a spot  
25 zoning next door for a large hotel. Spot zoning is

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 city land use jargon for a developer who wants to  
3 circumvent the rules. We must protect our already  
4 designated properties otherwise what is the point.  
5 There has been discussion of an alternative site the  
6 developer can build on... the hotel on. For me I don't  
7 consider New York City developers to be a very  
8 vulnerable group so contemplating alternative ways  
9 the developer can be profitable is just not a  
10 priority for me. What is a priority is that the city  
11 protects our historic assets and heritage especially  
12 ones already designated by the LPC and recognized on  
13 both the state and federal levels so future  
14 generations can learn and enjoy. My community was  
15 recently disappointed by the outcome of the 14<sup>th</sup>  
16 Street Tech Hub and its my hope we don't see the same  
17 with the Merchant's House Museum.

18 CHAIRPERSON MOYA: Thank you. Okay, are  
19 there any other members of the public who wish to  
20 testify? Yep, well hold on.

21 [off mic dialogue]

22 CHAIRPERSON MOYA: Okay, come on up. Is  
23 there anybody else? No, okay.

24 VINCENT PLESCIA: Hello, again my name is  
25 Vincent Plescia, I am an independent consultant for

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 fine and decorative arts and my clients range from  
3 Eskimo in Alaska who have issues with their cultural  
4 heritage and a 2,000-year-old artifact that they're  
5 digging up, it's the only legal antiquities trade in  
6 the world to clients like the Merchant's House. I  
7 know the Merchant's House as if it was my own, I've  
8 studied holes in the floor, tack... tracking tack marks  
9 for carpeting to try to unlock through forensics all  
10 that the Merchant's House is still holding enclosed  
11 in, in the years of history that have happened there  
12 and I wanted to quickly speak to a point that  
13 Councilwoman Carlina Rivera made about the integrity  
14 and the risk of the Merchant's House and it's  
15 collections. If you look at the Merchant's House like  
16 an object, like a painting or like a piece of  
17 furniture, a masterpiece that you would find in the  
18 Metropolitan Museum of Art, when Steve Wynn put his  
19 elbow through the 160 million dollar Picasso he  
20 bought at Sotheby's and it needed to be repaired, yes  
21 we can fix anything but that hole and that repair  
22 still happened and that would be a similar case with  
23 the Merchant's House and any development but it's  
24 also a case of civil pride and awareness and I don't  
25 know if you all are aware but it was in 1965 when the

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1  
2 Merchant's House was a poster child for the  
3 Landmarks... New York City Landmarks Law and it changed  
4 the city council's mind about that law and it was  
5 passed and in fact Mayor Wagner at that time looked...  
6 years later looked back at his time as Mayor and said  
7 that it was the lasting contribution that his  
8 administration did so if you look it up you will hear  
9 and read about the city council's involvement in  
10 1965, history will be written again and today we are  
11 at that cross roads.

12 CHAIRPERSON MOYA: Thank you. Are there  
13 any other members of the public? Seeing none I now  
14 close the public hearing on this application and it  
15 will be laid over. Thank you. We will now proceed to  
16 hear LU 217, the HK Kitchen Corp application for a  
17 revocable consent to operate an unenclosed sidewalk  
18 café at 3599 East Tremont Avenue in Council Member  
19 Gjonaj's district in the Bronx. I now open up the  
20 public hearing on this application and I will call up  
21 Danine Romero. You just push the button, state your  
22 name and you can begin. Push... you've got to push the  
23 button to turn on the mic.

24 DANINE ROMERO: Danine Romero for HK  
25 Kitchen. Oh, I'm just here for the sidewalk café.

SUBCOMMITTEE ON ZONING AND FRANCHISES

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CHAIRPERSON MOYA: Are you here to give  
3 testimony?

4

DANINE ROMERO: I'm for... [cross-talk]

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CHAIRPERSON MOYA: Did... [cross-talk]

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7

DANINE ROMERO: ...and I guess the  
application for the sidewalk café so...

8

9

CHAIRPERSON MOYA: You're in favor of the  
sidewalk café?

10

DANINE ROMERO: Yes.

11

12

CHAIRPERSON MOYA: Okay, are you... are you  
the owner... [cross-talk]

13

14

DANINE ROMERO: I'm the owner... [cross-  
talk]

15

CHAIRPERSON MOYA: ...or operator?

16

DANINE ROMERO: I'm the owner.

17

18

CHAIRPERSON MOYA: So, have you reached  
an agreement with the community on this?

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DANINE ROMERO: Yes, I have and they all  
agreed, and I did work with them with the amount of  
tables and chairs which was reduced to 15 tables and  
30 chairs.

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CHAIRPERSON MOYA: And the... with the  
community board, with the community board approve...  
[cross-talk]



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DANINE ROMERO: Yes... [cross-talk]

CHAIRPERSON MOYA: ...approval... [cross-talk]

DANINE ROMERO: ...they did... [cross-talk]

CHAIRPERSON MOYA: Okay.

DANINE ROMERO: They approved, right.

CHAIRPERSON MOYA: The local Council Member?

DANINE ROMERO: Yeah which was Matty Gjonaj

CHAIRPERSON MOYA: Gjonaj.

DANINE ROMERO: Gjonaj.

CHAIRPERSON MOYA: Yeah. Okay, thank you very much for your testimony today.

DANINE ROMERO: Okay.

CHAIRPERSON MOYA: Are there any other members of the public who wish to testify on this item? Seeing none we will now close the public hearing on this application and it will be laid over. Our next hearing will be on LU 208, the Lefferts Boulevard rezoning, an application for a zoning map amendment to facilitate a new commercial development in Council Members Adam's district in Queens. A C2-3 commercial layover... overlay district could be

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 established within an existing R4-1 district, this  
3 rezoning would extend to the current C2-3 overlay  
4 district along Lefferts Boulevard for a depth of 100  
5 feet from Liberty Avenue to a line 500 feet north  
6 from 107<sup>th</sup> Avenue. I now open the public hearing on  
7 this application and I will call up Richard Lobel and  
8 Fiona...

9 RICHARD LOBEL : Fiona actually had to  
10 leave for another meeting...

11 CHAIRPERSON MOYA: Okay.

12 RICHARD LOBEL: Chair Moya thank you for  
13 hearing us today for this extremely straightforward  
14 and... [cross-talk]

15 CHAIRPERSON MOYA: Wait, I'm, I'm...  
16 [cross-talk]

17 RICHARD LOBEL: ...brief... [cross-talk]

18 CHAIRPERSON MOYA: ...sorry, I'm, I'm...  
19 [cross-talk]

20 RICHARD LOBEL: Oh, sure... [cross-talk]

21 CHAIRPERSON MOYA: ...sorry, my apologies...

22 RICHARD LOBEL: Please.

23 CHAIRPERSON MOYA: Council please swear  
24 in the panelist.

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2 COMMITTEE CLERK: Do you swear or affirm  
3 that the testimony that you're about to give will be  
4 the truth, the whole truth and nothing but the truth  
5 and to answer all questions truthfully?

6 RICHARD LOBEL: I do.

7 CHAIRPERSON MOYA: Thank you, you may..  
8 [cross-talk]

9 RICHARD LOBEL: Thank you again... [cross-  
10 talk]

11 CHAIRPERSON MOYA: ...begin.

12 RICHARD LOBEL: Richard Lobel for Sheldon  
13 Lobel and thank you again for having us today for a  
14 very brief discussion regarding the Lefferts  
15 Boulevard rezoning. As was stated the rezoning seeks  
16 to extend the C2-3 commercial lay... overlay to cover  
17 both the subject property lot ten as well as the  
18 adjacent property, lot 11 and as you can see from the  
19 zoning change map the third operative page in the  
20 presentation, this rezoning will in essence allow the  
21 frontage on Lefferts to have a commercial overlay  
22 which will be coterminous with the overlay on the  
23 backside of Lefferts Boulevard on 118<sup>th</sup> Street. So,  
24 there's already commercial uses behind the property,  
25 there's already one commercial use, an existing

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 commercial use to the south of the property which  
3 will be included as part of the rezoning and there's  
4 commercial uses across the street. The entire area  
5 was rezoned as part of the Ozone Park rezoning in  
6 2013 which resulted in somewhat of an uneven zoning  
7 district boundary and as with many other actions  
8 before the Queens office that seeks to, to establish  
9 the zoning map so that it complies with what's  
10 currently on the ground. Again, the tax map... the tax  
11 map demonstrates at the extent of the rezoning area  
12 would only be an additional 40 feet and would allow  
13 commercial use that's consistent with the other  
14 commercial uses along this block as they travel south  
15 of Liberty Avenue. So, in addition to the maps and  
16 photos that are included there's a, a plan  
17 demonstrating what's proposed at the back which,  
18 which would merely be for a one-story commercial  
19 store. I would add that the community board and the  
20 City Planning Commission as well as the Queensboro  
21 President's Office were all unanimously in favor of  
22 this. The one issue which did come up although the  
23 community board and the Queensboro President was that  
24 the adjacent lot, lot 11 maintained a restrictive  
25 easement, driveway easement along its southern border

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 that is written into its deed and is part... already  
3 part of the record. So, in essence we've satisfied  
4 all the conditions that were required at every level  
5 of hearing and hope that the Subcommittee and  
6 eventually the full council will approve the rezoning  
7 in its totality.

8 CHAIRPERSON MOYA: Just one quick  
9 question for you, so you... can you confirm that no  
10 development will be allowed on the driveway located  
11 on lot 11?

12 RICHARD LOBEL: That's correct, and we  
13 did submit highlighted deeds to land use to  
14 demonstrate that fact, as a... as a legal matter the  
15 driveway easement remains operative and would be  
16 unable to be built upon.

17 CHAIRPERSON MOYA: Thank you.

18 RICHARD LOBEL: Thank you Chair.

19 CHAIRPERSON MOYA: Are there any other  
20 members of the public who wish to testify on this  
21 item? Seeing none I now close the public hearing on  
22 this application and it will be laid over.

23 RICHARD LOBEL: Thank you again.

24 CHAIRPERSON MOYA: Our next hearing will  
25 be on LU's 209 through 213, the 26-32 Jackson Avenue

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 and the 2701 Jackson Avenue application for property  
3 in Council Member Van Bramer's district in Queens.  
4 HPD and DCAS and seeking approval of the disposition  
5 of a negative easement on a city owned parcel block  
6 267, lot 25 for the benefit of the two development  
7 sites in connection with the sale of development  
8 rights from the city owned parcel and a disposition  
9 of a permanent easement on block 267, lot 25 for  
10 purposes of light and air for proposed developments.  
11 Now these actions would facilitate the development of  
12 two mixed use buildings, one would have approximately  
13 361 residential units of which approximately 112  
14 residential units would be permanently affordable,  
15 the other building would have approximately 120  
16 apartments of which approximately 40 will be  
17 permanently affordable. For each development site  
18 there is a related private application from 2701  
19 Jackson LLC and 2632 Jackson Avenue LLC for a special  
20 permit to modify the street wall location provision  
21 of ZR117531 and set back provisions of ZR117532.  
22 There is also one application for a special permit to  
23 allow a 91-space public parking garage. I now open  
24 the public hearing on this application and I... let me  
25 call up our first panel; Jay Segal; Albert Shirian,

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 Shirian, Shirian; Hal Fetner; Damien... okay and  
3 Genevieve Michel.

4 [off mic dialogue]

5 CHAIRPERSON MOYA: Okay, council can you  
6 please swear in the panel.

7 COMMITTEE CLERK: Before speaking please  
8 state your name into the mic after pushing the  
9 button. Do you each swear or affirm that the  
10 testimony you're about to give will be the truth, the  
11 whole truth and nothing but the truth and to answer  
12 all questions truthfully?

13 GENEVIEVE MICHEL: Genevieve Michel, I  
14 do.

15 ALBERT SHIRIAN: Albert Shirian, I do.

16 JAY SEGAL: Jay Segal, I do.

17 HAL FETNER: Hal Fetner, I do.

18 DAMIEN PESLINI: Damien Peslini, I do.

19 CHAIRPERSON MOYA: Before, before we  
20 begin I just want to turn it over to Council Member  
21 Van Bramer for his remarks.

22 COUNCIL MEMBER VAN BRAMER: Thank you  
23 very much Chair Moya for giving me the opportunity to  
24 speak and.. on this important issue in my district.  
25 This project of course does not exist in a vacuum, it

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 is but one part of the overall plan for Long Island  
3 City and there are rightfully so significant concerns  
4 in the community about the overall approach of this  
5 administration when it comes to Long Island City. I  
6 support and believe that those concerns are valid.  
7 This project is one where people particularly in the  
8 Court square area are concerned when it comes to  
9 adding another 500 units of housing and what that  
10 would mean for an area that is already underserved  
11 as... when it comes to infrastructure and we know we  
12 need green space and we know we need more schools but  
13 we also need more of a plan from this administration  
14 on, on how we can make Long Island City and Hunters  
15 Point and Court Square sustainable for the future. As  
16 I said in an article last week, the administration  
17 often talks about Long Island City as a  
18 transportation rich community but I always tell them  
19 not to say that because if you can't get on the seven  
20 or you can't get on the eight it doesn't feel so  
21 transportation rich to you and there are legitimate  
22 concerns about not just this project but what I have  
23 said will continue to say to the administration is  
24 that the individual private application to individual  
25 application to individual private application is



SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 deeply concerning and, and not what I believe this  
3 neighborhood deserves and needs, there's got to be  
4 more of a comprehensive plan about how we deliver the  
5 infrastructure and resources necessary to keep this  
6 neighborhood so livable and so sustainable. So, I'm  
7 anxious to hear not just the presentation but  
8 obviously all the members of my community who have  
9 traveled all the way here to City Hall and 250  
10 Broadway to talk about this, but I want to thank them  
11 in particular for taking what has now been a large  
12 chunk of your days to be here and to speak to these  
13 very serious issues. Again if all we were faced with  
14 were 480 or so units that would be one discussion but  
15 we all know that behind this is 44<sup>th</sup> Drive and  
16 Plaxall and so many others and my job as the council  
17 member is to take a look at all of that not just one  
18 and I urge the administration again to not go this  
19 private application route to private application  
20 route to private application route but instead to  
21 listen more broadly to this community and it's  
22 concerns. So, with that I thank the Chair for giving  
23 me the opportunity to say a few words.

24 CHAIRPERSON MOYA: Thank you Council  
25 Member, we now can begin the testimony.

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2 GENEVIEVE MICHEL: Again, my name is  
3 Genevieve Michel from HPD. Land Use Numbers 209 to  
4 213 are related to a joint ULURP application  
5 submission by HPD and DCAS regarding the proposed  
6 disposition of air rights from city owned properties  
7 located at block 432, lots 18 and 29; block 267, lot  
8 25 as well as ULURP applications from the development  
9 team for the granting of special permits in Queens  
10 council district 26 for the development of a project  
11 currently known as Long Island City Ramps. Land Use  
12 Number 210 C180384ZSQ and Land Use Number 212  
13 C180382ZSQ both relate to special permits to modify  
14 the setback requirements allowing for the  
15 construction of the project. Land Use Number 213  
16 C180383ZSQ relates to a special permit to allow for  
17 the creation of an... of an attended parking garage  
18 with spaces for 91 cars within the building and both  
19 Land Use Number 209 C180386PPQ and Number 211  
20 C180385PPQ pertain, pertain to the air rights to be  
21 conveyed. These land use actions will facilitate the  
22 development of a mixed income, mixed use project  
23 containing a total of 481 residential units of which  
24 approximately 152 units will affordable to households  
25 at or below 130 percent of AMI with rents averaging

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 115 percent AMI. The project consists of two  
3 buildings on two different lots; a 27-story building  
4 and a 48-story building. The proposed project is a  
5 result of an RFP issued by EDC in November of 2014  
6 seeking proposals that would utilize excess  
7 development rights related to three city owned  
8 properties located under the Long Island City side of  
9 the Ed Koch Queensboro Bridge approach ramps. Aspects  
10 of the RFP envisions the use of approximately 494,000  
11 as of right square feet of development rights  
12 associated with the sites. DCP is only permitting a  
13 transfer of 362,683 square feet of the air rights  
14 therefore HPD and DCAS propose to sell six... 66,368  
15 square feet of development rights from lots under the  
16 approach ramps to the adjacent north site block 432,  
17 lots 18 and 19 a.k.a 27-01 Jackson Avenue and sell  
18 296,315 square feet of development rights from under  
19 the lots... I'm... from lots under the approach ramps to  
20 the adjacent south site block 267, lot 25, a.k.a 26-  
21 32 Jackson Avenue. The development team includes the  
22 owner of property adjacent to the city owned sites,  
23 compensation for the rights will be the provision of  
24 permanently affordable housing units and a cash  
25 payment based on the average price per square foot of

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 residential unit sales. The permanently affordable  
3 housing units will mirror the city's mandatory  
4 inclusionary housing program and use MIH option four,  
5 work force... forth... work force housing or 30 percent  
6 of the residential floor area at an average of, at,  
7 or below 150 percent AMI. This translates to 151,000  
8 square feet of residential floor area or an  
9 anticipated 150 units, of the 150 units 22 will be  
10 set at 60 percent AMI rents; 18 at 90 percent AMI  
11 rents; 14 at 110 percent AMI rents and 96 at 130  
12 percent AMI rents. MIH is not required as part of  
13 these land use actions as no new floor area is being  
14 created and it is instead being provided as a  
15 consideration for the development rights. This  
16 project presents a creative opportunity for HPD to  
17 build much needed housing for moderate- and middle-  
18 income households and is an opportunity to provide  
19 affordability in the neighborhood without having to  
20 provide any subsidies beyond the development rights  
21 themselves. This is not a typical disposition for HPD  
22 where we have actual land that is a free and clear  
23 parcel, in this case we only have development rights  
24 and propose to convey to a private property owner  
25 that is an existing as of right development parcel,

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1  
2 so we thought creatively to determine the right level  
3 of affordability to achieve the maximum public  
4 benefit. To give a bit of history on that  
5 negotiation, there were multiple appraisals issued  
6 for the development rights that were analyzed by HPD  
7 that ultimately determined a market value of 100  
8 dollars per square foot. In 2016, HPD valued the cost  
9 of providing a permanently affordable housing unit in  
10 this neighborhood at roughly... at roughly 500,000  
11 dollars taking into consideration, providing affordable  
12 house, housing and perpetuity. Based on that average  
13 cost per unit HPD determined an affordable unit  
14 count, an affordability level commensurate with the  
15 market value of the reduced air rights, at 100  
16 dollars per square foot only 72 permanently  
17 affordable units at 60 percent AMI would be created.  
18 We didn't think that was good enough, so we went back  
19 to the drawing board to work with the developer to  
20 achieve a project with maximum public benefit,  
21 initially we considered MIH option one which would  
22 have resulted in 134 affordable housing units instead  
23 of 72 but the project would require tax credits and  
24 bonds for the affordable component. HPD additionally  
25 asked to share in the upside of condo sales, the

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 developer agreed. However as of spring 2017 neither  
3 the city HDC nor HSA have a policy to revise to low  
4 income housing tax credits and bonds for projects  
5 providing 30 percent or less affordability making MIH  
6 options one and two which would have required that  
7 subsidy no longer feasible, feasible. Without  
8 subsidies the developer proposed the use of MIH  
9 option one, the work force option with 30 percent of  
10 residential floor area set aside for permanent  
11 affordable housing averaging 115 percent AMI.  
12 Recognizing the change in the lending environment,  
13 the need for the project to generate additional cash  
14 flow and the increase in the number of total  
15 permanently affordable units HPD agreed to accept  
16 this change. In addition, the cash payment together  
17 with the affordable housing is over and above the  
18 value of the air rights being sold and ensures the  
19 city shares in the upside of the revenue from condo  
20 development to support future affordable housing in  
21 Queens community district two. HPD believes this deal  
22 allows us to receive greater affordability that can  
23 be purchased outright through subsidy and includes a  
24 cash payment that can be used to buy more affordable  
25 housing on other projects therefore in order to

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1  
2 facilitate development of the Long Island City Ramps  
3 project we are before the council seeking approval  
4 Land Use Actions Numbers 209 to 213. And I will now  
5 turn it over to the development team to talk through  
6 some of the specifics of the proposal.

7 ALBERT SHIRIAN: Good afternoon Chairman  
8 Moya, Council Member Van Bramer. My name is Albert  
9 Shirian, I'm a founder of Lions Group which has built  
10 six multi-families in this vibrant city since 2004.  
11 This is my first experience with the ULURP process.  
12 This matter is simply a transfer of the development's  
13 rights, it's not an up-zoning because we won't... will  
14 not add a single person above the as of right density  
15 allowed. As you will see the plan does not... does add  
16 more affordable housing than would likely ever be  
17 built with the city's air rights and we have agreed  
18 to pay full market value in the form of 150  
19 permanently affordable units with full price  
20 protection. We must build them and maintain them no  
21 matter the cost. We have partnered with the respected  
22 Fetner Group, Harold Fetner, an experienced  
23 affordable housing company. We want the city council  
24 to know especially our district Council Member Jimmy  
25 Van Bramer that we are here to be a responsible

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 community developer. We have listened to the  
3 community and it's elected officials and we are  
4 prepared to do our part to respond to the concerns of  
5 the community. I'm here to answer your questions and  
6 I hope to engage in a process of negotiation which  
7 leads to the sale of air rights. I will now let the  
8 professionals review the project for you. Thank you.

9 CHAIRPERSON MOYA: You may... you may  
10 begin.

11 JAY SEGAL: Right, good afternoon Council  
12 Member Moya, Council Member Van Bramer. My name is  
13 Jay Segal, I'm a Land Use Attorney with Greenberg  
14 Traurig representing the developers. As Albert said  
15 this is not a rezoning, this is an application to do  
16 what a private developer would be allowed to do as of  
17 right or any private, private property owner could do  
18 as of right which is merge its property with an  
19 adjacent neighbor and transfer floor area. Of course,  
20 we wouldn't be here if this were an as of right  
21 situation because the city is held to higher standard  
22 than private property owners and this is an action to  
23 allow the city to dispose of its development rights  
24 to an adjacent parcel. As you've heard we're talking  
25 about disposing of 66,368 square feet to the northern



SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 property and 296,213 feet to the southern property.

3 The amount of square feet that's being disposed of to

4 the south was... it's an odd number and it came up

5 because City Planning worked with the developer for

6 many months about what height they thought would be

7 appropriate in the area and this amount of square

8 feet together with the develop is 80,000 square feet,

9 came up with a 49 story building and that's how the

10 296,000 and change square feet was derived. In

11 addition to the disposition application there are

12 easements so the buildings that face over the ramps

13 could have legal light and air from their windows

14 starting at a height that DOT will find appropriate.

15 The special permits that were referred to by HPD are

16 primarily, so the city doesn't have to build on their

17 property, the street wall requirements in the special

18 district say that all of the properties on the zoning

19 lot have to have a building on it and the city

20 doesn't want to build underneath the ramps and

21 alongside the ramps so we need a waiver. DOT asked us

22 to step back from their ramp by eight feet, so they

23 could repair it, we're... we... we're certainly willing

24 to do that but we need a special permit to do it

25 because otherwise we'd have to build right up to our

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 property line and the other special permit is to not  
3 set back at 150 feet from the ramp. The last special  
4 permit, I bet you heard about a parking garage is  
5 because on Jackson Avenue you cannot have a curb cut  
6 so our large building on the south can't have a  
7 garage and, and, and so we're asking that the curb  
8 cut that's allowed on 43<sup>rd</sup> Avenue that's adjacent to  
9 the smaller 27 story building can lead into a public  
10 parking garage. We expect that most of the people who  
11 will park in the public parking garage will be people  
12 in the smaller building and in the larger building,  
13 so it would relieve the area from the cars to the  
14 people who would be living in the building. Those are  
15 the actions that would be necessary for us to be able  
16 to build the buildings that you're seeing in the  
17 handouts, the 27 story and the 49 story buildings.  
18 So, just a recap what we've heard from Genevieve, in  
19 terms of the affordability there will be  
20 approximately 150 affordable homes, the average AMI  
21 will be approximately 115 with 20 of which being at  
22 60 percent; 18 of which being at 90 percent; 14 of  
23 which at 110 percent and 96 of which at 130 percent.  
24 The other note that may not be obvious right away is  
25 there is a pretty good... of all the affordable 50... we

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 have 56 two bedrooms and 18 three bedrooms. We were  
3 focused on... in working with HPD in identifying some  
4 larger homes that would be available as part of the...  
5 part of the package, part of the program. In terms of  
6 the... this is just a quick summary of the, the project  
7 itself. There's 153,000 square feet of affordable  
8 area that... of the 362 that is being transferred it  
9 represents 42 percent so of all the air rights being  
10 transferred 42 percent are affordable, I think that's  
11 a, a very important number to, to focus on. We've  
12 gone through the mix itself.

13 HAL FETNER: Chairman Moya, Council  
14 Member Van Bramer. My name is Hal Fetner and I am the  
15 President of Fetner Properties, I am a third-  
16 generation builder and developer and I'm  
17 exceptionally proud of the many affordable housing  
18 projects that our company has created over the last  
19 few years. Fetner Properties would like to thank this  
20 committee for helping to make many of those projects  
21 a reality as some of them went through a ULURP  
22 process and applaud this council for their  
23 responsiveness for the need for affordable housing.  
24 I'd also like to mention how excited and proud we are  
25 to be partnering with the Shirian family. The

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1  
2 Shirian's have established themselves as the premier  
3 developers and have always tried to be responsible  
4 members within their communities. It is this very  
5 sense of community that brought the two families  
6 together. A guiding principle of Fetner Properties is  
7 that we believe each of our buildings are thriving  
8 communities for all of our residents with no  
9 distinction between our market rate or affordable  
10 units and I'm excited that the Shirian family has...  
11 is... shares our visions for our projects. This project  
12 is a creative use of a city asset, if the city or a  
13 private developer attempted to build 100 percent  
14 affordable housing on this city owned site it would  
15 not be economically practical as a result of the cost  
16 to build over the ramp. The amount of city subsidies  
17 needed to make the affordable housing work would be  
18 excessive and wasteful in light of the efficiency of  
19 adding the air rights to the adjacent site therefore  
20 transferring those development rights to parcels that  
21 could have already been built as of right and thereby  
22 creating 150 affordable homes is a creative smart use  
23 of these air rights. Letting the two sites before you  
24 today be built without the city's rights would pretty  
25 much destroy the value of the city's asset for

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 affordable housing. It would be a shame not to take  
3 advantage of these air rights and not create more  
4 needed housing. I make it a point to know my  
5 residents in all of our properties especially my  
6 affordable residents, I have seen how the affordable  
7 housing programs have worked and have actually  
8 changed lives. I have many residents in my building  
9 who but for the grace of god did not get the right  
10 opportunity however once they moved into my buildings  
11 and suddenly had access to safe, clean housing as  
12 well as better schools for their children. Some of  
13 these families now have children who have graduated  
14 college, and some are now enrolled in medical schools  
15 as well as graduate programs, this would never have  
16 been possible had they not moved into one of our  
17 affordable units. We're gratified to have helped make  
18 this happen, this council has been a powerful partner  
19 on these projects and we can all be proud of what we  
20 have done for these families. Finally, I'd like to  
21 respectfully point out that our request today in no  
22 way precludes converting the land to public open  
23 space under the bridge. I'd like to thank the  
24 Chairman and Council Member Van Bramer for the  
25

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 opportunity to speak today and I look forward to any  
3 questions. Thank you.

4 CHAIRPERSON MOYA: Thank you. Now I want  
5 to turn it over to the Council Member for questions.

6 COUNCIL MEMBER VAN BRAMER: Thank you  
7 very much Mr. Chari and thank you for the, the  
8 presentation, the entire team. So, a few things and I  
9 want to say that this is obviously not personal,  
10 right, obviously there are issues at stake with the  
11 administration and there are conversations that we're  
12 having with the administration and, and, and I think  
13 that is a big part of the problem quite frankly so  
14 with that said let me just ask a few questions.

15 Obviously one of the biggest and most pressing needs  
16 in Court Square are, are school seats and, and I know  
17 we've had some conversations with you all but maybe  
18 you can speak to the issue, why, why can't we get a  
19 school as part of this project?

20 JAY SEGAL: Well we've... the, the SCA  
21 wants a footprint of many times the size of our  
22 properties, our properties are 10,000 square feet and  
23 9,200 square feet and the SCA wants 20 to 30,000  
24 square feet and I know the... they're looking at other  
25 properties that other clients might have and it's the

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 kind of minimum dimension they want and this was not  
3 a site that they were interested in.

4 COUNCIL MEMBER VAN BRAMER: Well that's  
5 obviously a problem for the neighborhood as you could  
6 well imagine, right, where we have.. we have so little  
7 in terms of school seats in the Court Square area and  
8 adding another 481 families would just increase the  
9 pressure for school seats in the area so the  
10 administration needs to come to us with a plan for  
11 additional school seats in this neighborhood now, now  
12 and that is a huge issue that is not going away, that  
13 is not getting better any time soon and the  
14 administration needs to step up and make sure that  
15 this community knows that it's going to be able to  
16 send their children to a school in their own  
17 neighborhood and, and that is a challenge for this  
18 project and every other project that the  
19 administration is looking at in Long Island City.  
20 The, the ramps and the potential park that the  
21 community so desperately needs and that obviously I  
22 support that is something that you said is not  
23 precluded by this going through but maybe you can  
24 speak to how you would.. you would advance that  
25 project or support that project because it is.. it is

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1  
2 impossible to envision additional families, thousands  
3 of additional people without the infrastructure that  
4 would actually allow those communities to live in a  
5 neighborhood that, that is livable.

6 JAY SEGAL: Understand.

7 EDWARD WALLACE: First state my name?

8 COUNCIL MEMBER VAN BRAMER: Yes.

9 EDWARD WALLACE: Yes, my name is Edward  
10 Wallace, I'm a partner of Jay Segal's at Greenberg  
11 Traurig representing the development team and I am  
12 signed up as a... as just kind of a witness, a question  
13 answerer. So, first Council Member I hope you  
14 understand, and the community understands how aligned  
15 in principle we are with the idea that open space is  
16 a very important thing beyond that I think we would  
17 say that we can be relied upon to use whatever good  
18 offices we have if it's useful from your point of  
19 view. We have studied the ramps, we know what uses  
20 are there so factually I think we can bring resources  
21 to it and I think we have some potential to be useful  
22 in giving you and the community some benefit of our  
23 development expertise in terms of what is feasible  
24 but beyond that I would say this is not the time and  
25 the place to say much more about that other than we



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1  
2 really do want to work with your office, with you,  
3 with the council and with the administration to solve  
4 any of the problems that have been addressed, we  
5 listened to the community very, very carefully at the  
6 community board hearing, learned from it and I think  
7 responded both to the borough president and are now  
8 here today to say we're here to be responsive and  
9 cooperative and do our... do our share.

10 COUNCIL MEMBER VAN BRAMER: So, obviously  
11 the community is here, and the community board is  
12 represented by Sheila Lewandowski on the next panel  
13 and I want to hear from all of them. I do want to ask  
14 this questions, I know... maybe this is an HPD  
15 question, so at this point you're proposing that 40  
16 percent of the affordable units... or 40 percent of the  
17 units that we gain from the air rights transfer would  
18 be affordable, correct and if we're exchanging air  
19 rights for publicly owned space why aren't we getting  
20 100 percent affordable, for example as part of that  
21 particular piece of this deal?

22 GENEVIEVE MICHEL: So, I think when we  
23 went back and forth with the development team to try  
24 and figure out what the right structure was, you know  
25 I think what we had found was the... based on the, the

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 value of the air rights versus the cost of building  
3 affordable housing, we thought we could finance at 60  
4 percent AMI, 72 affordable housing units, I think  
5 unfortunately we have... you know I think... because  
6 we're using air rights and not actually... it's not  
7 actually a piece of property that we own our leverage  
8 is a little bit limited as far as what can subsidize  
9 here and what we can ask of the developer and so I  
10 think after, you know quite a bit of back and forth  
11 between our team and their team this is, you know  
12 where we landed and where we thought we could  
13 generate the best deal.

14 COUNCIL MEMBER VAN BRAMER: I'll just say  
15 I, I think this is part of our, our problem, right,  
16 obviously once again this does not exist in a vacuum  
17 and as we, we have some scoping meetings going on in  
18 the community today and I think a lot of people are  
19 offended even as am I that, that the city is looking  
20 at developing city owned land and, and having 25  
21 percent of those units be affordable, right, that's,  
22 that's disgraceful actually and, and I think this  
23 particular piece of this particular deal I think will  
24 feel to some, you know in a similar way, right, that,  
25 that we're talking about publicly and what we do with

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 public land and how we, we dispose of public land.  
3 So, I want to hear from obviously my community and I  
4 know they've waited a really long time to be able to  
5 say what they want to say but I'll just say this and  
6 again this is not personal but this is... you know  
7 we're not going to negotiate here but the  
8 administration, the Deputy Mayor and EDC and HPD and  
9 DOT and all of the teams have got to understand that  
10 the people in this community are demanding better, I  
11 am demanding better and there has to be a  
12 comprehensive plan for this community that actually  
13 addresses the infrastructure needs of this community  
14 today, it is really unfair the way the city is, is  
15 treating Long Island City and, and wanting to, to add  
16 and add and add without substantially addressing the  
17 infrastructure needs that exist today. So, with that  
18 said I will pass it back to the Chair and thank once  
19 again everyone for coming from the neighborhood.

20 CHAIRPERSON MOYA: Thank you and thank  
21 you to the panel for being here to testify and I now  
22 am going to call the next panel; Pedro, Pedro Gomez,  
23 Peter Johnson, Sheila Lewandowski and Vincent  
24 Plescia. Yeah, Plescia, Vincent, no Vincent. Frank  
25

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 Wu, I have four, okay, thank you. So, we'll start  
3 with you Sheila. No, you go first.

4 SHEILA LEWANDOWSKI: Good afternoon  
5 Chairman Moya and Council Member Van Bramer. Thank  
6 you very much for this opportunity to testify. My  
7 name is Sheila Lewandowski and I'm the second Vice  
8 Chair of Community Board Two and I'm reading the  
9 letter we sent to the administration in regard to  
10 this proposal. I will say in addition I am a resident  
11 and a homeowner, I'm very active and outside of my  
12 position on the community if you have any questions  
13 for me I will respond in that... in that... as that, that  
14 position. So, we sent this to Director Lago. On June  
15 7th community board two held a public hearing  
16 concerning this ULURP application that we call the  
17 HPD LSE ramps project. At that meeting with a quorum  
18 present a motion was made and seconded to oppose the  
19 application, the motion... the motion passed  
20 overwhelmingly with 33 board members in favor of the  
21 motion to oppose and only one opposed and none, none  
22 abstaining. Community board two expressed the  
23 following concerns which formed the basis for our  
24 unanimous decision. Incentivizing development in  
25 Court Square an already overheated market will have a

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 negative... some impact by nearly tripling the density  
3 of the project that would otherwise be permissible as  
4 of right. The Court Square community is already  
5 overburdened by development as Council Member Van  
6 Bramer very, very accurately pointed out. The city's  
7 transfer of public assets in the form of development  
8 right, air rights will only serve to enrich the  
9 developer and increase the number of transient market  
10 rate rental units by nearly 60 percent. The board  
11 feels very strongly that this... the public benefit of  
12 this air rights transfer would be much greater if  
13 among other things the city and the developer a one  
14 to one equation of additional FAR to affordable units  
15 and by both using affordable housing tools other than  
16 MIH and significantly increasing the depth of  
17 affordability and ratio of affordable to market rate  
18 units in this project. As presented in this  
19 application the level of public benefit when compared  
20 to the FAR windfall that would be realized by the  
21 developer is woefully insufficient. The Court Square  
22 neighborhood lacks adequate infrastructure, I would  
23 say that's even a light word for how little  
24 infrastructure they have, there's... can I just finish  
25 or would you rather... sorry, schools, community open

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1  
2 space, affordable artist studios, medical facilities,  
3 transportation and this air rights transfer of public  
4 land could be better used to enrich the community  
5 such as to incentivize development of a community  
6 center which is direly needed. The board also feels  
7 very strongly the city should prioritize the  
8 immediate use of the open public space under the ramp  
9 for park space and open space including opportunities  
10 for the arts rather than the current development  
11 Department of Transportation storage. I don't need to  
12 finish you, you have the rest of the testimony but  
13 thank you.

14 CHAIRPERSON MOYA: Thank you.

15 PEDRO GOMEZ: Hi there, my name is Pedro  
16 Gomez and I have the honor of serving as President of  
17 the Court Square Civic Association in Long Island  
18 City, thank you so much for allowing me to speak. I'm  
19 here today because this air rights transfer falls  
20 within the boundaries of my neighborhood and I have  
21 heard from so many of my members and neighbors about  
22 this particular project. We are not another NIMBY  
23 group, we are a group of residents who are concerned  
24 about the level of hyper development in Long Island  
25 City without the requisite investment in our fragile

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1  
2 infrastructure by this administration. The past few  
3 years have brought thousands of apartments and  
4 residents to our neighborhood with no investment in  
5 our fragile infrastructure, schools for our children  
6 and public spaces for us to create community. We have  
7 been calling on this administration to address our  
8 community's needs but have instead been met with a  
9 string of spot rezoning that further strain our  
10 community like the one before you today. I know many  
11 in this administration can't stop sharing their  
12 excitement about the changes that have swept over our  
13 neighborhood over the past few years but the reality  
14 on the ground is much different. As an example, in  
15 LIC there are point four acres of green space for  
16 every 1,000 residents, the city's goal is 2.5 acres  
17 per 1,000 residents. Our school's crisis reached a  
18 tipping point this year when the demand for seats  
19 reached so high that we now have an elementary school  
20 being incubated in a pre-K center a block away from  
21 the sites that are looking to be rezoned in this  
22 conversation, there are no plans for a new elementary  
23 school in our neighborhood. The proposed air rights  
24 transfer is a gross giveaway of public resources  
25 shrouded under the guise of affordable housing. This

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1  
2 administration is in a rush to meet short term  
3 affordable housing quotas in a spreadsheet without  
4 thinking about the livability of the neighborhood  
5 they're putting these units in; what parks will these  
6 families play in, what school will these children,  
7 children go to. It is unconscionable to use our  
8 public, public, public air rights to increase the  
9 mass of these two buildings by threefold and I take...  
10 I take really... I take issue with the fact that this  
11 is being called not an up zoning, we can't get lost  
12 in the technicality around this. These people would  
13 not be coming to our neighborhood if it wasn't for  
14 this. Infrastructure needs to be in place before  
15 additional development happens in Court Square, this  
16 project does nothing to support the neighborhood's  
17 infrastructural and public needs. Thank you.

18 CHAIRPERSON MOYA: Thank you.

19 PETER JOHNSON: Hi, I'm Peter Johnson; a  
20 homeowner, tax payer, resident of LIC, member of the  
21 Hunters Point Community Coalition. Community board  
22 two overwhelmingly rejected this sale of publicly  
23 owned air rights for private development as did  
24 Borough President Katz because it provides little or  
25 no benefit to LIC and Queens. More than half the



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1  
2 Queen's resident's annual income and earnings are  
3 well below the AMI for this project. The sale of  
4 public property in the form of air right transfers to  
5 increase private development construction is an  
6 egregious abuse of the fundamental principles guiding  
7 wise urban planning. If the city council approves  
8 this sale few if any council district will be immune  
9 from the sale of public space air rights whether they  
10 be parks, under highways or public schools, indeed  
11 why bother with urban planning, let's hear a cheer  
12 for corporate welfare and crony capitalism while  
13 ignoring the intolerable living conditions created by  
14 these developers among sure realities as inadequate  
15 public schools, virtually no open space, insufficient  
16 sewer capacity resulting in CSOs with every bit of  
17 rain and one live public tree for every 2,200  
18 residents. An immediate moratorium on all non-as of  
19 right efforts to rezone or modify land use in LIC  
20 must be put into place and remain until a  
21 comprehensive analysis of all proposed actions in DOB  
22 approved projects is conducted. To ignore the health  
23 and welfare of LIC residents by members of city  
24 council sends a citywide signal that spot zoning,  
25 private gain using public property and the utter

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1  
2 disregard of the horrendous deficiencies of top down  
3 planning are acceptable and furthermore suggest that  
4 our elected representatives voting for this truly  
5 hold us in contempt. May I remind them that these  
6 residents are voters and the decision made today will  
7 be remembered at the coming elections as well as  
8 future ones. Thank you.

9 FRANK WU: Hi guys, my name is Frank Wu.  
10 I just want to say something, Jimmy Van Bramer  
11 earlier said that this is not personal, I think it  
12 should be important to note for the lawyers on  
13 retainer, for the developers, for elected officials  
14 all of you guys are today on salary but all of us are  
15 not, some don't have jobs, this is very, very  
16 personal for us. My name is Frank Wu and this is my  
17 first time testifying at a public hearing, I work in  
18 technology and moved to Court Square a year ago with  
19 my wife and two year old. since moving to the  
20 neighborhood I've discovered some significant issues  
21 regarding schools and transportation. The, the, the  
22 neighborhood study that Pedro cited was from 2015 and  
23 it includes Sunnyside and Woodside, it did not  
24 account for the fact we're having tens of thousands  
25 of new units coming in so that port... point, point

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 four acres is actually a lot less than that. I differ  
3 in that I strongly support additional housing  
4 inventory, but I think zoning and development in  
5 itself is not an even, it needs to be taken  
6 holistically and looked at. There is an opportunity  
7 here in exchange for public air rights to convert  
8 three acres of publicly owned land that is used for  
9 storing vehicles and DOT equipment, this is also  
10 supported by the CB2 as well as the Queensboro  
11 President. In her strategic plan for Western Point  
12 Queens she quotes, "western Queens lacks public  
13 gathering spaces and walkable retail corridors", this  
14 is supported by local businesses, so it's supported  
15 by local individuals. Who would support the storage  
16 of a dirty truck vehicle with bird feces, broken  
17 glass and.. over a common green space for all local  
18 residents to enjoy and tax payers. I appreciate the  
19 city council's consideration in looking at this land  
20 use hearing as not a public forum for transfer of air  
21 rights but as a significant quality of life issue for  
22 a growing number of local residents from continued  
23 underinvestment by the city. Thank you for your time  
24 and consideration for voting no on this 100 percent,  
25 100 percent of all the DOT lots are converted to at

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 least public space as a minimum requirement. Thank  
3 you.

4 CHAIRPERSON MOYA: Thank you. Before,  
5 before you go the Council Member has a few questions.

6 COUNCIL MEMBER VAN BRAMER: Thank you.  
7 So, Frank I was going to ask you what you had said in  
8 your very last piece of what, what, what you said  
9 there which is that you believe that if 100 percent  
10 of that land is, is acquired for public use that you  
11 would then support the project?

12 FRANK WU: I, I mean I think as a... as a  
13 minimum requirement certainly, I mean it's not... you  
14 know it's about the implementation details, the  
15 zoning and development in itself is not an inherent  
16 Evo, it's as you said earlier it's about the holistic  
17 plan, right, so if I eat more kale I'm not going to  
18 be more healthy, I think if they were to support 100  
19 percent of it, I mean I, I, I would probably strongly  
20 lean yes because they own their land... development on  
21 their own so...

22 COUNCIL MEMBER VAN BRAMER: Okay and I  
23 just want to say I understand very much how personal  
24 this is for everyone but what I was saying there is  
25 that the administration, the Mayor, Deputy Mayor

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 Glen, all the agencies their approach to Long Island  
3 City, how they are dealing with this community very  
4 much impacts these folk's plan so that's what I'm  
5 saying there is their plan, they feel is a, a good  
6 plan obviously a lot of people don't feel that way  
7 but what I'm saying to them is whether you think it's  
8 good or not how I vote on the project and Peter no  
9 one has voted nor is anyone on the council as far as  
10 I know indicated they are voting for the project so I  
11 appreciate your, your passion but no one here has  
12 said they're voting for the project but, but it is  
13 very much about how the Mayor and Deputy Mayor Glen  
14 and EDC and everyone is treating this community and  
15 that is deeply, deeply troubling to me and very  
16 concerning to me and I'm certainly conveying that to  
17 them in the strongest possible terms in both what I'm  
18 saying here today and what I said in the Commercial  
19 Observer and what I'll continue to say so.. but I  
20 fully understand how personal it is for all of you as  
21 it is for me because I represent you so with that I  
22 just want to say thank you to everyone.

23 CHAIRPERSON MOYA: I'm going to call up  
24 the next panel; Aaron Shirian..

25 [off mic dialogue]

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 CHAIRPERSON MOYA: Oh, sorry. Okay,  
3 Alexandra Castilla...

4 [off mic dialogue]

5 CHAIRPERSON MOYA: Leave... Eric Miniem  
6 [sp?], Patrick Smith, Mark LaVia, Judith Rosenfeld,  
7 okay. Bret Swanson and Ann Jodis... Ann Jodis Crutrus  
8 [sp?]. Yeah.

9 [off mic dialogue]

10 CHAIRPERSON MOYA: Thank you. Okay, you  
11 may begin, yeah.

12 UNIDENTIFIED MALE: Good afternoon  
13 Council Member Van Bramer and Chair Moya. My name is  
14 Spano Gotis Cotis [sp?], I'm a doorman at 995 Fifth  
15 Avenue and I have been a member of 32 BJ two year..  
16 for two years. I'm here today testifying on behalf of  
17 my union, SEIU 32 BJ and the approximately 1,500 32  
18 BJ members who live and work in Long Island City and  
19 Astoria. 32 BJ is the largest property service  
20 workers union in the country, many of us... of us work  
21 in residential buildings like the proposed  
22 development on 2632 Jackson Avenue and 2701 Jackson  
23 Avenue. We are confident that the Jackson Avenue  
24 project will create high quality building service  
25 jobs and we want to see it go forward. It is our

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1  
2 estimation that when the building opens Jackson East  
3 and West will be staffed with about approximately 25  
4 building service workers. I can't stress enough how  
5 important having a good job is especially for New  
6 Yorkers. Fetner Properties one of the developers from  
7 this project has had a long-standing relationship  
8 with 32 BJ, they have been proactive in providing the  
9 kind of good family sustaining jobs that uphold the  
10 standards building service workers have fought for  
11 citywide. These jobs allow our members to remain in  
12 New York and live with dignity, mobility and  
13 security. The developers have made a commitment to  
14 provide good jobs at the Jackson East and West  
15 project. We believe they will be an asset to the  
16 community and we strongly support this... their  
17 project. Thank you.

18 MARK LAVIA: Good morning, my name is  
19 Mark LaVia, I lived in Long Island City for over ten  
20 years and my family has owned property and lived in  
21 Long Island City for generations, maybe 80 or 90  
22 years. I can remember when I first moved to Hunters  
23 Point South... well let me start by saying I know... I, I  
24 moved into a building that was built by the  
25 Shirian's, by the Lions Group and they were for a new

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 owner and tenant they were a fantastic developer,  
3 they were hands on, any issues they came right to the  
4 building and they worked with us even, even to the  
5 point where they didn't have to, commercial spaces  
6 were being rented, the building wanted certain  
7 things, they could have put anyone in there, they  
8 polled us, they took us... our... into consideration and  
9 they ultimately, you know did what we wanted there.  
10 So, you know I, I remember when Hunters Point was  
11 just starting to sort of turn over and my family, you  
12 know was initially very... oh, against, you know  
13 there's not enough infrastructure here and I can  
14 remember thinking, you this is... this is probably  
15 going to be a good thing and it turned out to be a  
16 fantastic thing for them, for the neighborhood and I  
17 think you're seeing kind of the same thing in Court  
18 Square where I think, you know of course you have to  
19 work with the community, you have to make sure  
20 there's infrastructure in place but I think that, you  
21 know... you know stopping development is not really the  
22 way to do it, I think trying to make... negotiate and  
23 make a deal or make something that's good for  
24 everybody, that's good for the... for the city, that's  
25 good for ten neighborhood, I think there's a lot of



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1  
2 opportunity here and.. especially in light of the  
3 affordable component, you know I think any time you  
4 can add affordable units to a neighborhood like this,  
5 you know you take a neighborhood that, that could  
6 just be full of like very wealthy families and, and  
7 try to hedge it so that you can have some teachers  
8 and some police officers and some other, you know  
9 middle income families living there which gives like..  
10 really makes the neighborhood but a neighborhood  
11 that's just all wealthy families is, is not the best  
12 thing so.. thank you.

13 CHAIRPERSON MOYA: You have to push the  
14 button to turn on your microphone.

15 PATRICK SMITH: My name is Patrick Smith,  
16 I'm a native New Yorker, a 20 year resident of Queens  
17 and a homeowner on Jackson Avenue, my mom is an  
18 immigrant, my dad is one of the longest serving union  
19 members in the city, I'm a graduate of New York  
20 University and Queens College, I grew up in an  
21 affordable apartment and my experience as a former  
22 board president of a Lions Group Develop Condominium  
23 Complex I can attest that Lions Group creates high  
24 quality developments and they stand behind their  
25 work. The subject lots are in somewhat of an

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 undesirable area near the 59<sup>th</sup> Street bridge exit  
3 ramp and there are very tall buildings throughout  
4 this district, so the proposed buildings would not be  
5 out of context and they would actually improve street  
6 life on the block. To understand the proposed  
7 development, it is helpful to compare it to recent  
8 developments in LIC. Five points; despite haphazardly  
9 destroying a cultural icon received approval to  
10 develop two towers containing 1,115 units with just  
11 20 percent of the units set aside for affordable  
12 apartments, by comparison the subject properties  
13 would create just 481 total housing units of which 31  
14 percent would be dedicated to permanent affordable  
15 housing, a concentration of affordable housing that  
16 is more than 50 percent greater than five points.  
17 There have recently been groups formed to speak out  
18 against development in Long Island City and I do  
19 appreciate many of their efforts, as a child who  
20 benefited from an affordable apartment I think I  
21 bring a unique perspective. I am lucky to be a  
22 homeowner in LIC and many members of the group  
23 opposing this project also own real estate in Long  
24 Island City including highly valued town houses and  
25 market rate co-ops and market rate condominiums just

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 like me. The census tracts that comprise Hunters  
3 Point in Court Square have one of the highest median  
4 income households in New York City, we cannot and  
5 should not prevent desperately needed construction of  
6 affordable and market housing because we prefer not  
7 to share LIC with newcomers or because of decades  
8 long issues related to the MTA or because we are  
9 upset that we had to wait for the next seven train. I  
10 had one, one last comment. So, to conclude I'm going  
11 to read a, a... I'll, I'll just read it, it's from  
12 someone's article on this issue or on issues similar  
13 to this. We are unlikely to make progress towards  
14 providing affordable homes in thriving, safe and high  
15 quality neighborhoods if we do not hear, respect and  
16 seriously intend to resolve the concerns that may  
17 lead to opposition to new development in the nation's  
18 growing cities that is not to say that we should  
19 prevent necessary change, entrench privilege or  
20 protect property values over human needs, it is  
21 instead a call for careful attention to which fears  
22 and concerns can and should be addressed and which  
23 must yield to the greater social need to keep our  
24 cities affordable and open to all.

25 CHAIRPERSON MOYA: Thank you.

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PATRICK SMITH: Thank you.

BRAD HOYLMAN: Good afternoon Chair Lago and Council Member Van Bramer, Council Member Moya. My name is Brad Swanson representing the Queens Chamber of Commerce and Executive Director Tom Grech. We write this letter today on behalf of the Queens Chamber in support of the above referenced land use applications. The Queens Chamber of Commerce is the oldest and largest business association in Queens, we've achieved a membership level of near 1,000 business organizations representing over 90,000 Queens based employees and we are testifying in favor of the application which will create hundreds of good jobs and generate economic activity for the businesses in the Long Island City area. The plan before you allow the city to transfer the air rights to create much needed affordable housing by literally creating it out of thin air. The buildings that are being created are tall but in scale are much smaller than other buildings in the area. The developer... the developer, American Lion includes the Shirian family which has been responsible... has been a responsible Long Island City developer for a long time and Fetner Properties, a leading developer of affordable

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 housing. We know they've expressed interest in  
3 working closely with the residential and business  
4 community to address the issues of infrastructure and  
5 open space in the area. Finally, we support the  
6 workforce affordable rents that will enable the  
7 community to continue to be home to a wide array of  
8 working New Yorkers including uniformed service  
9 personnel, school teachers and medical service  
10 employees. Given the cost to build it is the right  
11 economic mix and a good use of the city's otherwise  
12 unusable floor area underneath the ramps. For these  
13 reasons the Queens Chamber of Commerce wholeheartedly  
14 endorses the project and for these foregoing reasons  
15 we support the proposed application and request the  
16 City Planning Commission approve the land use  
17 application. Thank you.

18 CHAIRPERSON MOYA: Thank you.

19 DAMIEN PESLINI: Hello again, Damen  
20 Peslini but I'm speaking on behalf of Breaking  
21 Ground. Breaking Ground is the largest developer and  
22 manager of permanent supportive housing in New York  
23 State. Breaking Ground currently operates over 3,700  
24 units of supportive and affordable housing for low  
25 income individuals and families with over 1,100 new

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1  
2 apartments in development. As a result, we have  
3 nearly three decades of experience in marketing and  
4 tenant selection for affordable projects. We  
5 regularly manage the lottery and lease out process  
6 for, for other not for profit and for profit  
7 companies and would be administering agent for this  
8 project. Breaking Ground's experience and recent city  
9 data supports the need for new housing stock with  
10 varying levels of affordability. There's a... currently  
11 a smaller share of rental units citywide affordable  
12 to both low- and moderate-income households as  
13 compared to ten years ago. Secondly the share of low,  
14 middle- and moderate-income New Yorker households  
15 considered to be rent burdened translated as to be  
16 paying more than 50 percent of their income on rent  
17 has risen. Under the city's affordable income  
18 guidelines at 130 percent AMI a family of four could  
19 make up to 135,000 for a two-bedroom apartment and  
20 their rent would be less than 2,800 per month. At a  
21 market rate these same families would be expected to  
22 pay four to five thousand per month. These households  
23 are typically your school teachers, fire fighters and  
24 other similar working-class individuals who are being  
25 priced out of housing despite being deemed middle

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1  
2 income. HPD's mandatory inclusionary housing  
3 workforce option will enable the city to provide the  
4 necessary affordable housing to these households. On  
5 behalf of Breaking Ground thank you for the  
6 opportunity to testify, your commitment to providing  
7 affordable housing to New Yorkers is greatly  
8 appreciated.

9 CHAIRPERSON MOYA: Thank you, thank you  
10 all for your testimony today. The next panel Brent  
11 O'Leary, Mary Bradley, Thomas Pano. Thank you, we're  
12 going to start with you Brent. You got to push the  
13 button to turn on the microphone.

14 BRENT O'LEARY: Oh, hello. Thank you,  
15 really appreciate the City Council Members being here  
16 for us and letting us speak. My name is Brent  
17 O'Leary, I'm the President of the Hunter's Point  
18 Civic Association and on behalf of our members and  
19 the neighborhood we sincerely ask you to oppose this  
20 application. As mentioned our community board is all...  
21 had.. already had hearings on this and said that it is  
22 not appropriate for the neighborhood. Our Borough  
23 President, Melinda Katz has also opposed this and the  
24 overdevelopment in our area is getting so bad that  
25 our Assembly Woman Cathy Nolan is... now calls for a

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1  
2 moratorium on new construction until a comprehensive  
3 plan for the infrastructure can be put in place for  
4 this neighborhood. We are in sincere crisis as  
5 mentioned by our, our Council Member, we don't have  
6 the number of school seats we need, we don't have  
7 community centers, we don't have a senior center, we...  
8 our sewer system is at capacity and we're coming into  
9 crisis mode. We... to add a 49-story building and a 27-  
10 story building is just unacceptable and it will... is  
11 an insult to, to the neighborhood. As our Councilman  
12 know, knows we don't have the infrastructure to do  
13 this, we understand that what's being offered is some  
14 affordable housing but as mentioned before if the  
15 majority of people in Queens can't even afford to  
16 apply for this how is that really affordable. I'm  
17 sorry, the air rights as we see is a public asset and  
18 for that we should be getting something in benefit,  
19 we're not getting any infrastructure and what we  
20 think... the only thing we're getting is phony  
21 affordable housing and a huge strain which is going  
22 to go to our neighborhood again, so we sincerely  
23 implore you to please reject this proposal. Thank  
24 you.



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1  
2 MAIM BRADLEY: Thank you for... [cross-  
3 talk]

4 CHAIRPERSON MOYA: Sure, just speak into  
5 the microphone.

6 MAIM BRADLEY: Thank you for letting us  
7 testify today. My name is Maim Bradley, I'm a  
8 resident of Long Island City and a member of the Long  
9 Island City Coalition. I want to talk about one  
10 aspect of the infrastructure which is already  
11 failing, it's the sewer system. Our sewer system has...  
12 the combined sewer overflows that dot the East River  
13 shoreline along Long Island City regularly wash  
14 untreated sewage, human fecal matter into our  
15 waterways when it rains even one quarter of an inch.  
16 DEP which has signed off on this project also asked  
17 residents of Queens and Brooklyn via the website to  
18 not flush our toilets or shower or do laundry when  
19 it's raining because of the overflows and residential  
20 backups that are occurring. Yes, DEP may have the  
21 capacity to process the additional waste from this  
22 Jackson Avenue project at Bowery Bay, but it does not  
23 have the capacity in the system to transport it to  
24 the treatment plant. Just last week the East River  
25 overflowed into Gantry Park, this is a common

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1  
2 occurrence, a distinct debris line about six feet  
3 into the grassy area in front of the library marked  
4 the perimeter of the waters edge, this water  
5 containing both sewage and toxic storm water runoff  
6 from the streets and released from the  
7 euphemistically named wet weather discharge point has  
8 repeatedly soaked into the lawn where in dry weather  
9 families bring their young children to play, to  
10 picnic and enjoy the waterfront. By transferring air  
11 rights to this project and substantially expanding it  
12 the city will add 481 new units and at least 722 new  
13 toilets to the overburdened sewers. Just last week a,  
14 a repaved section of 44<sup>th</sup> Drive had to be dug up  
15 because the 1940's era sewer main below ground had  
16 simply collapsed and was releasing sewage into the  
17 ground. For those upstream from the collapse the  
18 sewage backed up into cellars and garages and the  
19 developers of the apartment buildings on Jackson  
20 Boulevard and around Queensboro Plaza didn't pay for  
21 that... those repairs, city tax payers did, and I just  
22 want to... [cross-talk]

23 CHAIRPERSON MOYA: Thank... [cross-talk]

24 MAIM BRADLEY: ...quickly... one last...

25 [cross-talk]

SUBCOMMITTEE ON ZONING AND FRANCHISES

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CHAIRPERSON MOYA: Please quickly...

[cross-talk]

MAIM BRADLEY: ...thing... [cross-talk]

CHAIRPERSON MOYA: ...we have... please...

[cross-talk]

MAIM BRADLEY: ...this is how the cholera epidemics of 1832 and 1839 happened, we're at risk for major public health crisis in Long Island City.

CHAIRPERSON MOYA: Thank you.

MAIM BRADLEY: Thank you.

THOMAS PANO: Hello, my name is Thomas Pano and I'm an officer with the Hunter's Point Community Coalition and this is a decades old not for profit that we are currently engaged in developing, perhaps the first comprehensive plan for Hunter's Point which by the way is the fastest growing neighborhood in the nation so it's long overdue for our comprehensive plan. Thank you for being able to be here, I, I was intrigued to have the opportunity to hear the HPD talk about how the deal was made, the intricacies of that deal and so it kind of sounds good but there was one thing missing, the people who own the property weren't part of the deal. So, of course we're the ones who, who, who will get screwed

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 in this. So, I'm asking the council not to support  
3 any of the applications associated with the proposed  
4 action and to go back to the lower height and density  
5 of the as of right project. There are no... there's  
6 very little public benefit and there's been a lot of  
7 discussion about what public benefit is but even  
8 though this area is a rapid transformation from an  
9 industrial zone to a residential community has caused  
10 severe deficits in open space, school seats,  
11 greenery, transportation, assembly space, and as  
12 you've just heard sewage, athletic facilities and  
13 this just name a few. The only public benefit claimed  
14 by the applicant is affordable housing however based  
15 on AMI the formula counts much wealthier counties so  
16 that leaves these units beyond the reach of most  
17 Queens residents where median household income is  
18 59,000 a year, do you see that number anywhere on the  
19 chart? So, it's not a public benefit is... in fact the  
20 opposite will happen, it will cause accelerated  
21 gentrification and secondary displacement which will  
22 rippled through the area including Queens Bridge  
23 Houses. So... the basis of the deal... well, okay.

24 CHAIRPERSON MOYA: You can...  
25

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 THOMAS PANO: Alright just, just to  
3 finish that, okay. So, the transfer allows the  
4 developer to increase market rate units by 60 percent  
5 as of right, the affordable housing is 30 percent  
6 and... but that receives a tax exemption of 35 years  
7 which was not mentioned, the resulting exorbitant in  
8 profits remain in the developer's pockets rather than  
9 coming to the community which is under a hyper  
10 development. When air rights from the highline were  
11 transferred to private developers in... it heightened  
12 the effect of gentrification but at least the local  
13 community got public open space, this deal there's is  
14 no parallel situation in this deal. Thank you.

15 CHAIRPERSON MOYA: Thank you, before you  
16 go I want to turn it over to Council Member Van  
17 Bramer.

18 COUNCIL MEMBER VAN BRAMER: First I want  
19 to thank the Chair for allowing for us to have this  
20 discussion and I want to thank my colleague, Council  
21 Member Rivera for being so generous with us. I just  
22 want to say thank you to everyone who came out here  
23 today from Long Island City and, and from our, our  
24 district and I want to thank everyone for sharing  
25 their concerns and, and their hopes for the

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 neighborhood. Nothing is done, we are still in a very  
3 important phase which is indeed as Tom said listening  
4 to you and, and Maim I just want to say thank you  
5 because I've known you for a very long time and I  
6 know how genuinely and passionately you care about  
7 this issue and the community and, and I'm grateful  
8 that, that you're come and shared your concerns and  
9 obviously I take them very seriously and we all want  
10 what is truly best in the long run for this community  
11 so I, I think our phase of this hearing is perhaps  
12 done and so I want to thank everyone for coming out  
13 today on this particular project in our district.

14 MAIM BRADLEY: Do you want copies of our  
15 testimony?

16 CHAIRPERSON MOYA: If, if you didn't give  
17 it to the Sergeant At Arms we'll take it, yes. Thank  
18 you, are there any other members of the public who  
19 wish to testify on this issue? Seeing none I now  
20 close the public hearing on this application and it  
21 will be laid over. Our next hearing will be on LU's  
22 214 and 215, the 110 East 16<sup>th</sup> Street special permit  
23 application for property... for property in Council  
24 Member Rivera's district in Manhattan. The applicant  
25 seeks two zoning special permits to develop a new 21

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 story mixed use development on property that is part  
3 of a larger zoning lot including one tax lot which is  
4 occupied by an individual landmark. The first special  
5 permit pursuant to section 75-711 would modify height  
6 and set back requirements to modify the street wall  
7 requirements to... and, and into... and to increase the  
8 maximum building heights from 120 to 283, to waive  
9 side yard open area requirements and to decrease the  
10 minimum distance between buildings The second special  
11 permit is to allow for the automatic parking facility  
12 with a maximum capacity of 23 parking spaces and I  
13 now open the public hearing on this application and  
14 we'll ask... we have Wesley O'Brien, okay; Dan Unger,  
15 okay; Bill Higgins; Dave... David Rothenberg, yeah;  
16 Morris, okay and Stephen Lefkowitz, is Steven here?  
17 Okay. I ask... I now ask the council to please swear in  
18 the panel.

19 COMMITTEE CLERK: Before speaking please  
20 hit the button on your mic and state your name. do  
21 you each swear or affirm that the testimony that  
22 you're about to give will be the truth, the whole  
23 truth and nothing but the truth and to answer all  
24 questions truthfully?

25 MORRIS ADJMI: Yes.

SUBCOMMITTEE ON ZONING AND FRANCHISES

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DAVID ROTHENBERG: Yes.

WESLEY O'BRIEN: Yes.

COMMITTEE CLERK: May you please state your name and state yes.

MORRIS ADJMI: Morris Adjmi, yes.

DAVID ROTHENBERG: David Rothenberg, yes.

WESLEY O'BRIEN: Wesley O'Brien, yes.

STEPHEN: Stephen Lefkowitz, yes.

WILLIAM: William Higgins, yes.

DAN UNGER: Dan Unger, yes.

CHAIRPERSON MOYA: You may... you may begin.

MORRIS ADJMI: Great.

[off mic dialogue]

CHAIRPERSON MOYA: Oh, I'm sorry, I'm going to turn it over to Council Member Rivera who has a few remarks before we begin.

COUNCIL MEMBER RIVERA: Thank you Chair Moya for permitting me to speak on these other land use items in my district today. The site in question is 110 East 16<sup>th</sup> Street which is located just East of Union Square, the area is known for a diverse mix of buildings of varying size and use some of which date back to the 19<sup>th</sup> century. In fact, the Land Use



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2 Actions involve one individual landmark built in 1896  
3 as a theater. The application also involves a special  
4 permit for additional parking spaces. Generally  
5 speaking the development team seeks to increase bulk  
6 and height in significant ways. The street wall  
7 height would almost triple, the maximum building  
8 height would more than double, and allowable distance  
9 between buildings would be reduced 40 percent.

10 Community Board five recommends denial of the  
11 application in part because it's size would adversely  
12 impact the block additionally CB5 questioned the need  
13 for additional parking spaces and those permitted  
14 whether the number of new families would impact  
15 overcrowded schools in the neighborhood and most  
16 notably whether this development should have  
17 triggered mandatory inclusionary housing  
18 requirements. For its part, the developer has  
19 designed an elegant building with potentially up to  
20 55 residential condo units. It would include a retail  
21 space above the small automated parking garage  
22 proposed. Additionally, the developer has made  
23 commitments to restoring the neighboring buildings, a  
24 commitment already reviewed by the Landmarks  
25 Preservation Commission. Still we are talking about

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 significant changes in allowable size for what  
3 amounts to an ultra-luxury housing development with a  
4 convenient parking amenity. I hope we can learn more  
5 as to why my community should welcome these  
6 modifications. Thank you.

7 CHAIRPERSON MOYA: Thank you, you may  
8 begin your testimony.

9 MORRIS ADJMI: You guys have the  
10 presentation.

11 DAVID ROTHENBERG: Good afternoon Council  
12 Members, I am David Rothenberg, President of Tishman,  
13 we are the project developer and the owners of the  
14 subject site on East 16<sup>th</sup> Street. I'm here to quickly  
15 introduce our team and the project; Wesley O'Brien of  
16 Fried Frank who will discuss the land use actions  
17 that we are proposing followed by Bill Higgins of  
18 Higgins Quasebarth to discuss our restoration program  
19 and finally Morris Adjmi who will discuss the  
20 proposed building in more detail. We also have a few  
21 of our team members present to answer any questions  
22 including Dan Unger, Chief Development Officer for  
23 Tishman and Stephen Lefkowitz from Fried Frank.  
24 Tishman has been active in New York City real estate  
25 for over 100 years, when we develop projects we work

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 with our neighbors and surrounding communities to  
3 make sure we achieve a successful outcome for  
4 everyone. In the 90's we built the first large scale  
5 retail and hotel complex in Times Square, the 870  
6 room west of New York and the 200,000 square foot  
7 retail development known as E-Walk. We have been one  
8 of the cornerstones of the revitalization of that  
9 neighborhood and an active member of the community  
10 ever since. We also developed a second large hotel on  
11 44<sup>th</sup> and 8<sup>th</sup>, the Intercontinental New York which  
12 opened in 2010, as part of that project we worked  
13 with community groups to develop neighborhood based  
14 affordable housing. And we are also known for Tishman  
15 Construction, we built the original World Trade  
16 Center in the late 60's and most recently the  
17 rebuilding of the Trade Center and the new buildings  
18 you see there today. Turning now to the project, this  
19 is a street level view of an existing parking garage  
20 on the south side of 16<sup>th</sup> Street that we recently  
21 purchased and plan to redevelop, it's an eyesore and  
22 an environmental nuisance, it's unsafe. As you can  
23 see in this photo there is an extensive curb cut  
24 which allows the sidewalk to be used for staging and  
25 backing out cars all while pedestrians try to

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 negotiate the sidewalk. A 200-space public parking  
3 garage does not need to exist here, it contributes to  
4 traffic and congestion on 16<sup>th</sup> Street. Furthermore,  
5 there are approximately 18 other parking garages  
6 within a five-minute radius. Here you can see what we  
7 are trying to achieve at street level, the building  
8 would contain up to 55 residential units and up to  
9 3,000 square feet of active ground floor retail and  
10 community facility space. You can see here how much  
11 more appropriate the residential building is at this  
12 location than a garage. And accordingly... and  
13 according to the EIS the elimination of the garage  
14 will reduce traffic on the block by 15 percent. Here  
15 in the center is an elevation of the proposed  
16 building shown in context, this is the view along  
17 16<sup>th</sup> Street looking south. As we will discuss further  
18 in the presentation with this application we are  
19 seeking to one, build housing near transit while  
20 improving the environment and eliminating the large  
21 public parking garage. Two, contribute to the city's  
22 goal for affordable housing by partnering with a  
23 community-based organization. Three, preserve the low  
24 height and pedestrian friendly character on East 15<sup>th</sup>  
25 Street by shifting buildable floor area to our site

SUBCOMMITTEE ON ZONING AND FRANCHISES

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2 on 16<sup>th</sup> Street. Four, improve the streetscape on 16<sup>th</sup>  
3 Street while also making it safer. Five, restore a  
4 landmarked building. Six, design a building in a way  
5 that minimizes the shadows on Union Square Park. On  
6 most days' shadows from the building effect less than  
7 five percent of the park and are gone by 9:45 a.m.  
8 And seven, ensure the financial wellbeing of one of  
9 the area's most important cultural institution, the  
10 Lee Strasberg Theatre and Film Institute. And now  
11 Wesley O'Brien will discuss the site and land use  
12 actions in more detail.

13 WESLEY O'BRIEN: Thank you. Good  
14 afternoon. In this plan you can see the three sites  
15 that we are working with to make this project  
16 possible; the garage that we are redeveloping is  
17 locating on the North side of the block along East  
18 16<sup>th</sup> Street. The development site is part of a larger  
19 zoning lot that includes two additional buildings  
20 along East 15<sup>th</sup> Street, the former Century  
21 Association building, a New York City designated  
22 landmark shown on the left and the Lee Strasberg  
23 Theatre and Film Institute on the right, these are  
24 both commercial buildings neither of which contain,  
25 contain residential units. We are requesting a

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2 parking special permit to allow up to 23 accessory  
3 spaces and a landmarks special permit to modify the  
4 permitted envelope at the garage site in order to  
5 facilitate the purchase... the purchase and transfer of  
6 development rights from the landmarked Century  
7 Association building and the Lee Strasberg School on  
8 15<sup>th</sup> Street which has lower street walls and transfer  
9 it to our site on East 16<sup>th</sup> Street. As a condition to  
10 the special permit Tishman will be required to  
11 restore the landmark to a... to first class condition  
12 and a restrictive declaration will be recorded  
13 requiring periodic inspections and ensuring its  
14 ongoing maintenance and preservation. It is worth  
15 emphasizing that the landmarks special permit does  
16 not increase the amount of floor area permit,  
17 permitted on the zoning lot rather it allows  
18 modifications to other bulk restrictions such as  
19 height and set back requirements. Here we have a  
20 building section with East 16<sup>th</sup> Street shown at the  
21 left and 15<sup>th</sup> Street shown at the right, the areas of  
22 the proposed building effected by the waivers are  
23 indicated in hatching. As part of this special permit  
24 we are seeking four, four waivers specifically, the  
25 maximum building height in the district is 120 feet

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 before bulk head or 123 feet including the bulk head.  
3 We would increase that feet... in, increase that height  
4 by 123 feet and the proposed building would go up to  
5 100... 268 feet before the bulk head or 283, 283 feet  
6 with the bulk head. We are also seeking waivers to  
7 the bulk... the maximum base height and setbacks and a  
8 couple of very technical waivers relating to side  
9 yards and the minimum required distance between  
10 buildings. Here, here is the building massing looking  
11 west from Irving Place, a result to the special  
12 permit would be to shift the permitted bulk away from  
13 the landmark and Lee Strasberg buildings preserving  
14 the lower intimate street wall and more historic feel  
15 along 15<sup>th</sup> Street. Outlined at the left you can see  
16 the bulk permitted adjacent to the landmark site on  
17 15<sup>th</sup> Street, as indicated by the arrow with the  
18 special permit we will be shifting the permitted bulk  
19 away from the landmark building to 16<sup>th</sup> Street. And  
20 this is a view of 15<sup>th</sup> Street looking Northwest from  
21 Irving Place, the Lee Strasberg building is shown  
22 with the blue banner and the light... landmark site is  
23 to its left, what you will notice is the consistent  
24 lower street wall that these buildings share with  
25 other buildings on the block. As I mentioned,

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1  
2 mentioned as a condition to the special permit the  
3 Century Association building will have to be  
4 restored. So, now Bill Higgins, Higgins will discuss  
5 the restoration program as well as the areas of  
6 historic context.

7 BILL HIGGINS: Thank you. This is... this  
8 part of the testimony is in the context of reminding  
9 you that the Landmarks Preservation Commission has  
10 approved this project both for the restoration to the  
11 individual landmark and for the compatibility of, of  
12 the new building design with the landmarks. So,  
13 quickly this is the landmark building, the Century  
14 Association building from the late 1860's, I just  
15 have to say it's notable, it's architect H.H.  
16 Richardson is one of the tiny handful of the greatest  
17 architects in American history and this is the only  
18 H.H. Richardson building in New York so it's a  
19 wonderful building and one deserving and needing  
20 restoration. So, as you see on the left all of the  
21 areas that are yellow are receiving significant  
22 repair work and all of the areas that are pink are  
23 areas where exist... original features are missing and  
24 will be put back to match the original. In the case  
25 of the base the entry and flanking windows it will



SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 match... they'll match the original as closely as, as  
3 is allowed by codes for access and ADA. On the right  
4 is what we see the building as looking at after the  
5 restoration with its historic character, very much  
6 brought back and burnished. Next, so with respect to  
7 the design of the new building, historic photographs  
8 of the area make it clear that it's always been  
9 characterized by a, a juxtaposition of scale where  
10 you have taller buildings and shorter buildings in  
11 this kind of dynamic relationship, that's what gives  
12 the, the area its character and a lot of it's, it's  
13 liveliness. Next. And these are current photographs  
14 showing that same condition continuing to exist with  
15 historic buildings and being reinforced by new  
16 buildings that have been built and this is precisely  
17 the kind of the scale relationship that will be  
18 continued with the proposed building. Next. The  
19 characteristics of the historic buildings in this  
20 district which have inspired the design as Morris  
21 will show you, most of the buildings of some height  
22 have three parts; they have a base, they have a, a  
23 vertical sort of shaft in the middle and they have a  
24 kind of celebratory top which gives a, a, a shape  
25 against the skyline and a sort of crown to the.. to

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 the building. These are the characteristics we had in  
3 mind when designing a, a contemporary building that  
4 would fit in with, with that character. Next. And  
5 there's the building in context and the place where  
6 Morris will take over.

7 MORRIS ADJMI: Thank you bill. Thank you  
8 and good afternoon. I'm Morris Adjmi the architect of  
9 the project. I'd like to describe the building and  
10 some of the improvements to the streetscape. As you  
11 can see, and Bill mentioned, the project is designed  
12 with a clear base, middle and top much as the  
13 historic buildings and many of the buildings in the  
14 district. The building has a limestone base, brick  
15 center section with metal in fragments and a crown in  
16 zinc which I'll, I'll show you a little bit more in  
17 detail as we get into the.. as I describe the project  
18 in more detail. And you can see how this fits into  
19 the neighborhood with a, a variety of building  
20 scales. In the next image you can see improvements to  
21 the.. to the street and the base which is limestone  
22 and the reduction of the curb cut which I'll show you  
23 later is being reduced from about just under 50 feet  
24 to 11 feet and the next slide shows that in more  
25 detail. On the left are the.. on the left side are the

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 existing conditions showing the 49 feet plus curb cut  
3 and, on the right, on the far right you can see the  
4 entrance which has been reduced to 11 feet using  
5 automated parking. The main entrance which is a  
6 double height entry piece is at the center and the  
7 retail and community facility entrance on the left.  
8 Here we see the building in the streetscape and we  
9 believe that the top of the building is harmonious  
10 with the neighborhood and the historic districts  
11 surrounding... sorry, historic buildings surrounding  
12 Union Square. Another image... the, the next one. Yeah,  
13 here's another image showing the, the site in the  
14 context. This image is a, a section showing or  
15 elevation showing the buildings along Union Square  
16 and you can see that our building fits within the  
17 height of the buildings surrounding Union Square; the  
18 ConEd and Zeckendorf on the right and the historic  
19 buildings on the left; the American Loan building and  
20 the Guardian Life building both indicated on the  
21 left. And finally, we have a view looking from 14<sup>th</sup>  
22 Street looking Northeast at the building showing how  
23 it fits into the skyline. David.

24 DAVID ROTHENBERG: Before we take  
25 questions I just wanted to emphasize that although

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1  
2 the project is not subject to mandatory inclusionary  
3 housing program, Tishman is committed to supporting  
4 the city's affordable housing goals by making a  
5 contribution to affordable housing. In this regard we  
6 have had extensive conversations with Council Member  
7 Rivera and her staff and will be improving upon the  
8 precedent set by earlier projects. We can report that  
9 we have been meeting with possible partner  
10 organizations and are working to identify an  
11 affordable housing project in the district where our  
12 contribution will ensure specific and concrete  
13 affordable housing benefits. Although the details  
14 have yet to be finalized we look forward to reporting  
15 back to you in advance of the subcommittee's vote.  
16 Again, I would like to thank you for having us today,  
17 we are happy to take any questions.

18 CHAIRPERSON MOYA: I'll turn it over to  
19 Councilwoman Rivera.

20 COUNCIL MEMBER RIVERA: Thank you Chair  
21 Moya. How much is the restoration going to cost at  
22 111 East 15<sup>th</sup> Street approximately, you have the  
23 scope completed, do you have an estimate... [cross-  
24 talk]

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 BILL HIGGINS: Approximately... yeah,  
3 between two to three million.

4 COUNCIL MEMBER RIVERA: Okay. So, clearly  
5 there's a financial incentive for you to do so but do  
6 you find it appropriate to construct a building that  
7 is more than double the maximum height of the current  
8 zoning and designing a building without the  
9 established setback requirements at 85 feet?

10 WESLEY O'BRIEN: Sure, so, so, so just to  
11 clarify on, on the maximum height, so in this  
12 district you can go to 120 feet with an additional 40  
13 feet of bulk heads that would bring you to 160 feet  
14 as of right...

15 COUNCIL MEMBER RIVERA: And you're asking  
16 for 283.

17 WESLEY O'BRIEN: 283 and we are at the  
18 southern end of this district where, where you can  
19 see the transition to the taller buildings and the  
20 higher density districts to the south so the best  
21 example of this is course is, is the Zeckendorf Tower  
22 in the block directly to the south. So, we think it  
23 makes an appropriate transition.

24 COUNCIL MEMBER RIVERA: I, I, I realize  
25 Zechendorf is tall, that was a different deal at a

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 different time, but I realize why you're mentioning  
3 it. In, in terms of the... how tall the building is you  
4 mentioned most days it would create shadow on less  
5 than five percent of the park, what does that mean  
6 most days?

7           DAVID ROTHENBERG: It... so, as part of the  
8 environmental review we looked at three... at four  
9 analysis periods, in four analysis periods it was  
10 less than five percent of the park, the worst-case  
11 scenario it would... it would have an incremental  
12 shadow of ten percent during one season and that was  
13 at about 6:30 in the morning. In, in those instances  
14 no single part of the park, it's fast moving shadows  
15 early in the morning so no single part of the park  
16 would be in shadows for more than approximately 30  
17 minutes.

18           COUNCIL MEMBER RIVERA: So, you're  
19 demolishing an existing 200 spot parking garage and  
20 I'm sure somebody is here to speak on that later, as  
21 part of the application you're requesting the special  
22 permit that's to add 23 spaces, so how many spaces  
23 would you have as of right without the special  
24 permit?  
25

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WESLEY O'BRIEN: It would be... it's tied to the number of dwelling units but assuming the max that we... that we're shooting for which is 55, we could have 11 spaces as of right and we're seeking an increase to 23.

7

COUNCIL MEMBER RIVERA: Are they just for residents or are they going to be made... any... going to be made available to the public?

10

WESLEY O'BRIEN: It's anticipated to be just for residents.

12

COUNCIL MEMBER RIVERA: So, no car sharing or anything like that? And if you weren't given the special permit what are your plans for this space, are you going to do storage?

16

WESLEY O'BRIEN: The, the... [cross-talk]

17

COUNCIL MEMBER RIVERA: Or readjust?

18

WESLEY O'BRIEN: ...system... the system is an automated system so it does allow for both parking cars as well as for storing facility so effectively what... it's a platform with a... with a pallet that could put a car on it or you could put a pod say that could be used for storage so you have the ability to do... to do both.

25

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 COUNCIL MEMBER RIVERA: So, you're next  
3 to one of the city's... the city's busiest transit  
4 hubs, lots of trains, lots of buses, why the need for  
5 additional spaces?

6 WESLEY O'BRIEN: Well I think in, in the  
7 context of the number of units I think it's, it's  
8 just to have a, a sum amount for some of the  
9 residents but going from a parking garage that  
10 currently is around 200 plus spaces down to, to 23 we  
11 feel is a dramatic improvement to the amount of  
12 traffic that currently exists because of the existing  
13 parking garage, that will all be reduced.

14 DAVID ROTHENBERG: And, and also if I can  
15 add, looking to the area wide study that we had to  
16 conduct as, as part of the special permit, so City  
17 Planning sets us a guideline one... approximately in a  
18 substance there would be up to one space per five  
19 additional units, by our analysis here when we, we  
20 intend to construct in 2021 there will be an increase  
21 of approximately 1,400 units in the district... or in  
22 the study area and a decrease in approximately 369  
23 spaces so it's, it's actually... the number of spaces  
24 are moving in the opposite direction from what City  
25



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1  
2 Planning anticipates and this is just really quite a  
3 modest increase we're seeking.

4 COUNCIL MEMBER RIVERA: Okay, what are  
5 your plans for the retail space?

6 DAVID ROTHENBERG: At, at this point we,  
7 we don't have any specific plans, we have around  
8 3,000 square feet and that could be a combination of  
9 community use as well as commercial use. I think in  
10 this location there's a good possibility that there  
11 will be a, a medical use given the proximity of some  
12 large medical institutions in, in the area so... but,  
13 but that has not been determined at this point.

14 COUNCIL MEMBER RIVERA: So, you are  
15 exploring community, community use spaces... [cross-  
16 talk]

17 DAVID ROTHENBERG: Definitely... [cross-  
18 talk]

19 COUNCIL MEMBER RIVERA: ...on the ground  
20 floor... [cross-talk]

21 DAVID ROTHENBERG: Community, community  
22 facilities.

23 COUNCIL MEMBER RIVERA: Yes. Okay, it  
24 could be medical, it could be education related,  
25 you're still exploring?

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 DAVID ROTHENBERG: Yes.

3 COUNCIL MEMBER RIVERA: So, there have  
4 been a number of concerns pointed out by Community  
5 Board Five and I'm sure you're very, very aware one  
6 of them is the afterhours construction in the  
7 neighborhood particularly the ongoing years long  
8 Washington Irving High School and are you going to be  
9 seeking after hours variances for the project?

10 WESLEY O'BRIEN: Sorry, no, I mean at  
11 this time we wouldn't anticipate any afterhours  
12 construction and I would just add that, you know  
13 Tishman has been building in the city for over 100  
14 years and we value the communities that we build in  
15 and, and look to participate in keeping the lines of  
16 communication open as we develop the logistics plans  
17 for this project.

18 COUNCIL MEMBER RIVERA: And so the  
19 community board considers the zoning that exists  
20 there appropriate and they have for some time so, you  
21 know the, the comment that you're building is going  
22 to be at 283 feet is extremely tall, it alters the  
23 block significantly, do you disagree with that  
24 statement, what was your answer to the community  
25

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 board when they commented on how tall this building  
3 would be just, just don't say Zeckendorf?

4           DAVID ROTHENBERG: Well as, as Wesley  
5 and, and Morris pointed out in the context of the  
6 area, the, the building does fit in, I think... I think  
7 what's important for the community is, is kind of the  
8 streetscape, you know this, this is a block that many  
9 students use to go to school, there's several schools  
10 down the street and, and right now what you have is a  
11 parking garage that creates a lot of unsafe  
12 conditions, a lot of congestion and that will be  
13 gone. So, as respect to the community I think that  
14 will be a dramatic improvement. The element with  
15 respect to height really has an impact to shadows and  
16 what we've found is for the largest public area in  
17 this neighborhood which is Union Square the shadows  
18 are almost, almost nonexistent by 9:45 in the morning  
19 in, in the worst case the shadows are gone so, in the  
20 context of the community and what it would be to have  
21 this building in the area, it'll be dramatically  
22 improved, you will not have that parking garage, you  
23 will not have the unsafe conditions, you will not  
24 have the congestion, 15 percent of the cars... of the  
25 traffic will be reduced and then the up... the benefit...

SUBCOMMITTEE ON ZONING AND FRANCHISES

1  
2 the, the impact to the... to the park will be  
3 inevitable so in total we feel it's a dramatic  
4 improvement to the community versus what's there now.

5 WESLEY O'BRIEN: And, and, and without  
6 mentioning the building I mentioned earlier, this,  
7 this slide here shows a couple of other buildings in...  
8 and this is looking East from Union Square, there are  
9 a number of taller buildings in the blocks to the  
10 North of East 17<sup>th</sup> Street, you can see the Guardian  
11 Life building itself an individual landmark at 310  
12 feet and then if you look to the South you have the  
13 ConEd Tower at 470 feet so we, we think the... that the  
14 proposed building fits comfortably within the heights  
15 of the area.

16 COUNCIL MEMBER RIVERA: The other issue  
17 is that... is the housing piece and they brought this  
18 up in, in terms of that MIH should have been  
19 triggered in this case and so why doesn't MIH apply  
20 to this application?

21 STEPHEN LEFKOWITZ: Stephen Lefkowitz.  
22 The city, my understanding is, has determined that  
23 unless there is an up-zoning or rezoning that  
24 increases the floor area on a site MIH is not  
25 available, that's a determination which I believe the

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1  
2 city made before we submitted our application but we  
3 were aware of it obviously and instead we wish to  
4 support the city's policy on affordable housing, we  
5 wish to support the city's policy on the creation of  
6 new affordable housing and preservation of existing  
7 housing as well as making sure that the units are  
8 affordable by the low income people, I think I heard  
9 that in the prior, prior hearing and those are all...  
10 those are policies of the city that we support. The  
11 city's determination as to why MIH does not apply is  
12 not something frankly that I'm privy to, I don't know  
13 why they made that determination other than that they  
14 decided as a policy matter that it had to be an  
15 unzoning with increased floor area in order to  
16 trigger that program and that is my understanding and  
17 so we decided notwithstanding that to do what we  
18 could as a contribution to furthering the city's  
19 policies.

20 COUNCIL MEMBER RIVERA: And, and I... and  
21 appreciate you I guess underlining your commitment to  
22 affordable housing, I think one of my concerns is  
23 that, you know there is as, as I guess as small as a  
24 percentage as it could be there's always an  
25 opportunity to think creatively about affordable

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1  
2 housing and it doesn't always have to be rentals,  
3 there aren't many home ownership opportunities for  
4 middle income and moderate income families and I just  
5 want to go on record that I wish that this building  
6 had explored that option in, in a way that was  
7 presented to me during our negotiations and during  
8 our conversations and I realize we still have more  
9 time to work together which I'm looking forward to  
10 but I think it's really, really important for us to  
11 while we think of middle class and pathways to that  
12 is that we consider home ownership as a viable  
13 option. And so Chair Moya with that I, I don't have  
14 any further questions and I just want to thank you  
15 for the time that you've given me.

16 CHAIRPERSON MOYA: Thank you Council  
17 Member and thank you to the panel. I am now going to  
18 call up the next panel; Jeff Brault, John Napiza,  
19 John Napiza, Hannah Rimbalm, Rimbalm, Justin Pascone,  
20 Reggie Thomas and, and your name?

21 [off mic dialogue]

22 CHAIRPERSON MOYA: Okay, so just... you're  
23 going to read for Hannah, correct? Okay, just state  
24 your name once again and then you may begin.

25

SUBCOMMITTEE ON ZONING AND FRANCHISES

MIKE BRADLEY: Sure, my name is Mike Bradley...

CHAIRPERSON MOYA: And you're reading testimony on behalf of?

MIKE BRADLEY: For 32 BJ.

CHAIRPERSON MOYA: Hannah.

MIKE BRADLEY: Hannah, Hannah, yes, okay.

CHAIRPERSON MOYA: Got it.

MIKE BRADLEY: Hannah, okay. Good afternoon Council Member Rivera, Chair Moya and members of the Subcommittee. My name is Mike Bradley and I'm a doorman at 408 East 79<sup>th</sup> Street and I've been a 32 B... 32 BJ... 32 BJ member for 12 years. As you know 32 BJ is the largest property service union representing 80,000 service workers across New York City and approximately 20,000 members who work and live in the midtown area. My union supports responsible developers that facilitate economic justice for our members. 32 BJ has a long-standing relationship with Tishman Realty Partners at many buildings across their portfolio in New York and New Jersey. East 16<sup>th</sup> Street owner, LLC an affiliate of Tishman Realty has committed to creating good building service jobs that pay family sustaining

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1  
2 wages and benefits. These jobs will allow for working  
3 families to continue to call New York City home and  
4 live with dignity and security for these reasons I'm  
5 here today to offer support for Tishman's proposal at  
6 110 East 16<sup>th</sup> Street. Thank you.

7 REGGIE THOMAS: Good morning Council  
8 Member Moya, Council Member Rivera. My name is Reggie  
9 Thomas, Senior Vice President for Government Affairs  
10 at the Real Estate Board. As you know REBNY is a  
11 broadly-based trade association representing owners,  
12 the developers, brokers, managers, real estate  
13 professionals active throughout New York City. We  
14 support Tishman's plan to develop the site at 110  
15 East 16<sup>th</sup> Street and believe their application merits  
16 approval from the council. The transfer of air rights  
17 from 111 East 15<sup>th</sup> Street will allow for the  
18 restoration of an individual landmark, the Century  
19 Association building and a special... the special  
20 permit will require it's continued maintenance and  
21 perpetuity. The financial wellbeing of the Lee  
22 Strasberg Theatre and Film Institute will also be  
23 ensured throughout the purchase of development  
24 rights. Tishman is working with Morris Adjmi, an  
25 architect renowned for his ability to create



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1  
2 historically contextual buildings. This design for  
3 this building will honor the period, style emblematic  
4 of the Union Square area and be a respectful addition  
5 to the charm of the very textures and styles of the  
6 neighborhood. The building topology surrounding Union  
7 Square Park is one of mixed heights uses and styles.  
8 At a height of 283 feet the proposed residential  
9 building is well within the context of the  
10 surrounding neighborhood. One block South of the site  
11 is the Zeckendorf Towers which was mentioned earlier,  
12 to the East of Zeckendorf is the landmark Con Edison  
13 building with a height of 470 feet, along the North  
14 of Union Square Park the individual landmark Guardian  
15 Life and Everett buildings reach heights of 285 and  
16 250 feet respectively. Finally, the location of the  
17 residential building on this site makes sense given  
18 its proximity to the well served Union Square transit  
19 station. The development is, is estimated to reduce  
20 traffic on the street by ten to 15 percent and will  
21 improve the streetscape by activating the space as  
22 currently a parking garage, reducing the existing  
23 curb cut and providing trees and the sidewalk. The  
24 plans for this site have been deemed contextual and  
25

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1  
2 appropriate by LPC and we ask that the city council  
3 support this application. Thank you.

4 JUSTIN SPIVEY: Good afternoon, my name  
5 is Justin Pascone, I'm the Director of Policy at the  
6 New York Building Congress and I'm pleased today to  
7 express our support for Tishman Realty and their  
8 project on 110 East 16<sup>th</sup> Street. The Building  
9 Congress has for almost 100 years advocated for  
10 investment in infrastructure, pursue job creation,  
11 and promoted outstanding projects like this one here  
12 in the New York City area. Our organization is made  
13 up of over 5,500 construction design and real estate  
14 firms that comprised, comprise more than a quarter of  
15 a million professionals. This project and the site is  
16 an ideal location for high density development given  
17 the proximity to public transit, premier parks and  
18 retail. As our city continues to experience  
19 significant growth we need to be mindful of where and  
20 how we accommodate the influx of residents and  
21 businesses. This project promotes walkability,  
22 significant, significantly reduces our reliance on  
23 automobiles and therefore should be a model for  
24 development that exists across the city near transit  
25 hubs like Union Square. Further Tishman's worked

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1  
2 diligently with Morris Adjmi to design an attractive  
3 and contextually appropriate building for the  
4 neighborhood. Not only do we think it will blend with  
5 the historic features nearby, but it will preserve  
6 the integrity of Union Square by responding to the  
7 heights and the context that you saw in the  
8 presentation. Tishman's put an enormous amount of  
9 thought into this project to ensure it's truly an  
10 added benefit to the entire community and actively  
11 engaged with community stakeholders throughout that  
12 process. This opinion was echoed in January by the  
13 LPC as well. And finally, this project brings a long-  
14 term commitment to maintaining the health of the Lee  
15 Strasberg Theatre on 15<sup>th</sup> Street which we think it  
16 helps preserve New York's rich history. So, I ask you  
17 today on behalf of the New York Building Congress to  
18 support this project. Thank you.

19 JEFF BRAULT: Excuse me. My name is Jeff  
20 Brault representing the Manhattan Chamber of Commerce  
21 speaking on behalf of our president and CEO Jessica  
22 Walker. The Chamber is excited to support the  
23 development, the beautiful new building at 110 East  
24 16<sup>th</sup> Street which will add to the city's iconic  
25 skyline while keeping with the historic context of

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1  
2 the neighborhood and surrounding buildings. Benefits  
3 to the area immense; restoration of an historic  
4 building at 111 East 15<sup>th</sup> Street which will  
5 contribute to the quality of the neighborhood,  
6 updating the building for unobstructed access and I'm  
7 sure... ensuring that TBN, our neighborhood institution  
8 can remain in place for the long term. The project  
9 includes small scale retail that will add a mid-block  
10 amenity for residents of the neighborhood and the  
11 project will improve the streetscape reducing the  
12 length of the existing curb cut and providing trees  
13 on the sidewalk. The proposed project at 110 East  
14 16<sup>th</sup> Street is a model for the type of development  
15 that should exist throughout New York City. On behalf  
16 of the Manhattan Chamber and our members I implore  
17 the committee to support this vital project. Thank  
18 you.

19 CHAIRPERSON MOYA: Thank you. Thank you  
20 all for your testimony. Sure... one, one second.  
21 Council Member your... [cross-talk]

22 COUNCIL MEMBER RIVERA: My bad...

23 CHAIRPERSON MOYA: ...microphone, thank  
24 you.

25

1 SUBCOMMITTEE ON ZONING AND FRANCHISES

2 COUNCIL MEMBER RIVERA: And I know Hannah  
3 is also here still. Okay, I have a question for 32  
4 BJ, have you entered into a good job's agreement with  
5 Tishman on this project, how many jobs are going to  
6 be created?

7 HANNAH: Our estimate is six but I would  
8 defer to the developer... [cross-talk]

9 COUNCIL MEMBER RIVERA: Okay... [cross-  
10 talk]

11 HANNAH: ...who would... [cross-talk]

12 COUNCIL MEMBER RIVERA: ...thank you...  
13 [cross-talk]

14 HANNAH: ...know best.

15 COUNCIL MEMBER RIVERA: Thank you. Thank  
16 you, Chair Moya.

17 CHAIRPERSON MOYA: Thank you. Thank you  
18 to the panel. The next panel is going to be Jack  
19 Davies, Monica Munn, Michael Bradley, Michael  
20 Bradley, Victoria Crane, no, gone... is he gone, he's  
21 gone? Okay, thank... yeah, no worries, thank you. Okay,  
22 if you can just state your name and then we'll begin  
23 here.

24 JACK DAVIES: Jack Davies, Policy and  
25 Campaigns Manager at Transportation Alternatives.

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1  
2 Good afternoon, thank you for convening this hearing  
3 and for the chance to testify. On behalf of  
4 Transportation Alternatives, we've advocated on  
5 behalf of New Yorkers for safer and more livable  
6 streets with more than 150,000 people in our network  
7 and over 1,000 activists throughout all five  
8 boroughs, we promote biking, walking, public  
9 transportation as alternatives to the car. I'm here  
10 today, today to support the request for special  
11 permits at 110 East 16<sup>th</sup> Street, New York needs  
12 growth that encourages public transit use; walking  
13 and bicycling instead of driving and we feel strongly  
14 that the requested permits in this case with the  
15 responsible approach to development in Manhattan. 110  
16 East 16<sup>th</sup> Street will improve the streetscape and  
17 reduce the... reduce the length of the existing curb  
18 cut. The development is estimated to reduce traffic  
19 on this street by ten to 15 percent on a block that  
20 is often populated by children given it's proximity  
21 to nearby schools, it is situated near Union Square  
22 one of the largest transit hubs and most transit rich  
23 sites in the city and with the L train shut down  
24 rapidly approaching and the congestion along 14<sup>th</sup>  
25 Street in the area immediately surrounding 14<sup>th</sup>

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1  
2 Street expected to skyrocket, high density  
3 development in this neighborhood continue...  
4 contributes to walkability and significantly reduces  
5 reliance on automobiles. 110 East 16<sup>th</sup> Street will  
6 also eliminate a 196-car parking garage, research has  
7 excessively shown that when the supply of parking is  
8 high the demand to drive also increases even when  
9 that driving isn't critical this in turn leads to  
10 increased traffic congestion, slower bus speeds,  
11 increase to air pollution and compromised pedestrian  
12 and bicycle safety all across the city. As traffic  
13 congestion and safety implosion reach crisis levels  
14 in New York we should not be encouraging development  
15 that needlessly keeps more cars on the road, granting  
16 the requested permits would set an important  
17 precedent not only in development best practices but  
18 in prioritizing people over motor vehicles. Thank  
19 you.

20 MONICA MUNN: Good afternoon Council  
21 Member Moya and Council Member Rivera. Thank you for  
22 the opportunity to testify today. My name is Monica  
23 Munn and I serve as the Director of Economic  
24 Development at the Union Square Partnership, a  
25 community based, nonprofit organization that works to

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1  
2 support the residential and business communities of  
3 the 14<sup>th</sup> Street and Union Square district. I'm here  
4 today on behalf of our Executive Director, Jennifer  
5 Falk to express our organization's support for the  
6 proposed re-development of 110 East 16<sup>th</sup> Street into  
7 a new mixed-use building. As you all know quite well,  
8 Union Square is a vibrant 24/7 residential and  
9 commercial neighborhood. We strongly believe that  
10 Tishman has presented a thoughtful, high density  
11 design for this project, one that is in context with  
12 the existing and planned built environment. The  
13 proposed development site will be surrounded by  
14 several existing large residential and commercial  
15 buildings including and I... and I won't mention  
16 Zeckendorf but others such as the W New York Union  
17 Square hotel, the Con Edison building as well as a  
18 number of buildings on the South side of 14<sup>th</sup> Street  
19 including the, the forthcoming Union Square tech  
20 training center. The change in use for this site from  
21 a multistory parking garage to a primarily  
22 residential mixed-use building will contribute to  
23 walkability and likely have traffic calming benefits  
24 for this residential stretch of our district. The  
25 project site is adjacent to multiple public transit



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1  
2 lines reducing the vehicular needs of future  
3 residents. Analysis conducted by Tishman as have been  
4 shared before estimate that their project will reduce  
5 traffic on the street by ten to 15 percent which  
6 contributes to the overall safety and quality of life  
7 along a block that sees robust pedestrian foot  
8 traffic. The project will also bring new public  
9 amenities to our eastern side of our district  
10 including square footage for a ground floor retail  
11 tenant and enhancements to our streetscapes. We've  
12 been encouraged by Tishman's community... commitment to  
13 our district's historic landmarks and as was  
14 discussed the restoration of TBN's landmark building.  
15 Thank you again to the members of the city council  
16 for your careful consideration of this application  
17 and we encourage you to approve it.

18 VICTORIA CRANE: Good afternoon and I  
19 just want to say that I'm in awe of you sitting for  
20 five hours, I don't know how you do it but whatever.  
21 My name is... [cross-talk]

22 CHAIRPERSON MOYA: This is... [cross-talk]

23 VICTORIA CRANE: Victoria... [cross-talk]

24 CHAIRPERSON MOYA: ...nothing... [cross-talk]

25

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1  
2 VICTORIA CRANE: ...Crane, I'm the  
3 President of the Lee Strasberg Theatre and Film  
4 Institute located at 115 East 15<sup>th</sup> Street. I've been  
5 with the institute for 36 years; Anna Strasberg the  
6 Co-founder and artistic director unfortunately  
7 couldn't be here today but sends regards in strong  
8 support of the project proposed by Tishman at 110  
9 East 16<sup>th</sup> Street. The Lee Strasberg Theatre and Film  
10 Institute has a long history on East 15<sup>th</sup> Street and  
11 is a part of the fabric of the... this community. In  
12 this school year, 2018-2019 we're celebrating our  
13 50<sup>th</sup> anniversary at this location. In two... 2001 the  
14 centennial of Lee's birth our block was named Lee  
15 Strasberg Way. Lee loved the city and was a New York  
16 success story, he grew up not far from the location  
17 of our school and educated himself by reading books  
18 from the public libraries and book stores including  
19 the strand. He discovered his love of the theatre  
20 while acting in plays at Chrystie Street Settlement.  
21 From this humble start he went on to become one of  
22 the major influences on the development of the  
23 techniques of modern acting and directing. Over the  
24 years to follow Lee's mission we have offered many  
25 scholarships to talented young people in our

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1  
2 community to give them an opportunity to develop  
3 their talents and pursue their dreams in the arts.  
4 For example, we have a... have had a partnership the  
5 New York Housing Authority for the past 30 years  
6 offering residents scholarships to both our youth  
7 programs. The sale of our air rights would enable us  
8 to make much needed improvements in our building,  
9 classrooms and theatres and to update our facilities,  
10 lighting and technical equipment so that we continue  
11 to offer the highest level of training in actor..  
12 acting for the theatre, film, television and digital  
13 media and meet the needs of students for years to  
14 come. It would also... I'm sorry, may I just continue,  
15 I... [cross-talk]

16 CHAIRPERSON MOYA: Yep.

17 VICTORIA CRANE: It would also allow us  
18 to expand our scholarship program to offer  
19 opportunities to more talented and deserving young  
20 people in the community. We homesteaded this  
21 neighborhood, we'd like to know that future  
22 generations of actors, directors and scholars will  
23 continue to come to this institute that Lee and Anna  
24 Strasberg established 50 years ago and that it will  
25 continue to thrive. The sale of our air rights will

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1  
2 provide invaluable resources to help us with those  
3 goals. In conclusion I believe the project by  
4 Tishman, a premier builder of high-quality  
5 construction will only serve to enhance and stabilize  
6 our neighborhood. Thank you for your time and  
7 consideration.

8 CHAIRPERSON MOYA: Thank you. Thank you  
9 all for your testimony. Are there any other members  
10 of the public who wish to testify? Seeing none I now  
11 close the public hearing on this application and it  
12 will be laid over. This concludes today's hearing and  
13 I would like to thank the members of the public, my  
14 colleagues, counsel and land use staff for attending  
15 and all the hard work that they did to make this  
16 meeting happen. This meeting is hereby adjourned.

17 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date

September 26, 2018