

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

LAND USE SUBCOMMITTEE ON ZONING AND FRANCHISES

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March 4, 2009
Start: 9:48am
Recess: 1:57pm

HELD AT: Committee Room
City Hall

B E F O R E:
TONY AVELLA
Chairperson

COUNCIL MEMBERS:
Simcha Felder
Helen Sears
Larry Seabrook
Melinda Katz
Albert Vann
Eric N. Gioia
Alan J. Gerson
Bill de Blasio

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

John Young
Director, Queens Office
Department of City Planning

Paul Philps
Department of City Planning, Queens Office

Juan Reyes
Member
Forest Hills, Van Court Association

Diane Elkin
Member
Women's Club of Forest Hills

Steve Reichstein
President
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Joseph Hennessy
Chair
Community Board 6

Frank Gulluscio
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Simeon Bankoff
Executive Director
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A P P E A R A N C E S (CONTINUED)

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Dermot B&B, LLC

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Ro Sheffe
Chair, Financial District Committee
Community Board 1

Marty Markowitz
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David Von Sprecklesen
Vice President
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Navid Maqami
Project Architect
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Mimi Raguardsky
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Carroll Gardens Neighborhood Association

Lizzie Olesker
Friends of Bond

Glenn Kelly
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Cynthia Simmons
Vice President
Mill Condominium

Matt Fenton
Concerned Citizen

Rachel Yanda
Representative
Local 32BJ

Anthony Pugliese
Carpenter's Union

Anthony Williamson
Mason Tenders District Council of New York City

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

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Sierra Club, New York Chapter

Gary Riley
Concerned Citizen

Josh Skaller
Concerned Citizen

Anthony Marchese
Concerned Citizen

Ken Baer
Concerned Citizen

Therese Cunningham
Concerned Citizen

Bob White
AKRF

Spencer Orkus
Toll Brothers

Melvin Mahan
Council Liaison

Zella Jones
Chairwoman, Sidewalk Committee
Community Board 2

Marcello Assante
Owner
Gallo Nero Restaurant

Pete Meskouris
Owner
Hell's Kitchen Cafe

1
2 CHAIRPERSON AVELLA: Good morning,
3 everyone. I'd like to call this meeting of the
4 Subcommittee on Zoning and Franchises to order.
5 And I want to thank my colleagues. We are getting
6 better in terms of starting on time. This is
7 good.

8 [Laughter]

9 CHAIRPERSON AVELLA: For those of
10 you that are here to testify, let me remind you,
11 if you want to speak, you must sign a speaker slip
12 with the Sergeant-At-Arms, and indicate whether
13 you are in favor or opposition, but more
14 importantly, what item you want to speak on. We
15 have a number of items on the agenda. First, let
16 me introduce my colleagues on the Committee that
17 are here, Council Member Simcha Felder, Larry
18 Seabrook, Helen Sears, Melinda Katz, and Al Vann.
19 We will proceed with the-- and you know, please
20 forgive me as we sort of skip around the agenda
21 depending upon who's here. The first item we will
22 hear this morning is the Special Forest Hills
23 District. And I understand Queens City Planning
24 is here to testify.

25 [Pause]

1
2 JOHN YOUNG: --Chair Katz, ladies
3 and gentlemen and City Council Members. My name
4 is John Young and I'm the Director of the Queens
5 Office of the Department of City Planning. On
6 behalf of City Planning Director Amanda Burden,
7 I'm pleased to be here this morning to present the
8 Department's efforts to update zoning designations
9 for ten blocks located along the Austin Street and
10 Queens Boulevard corridors in the heart of the
11 Forest Hills neighborhood in Central Queens. I'm
12 joined by Paul Philps, who will present our
13 rezoning proposal to you. The Forest Hills
14 rezoning proposal that is before you today
15 culminates a more than two year effort to work
16 with a broad spectrum of neighborhood residents
17 and stakeholders to develop a zoning framework
18 that closely matches building patterns and will
19 ensure more orderly development. The current
20 rezoning proposal builds upon two successful
21 lower-density contextual rezonings that were
22 adopted by the Council in 2002 and 2007, that
23 together have protected the cherished residential
24 character of more than 100 blocks in the Forest
25 Hills community. This current rezoning proposal

1
2 seeks to update zoning on ten blocks in the mixed-
3 used commercial and residential core of Forest
4 Hills, where the designations have not changed
5 since 1961, and they are poorly attuned to the
6 very building scale and land use patterns that
7 define the character of this distinct portion of
8 the neighborhood. As Paul will explain, the
9 current zoning along portions of Austin Street in
10 Queens Boulevard allows automotive repair uses to
11 be located adjacent to residential uses, and
12 favors commercial and community facility
13 developments under highly flexible densities and
14 building heights. In fact, in recent years, new
15 residential development has been sought through
16 individual rezoning requests or variance
17 applications, one of which has produced the 21-
18 story--

19 CHAIRPERSON AVELLA: [Interposing]
20 If you're going to have a conversation, take it
21 outside, please. There's just too much activity
22 in this room. You're doing a disservice to the
23 Council, the people in the audience and the
24 speakers. I'm sorry, John.

25 JOHN YOUNG: Not a problem. Thank

1
2 you, Council Members. As I was saying, in recent
3 years, residential development has been sought
4 through individual rezoning requests or variance
5 applications in this area, and one of which has
6 produced a 21-story, 190-foot tall building that
7 extends well into the mid-block portion of 71st
8 Road. The Department's rezoning proposal seeks to
9 curb out of character and haphazard development,
10 while fostering a lively and compatible mix of
11 uses. The proposed zoning changes would eliminate
12 the current disparity in allowable building
13 density between residential, community facility,
14 and commercial buildings, and more closely reflect
15 established scales of development through finely
16 tuned contextual zoning. Two of the proposed
17 zones are intended to reinforce the prevailing
18 scales on Austin Street and adjacent mid blocks,
19 with height limits ranging from 40 to 70 feet,
20 generally three to seven stories; and on three
21 blocks and five block fronts along Queens
22 Boulevard, new development would reinforce the
23 higher built context already found here with a
24 height limit of 150 feet. The proposal also
25 includes a text amendment to create a new Special

District, that would ensure active ground floor uses, especially retail space, along portions of Austin Street and 71st, Continental Avenue, require 70% transparency for ground floor retail spaces, support more flexible, second story commercial spaces on the south side of Austin Street and restrict the ability to reduce or eliminate accessory parking by subdividing the development lot. The Forest Hills rezoning plan has been shaped by numerous participants during its development. I want to thank the area's passionate residents and civic advocates that have taken time to provide input into this important zoning initiative, especially the Forest Hills Community and Civic Association, the Forest Hills Chamber of Commerce, Community Board 6, as well as Council Member Melinda Katz, whose dedicated leadership has been invaluable to this complex rezoning process. Following the September 22nd, certification of the proposal, we're very pleased with the support received from Community Board 6, which recommended to change the parking requirements from 50% to 70% in the proposed C4-4A and C5-5X zones and to have the supermarket at

1
2 Yellowstone Boulevard and Gerard Place remain in
3 its present location. On December 4th, Borough
4 President Helen Marshall recommended support of
5 the rezoning without conditions. The Planning
6 Commission carefully considered these
7 recommendations as well as testimony from its
8 public hearing and voted on January 21st to
9 approve the proposal with a modification to allow
10 a special permit from the Board of Standards and
11 Appeals to-- which would facilitate the expansion
12 of an office building at 68-60 Austin Street to
13 remain in effect under the terms for which it was
14 granted in 2007. We hope that you too will
15 support this well-considered initiative to
16 reinforce the built character and development
17 patterns of this distinct and vibrant core of
18 Forest Hills. And now Paul will present the
19 rezoning proposal.

20 PAUL PHILPS: Thank you, John. Jus
21 to give you a little bit of background on where
22 the area is located, the rezoning area is bounded
23 by Queens Boulevard to the north, Austin Street to
24 the South, Ascan to the east and Yellowstone
25 Boulevard to the west. As John mentioned, this

1 zoning has been in place since 1961. It is
2 currently predominantly zone C8-2 and C4-2. C8-2
3 is a commercial automotive zone. It does not
4 allow residential development, has a maximum FAR
5 of 2 and does allow community facilities at up to
6 a 4.8 FAR. It does not have a fixed building
7 height, so there is not predictability in terms of
8 the heights of the buildings in this zone. In
9 this C4-2 portion, that does allow residential,
10 commercial and community facility up to a 3.4 FAR
11 for residential; but again, also in this zone
12 there is not a fixed height limit, so there is
13 unpredictability in terms of the heights of the
14 buildings.
15

16 [Pause]

17 PAUL PHILPS: Great. All right.
18 Thank you. In the C8-2 zone automotive uses are
19 allowed, and over time this area has developed
20 into a regional commercial area, and many of the
21 automotive uses that were there have been replaced
22 by other uses. If you can see here just by the
23 land use map here, this is-- in the purple right
24 here, that represents the only existing automotive
25 uses that are in the area, right there at 69th

1
2 Road and Austin Street. There are residential
3 uses surrounding the area, one and two-family
4 buildings are to the south and north of the area.
5 There are some larger multi-family buildings,
6 elevator buildings. Right here is Gerard Towards,
7 Parker Towers, and there are other large
8 residential buildings along Austin Street. This
9 area is a very mixed-use commercial area, and
10 mixed-use and commercial is indicated by the
11 fuchsia here, which is predominant throughout the
12 area, particularly in the C4-2 as well as some
13 commercial and office buildings. Transportation
14 is indicted in the light gray, which is
15 predominantly the Long Island Railroad right of
16 way, just south of Austin Street. WE do have some
17 open space both to the north and to the south,
18 parking facilities and very little vacant land in
19 the area. Addressing some of the land use and
20 development concerns we have in the area; as I
21 mentioned before, automotive uses as photographed
22 right here, is right at 69th Road and Austin
23 Street, are allowed in C8-2 zoning districts, and
24 these automotive uses are right now in the heart
25 of what is a commercial, mixed-use and

1
2 predominantly residential neighborhood. The
3 second photograph right here really illustrates
4 one of our other key points in addressing this
5 proposal, are in terms of fixed height limits.
6 This is a building that was built in 2004 through
7 a variance from the Board of Standards and
8 Appeals. This is an existing C4-2 zoning
9 district, and this building is over 190 feet in
10 height. This last photograph here is along Austin
11 Street on the south side. This is a low-quality
12 commercial building. This building has been
13 subdivided several times, doesn't have a
14 consistent street wall, and in subdividing their
15 property, they have waived out of the parking
16 requirements in the existing C8-2 zoning district.
17 So these are some of the issues that we're trying
18 to address in terms of this proposal. So, one of
19 our first objectives is to create orderly and
20 predictable growth within the area. As John
21 mentioned and as I mentioned before, in both the
22 C8-2 and the C4-2 zoning district there are not
23 predictable building heights, so you get buildings
24 such as this that are 190 feet, and there's
25 variation and very unpredictable. We also want to

1
2 continue to promote ground floor commercial and
3 retail in this area. This area has developed into
4 a very, into a regional commercial area, not only
5 serving the residents of Forest Hills but
6 residents of surrounding areas, where we want to
7 continue to promote ground floor commercial. We
8 also want to create a transition in scale as we
9 move from north to south. This is a ten-block
10 area, it's very concentrated, but we want to
11 maintain the low scale on Austin Street. This is
12 a very walkable, neighborhood friendly area, and
13 we want to continue to promote that, but we want
14 to create a transition in scale as you move to the
15 north along Queens Boulevard where you have larger
16 residential buildings. This area is also very
17 well served by mass transit, with the E, F, V, G
18 and the R trains at 71st and Continental as well
19 as the Long Island Rail Road and several buses
20 that run in this area. So we wanted to create an
21 area that is supportive of mass transit. In terms
22 of the proposed zones, we're proposing an R5-D
23 with a C2-3 overlay on the south side. In what
24 we're calling the mid block area we're proposing a
25 C4-4A zoning district, and along the Queens

Boulevard corridor, we're proposing a C4-5X.

CHAIRPERSON AVELLA: Can you hold on one second? Council Member Katz and I were just saying there's just a lot of activity going on and it's getting hard to concentrate. Thank you for closing that door in the back. I never thought it was sexy, but apparently it is. Go ahead.

PAUL PHILPS: Okay. So I'm going to walk you through each of the zones. As John mentioned, we are doing a zoning proposal as well as a special district, and so I'll walk through the special district text, making some slight modifications through each of the proposed zones. So the first proposed zone is an R5-D, C2-3, which is right here along the south side of Austin Street. This will have a 2 FAR for commercial, residential and community facility. This will have a fixed height limit of 40 feet, and this 40-foot fixed height limit is very consistent with the predominant built character along Austin Street. There are two changes that we're making here that relate to the special district text. The first is a rear yard waiver for commercial

1
2 properties that abut the Long Island Railroad
3 right of way. This is very valuable to commercial
4 property owners. We've utilized this in other
5 rezonings, and this allows them to utilize the
6 second floor of their property. And as I
7 mentioned before, this area has developed into a
8 very strong regional commercial area, and
9 commercial is a very important component of this
10 area. We're also going to allow the same range of
11 uses in the R5-D district as we will in both the
12 C4-4A and the C4-5X, so this will allow for
13 consistency of uses throughout the rezoning area.
14 And this massing right here just illustrates the
15 proposed built form, the 40-foot fixed height
16 limit along Austin Street looking southeast. So
17 you can see here that this proposed built form
18 fits in very nicely with the existing buildings,
19 which are both to the north and the south. And
20 these photographs are photographs right here along
21 the south side of Austin Street, and
22 predominantly, again, most of the buildings
23 typically 30 to 40-feet in height.

24 [Pause]

25 PAUL PHILPS: The next proposed

1 zone is what we're calling our mid block context,
2 and that's the C4-4A between 72nd Road and 70th
3 Avenue. C4-4A is a commercial zone. Typically in
4 a C4-4A there's a 40 to 65-foot base height and an
5 80-foot maximum building height. Here there will
6 be a 4.0 FAR allowed for residential, commercial
7 and community facility uses. We've altered the
8 base height slightly to be 40 to 60 feet and the
9 maximum building height here to be 70 feet. And
10 we thought this was important to address both the
11 base height and the building height so that it was
12 very consistent with the predominant built form
13 within this mid block context. And these two
14 photographs right here, this is an existing
15 building in the proposed C4-4a zoning district.
16 And this photograph right here at the bottom
17 happens to be on 72nd Road, so you can see this is
18 the property right here that has been massed, this
19 illustrative building right here, so you can see
20 right here that this 40 to 60-foot base height and
21 the 70-foot maximum building height, again, fits
22 in very well with the existing built form of
23 buildings both to the north and south of this
24 building.
25

[Pause]

PAUL PHILPS: The next proposed zone is a C4-5X zoning district. C4-5X is a commercial zone. It allows a 5.0 for residential and community facility. Typically it allows a 4.0 FAR for commercial uses, but because we want to create a consistent range of uses throughout the rezoning area, we're going to allow a 5 FAR for commercial uses in this area as well. Typically in the C4-5X zoning district you have a 60 to 85-foot base height and a maximum building height of 125 feet. However, we're making two slight changes here. The first is for properties west of 70th Road, they will have a 40 to 60-foot base height, and that's for all of these properties here, typically from here to here, that actually front along McDonald Park. We felt the lower base height was important to keep the park context in mind here. For all the properties that are east of 70th Road, they will have a 60 to 85-foot base height. We're also increasing the maximum building height for the proposed zone from 125 feet to 150 feet. This is important, particularly for commercial buildings, which typically have

1 higher floor to ceiling heights, typically 12 to
2 15 feet in height. So while increasing the--
3 while we decrease the base height here,
4 particularly along the west, west of 70th Road,
5 increasing the building height allows property
6 owners to maximize their floor area with all of
7 their properties. And these photographs here show
8 some of the existing structures here that are in
9 the proposed C4-5X zoning district, and again,
10 this massing right here really illustrates again
11 the 60 to 85 foot base height and the maximum
12 building height again on 71st Road and Queens
13 Boulevard, and how that fits in very well to the
14 existing built context in the area. And this is
15 right here along Queens Boulevard. You can see
16 right here this is the Windsor, which is the
17 building I pointed out earlier, which is 190 feet.
18 So the 150-foot building height is much less than
19 buildings that were built through the exiting
20 zoning, which allows a great variation in terms of
21 the building heights.

22 [Pause]

23 PAUL PHILPS: We're also proposing
24 a buffer along Austin Street. The buffer is very
25

1
2 important, because for these lots that are a
3 little bit deeper, we want to make sure and
4 maintain the height of the buildings are oriented
5 towards Queens Boulevard, which is a very wide
6 street, and Austin is a very narrow street. So
7 within 60 feet of Austin Street, your building
8 cannot go up to more than 80 feet. At that point
9 it must set back, and then you can go up to the
10 full 125 feet. But again, you can see this is on
11 the north side of Austin Street, and this really
12 maintains that lower-scale, and is very similar to
13 the mid block context and actually allows us to
14 continue this mid block context of the C4-4A,
15 actually all the way through here, from
16 Yellowstone to 72nd Road.

17 [Pause]

18 PAUL PHILPS: This illustrates the
19 maximum building heights within the area. The
20 blue buildings are new buildings that we've massed
21 in terms of the proposed zones. The R5-D is
22 indicated here in yellow, particularly along the
23 south side. The light orange is the proposed C4-
24 4A, which is in the mid block, and the dark orange
25 is the C4-5X. You can see all of the buildings

1
2 that are outlined with the red are proposed zones,
3 and these are some of the existing buildings in
4 terms of the heights that exist within the
5 rezoning area. Particularly this building right
6 here, is Gerard Towers, that's 225 feet in height.
7 This is Lane Towers, which is 125 feet-- I'm
8 sorry, the Verizon Building. This is Lane Towers,
9 which is actually at 170 feet, and this is the
10 Windsor, which I pointed out earlier, which is at
11 190 feet. And again, you can see just based on
12 the existing buildings in the proposed zones, that
13 the proposed-- particularly the maximum building
14 height along Queens Boulevard is much lower than a
15 lot of the existing buildings. And you can see
16 the proposed zone-- the massed buildings within
17 the mid block are very consistent with some of the
18 existing buildings, and along the south side, this
19 is a 40-foot proposed building, and it fits in
20 very well to the existing scale and character on
21 the south side of Austin Street.

22 [Pause]

23 PAUL PHILPS: Just to recap in
24 terms of the objectives of the proposal. First
25 and foremost, we really want to create predictable

1 building heights and street walls that reinforce
2 the established context in this area. As I
3 pointed out earlier, the proposed zones that we've
4 chosen were really indicative of the existing
5 built character in the area, and we made some
6 slight modifications that were really specific and
7 special to this area. The second objective was
8 really to provide a transition in scale as we
9 moved from Austin Street on the south side, which
10 we're proposing a very low scale here, and as you
11 move into the mid block and then go up to Queens
12 Boulevard we increase the height and the density
13 as well. The third objective is to create a
14 unified range of uses and a cohesive commercial
15 hub as you move from east to west. The C8-2 and
16 the C4-2 zoning districts create sort of a
17 disparate area. The C8-2, again, allows things
18 like automotive uses and repair shops, does not
19 allow residential, and this proposal really allows
20 for a cohesive range of uses, the same range of
21 uses throughout the area, and a consistency in
22 terms of heights and building form. And the last
23 point, which is also very important, we want to
24 continue to promote ground floor, commercial and
25

1
2 retail development along Austin Street and Queens
3 Boulevard. This area has developed into a
4 regional commercial area, has a strong retail
5 base, and we want to continue to promote those
6 commercial uses so that this area continues to
7 grow both from a residential standpoint, but also
8 from a commercial standpoint.

9 JOHN YOUNG: Thank you, Paul, and
10 thank you Council Members for your attention. I
11 know this is a very complex proposal. I wanted to
12 point out that we did provide some materials that
13 I think will, again, if you want to take a look
14 at, they were summaries of the boards that Paul
15 presented, as well as tables and some photographs
16 illustrating the proposed zones that we're using
17 to really I think address what we see as a very
18 haphazard future under the existing zoning for the
19 area, and into a more orderly development and
20 build upon the strengths of what we think is a
21 real unique and important area.

22 CHAIRPERSON AVELLA: Thank you. I
23 think you have the record now for bringing the
24 most boards for any hearing. I'd like to call on
25 Council Member Melinda Katz.

1
2 COUNCIL MEMBER KATZ: Thank you,
3 Mr. Chair. And I want to just, if I can,
4 summarize the reasoning for this and what I hope
5 is the outcome. First I want to thank City
6 Planning, and both of you really have had more
7 meetings on this than I think I ever could have
8 hoped that you would make yourselves available
9 for. So I truly want to thank you both for your
10 help, and of course the Chair Amanda Burden, on
11 this. Mr. Chair, this comes out of a several year
12 process where several of the businesses, business
13 owners on Austin Street and Queens Boulevard came
14 to me over the years and said they would like to
15 do BSA applications or rezoning applications for
16 the area. Each one of them said, you know, well
17 we want to put up a 200-story building or whatever
18 it was, and it concerned me greatly that there was
19 going to be this haphazard group of applications
20 coming either before us or before BSA, and there
21 would be absolutely no consistency or
22 standardization of the area, so that we can figure
23 out what we wanted to see as opposed to what the
24 individual applications could get. And so, we
25 went to City Planning and I had long conversations

1
2 regarding the area. And my main concern was
3 clearly that we have 220-story buildings with
4 Gerard Towers and Parker Towers, we had a BSA
5 application that made it to 190 feet. And what I
6 didn't want to see was those heights of buildings
7 all over Queens Boulevard. But I also wanted to
8 make sure that we protected Austin Street as best
9 as we possibly could. And City Planning developed
10 this special district, which I think truly solves
11 a lot of the issues that we could have had in this
12 community. On Austin Street it will be protected
13 with the heights. I am very, very grateful for
14 that. Queens Boulevard at 150 feet, compared to
15 the 220 feet for Parker Towers and Gerard and 190
16 feet for the Cord Meyer Building, I believe is
17 probably an appropriate number, although Mr.
18 Chairman, I ask for this to be laid over because
19 I'm going to be looking at lowering that number
20 over the next few days to try and get a more
21 appropriate height for this community. But I
22 think it's important to note for my colleagues
23 that this area here for those folks that have been
24 around Austin Streets and Queens Boulevard for
25 many generations, those folks would remember that

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2 this truly was all mechanic shops and car
3 dealerships, and that's why the zoning still is
4 automotive, which means that, ask you know, when
5 you go to the BSA for something that hasn't been
6 rezoned in 50 years and say, you know, you want a
7 variance, chances are very good you might get it,
8 because it has been so long. And so from the
9 perspective of someone who wants to protect her
10 community, who she grew up in, and understands
11 that there has to be a balancing between keeping
12 the area vibrant, strong, and the businesses
13 thriving so that the community remains stable, but
14 also protect the area to a certain-- a large
15 extent, I believe this is a very good compromise.
16 I will ask for this to be laid over until Monday's
17 meeting so I can work on two issues, number one is
18 the supermarket that I want to make sure that we
19 get a letter of guarantee from the developers that
20 they will keep the supermarket at Yellowstone and
21 Gerard and also to talk about the heights. So I
22 thank you. I ask my colleagues for their patience
23 as we do this one Monday as well. Thank you, and
24 thank you again to Planning.

25 CHAIRPERSON AVELLA: Any questions

1
2 from my colleagues? Seeing none, I know you'll
3 hang around for the public testimony.

4 JOHN YOUNG: We'll be here.

5 CHAIRPERSON AVELLA: We have a
6 number of people that signed up to speak. Diane
7 Elkin? Okay. Steve-- is it Reichstein? Okay.
8 And Juan Reyes. You haven't indicated whether
9 you're in favor or opposition. Juan? Are you
10 here?

11 [Pause]

12 CHAIRPERSON AVELLA: Okay.

13 [Off Mic]

14 CHAIRPERSON AVELLA: I'm going to
15 remind everybody that public testimony is limited
16 to three minutes each. I generally don't cut
17 somebody off if they're summarizing, but I do ask
18 everybody to sort of keep to that timeframe,
19 because there are a number of items on today's
20 agenda, and some-- a lot of people have signed up
21 to speak. Not on this one. You've got to push
22 the button.

23 JUAN REYES: Okay. My name is Juan
24 Reyes. I'm a Member of the Forest Hills Van Court
25 Association. Dear Council Member Avella and Chair

1
2 and members of the Board, the Forest Hills Van
3 Court Association submitted a request to Council
4 Member Melinda Katz's office for a reduction of
5 height and FAR in the proposed redistricting, in
6 keeping with the character of the neighborhood.

7 On behalf of the association, I would like to
8 thank Council Member Katz and her staff for the
9 positive discussions we've had regarding our
10 request, and I would like to respectfully request
11 that the City Council consider a modified plan
12 that reduces the proposed height and FAR. Thank
13 you for your consideration.

14 CHAIRPERSON AVELLA: Very concise
15 statement.

16 DIANE ELKIN: Hello. I'm Diane
17 Elkin. Thank you Mr. Avella and Councilwoman Katz
18 and the Board. I am representing the Women's Club
19 of Forest Hills. We are a 100-year old
20 organization. We have about 300 members, and all
21 of them reside in Forest Hills, with a few in Kew
22 Gardens and Rego Park. And I know that this has
23 been a project that has been in planning for a
24 long period of time, but our members have recently
25 heard about the rezoning of Forest Hills, and I am

1
2 therefore here to convey the great concern that
3 the neighborhood and the people and families that
4 live in the neighborhood have about the height of
5 15 stories along Queens Boulevard. We appreciate
6 that there's been great concern in the appropriate
7 development of Forest Hills. This is a wonderful
8 place to live, a historic area, and a place where
9 business and residential is in place and
10 successfully. But our residents are concerned,
11 and I have been contacted-- I have a small group
12 that is in charge of community affairs, and
13 usually we consider traffic lights and speed bumps
14 and things like that, but when this issue came up,
15 I had 50 people come to a meeting. I've had
16 people sign petitions at floral luncheons. I've
17 had people contacting me from Lady Queen of
18 Martyrs Church, from Friends of Station Square,
19 from Terrace Realty, from Madeline Realty, from
20 the PTA at Public School 101; and I just want to
21 represent them. I could have brought 60 or 70
22 people to this meeting who are very concerned
23 about the infrastructure that exists right now in
24 Forest Hills. We have a problem with sewers. We
25 have public transportation, but very much

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crowding. We have--

[Pause]

CHAIRPERSON AVELLA: I guess that's a new bell for the timer. I haven't heard that before. If you can sum up?

DIANE ELKIN: Okay. In summary, we--

[Pause]

DIANE ELKIN: We agree with much of what has-- is put into the rezoning. We feel that 150 feet is too high and that the FAR should be reduced. Thank you.

STEVE REICHSTEIN: My name is Steve Reichstein. I am the president of the Forest Hills, Van Court Association, an organization of 317 homeowners living near-- that's a quick three minutes.

[Laughter]

STEVE REICHSTEIN: I'll try to get my point across. 317 homeowners living near the proposed Special Forest Hills District. I am also a planning professional. I've served in the New York City Department of City Planning. I've been the Director of New York City's Community

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2 Development Block Grant Program for the Office of
3 Management and Budget and the Department of
4 General Services, and I currently teach City
5 Planning at St. John's University. Our
6 organization was never consulted regarding the
7 special district, and as you heard from John Young
8 today, we are not one of the organizations he
9 mentioned working with. I am concerned that the
10 planned C4-4A and C4-5X zones allow too much
11 development. New expensive 15-story, 150-foot
12 tall buildings would eventually rise on the south
13 side of Queens Boulevard. Overly generous height
14 and density allowances to developers, and I think
15 one of the City Planning people said, that allow
16 developers to maximize development would be put
17 into effect, and that would subvert the character
18 of the area. I think that means you'll say good-
19 bye to the neighborhood pizzeria, the neighborhood
20 jeweler, the neighborhood fruit store and the
21 remaining mom and pop stores. Say hello to the
22 trendy, the upscale and the corporate chain store.
23 People tend to live and raise their families in
24 forest hills because it combines the best of
25 suburbia with the best of New York City. It is a

1
2 mix of private homes and apartments, condos and
3 co-ops. Balance is the key. This zoning proposal
4 has the potential to destroy from over development
5 that which makes Forest Hills work so well. It
6 destroys the balance by allowing additional high
7 rises on the south side of Queens Boulevard, where
8 we already have one, very unfortunate example. If
9 you haven't seen this, this is what it looks like.

10 [Pause]

11 STEVE REICHSTEIN: Okay. You can
12 pass that around. Okay. It will make the area
13 more crowded, more congested and it will make the
14 neighborhood a more anonymous place. We need
15 zoning to make Forest Hills more livable, not more
16 developable. The area has not been rezoned since
17 1961 and needs to be rezoned now from various
18 gigantic eyesores that have been proposed. We are
19 all in agreement on that point. However, the City
20 Planning Commission's proposal falls short of its
21 stated aims. It still allows too much
22 development. The current height proposal of 150
23 feet is too much. You, the City Council of New
24 York, have the opportunity to modify and approve
25 the zoning proposal. We are suggesting you limit

1
2 the height between 100 and 110 feet. This is a
3 50% increase over the current zoning, but the
4 resulting new buildings would not disgrace-- I
5 only have one more paragraph. But the resulting
6 new buildings would not disgrace the skyline or
7 loom over Austin Street like a phalanx of giant
8 towers. Remember, you are the elected officials;
9 City Planners are the hired hands. Don't be
10 dissuaded from reducing the height by planning
11 personnel whispering in your ear that unless the
12 special district is done their way it will be a
13 disaster. As a planner I can unequivocally state
14 that it ain't true. You set policy. You call the
15 shots. You listen to the people. Reduce the
16 height from 150 feet to 100 to 110 feet. Thank
17 you.

18 CHAIRPERSON AVELLA: Thank you.

19 Next panel we have--

20 COUNCIL MEMBER KATZ: [Interposing]

21 Can I just-- can I just thank--

22 CHAIRPERSON AVELLA: [Interposing]

23 Oh, I'm sorry.

24 COUNCIL MEMBER KATZ: No, I just
25 want to thank the community for coming out, the

1
2 Women's Club and Steve and Juan. We are talking
3 about the height limitation. I appreciate your
4 comments, and I just want you to know I am taking
5 them seriously; we all are. And on Monday we'll
6 try to-- we will be more definite on how the
7 height work is going to work. But I thank you for
8 your involvement and for being here today. And
9 just for the many meetings we've had. Thanks.

10 CHAIRPERSON AVELLA: Next panel, I
11 understand we have the Chair and the District
12 Manager of Community Board 6.

13 [Pause]

14 JOSEPH HENNESSY: Good morning
15 Council Members. I would like to thank you for
16 this opportunity to testify before you today. My
17 name is Joseph Hennessy. I am the Chair of
18 Community Board 6, which includes areas of Forest
19 Hills and Rego Park. I am accompanied by my
20 District Manager, Frank Gulluscio. At the regular
21 scheduled meeting of our Community Board on
22 October the 22nd, 2008, Steve Goldberg, Chair of
23 Planning and Zoning Committee, said that the
24 zoning in this particular location hasn't been
25 changed since 1961. This proposed zoning plan

1
2 would hopefully keep future buildings more in line
3 with the surrounding zoning. The Planning and
4 Zoning Committee recommended approval of the
5 Special Forest Hills Zoning proposal with the
6 following conditions: the parking requirements be
7 changed to 70% and the supermarket that is already
8 there, a very important item, is there to remain
9 at its present location. Community Board 6 voted
10 to approve the Committee motion, 21 in favor, four
11 opposed. Thank you.

12 FRANK GULLUSCIO: Thank you,
13 Councilman, Council Members. My name is Frank
14 Gulluscio and I am the District Manager of
15 Community Board 6. I just wanted to say that when
16 the Community Board voted on this way back in
17 October '08, they were totally satisfied, after it
18 went through our Planning and Zoning Committee.
19 We were faced with looking at large-scale
20 development, for example a hotel, that was totally
21 out of scale. We want-- the Community Board 6, we
22 wanted to maintain the character of Austin Street.
23 That's what this really comes down to, so that the
24 future, along the lines, is a lot more predictable
25 than what we were facing and looking at. The

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2 Community Board was very concerned upon many
3 meetings with our Planning and Zoning Committee
4 and City Planning, along with the Council Member's
5 staff, we voted in favor of, and we maintain that
6 stand. Thank you.

7 CHAIRPERSON AVELLA: Thank you
8 both.

9 FRANK GULLUSCIO: Thank you.

10 CHAIRPERSON AVELLA: Seeing--
11 Council Member Sears?

12 COUNCIL MEMBER SEARS: I just have
13 a comment, it's not a question, that there's
14 really been a lot of work on this, and I want to
15 say hello to Mr. Hennessy and Mr. Gulluscio; we
16 happen to share the same Board. And what happens
17 in Forest Hills affects Rego Park; it affects the
18 entire surrounding area. And I'm very pleased the
19 Board has taken the position it has. I know a lot
20 of work has gone into it, and I want to thank City
21 Planning and the Councilwoman, because it is a
22 very good plan. I know there's some concerns that
23 have been expressed, and I know that Councilwoman
24 Katz and City Planning will look very closely at
25 that, as the usually do. So thank you. I just

1
2 wanted to make that comment?

3 FRANK GULLUSCIO: May I? We just
4 finished, about a year and a half ago, the
5 rezoning of Forest Hills South. Now we're on
6 Austin street, and we're looking at in the very
7 near future the Cord Meyer redistricting, rezoning
8 area. So we're just not looking at this as
9 piecemeal for Community Board 6; it's an entire
10 picture. Forest Hills, Rego Park, and as Council
11 Member Helen Sears said, throughout the City of
12 New York, future predictability is so important,
13 sustainability is so important. And this is just
14 not an isolated rezoning situation for us, but
15 part and parcel for the entire Community Board.

16 COUNCIL MEMBER KATZ: Let me thank
17 the Community Board as well, and just so you know
18 the Chair of the Community Board is the standing
19 grandfather for my son. So, we have a good
20 standing relationship. He has been the Chair for
21 many, many years and works hard in the Community,
22 so I thank them.

23 JOSEPH HENNESSY: And that's an
24 honor.

25 CHAIRPERSON AVELLA: Thank you.

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2 Seeing no one else to speak on this item, is that
3 correct? I'll close the public hearing on this
4 item. I'm going to be skipping around a little
5 bit to see if we can get through some items
6 quickly. Next item will be-- I'm going to ask
7 Brooklyn City Planning to come up for the East
8 Windsor Terrace rezoning.

9 [Pause]

10 CHAIRPERSON AVELLA: John, go find
11 your colleagues, otherwise I'm going to move on to
12 another item. Okay.

13 [Pause]

14 JENNIFER POSNER: Good morning,
15 Chair Avella and fellow Committee Members. The
16 Department of City Planning is pleased to be here
17 today to present a zoning map amendment for a five
18 block area in the East Windsor Terrace
19 neighborhood of Community District 7 in Brooklyn.
20 The proposed rezoning was undertaken at the
21 request of local community groups, including the
22 Stable Brooklyn Community Group, Community Board
23 7, the Borough President's Office and Council
24 Member Bill de Blasio. And this was in response
25 to concerns about out of character development in

1 a small, five-block area of East Windsor Terrace.
2 The area is located at the corner of-- just west
3 of the Southwest Corner of Prospect Park. It's
4 generally bounded by Caton Place to the north,
5 Coney Island Avenue to the east, Caton Avenue to
6 the South and Ocean Parkway to the west. The
7 current zoning is a mix of R6, R5 and a little
8 piece of R7-A, and most of the-- R6 and R5 don't
9 currently-- those are districts without height
10 limits, and that's been a concern in this area--
11 just outside of this rezoning area there's been
12 recent condo developments and concerns that the--
13 that developments within the rezoning area without
14 height limits could compromise the small-- the
15 low-scale one and two-family residential character
16 of the neighborhood. My colleague, Sanmati Nike
17 [phonetic] from the Brooklyn Office will just
18 quickly go through the proposed rezoning.

19
20 SANMATI NAIK: So the rezoning area
21 consists of mostly-- it's predominantly
22 residential. There are a few mixed-use uses, and
23 as you can see the small-- it's predominantly one
24 and two-stories, brick and limestone row houses,
25 and this is the character which the rezoning is

1
2 trying to preserve. And moving on to proposed
3 rezoning. So the existing R5, R6 and R7-A
4 rezoning districts would be replaced by contextual
5 districts R5-B and R6-A. A small portion along
6 Caton Avenue has been mapped a commercial-- a
7 commercial overlay is mapped, C2-4, and this has
8 been in response to the community request to
9 provide local commercial retail opportunities in
10 the area. Thank you.

11 JENNIFER POSNER: So I think--
12 sorry. The R5-B, this replaces the R6, the R5 and
13 a portion of the R7-A. And the R5-B has a maximum
14 FAR of 2.0 and is much more in keeping with the
15 existing low-scale built character here, which is
16 predominantly much lower FARs and heights. And
17 this is a more appropriate district here. The R6-
18 A along Caton Avenue would just, as Sanmati was
19 saying, would preserve their existing mid-density
20 condo buildings there, and so that would preserve
21 those buildings and the overlay on Caton Avenue
22 would also allow this opportunity for, you know,
23 modest density with the opportunity for commercial
24 uses on the ground floor.

25 CHAIRPERSON AVELLA: This

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2 application lies within Council Member de Blasio's
3 district, and talk about perfect timing. Do you
4 want to make a statement, Council Member?

5 COUNCIL MEMBER DE BLASIO: Yes, yes
6 indeed.

7 [Pause]

8 COUNCIL MEMBER DE BLASIO: Thank
9 you, Mr. Chairman. I'm sorry to be running late
10 today and I appreciate this quick opportunity to
11 speak to this. I thin, Mr. Chairman, you are a
12 believer in community involvement in the Land Use
13 process. This is one of the best news stories
14 that I have seen in my seven plus years in the
15 Council. The folks in this community, the Stable
16 Brooklyn Group, came together and I think showed
17 amazing initiative and energy in determining a new
18 vision for their community in light of changing
19 development circumstances and population
20 circumstances and really thought very carefully
21 about how to create a better plan for the
22 community. And we had numerous meetings with the
23 community really, I became very convinced it was
24 the right direction; and I want to thank City
25 Planning as well, because this is not the biggest

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2 item City Planning in Brooklyn has dealt with, but
3 they gave it some real attention. They
4 appreciated also that it was a very well thought
5 out plan, and I'm trilled that it's moving
6 forward. I think it will improve the community
7 immensely and protect a very wonderful small and
8 special community. And I hope it becomes a model
9 for others going forward. I think it was very
10 important that City Planning was so open and
11 embracing of it once they saw the full extent of
12 the work that had been done. And I urge everyone
13 to support it.

14 CHAIRPERSON AVELLA: Thank you,
15 Council Member. And it hasn't been noted yet, but
16 the Community Board did approve this 40 to zero,
17 and so did the Borough President. Any questions
18 from my colleagues? Seeing none, thank you. I
19 don't see anybody signed up to speak on this item.
20 Is this correct? Simeon Bankoff from Historic
21 District Council.

22 SIMEON BANKOFF: Thank you Council
23 Members for this opportunity to speak. I am
24 Simeon Bankoff, Executive Director of the Historic
25 Districts Council. I actually hadn't intended on

1
2 speaking on this, but I saw it was on, and I just
3 want to add my approval and support for this. I
4 live in the district and I also want to talk about
5 my embarrassment for not knowing this was going
6 on. Obviously I need to get on the Community
7 Board at home at well, but this looks like a very
8 good plan and a very correct one. Thank you.

9 CHAIRPERSON AVELLA: Thank you.

10 And actually it goes to my comment that I've made
11 many, many time, that City Planning should be
12 sending out a notice to every property owner in an
13 area that's about to be rezoned so that people
14 know what's going on. Council Member de Blasio.

15 COUNCIL MEMBER DE BLASIO: Thank
16 you for your kindness. I just forgot to say one
17 very important thing, that Stable Brooklyn
18 Community Group, made up of many people, but
19 really the person who deserves immense praise is
20 Mandy Harris, who was I think in many ways the
21 driving force and the person, the conscience of
22 all of us in keeping this moving forward. Thank
23 you very much, Mr. Chairman.

24 CHAIRPERSON AVELLA: Thank you.

25 Again, seeing no one else signed up to speak, is

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2 that correct? I'll close the public hearing on
3 this item. And we will move to the Battery
4 Maritime Building, Land Use number 1000, 1002, and
5 1006. So we'll call up EDC and the applicant.

6 [Pause]

7 RICHARD YU: Good morning. My name
8 is Richard Yu, representing the New York City
9 Economic Development Corporation, and I'm here to
10 provide the introduction to the Battery Maritime
11 Building Project. The Battery Maritime Building
12 is the last remnant of a series of municipal ferry
13 buildings at the southern tip of Manhattan, and
14 the property is landmarked and owned by the City
15 of New York. In 2007, EDC completed a \$60 million
16 renovation of the project, pursuant to
17 requirements by the Landmarks Preservation
18 Committee. In order to leverage that \$60 million
19 investment in the building, EDC issued an RFP for,
20 a request for proposals, for the reactivation of
21 the upper floors of the building for commercial
22 use. As a result of that RFP process, we
23 identified Dermot Company as the best qualified
24 developers to reactivate the upper floors. The
25 Dermot proposal would reactivate the upper floors

1
2 as a hotel, a boutique hotel, consisting of
3 approximately 140 rooms. In addition-- in order
4 to make that possible, we will be putting a four-
5 story addition on top of the existing building.
6 That addition has been vetted by the Landmarks
7 Preservation Committee as well as Community Board
8 1, and we have received unanimous approval from
9 Community Board 1 for the addition, as well as a
10 binding resolution from the Landmarks Preservation
11 Committee in support of the project. In addition
12 to the hotel, there's an existing space called the
13 Great Hall Space, which will be made publicly
14 available to anybody, which is separate and apart
15 from the hotel space, and we are currently
16 drafting a memorandum of understanding with the
17 Borough President, Council Member Gerson, and that
18 will be attached to the lease and will be
19 enforceable with the Dermot Companies. I will now
20 turn it over to Melanie Meyers to talk about the
21 specific Zoning actions.

22 MELANIE MEYERS: Thank you, Chair
23 Avella. Thank you, Members of the Subcommittee.
24 The application before you is-- my name is Melanie
25 Meyers, and I represent Dermot B&B, LLC. The are

1
2 the designated developers of the Battery Maritime
3 Project. Richard spoke about EDC's commitment and
4 plans for this project. Dermot as an entity
5 became formally involved in the project in 2007,
6 about two years ago, when it was designated as the
7 developer. Since that time, it has met with the
8 Community Board more than a dozen times and has
9 worked extensively with both the Borough
10 President's office and the local Council Member's
11 office to develop a project that achieved a number
12 of goals. It was first of all going to reactivate
13 and revitalize and reactivate the Battery Maritime
14 Building. It was-- second, was to create a really
15 compelling reason and a public reason for people
16 to come to the Battery Maritime Building, and the
17 third was to really create an economic engine that
18 allowed for what is a truly wonderful landmark to
19 remain a viable structure into the future. And
20 those issues really resulted in the project that's
21 before you today. Jonathan Marvel is here to sort
22 of describe the project from a design standpoint
23 and what it looks like. But in principal, it is a
24 project which is really a public/private
25 partnership. The second floor, which had been

1 historically the waiting room for the passengers
2 coming in to the ferry terminal is going to be
3 reactivated, restored and a-- basically becoming a
4 public living room for lower Manhattan and for the
5 City. It will be available for cultural events,
6 and the developer will be hiring a cultural
7 coordinator to make sure that that space is one
8 that becomes available for the arts community and
9 for the Lower Manhattan community. The upper
10 floors will create an economic-- help make the
11 project economically viable by introducing a small
12 boutique hotel project into the building itself.

13 In order to allow for this project, which did
14 receive unanimous support from the Community
15 Board, the Borough President's office and the City
16 Planning Commission, there are three actions
17 before this Committee. The first is a disposition
18 of the property. It will be a disposition, a
19 long-term lease to Dermot B&B, LLC from the City,
20 and it will be a disposition for a portion of the
21 first floor and for all of the upper floor. The
22 lowest-- the ground floor is also going to
23 continue to be space that's made available for
24 ferries going to Governor's Island as well as some
25

1
2 water taxi areas, and so that's excluded from the
3 action before you today. It really relates to the
4 activities on the upper floor. The second action
5 before you is a rezoning. Currently, and it's
6 shown on the map that's over to my left, the site
7 is currently bisected so that half of the Battery
8 Maritime Building is located in an M1-4 zone, the
9 remainder of it is located in a C4-6 zone. In
10 order to have a uniform set of zoning controls to
11 apply to the building as a whole, we are proposing
12 to shift that zoning district boundary line so
13 that the entirety of the Battery Maritime Building
14 is located within the C4-6 portion of the site.
15 And then the third action is an authorization
16 under section 62 722 to allow for modification of
17 waterfront yard controls, as well as some
18 waterfront access requirements. The existing
19 building occupies the entire property at this
20 point and so, it's impossible to actually include
21 the provisions of the waterfront access, which
22 would allow for a 40 foot yard on the waterfront
23 side of the property. So those are the actions
24 before you. As I said, it's received a unanimous
25 approval to date. We believe that this is a very

1
2 good project for the City and we believe it's a
3 great project for lower Manhattan, and we would
4 appreciate your support. We do know that there's
5 been questions about the design of the project,
6 and as Richard said, it received a certificate of
7 appropriateness from the Landmarks Commission
8 earlier this year, in I think March of 2008.

9 Just, Jonathan's going to talk about that process
10 to some degree, but I did want to mention from a
11 process standpoint, it was again a collaborative
12 undertaking. The first hearing before Landmarks
13 occurred in October of 2007. There were a number
14 of people who spoke, including a number of people
15 who spoke in support with comments, including the
16 American Institute of Architects, the Municipal
17 Arts Society, Landmarks Conservancy. There were
18 comments that were reflected in their support
19 letters, and the project as it evolved between
20 October of 2007 and March of 2008 really took
21 those comments as well as comments received from
22 the Preservation Commission itself into account to
23 create a project that we think is a wonderful
24 project. Thank you.

25 JONATHAN MARVEL: Can you hear me?

1
2 Thank you. Good morning. My name is Jonathan
3 Marvel from Rogers Marvel Architects. Council
4 Members and Chair, I wanted to very briefly walk
5 you through some boards that we've prepared for
6 you. This is the location of the Battery Maritime
7 Building; it sits next to the Staten Island Ferry
8 at the Battery. The building is originally-- it
9 originally was designed as a seven slip ferry
10 terminal in a-- so this series of diagrams
11 indicates how the building has been cut and
12 transformed, and is really a fragment of the
13 original hold that it-- you can see here in these
14 concept drawings by the original architect that it
15 was a monumental building on the waterfront, with
16 a major terminal from the street side, and then
17 from the water side these major bays. And you can
18 see all seven in a row. The current building is
19 from the street side, now you can see it's a piece
20 of it. So these three bays are the last remaining
21 of the seven. The fourth and middle bay was never
22 built, which is the space between the Staten
23 Island ferry and the Battery Maritime Building
24 itself. The building was restored in 1995 to 1998
25 in a very beautiful preservation project by Jan

1
2 Pekorny's [phonetic] Office, who is continuing on
3 the efforts. The parts that we are working on are
4 all non-historic, so we're not touching any of the
5 historic fabric that has been restored in the past
6 effort. And that really from the South Street
7 Side is this large panel of stucco and some of the
8 metal cladding elements that you see here, where
9 we're not going to be doing any alterations on the
10 South Street preserved side. Here you can see the
11 second floor glass wall, the elevator and stair
12 tower, and then set back from the South Street
13 side is the glass addition, which is really on the
14 water side. We couldn't really hide that in any
15 way on this-- on the northern part of the
16 building, because there are no structural
17 components to allow any additional space on this,
18 and that's an important reason why it-- why we
19 located the footprint of the addition where we
20 did. This is the view from the waterfront of the
21 current building. You can see the three bays on
22 the water. These would then have continued in
23 seven bays. So it's-- you can see the Staten
24 Island Ferry terminal peeking right here. This is
25 a 1940 addition put on by DOT. We'll be removing

1
2 that addition and replacing that with a structure
3 that will sit behind the cornice line of the
4 building. And the most important feature that I
5 want to point out is we will continue in the
6 preservation of the project by restoring the four
7 cupolas that sit on the top of these columns that
8 face the water. And you can see in the-- this
9 cupola over here that has the City as its
10 backdrop, really disappears in the fabric of the
11 City. Its silhouette and its profile are not
12 apparent from the water. When you put an addition
13 behind those that is reflective of the sky, we are
14 really restoring the original profile and the
15 intent and the celebratory features of the
16 building. The cupolas will now be the most
17 celebrated portion of the building in this view
18 that you see here. And we've gone to great effort
19 besides restoring the cupolas to put on the
20 pergola that replaces the 1940 addition from DOT.
21 And the glass functions that we're using, the
22 curtain wall system, will be very high
23 performance. It's a clear glass. It will be a--
24 one of the-- you know, in keeping with so many of
25 the glass additions, Landmarks has been in its

1
2 discussions I want to just read to you their
3 excerpt, which is appropriate to this portion of
4 my discussion. The proposed visible addition will
5 reflect the new use, while maintaining the
6 original design and function of the building, that
7 the original complex featured buildings of various
8 shapes and sizes, which reflected their uses, and
9 the construction of a new visible rooftop addition
10 to accommodate the proposed transportation related
11 uses will be consistent with the history and
12 evolution of the site, that the glass and metal is
13 consistent with the types of rooftop features,
14 such as skylights, that were historically found in
15 the buildings of this complex and the other
16 transportation related buildings of this age; that
17 the contemporary design and the use of glass and
18 metal will enhance the relationship between the
19 Battery Maritime Building and the new Whitehall
20 Ferry Terminal, and restore and strengthen the
21 sense of their shared history within a complex of
22 ferry-related structures. I would like to--

23 CHAIRPERSON AVELLA: [Interposing]

24 I'm sorry, what were you reading from?

25 JONATHAN MARVEL: That was from the

Landmark Commission letter of appropriateness--

CHAIRPERSON AVELLA: [Interposing]

Okay.

JONATHAN MARVEL: --that was issued on February 21, 2008. I'll now proceed with the interior portions of the building that are really celebrating the public uses, the new public uses of the structure, starting with the South Street entrance. We're going to be making a series of moves that will make the building handicapped accessible. Currently the ground floor of the building is three feet above the street level. We're going to be lowering the ground floor in order to have an ADA direct access. We're going to be widening the existing doors, but we're going to be restoring the historic fabric around those doors. When you enter that lobby area, this is the lobby to the second floor public waiting room; we're now going to have a grand entrance. So this is a room that will be serving 700 people at any given event. So this is one of those wonderful spaces that you, you know, celebrating the arrival. The existing waiting room is really a, a vestige of it's original past. This is a historic

1
2 photograph showing the waiting room it its
3 splendor. Today it's really a very decrepit and
4 unable to be used space, that we'll be restoring
5 its cornice work and columns, replacing the
6 skylight with a new skylight and transforming this
7 room into what will be New York City's downtown
8 living room. Again, this will be a building that
9 will be open to the public and really celebrating
10 that kind of use of public space. I think this is
11 one of the important features that we're doing.
12 Thank you.

13 [Pause]

14 CHAIRPERSON AVELLA: Okay. This
15 application lies within Council Member Gerson's
16 District. Is that the end of your testimony?

17 STEVE BENJAMIN: So you know why
18 I'm here, my name is Steve Benjamin from the
19 Dermot Company, I'm a principal. I'm responsible
20 for the project. I'm here to answer any questions
21 about the economics or anything else you may have
22 about the plan.

23 CHAIRPERSON AVELLA: Since Council
24 Member Gerson is holding off his comments until
25 after the public testimony, I have a-- just one

1
2 comment. When I met with you and was given the
3 presentation on this project, my first reaction
4 was, wow, this is a monstrosity. I haven't
5 changed one iota from that position. My question
6 is, is why couldn't you come up with something
7 that matched the architecture of the building?
8 With all the resources that obviously went into
9 this, why in fact throw different types of
10 architecture together and think that's a good fit?
11 Couldn't we have come up with a better design that
12 matched the unique architecture of this building?

13 JONATHAN MARVEL: Thank you. I
14 would like to address that. We did look at
15 multiple ways of adding on to this structure. And
16 as I described, we only had one place where we
17 could put on this addition, and it had to be on
18 the water side of the building. We did look at
19 other architectural vocabularies that were in--
20 that were trying to mimic and match the existing
21 historic fabric. And we found that in doing so
22 that the cupolas and the pergola that were really
23 the celebratory and single most important feature
24 of the water side of the building, they would
25 disappear in their view, because they get consumed

1
2 by a background of painted metal, which is what
3 the base of the building is basically a Beaux Arts
4 painted metal building, beautifully done, I'm not
5 trying to belittle it. But the cupolas and the
6 pergola would disappear within that fabric. By
7 putting a backdrop of glass, which is a very--
8 it's neutral in many-- in the way the light
9 changes in the harbor, sometimes it's there,
10 sometimes it's not there, but the neutrality of
11 that backdrop really celebrated and put forward
12 the cupolas and the pergola that we felt were,
13 were in keeping with pure construction of what was
14 originally there. We didn't want to reinvent what
15 was there, so we only rebuilt exactly what was
16 there, the way it is, so that the new elements
17 would be a complement to that and not trying to be
18 consumed within it. But it's a very good point,
19 and it comes up time and time again when you're
20 working with a historic structure. And it's an
21 ongoing design issue among the architectural
22 community.

23 CHAIRPERSON AVELLA: I appreciate
24 your answer, I just happen to disagree with it.
25 So we'll agree to disagree. The one comment I

1
2 have though, and this is a rebuke, when we had our
3 meeting, and when I first saw the designs and I
4 said, gee, I find it hard to believe that the
5 entire preservation community is going along with
6 this, and I specifically said, the Historic
7 Districts Council, the Landmarks Conservancy, I
8 said the two groups. And the answer I got back
9 was, yeah, nobody has a problem with that.
10 Obviously now I know that's not correct. So I do
11 not like being lied to. I got to tell you, I
12 think that is a disgrace on your part that you
13 weren't up front with me.

14 STEVE BENJAMIN: Again, this is
15 Steve Benjamin. Chairman, I wasn't at the meeting
16 because I was on a family--

17 CHAIRPERSON AVELLA: [Interposing]
18 [Off Mic]

19 STEVE BENJAMIN: Sure. I was on a
20 family vacation, so I can't speak to what was said
21 in the room. But I do know that we went through--
22 I personally attended well over 30 sessions with
23 members of the architectural community, all in
24 preparation for the landmarks process. We did a
25 tremendous amount of outreach. And this is-- I

1
2 think your reaction is one that we've had a number
3 of times with people in the sense that
4 architecturally you're challenged by the design.
5 We're challenged by it. I mean I can certainly
6 say in full honesty and confidence that that is
7 the most expensive design we could possibly create
8 for this building, and it would not necessarily
9 be, you know, an economic strategy. It is a
10 strategy that allows the old building to be put
11 back in use, and it found broad support, extremely
12 broad support when we saw a vast amount of
13 architecturally sensitive groups. And I'm not
14 sure what was said in the meeting and I apologize
15 for not being at it. But I do know for a fact
16 that we had far more support than we had
17 negatives. And I think that that was the most
18 compelling part of it.

19 CHAIRPERSON AVELLA: And I accept
20 your apology, but it doesn't really go to the
21 heart of the issue. I specifically mentioned two
22 groups, and the answer I got back at the briefing
23 was, everybody's fine with this, basically
24 implying that the two groups I asked about were in
25 favor of it, and that is not the case. And I got

1
2 to tell you, I do not like being lied to, and
3 there's no excuse for that. The answer should
4 have been, I don't know. And this is something
5 that not only you, but the City, should know. You
6 do not come to a Council Member and give false
7 information. That is simply not acceptable.

8 MELANIE MEYERS: I think we all
9 agree with that. I was also not at the meeting.
10 And I could certainly tell you at the landmarks
11 hearings that Historic Districts Council did speak
12 in opposition. Landmarks Conservancy, as we said,
13 gave its conditional support, gave some comments,
14 and we believe that those comments are reflected
15 in the final design. So to-- from a record
16 standpoint and from a project standpoint, we
17 certainly agree with you that Historic Districts
18 Council did not support the project at that time.

19 CHAIRPERSON AVELLA: Any questions
20 from my colleagues? Thank you. I assume you'll
21 hang around--

22 MELANIE MEYERS: [Interposing] We
23 will.

24 CHAIRPERSON AVELLA: --for the
25 public testimony.

2 MELANIE MEYERS: Absolutely.

3 [Pause]

4 CHAIRPERSON AVELLA: We will start
5 with one panel in favor and then we have one
6 speaker in opposition. Jennifer Hong from the
7 Manhattan Borough President's Office. Jonathan
8 Marvel-- oh, I'm sorry. Okay. And Ro [phonetic]
9 I'm not sure how to pronounce it, Sheffe, from
10 Community Board 1.

11 [Pause]

12 JENNIFER HONG: Good morning Chair
13 Avella and Subcommittee Members. My name is
14 Jennifer Hong, and I'm an Urban Planner for
15 Manhattan Borough President Scott Stringer. The
16 Borough President supports the redevelopment of
17 the Battery Maritime Building, and recommended
18 approval of the disposition and zoning actions in
19 his recommendation.

20 [Off Mic]

21 JENNIFER HONG: --development
22 presents a better land use than the existing
23 vacant space in the building, and it complements
24 the City's efforts to reactivate the waterfront.
25 The zoning change would provide Dermot the

1 flexibility needed to redevelop the existing
2 building in consideration of the structural
3 constraints of developing on a platform with an
4 LPC approved design and with the proposed uses.
5 The Great Hall in particular will provide much
6 needed space for lower Manhattan cultural and arts
7 organizations. We'd like to thank Dermot and EDC
8 for working closely with our office, Council
9 Member Gerson, and Community Board 1 to develop a
10 proposal for the great hall that will provide
11 space for community and cultural uses with a
12 priority given to community-based organizations.
13 This will be a significant benefit to the growing
14 Lower Manhattan community and will meet a pressing
15 local need. Dermot, as said before, has committed
16 to hire a full-time cultural coordinator who will
17 work with community stakeholders and relevant City
18 agencies to program the space, and has also
19 committed to provide Community Board 1 with an
20 annual report of Great Hall cultural users. We
21 commend Dermot for making such commitments in that
22 they will ultimately ensure that the Great Hall
23 will be programmed successfully, and there will be
24 an ongoing opportunity for community input on how
25

1 the space will be used.

2 [Pause]

3 RO SHEFFE: Am I on? Yes. Good
4 morning. Thank you for letting my testify. I
5 will be very brief. My name is Ro Sheffe. I
6 represent Community Board 1. I am the Chair of
7 the Financial District Committee, and I have to
8 say first that there should have been copies
9 distributed of the resolution we issued. As you
10 can see, the Community Board was unanimously in
11 favor. I just want to give a little bit of
12 background as to how that came to be, because at
13 the outset far more than a year ago, a significant
14 number of members of the Community Board shared
15 views similar to Mr. Chairman. We-- there were a
16 significant number of people who thought that it
17 was not appropriate. Over the course of-- I
18 believe more than a year, the Dermot company and
19 EDC came back and back and back to us, on many
20 occasions, listening to our concerns, made
21 significant changes to the original plan, to the
22 point where we ended up with a process after a
23 year of cooperation that the community loves,
24 quite frankly. And I can speak for my Committee,
25

1
2 which ruled on the zoning and land use issues,
3 which I think of the two I think the zoning is not
4 something that we were ever very concerned about.
5 I think it's appropriate to make that small
6 change. The usage, on the other hand, is
7 something that concerned us at first and we are
8 delighted with now. Changing the Great Hall, from
9 the original concept, which was basically a check
10 in portion for the hotel, into a public space that
11 would be the equivalent for the Financial
12 District, equivalent of what the Winter Garden
13 serves for the western part of the District, which
14 is something we badly need. So I just wanted to
15 say that I am greatly appreciative of the efforts
16 that EDC and Dermot company made in accommodating
17 us, and we are unanimously in favor. Thank you.

18 CHAIRPERSON AVELLA: Thank you.

19 Next speaker is Simeon Bankoff and the Historic
20 Districts Council.

21 [Pause]

22 SIMEON BANKOFF: Good morning,
23 Council Members. I'd like to thank you for this
24 opportunity to talk on this important issue. I'd
25 also like to send a special thank you to Council

1
2 Member Alan Gerson, who represents this District,
3 and also represents more Historic Districts than
4 any other Council Member, and has been a great
5 friend to landmark efforts and to HDC. It is a
6 testament to our strong friendship that I now feel
7 comfortable with respectfully disagreeing with his
8 feelings that he made clear to me about this
9 project that's before us today. Frankly put, the
10 proposal for the addition is simply unacceptable.
11 During the conversation at LPC, we did say as
12 much, and the State Historic Preservation Office
13 also weighed in with its concerns. I don't know
14 if they had done it officially, but they had
15 spoken with us informally about many concerns, and
16 I'm kind of curious what they eventually had said.
17 In addition, two LPC Commissioners agreed with us,
18 which is a fine example of the growing discussion
19 and the growing transparency of that agency. The
20 glass block is simply inappropriate. It conflicts
21 jarringly with both the ferry terminal and is not
22 a gracious or even really exciting fit. It's
23 merely a glass box on top of a stunning Beaux Arts
24 building. Now contrary to what some people may
25 believe, I am not an extremist. Do I prefer this

1
2 reuse of the building to its demolition, let's
3 say, or its, you know, its continued vacancy? Of
4 course not. Of course we want to see this
5 building brought to life. I do, however, want to
6 state that this is a publicly owned landmark
7 building, and as a publicly owned New York City
8 landmark building, HDC feels very strongly that
9 the City is responsible to set an example of how
10 to appropriately treat a historic building. We
11 don't think this is an appropriate treatment, and
12 we would not want to see these kind of additions
13 spring up in comparison across our City's historic
14 buildings. If everyone could just point to this
15 building and say, well you know, the City did this
16 here, why can't we do it elsewhere? That's really
17 the extent of it. I am a little embarrassed by
18 the LPC's verbiage of the relationship with the
19 Whitehall Ferry Terminal Building, which is not a
20 landmark. As an individual landmark it really
21 doesn't matter, the relationship of a non-landmark
22 building, if that does-- then I get to comment on
23 a lot more things than I do currently. Thank you.

24 CHAIRPERSON AVELLA: Simeon, a
25 couple things you mentioned in your testimony.

1
2 One, you alluded to the State Preservation--
3 somehow you had some informal conversations with?

4 SIMEON BANKOFF: We did at the
5 time. This was about a year and a half ago, and
6 the State's Historic Preservation Office, Cathy
7 Howe [phonetic], who is the Field Representative
8 for the New York County was very concerned about
9 this, that she felt this was not a proper kind of
10 fit with the Secretary of Interior's standards.
11 Again, I am not sure whether or not they ever
12 weighed in on this specifically at the LPC, but I
13 did have a conversation with her at the time, and
14 she thought it was just awful.

15 CHAIRPERSON AVELLA: Well I'm going
16 to actually ask staff to follow up on this,
17 because I think that's important.

18 SIMEON BANKOFF: Okay.

19 CHAIRPERSON AVELLA: Would you
20 agree with me, because one of the things that I'm
21 concerned about and I think you alluded to in your
22 testimony, that this sets a precedent in terms of
23 the bubble-- and I thought the glass bubble I
24 think is a good way to describe it, on top of a
25 New York City landmark, that in the future whether

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2 it be a private developer or even the City could
3 come back and say, well, we did it once, even
4 though the two forms of architecture don't match,
5 the City approved it, the Council approved it, and
6 we'll do it in other situations. I'm fearful this
7 is a huge precedent.

8 SIMEON BANKOFF: I agree. We've
9 seen this before, we saw this on the Upper East
10 Side with 980 Madison, the community was very
11 opposed to a glass addition to a flat-roofed Art
12 Deco building, and then the applicant came back
13 with a more appropriate addition. We saw this
14 proposal at the-- actually the Woolworth Building,
15 at one point they were, back in 2001, they were
16 intending on putting a large glass top on the sort
17 of narrower, the lower wings of the Woolworth
18 Building, and everyone of course always points to
19 the Hearst Building, the Hearst Tower, which isn't
20 glass mind you, but is a 36-story addition on top
21 of a six-story landmark. I mean these things have
22 a way of growing in power and growing in
23 precedent.

24 CHAIRPERSON AVELLA: Thank you.
25 Council Member Gerson.

COUNCIL MEMBER GERSON: Thank you.

Thank you, Mr. Chair, my colleagues. I'll endeavor to be as brief as possible; there are a few points that have to be made. First and foremost, Mr. Chair, you and I have worked long together since we've both commenced our service of this Council on any number of land use related items as well as other items, and I continue to appreciate your thoroughness, your fairness and your attention to the issues and the details of the issues in all matters. And that remains unchanged, whether we agree or disagree on particulars. It remains absolutely unacceptable for anyone to lie to you on any matter, certainly any matter pertaining to Council business, certainly any matter pertaining to Council business, pertaining to Council District 1. That is totally unacceptable. Knowing the principals behind this project and the individuals at the leadership of this project, as I have known for a long while before this project, because the principals are based in our community, have longstanding business ties to our community, and the architects involved, in particular the Rogers

Marvel firm, has worked on any number of community projects; I know all of these individuals to be persons of integrity and I cannot believe that they would knowingly condone or facilitate any misstatement of truth, which I know they would agree with me is unacceptable. There's a little bit of an irony here today, because I think this is one of the first times I've come before this Land Use Subcommittee or any Land Use Subcommittee on an application which compelled me to address the Committee where I have not had the need to ask for extensions, delays, you know, additional unusual procedures, because in fact the Community Board, the Borough President, the Administration, myself, my office and the consensus of the community are all on the same page. So I hope we all enjoy and appreciate this irony. But on the merits, and I certainly do appreciate the remarks of my friend, Simeon Bankoff, the Historic Districts Council, and appreciate their great work for landmarking, and you know, they contribute so much to the preservation of our City. This is the exception which proves the rule that they do indeed to great work, and I look forward to our

1 continuing work together. Mr. Chair, two points,
2 two fundamental points on the issues. First of
3 all we have to keep in mind the context of this
4 project. This is an integral part of our City's
5 reclamation of our City's great waterfront and our
6 harbor waterfront in particular. I grew up in
7 this City as many of us in this room have. For a
8 generation or more this structure has been an
9 overlooked curiosity, perhaps noticed as people
10 sped by moving in vehicles going from the west
11 side to the east side. It was inaccessible. It
12 was utilized by a handful, a relative handful of
13 coastguard persons going to and from the Island,
14 and it sat at a spot where it had no connection or
15 linkage to the community or to the entire City,
16 the rest of the entire City. This project changes
17 that dynamic. This project opens up further the
18 tip of Manhattan, Lower Manhattan waterfront, the
19 entranceway to the harbor. You heard reference to
20 the Great Hall. That will become a significant--
21 it was referred to as a community living room, it
22 will be just that and it will be a great
23 destination for, not only for the community I
24 represent, but for the entire city. It will in
25

1 effect be in its own unique way a Winter Garden at
2 the tip of the Island on the harbor. It will be
3 open to the public, daytime hours, for all but a
4 handful of days. It will be open evening hours
5 for, not all, but most evening hours to enjoy
6 magnificent sunsets. It will be-- and that
7 changes over the course of the year as the sunset
8 time changes, obviously. It will be a place for
9 cultural happenings, a place where new artists can
10 have a showcase, where the community can enjoy
11 music, art. It's also designed specifically to
12 add an important economic component missing from
13 our City, and that is a place for small-scale,
14 mid-sized mini conventions or displays by hobby
15 organizations, by arts organizations, you know,
16 the coin collectors, the stamp collectors, who
17 often, you know, can't afford the Javitz Center
18 and have outgrown the churches, synagogue
19 basements. This will afford a place for those
20 type of activities. This will-- the hotel itself
21 will be both for private use in the normal
22 activities of a hotel-- this will add a
23 significant cultural and economic presence to a
24 newly opened waterfront. We are ready to go
25

1 forward with this at a time when so much else is
2 slowing down or stopping. Unless we have
3 overwhelming compelling reason, it would be a
4 disservice to the community, to the City, to the
5 cause of opening the waterfront, for this Council
6 to take any action that could jeopardize or delay
7 this project. So that leads me to the second and
8 final issue at stake, and that is does the
9 question raised by and, I'll be very specific, by
10 the glass nature, by the use of glass on the
11 additional structure added to this historic
12 landmark, engender or provide a compelling reason
13 to stop this project or to risk delaying it or
14 derailing it? I actually believe the opposite,
15 that the glass provides, and the way this
16 particular glass addition was designed, provides
17 compelling reasons to go forward with it. I mean
18 as you saw in the presentation, from the land side
19 of the structure, the glass structure is set back.
20 The original and the landmark façade and the
21 historic entranceways of the building and its
22 upper panels are enhanced by this project and
23 related restoration work that has gone and will go
24 forward. And the glass addition because of its
25

1 setback and because of the nature of the glass
2 does not in any way detract from the enjoyment
3 from the aesthetic nature of the building. From
4 the water side you heard compelling testimony that
5 this glass frontage, better than any other type of
6 structure which could reasonably feasibly be used,
7 preserves and enhances the water side façade and
8 the architecturally aesthetically significant
9 cupolas and that pergola, that triangle structure,
10 which will provide a magnificent view as
11 hopefully, if we don't derail Governor's Island
12 with the upcoming budget-- that's another issue, a
13 magnificent view as more and more people return to
14 this structure from a visit on Governor's Island.
15 Now as pointed out, we-- in Council District 1,
16 and I'm wrapping up now, in Council District 1,
17 and Community Board 1, we have not only more
18 landmarked historic districts, but probably more
19 individual historic landmarked structures than any
20 other. I can assure you, there's no community and
21 no office more sensitive to the imperative of
22 preservation of our cultural and historic jewels
23 than Community Board 1, than myself and the
24 constituency which we represent. People can agree

1
2 and disagree on particulars, but there has been a
3 thorough process here of vetting with the
4 Community Board, with Community Officials and
5 experts who are tuned in and view landmarking as a
6 priority. The Community Board resolution was
7 unanimous, no opposition. The majority, not
8 necessarily the entirety, but the overwhelming
9 majority of the Historic Preservation Movement, as
10 reflected by the Architect's Institute of America,
11 the Landmarks Conservancy, with it's constructive
12 input, and the Landmarks Commission itself of the
13 City Of New York, has supported it. We should not
14 impose individual disagreements over a thorough
15 vetting of the landmarking process. So I urge Mr.
16 Chair that when we vote on Monday we vote to allow
17 this project to go forward, with the recognition,
18 I'll state it on the record, this does not set a
19 precedent. It should not be taken as a precedent.
20 That concern is legitimate. This is a unique
21 structure in a unique location at the tip of the
22 waterfront, and what is appropriate for this
23 structure is not necessarily appropriate for any
24 structure anyplace else in this city. With that
25 being said, let's move forward. Thank you very

1
2 much.

3 CHAIRPERSON AVELLA: Thank you.
4 And as Chair, I'll have the last word on this
5 subject, and very quickly. While I agree with
6 most of what you said, Council Member, I just
7 disagree that we shouldn't jeopardize the
8 architectural significance of the building, and in
9 my opinion, putting a glass bubble on it does
10 that. Yes, there are positive things in this
11 application; I just think we could have done a
12 better job, a much better job, in making sure that
13 the addition matched the historic aspect of that
14 building. And I think it does set a precedent
15 and, you know, if the City wasn't, you know,
16 interested in moving this ahead, would this have
17 gone as far as it did? Probably not, in my
18 opinion. I respect your opinion; we just
19 disagree. Okay. Thank you. Seeing no one else
20 signed up to speak on this item, I will close this
21 public hearing. We will then move on to the next
22 item.

23 [Pause]

24 CHAIRPERSON AVELLA: What I'd like
25 to do is the next item we're going to be

1
2 discussing is Land Use numbers 1003, 1005,
3 commonly referred to as the Toll Brothers-- and
4 pre-considered item, commonly referred to as the
5 Toll Brothers project. While we're setting up, I
6 know the Brooklyn Borough President Marty
7 Markowitz is here, and I know his schedule is
8 tough. So what I'd like to do is call upon him to
9 give his testimony. We will then take a five-
10 minute break and we will then have the applicant
11 for Toll Brothers come up and give the
12 presentation. So. Borough President Markowitz.

13 BOROUGH PRESIDENT MARKOWITZ: Thank
14 you.

15 [Pause]

16 CHAIRPERSON AVELLA: I don't think
17 the mic is on.

18 BOROUGH PRESIDENT MARKOWITZ: Okay,
19 it's on now. First off, good morning Chairperson
20 Avella and members of the City Council
21 Subcommittee on Zoning and Franchises. My
22 recommendation shared with the City Planning
23 Commission was to approve applications submitted
24 by Toll Brothers, Toll Brooklyn, to develop two
25 blocks along the west side of the Gowanus Canal

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2 between Carroll Street and 2nd Street, subject to
3 modifications. The primary modifications called
4 for the reduction of height and more certainty
5 that the development would include affordable
6 housing units. Specifically, I called for the
7 building height not to exceed eight stories north
8 of 1st Street and that the affordable housing
9 component be enhanced by a commitment to seek
10 State funding through multiple application cycles
11 prior to seeking building permits. Though Toll
12 had suggested to me a willingness to defer the
13 project for up to three government funding cycles,
14 Toll should be required to have this as a legally
15 enforceable commitment. The views of the proposed
16 project from the Carroll Street Bridge strongly
17 justify a reduction in the building heights. The
18 historic bridge is envisioned by me as an
19 essential component of the anticipated open space
20 system along both banks of the Gowanus Canal. The
21 building height along the canal must be carefully
22 contemplated in terms of the future uses of this
23 open space system. Limiting the height on this
24 block to eight stories would also eliminate views
25 of the project from within the Carroll Gardens

1
2 Historic District along Carroll Street. The City
3 Council should see to it that the drawings
4 attached to the granting of the requested Special
5 Permit are modified to indicate a maximum of eight
6 stories. Though development would result in a
7 publicly accessible open space and removal of
8 environmental hazards from the site, I believe
9 that these factors by themselves do not justify
10 approving this project. For decades, residents of
11 Carroll Gardens knew what a desirable neighborhood
12 they live in. In recent years, Carroll Gardens
13 has been discovered by those who want the ambiance
14 and lifestyle for their families. As more
15 affluent households move in, longtime residents
16 that do not own their homes have been displaced or
17 are finding it more challenging to remain in the
18 neighborhood. Many rental apartments in this area
19 are not protected by rent stabilization, thus
20 becoming affordable only to households with
21 greater affluence. In order to appropriately
22 provide opportunities for displaced residents to
23 return to the neighborhood and for those at risk
24 of being displaced it's very important to me that
25 Toll's commitment to building affordable housing

1
2 be strengthened. I believe that the project would
3 provide an even greater benefit if the affordable
4 housing on both blocks includes three bedroom
5 units for families in need of such housing. I
6 also call for retail and gallery commercial
7 artisans along the Gowanus Canal's publicly
8 accessible open space as a way of enhancing the
9 potential for recreational amenities such as a
10 community congregation area. I believe that the
11 City Council should command such changes to this
12 project. Finally I have concerns about the
13 condition of the Bond Street combined sewer
14 interceptor and susceptibility of neighboring
15 residents to sewer backups and flooding. I
16 believe that the residents and property owners of
17 these buildings should not continue to be victims
18 of a malfunctioning sewer. I've written to the
19 DEP Commissioner, asking that the agency quickly
20 resolve the hardships of these residents before
21 they welcome their new neighbors. Now let me just
22 say, I commend Toll Brothers for investing in
23 Brooklyn's future, and I call on the City Council
24 to see to it that Toll accepts my recommended
25 modifications before approving these land use

1
2 issues. So all we're doing is we're approving,
3 but we've got-- the way we've shaped it does not
4 in our opinion negatively impact them, and yet is
5 more responsive and responsible to the residents
6 of that neighborhood. And I thank you very, very
7 much, Councilman.

8 CHAIRPERSON AVELLA: Thank you, Mr.
9 Borough President. Any questions from my
10 colleagues? Seeing none. Thank you for your
11 presence.

12 BOROUGH PRESIDENT MARKOWITZ: Thank
13 you.

14 CHAIRPERSON AVELLA: We appreciate
15 you coming down here today.

16 BOROUGH PRESIDENT MARKOWITZ: Thank
17 you, Council Member. Thank you.

18 CHAIRPERSON AVELLA: We'll now take
19 a five-minute recess while Toll Brothers sets up
20 for their application.

21 [Pause]

22 CHAIRPERSON AVELLA: Begin once
23 again the hearing.

24 DAVID VON SPRECKLESEN: Thank you,
25 Mr. Chair, Committee Members. My name is David

1
2 Von Sprecklesen; I'm with Toll Brothers. Toll
3 Brothers, for those of you who are less familiar,
4 is a Fortune 500 publicly traded company,
5 specializing in residential real estate
6 development. We build in 21 states right now and
7 do primarily residential, as I said, single-family
8 homes. In earlier this century we started some
9 divisions doing multi-family housing in a few
10 areas in the country and one of them is New York
11 City. In New York City we started a division in
12 2004, and in 2004 and 2005, we got site control
13 over some properties on the Gowanus Canal.

14 Subsequently we've done developments elsewhere in
15 Brooklyn, in Williamsburg, in Manhattan and in
16 Long Island City. Since 2004, we've been working
17 with the local community, with elected officials
18 and with the Brooklyn Office of City Planning in
19 formulating a proposal for the development of
20 these properties on the Canal. And shortly after
21 we began that City Planning began to put together
22 a framework for the Canal, which they thought
23 would be acceptable uses on the Canal. And now
24 that framework, thanks largely to Councilman de
25 Blasio, is going to blossom into a full-blown

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2 area-wide rezoning at some point soon. We are
3 completely consistent with the framework and will
4 be consistent with the area-wide, should that go
5 through. The project architect can go into more
6 detail about the plan, but I can just state some
7 key components of it. As I said, it's primarily
8 residential, as that's our expertise, and we
9 believe that's the highest and best use for the
10 property. Starting off, we will remediate the
11 properties and we will repair the bulkheads. We
12 will include affordable housing in the project.
13 It will be in excess of 20% of the FAR, and it
14 will be in excess of 30% of the units will be
15 affordable. They will be rental and permanently
16 affordable to low-income residents. We are going
17 to do an esplanade that will be consistent with
18 waterfront zoning, although waterfront zoning does
19 not currently rule here. We are going to be doing
20 parking which will exceed the requirement by
21 zoning. We are going to do a community facility
22 which will be primarily dedicated to the Gowanus
23 Dredgers, but will be used by other community
24 groups, and we are going to make infrastructure
25 improvements to the combined-- to the sewer system

1
2 that the Borough President was talking about, by
3 taking storm water out of the combined sewer
4 system. Those are the highlights, and I will turn
5 it over to Navid Maqami, the project architect.

6 NAVID MAQAMI: Hello? Is this
7 working? Hello? It's working? Can you hear me?

8 [Pause]

9 NAVID MAQAMI: I'm going to briefly
10 go over the site plan and explain the project.
11 The project is located between Bond and Gowanus.

12 CHAIRPERSON AVELLA: You have to
13 speak into the mic, because the meeting is being
14 recorded-- if it can't pick up your voice later
15 on.

16 CHAIRPERSON AVELLA: Yeah, have
17 somebody point to it as you're speaking.

18 NAVID MAQAMI: The site is located
19 between Bond, Gowanus Canal, Carroll Street, 1st
20 and 2nd Streets. We started the project by
21 analyzing the site, looking at the context. Next
22 board, please. Extensively looking at the
23 character of the neighborhood, Carroll Gardens,
24 the rhythm and actually the immediate industrial
25 nature of the site.

2 [Pause]

3 NAVID MAQAMI: We also analyzed the
4 differences in grade in the area. There is about
5 45-foot difference in grade between Smith Street
6 and Bond Street. And we looked at the impacts of
7 heights and shadows as we analyzed the project.
8 The result is, as you can see in this aerial view,
9 we came, after analyzing various massing options
10 of different heights; we wanted to avoid a
11 monolithic development, a tool box. So we have
12 come up with a scheme, a project, that has two
13 five-story buildings on Bond Street that act as--

14 CHAIRPERSON AVELLA: [Interposing]

15 If I can inter-- try the remote mic now. It
16 should be working.

17 NAVID MAQAMI: Hello? Okay.

18 Thanks.

19 CHAIRPERSON AVELLA: Just hold it
20 close too.

21 NAVID MAQAMI: Sure. These two
22 buildings, affordable buildings, they're five
23 stories with setbacks going to a sixth floor.
24 Lost me again?

25 [Off Mic]

1
2 NAVID MAQAMI: Okay. Sorry. I'm
3 not used to this American Idol.

4 [Laughter]

5 NAVID MAQAMI: Going down the
6 street then we continue with a series of
7 townhouses in keeping with the character of
8 Carroll Gardens; they're setback with stoops and a
9 layer of green separating them from the streets.
10 And the major focus is actually how everybody in
11 the community is going to access what the project
12 brings at the edge of the canal, which is a new
13 park designed by Lee Weintraub, and I think some
14 of you may be aware of one of his latest designs,
15 which is by the Ikea in Red Hook. He's got a
16 beautiful design here. He's not here with us, but
17 I can explain it briefly. We have articulated and
18 broken down the facades of the buildings to
19 actually be in keeping with both the character of
20 Carroll Gardens, but also the industrial nature
21 close to the river. So these closer views show
22 how you approach a site on Bond Street. You see
23 the two affordable buildings. We are very careful
24 to bring, make sure the streets have eyes on them;
25 we put the entrance lobbies on the corners as you

1
2 approach the streets. This shows the elevation on
3 Bond Street, as I mentioned, five stories, set
4 back, with a penthouse, with a sixth level. And
5 these two buildings themselves are actually set
6 back five feet, creating a layer of green between
7 them and the street as well. This is a view down
8 1st looking towards Gowanus. As you can see, the
9 two affordable buildings and then the series of
10 townhouses that I mentioned with the stoops, and
11 then as the project sets back, actually
12 internally, and then goes from the four-story
13 townhouses, to five, eight-- and at the two focal
14 points sort of indicating where the park begins,
15 are two footprints of the towers, which you can
16 see here, are only 12-stories and cover
17 approximately nine percent of the site. And this
18 is the view actually from the other side of the
19 Gowanus Canal, looking at the development. Again,
20 careful attention is being paid as to how we break
21 down and articulate the facades of the buildings
22 as they step down towards the canal site. And
23 setting back the 12-story components from the edge
24 of the canal, where you only have the six story
25 zones down there. I will briefly explain what Lee

1
2 has come up with, with his design. He's actually
3 created a very interesting park, where people will
4 have different experiences how they come across
5 and view and experience Gowanus. In certain areas
6 as you come down on Carroll Street, there is a
7 pathway with a zone, a layer of green, separating
8 the pedestrians from the water. As you come
9 across, there is a plaza, which is at the end of
10 1st, that this also serves as a turnaround for
11 firebricks. The buildings, as I mentioned, all
12 set back with a layer of green and entries. And
13 ask you go across coming down south, actually
14 pedestrians can come close to the edge of the
15 water and have a different experience of the water
16 as they go in and enjoy the park. We have
17 actually developed also these elevations, which
18 show this is, I think the section of Bond Street.
19 As you can see, the affordable base of the
20 buildings with the layer of green. These are the
21 townhouses, as I mentioned, articulated with the
22 rhythm and character of Carroll Gardens, with the
23 stoops and set back. And then as you approach the
24 water, this is the experience, as you will see.
25 And we always want to have windows on the streets,

2 and then finally culminating in the experience of
3 the park itself, as I mentioned, which Lee
4 designed with-- and he's been very careful to
5 actually work with some the texture of the
6 industrial quality of the area, with the way the
7 seating and the benches have been worked out. And
8 that basically concludes the presentation.

9 CHAIRPERSON AVELLA: I've noticed
10 that a couple of people have signed up with the
11 speaker slips, but saying they're representing
12 you. Do you have other people that are part of
13 your team?

14 SPENCER ORKUS: We have other
15 representatives here in case there are questions.

16 CHAIRPERSON AVELLA: Okay. We
17 wouldn't call them up individually then.

18 SPENCER ORKUS: No, we really just
19 wanted to do the paperwork.

20 CHAIRPERSON AVELLA: Okay.

21 SPENCER ORKUS: In case you had any
22 questions, we'd be ready to testify or answer the
23 questions.

24 CHAIRPERSON AVELLA: Okay. Council
25 Member de Blasio?

1
2 COUNCIL MEMBER DE BLASIO: Thank
3 you very much, Mr. Chairman. You know, I want to
4 say this has been a-- I think a long and
5 meticulous process in terms of this site. There's
6 been, in my view, a lot of dialogue in the
7 community. I know some people disagree with this
8 project. I respect that. I think the reasons for
9 this disagreement are honest. But I want to say
10 at the outset; one of the things I know, Mr.
11 Chairman you focus on a lot and rightfully so, is
12 the quality of the process in each case, the
13 quality of community involvement and hearing
14 voices and hearing concerns. I think this has
15 been a good process. I-- when I first met with
16 representatives of Toll Brothers was far from
17 convinced and had a number of concerns and
18 questions and was, to be fair, to be honest,
19 dubious. But the quality of the project moved me
20 the more I heard of the details, the more I saw a
21 willingness to keep working with the community
22 concerns. And I've seen much more in this case,
23 bluntly, than I have with many, many other
24 developers, and I appreciate that in and of
25 itself. I have started every discussion in terms

1
2 of Carroll Gardens, which I've now represented for
3 over seven years, with the question of affordable
4 housing. I think this is an amazing community and
5 a precious community and one we have to protect in
6 many different ways. One of the ways we have to
7 project this community and all of Brooklyn, which
8 has felt I think such disproportionate development
9 pressures in recent years, is to protect the
10 economic diversity and every other kind of
11 diversity in our community. So I fully understand
12 why folks who live in a community appreciate a lot
13 of the way it is and want to keep that character,
14 and that's a lot of what I'm committed to, I know
15 a lot of what you're committed to as well, Mr.
16 Chairman. At the same time, we must create
17 affordability, and we don't have the tools that we
18 used to. We're not creating new public housing,
19 per say. We don't have the Mitchell Llama program
20 creating new units. We have fewer options; we
21 must use them well. So I have said throughout the
22 entire discussion, not just this site or the
23 Public Place site alone, but the entire Gowanus
24 area, that there's going to be a certain level of
25 height and density necessary to create

1
2 affordability, that that is the reality we're
3 living with. And I simply believe it would be a
4 huge and lasting mistake to give up the
5 opportunity to create a substantial number of
6 affordable units for the community. The Borough
7 President I thought raised a number of important
8 points, and he pointed out how displacement is a
9 particularly troubling reality, that folks who
10 have been a long-term part of our community are
11 finding it harder and harder to stay. Well the
12 answer to that, even if it is something that is
13 imperfect, the answer is to create enough new and
14 affordable housing to give the opportunity for
15 people to stay in the community. And we're
16 certainly doing that as well with the Public Place
17 site and we've focused, one of the important focal
18 points there is senior affordable housing, but we
19 need that and we obviously need affordable housing
20 for individuals and families of all ages. So to
21 me this is why this project ultimately became one
22 I was comfortable with, because I was convinced
23 that the commitment to affordable housing was
24 real, and I thought the numbers were substantial.
25 And I thought long and hard about the question is

1
2 it appropriate for this particular site to be
3 acted on before the larger rezoning. The first
4 thing to say on that topic is that that larger
5 rezoning has had moments of being on again and off
6 again. Thank god we're in an on again phase right
7 now, but you know, I'm jaded a bit from my
8 experiences of seeing the timeline change. So no
9 one ever knows for sure when a rezoning happens
10 until it happens. But the other issue to me is,
11 if a project fulfills, or responds to a number of
12 community needs, and if, in fact, it's a positive
13 model for the development that will come
14 thereafter, then it's worthy of being acted on. I
15 like very much the 30% figure in terms of
16 affordable housing. I like what's been done here
17 in terms of open space. I like what's been done
18 to match the aesthetics to the community. So in
19 essence I think a number of our concerns were
20 acted on. I think the thinking and planning
21 commitments around the environmental questions are
22 real and appropriate and meaningful. This is one
23 of the ways we will act on cleaning up the Gowanus
24 Canal. This is the kind of development that will
25 help us clean up the Gowanus Canal. I think Toll

1
2 Brothers has pleasantly surprised me in terms of
3 its willingness to work with responsible
4 contractors. And particularly in the choice of
5 the firm, working with them on the affordable
6 housing, has chosen the firm that, you know, I
7 think has a very positive track record. So when I
8 add all that together, I think it's a worthy
9 project. I think a number of community concerns
10 were acted on, and I certainly would suggest to my
11 colleagues to vote favorably on this item.

12 [Applause]

13 CHAIRPERSON AVELLA: Just for the
14 record, I don't allow applause, because then I
15 have to allow booing. So we have to try and be
16 fair. So, you know, if you have an opinion, sign
17 up to speak, and that's your opportunity to make a
18 comment. Okay. Thank you. I would ask that you-
19 - I'm sure you're going to hang around, but that
20 you hang around, because we do have a lot of
21 public testimony, and I think I would like to call
22 you back to comment on some of the things that are
23 raised. Because I'm going to save my questions
24 for the end. I know there were two gentlemen; I
25 don't see them in the room, that actually had a

1
2 little presentation. Oh. Okay. Why don't we
3 start with that?

4 [Pause]

5 CHAIRPERSON AVELLA: I couldn't see
6 you behind the boards. I'm sorry.

7 [Pause]

8 COUNCIL MEMBER DE BLASIO: Mr.
9 Chairman, I have to note a profound conflict of
10 interest. Mr. Hathaway's son and my son play on
11 the same travel baseball team.

12 CHAIRPERSON AVELLA: He actually
13 told me that.

14 COUNCIL MEMBER DE BLASIO: Does
15 that allow me to still vote on the item?

16 CHAIRPERSON AVELLA: That's a good
17 connection to have, by the way. No, he actually
18 did mention that to me.

19 [Pause]

20 JOHN HATHEWAY: I'm all set, right?
21 Okay. Thank you very much.

22 CHAIRPERSON AVELLA: Can we dim the
23 lights a little bit or will that affect the
24 camera?

25 [Pause]

CHAIRPERSON AVELLA: Okay, so then we'll have to leave the lights as is.

JOHN HATHEWAY: That will be fine. I'd first like to thank you, Council Member for the opportunity to speak. And since I've got this slide presentation, it may run a little bit over the three minutes. I beg your indulgence. And I would like to just start by addressing Bill de Blasio's comments. And I certainly understand his support of this project and respect it. I know how important affordable housing is to him and our community, but that doesn't stop me from saying that I think that it's shortsighted to approve this particular project just because it contains affordable housing. And our proposal, my presentation here will show that in fact we can incorporate affordable housing in the same quantities, the same floor areas, with different height limitations on this project. And I would also like to address Toll Brothers, their assertion that the project was developed in consultation with the community. If this consultation consists of politely listening to community comments and doing nothing-- the design

1
2 of this project has not changed from the very
3 first presentation before the community. So there
4 really hasn't been any community involvement in
5 terms of change in this design.

6 [Pause]

7 JOHN HATHEWAY: I have-- we have
8 various issues with this application. First of
9 all it is preceding the Gowanus Rezoning, and the
10 Gowanus Rezoning was going to have a full ULURP
11 process that involved hearing about the impact of
12 large scale development throughout this
13 neighborhood on transportation, schools, sewers,
14 etcetera. This serves as a precedent without the
15 ULURP review that would accompany the larger
16 rezoning. And the DEIS did not include community
17 requested concerns regarding visibility from
18 within historic districts and the impact of the
19 height of this building throughout the
20 neighborhood among other things. We feel that the
21 12-story scale of the building dwarfs the canal
22 and overshadows the Carroll Gardens historic
23 district and we, as I said, have an eight-story
24 alternative that provides the same built area
25 affordable housing in a scale and context that

1 provides more light to the Gowanus Canal. Just
2 for reference, this is what a 12-story building
3 looks like. This is a result of the rezoning that
4 went on 4th Avenue in Brooklyn.
5

6 [Pause]

7 JOHN HATHEWAY: There is much
8 concern again, about view from within the Carroll
9 Garden historic district. We floated balloons to
10 indicate a height of what 125 feet is. This is
11 viewed from Smith Street looking down Carroll
12 Street towards the project. We did this because
13 an original presentation by myself and Chris McVoy
14 [phonetic] misrepresented to some degree the
15 height this building might be or complete massing
16 of it, so we did this to ensure that our
17 representations were accurate. And this is a
18 representation of the massing of the buildings,
19 and this compares very similarly to the computer
20 model that the architects produced. The only
21 difference, with the computer model that had been
22 included in their presentation before the
23 Community Board is that that bulkhead of the St.
24 Mary Star of the Seas Residence that's in the
25 foreground here was incorrectly represented as a

1 full-- they represented it as covering the entire
2 footprint of the building, not just the bulkhead,
3 so it apparently obscured much more of the
4 building than it does in reality. And again, just
5 another view of this balloon and its visibility.
6 Another view from along, from the 3rd Street
7 bridge towards the project. And again, a
8 carefully constructed outline of the project with
9 the balloon at one corner of the tower in between
10 1st Street and Carroll Street and the projections
11 based on a vanishing point.
12

13 [Pause]

14 JOHN HATHEWAY: These are slides
15 taken from the Toll Brothers DEIS, and presented
16 before the Community Board, which-- and the
17 Community Board voiced conditional support for
18 this project, but it was based on some of these
19 renderings that weren't accurate. This building
20 over here is, for scale purposes, 25 feet tall.
21 And we used that to properly construct a
22 rendering. This was the slide that was presented
23 before the Community Board by Toll Brothers. And
24 scale wise they-- essentially it got pushed back
25 and diminished due to a wide angle view. And in

1
2 pulling forward, that's more accurately what this
3 building will look like over the canal, and we
4 feel that it substantially overshadows the canal.
5 And it is not to say that this architecture isn't
6 of a high value, but we are certainly concerned
7 about the massing of the project.

8 [Pause]

9 JOHN HATHEWAY: Their presentation
10 also included the view north on the canal around
11 this building, but it neglected to include this
12 12-story mass. It was just showing this lower
13 seven story. And in fact, that's what that 12-
14 story looks like. And also you have to recognize
15 it-- the framework that the City Planning is
16 working in also includes 12-story buildings on the
17 opposite side of the canal too. And same
18 situation looking south, a limited view showing
19 low-rise buildings. And then an expanded view
20 showing future 12-story buildings plus the-- their
21 proposed 12-story building.

22 [Pause]

23 JOHN HATHEWAY: City Planning has
24 divided this area north of 3rd Street into two
25 districts, M-X waterfront north and south. The

1 project lies in these two blocks on the south.
2 And this height is limited to 85 feet in this
3 waterfront north, but it extends to 125 feet in
4 the south district, as indicated here. However,
5 this is just as much adjacent to the fabric of the
6 neighboring community as this area up to the
7 north. The only difference is that these blocks
8 are slightly longer, but by no means full-length
9 blocks like the other blocks in the neighborhood.
10 Also a part of this Gowanus framework that they're
11 working in, they've got 80 feet of height along
12 3rd Avenue and we've got along 4th Avenue 125
13 feet. So they're essentially indicating to build
14 up to 125 feet around the canal down and then back
15 up to 120 feet on 4th.
16

17 CHAIRPERSON AVELLA: To be fair to
18 the other speakers, if you could sort of start to
19 sum up.

20 JOHN HATHEWAY: This is a height--
21 this is a section through 2nd Street, and I would
22 just say that we've got the proposed project and
23 then a revised project that redistributes the
24 floor area and does in fact incorporate the same
25 amount of floor area and still incorporates the

1
2 architectural diversity that they're set upon
3 having in this project.

4 [Pause]

5 JOHN HATHEWAY: There was also a
6 concern about shadows. This is of the existing
7 project. And this is with other projects that
8 could be included in the overall Gowanus rezoning.
9 And you can see the impact along the canal. With
10 the eight story buildings you get substantially
11 more sunlight into the-- along the canal, and it's
12 important to remember that the park is just along
13 the sides, not accessible in the center. Our
14 proposal redistributes the towers to six story
15 sections over here instead of four stories. And
16 of course that's what happens to it along the
17 canal. Just to sum up, I think that again, there
18 hasn't been any attempt to try to address the
19 community's concerns with respect to this
20 particular issue that I'm presenting here, which
21 is the height. And the height is a substantial
22 issue because it makes this project visible from
23 substantial areas around in the neighborhood. The
24 beauty of Carroll Gardens is in fact when you're
25 on a block you see that block and you aren't

1
2 seeing other buildings looming in the background.
3 It preserves a certain airiness and lightness to
4 the community. And this would substantially alter
5 that aspect of the community that makes it in fact
6 so desirable. Thank you very much for your time.

7 CHAIRPERSON AVELLA: No, I want to
8 thank you for doing that presentation, obviously
9 putting all that work into this, into reviewing
10 this application. The next panel will be a panel
11 in favor, starting with Craig Hammerman from
12 Community Board 6; Rob Furman-- is this the
13 Brooklyn President's Council? Is that?

14 ROBERT FURMAN: Preservation.

15 CHAIRPERSON AVELLA: Preservation,
16 well next time don't abbreviate. Come on up.
17 Buddy Scotto. Buddy? Mr. Applause.

18 [Pause]

19 CRAIG HAMMERMAN: Thank you, Mr.
20 Council Member. Hello, Councilman de Blasio. I'm
21 going to summarize what we've submitted on behalf
22 of the Community Board. And first I'll note that
23 the Community Board did approve this project
24 conditionally back at its November 12th general
25 meeting. But I sort of want to walk you through

1
2 the evolution of that position and then what's
3 happened subsequent to that. And I also want to
4 point out, giving things a broader context in
5 light of the City's budgetary crisis, other
6 affects that are coming down upon the Gowanus
7 Canal area in general. So at its November 12th
8 general meeting, the Community Board resolved by a
9 vote of 23 in favor, 10 against with 5 abstentions
10 to conditionally approve the Toll Brothers
11 project, essentially based on the following
12 conditions: first, that there be a restrictive
13 declaration for the subject properties that would
14 clearly outline in detail the land uses and
15 building designs; second that the amount of
16 affordable housing for this project be at least
17 30% of the total residential units constructed;
18 third, that the project be constructed using union
19 labor; and fourth, that the developer be
20 encouraged to reuse storm water captured at the
21 project site, project area on site, as part of a
22 gray water system. And you know, I'll note that
23 our submission does contain the dissenting point
24 of view, which was somewhat substantial in
25 considering that the vote was 23, 10, 5. And I

1
2 believe that some of our neighbors from Carroll
3 Gardens and Gowanus will certainly expound on
4 those points of view, so I need not go into them
5 in detail. But subsequent to this adoption, the
6 Community Board became concern when it heard more
7 and more that the proposal itself lacked any
8 guarantees of affordable housing component to it.
9 We saw that there were two ways of guaranteeing
10 affordable housing, either that the developer take
11 a deed restriction voluntarily upon the project,
12 or that the City mandate an affordable housing
13 component. And to date, neither the developer nor
14 the City seems to be willing to do either. And
15 our questions to the Department of City Planning,
16 well, I'll get to that part in a minute, so
17 subsequent to this adoption, at its February 11th
18 general meeting, the Community Board voted
19 overwhelmingly 31 in favor, 2 against with 1
20 abstention for cause, to effectively say that if
21 the Toll Brothers project can't be built with the
22 affordable housing component, that we would not
23 want to see the additional height and the bulk
24 added to it, because that was one of the
25 conditions under which people bought into this

1
2 concept in the first place. The scale of the
3 building, as was brilliantly shown by John
4 Hatheway a moment ago, is otherwise
5 uncharacteristically large for the neighborhood,
6 and the affordable housing component, as promised
7 to the community, made up for to some degree in
8 some people's minds the additional bulk and the
9 height. So we did vote at its February meeting to
10 effectively request that if there were no
11 guarantees of affordable housing, that the
12 additional height and bulk should not be included
13 in the project, and we would be happy to review a
14 revised project if in fact that's the case.

15 Subsequent to the February board meeting, there's
16 been a series of correspondence going back and
17 forth, and all this has been submitted so you have
18 it for the record, between our Board Chairperson,
19 Richard Bashner, and the Department of City
20 Planning, who I have to say have been extremely
21 patient in explaining this to us, because they're
22 the experts and we're just the lay people. And I
23 guess I can summarize our understanding as such:
24 if the developer continues in this project and
25 builds it with the affordable housing, they are

1
2 allowed the 3.6 FAR, and they are allowed the 125-
3 foot height. If they build it without the
4 affordable housing component, then the FAR
5 shrinks, which means that they have to lose some
6 bulk from the project, from 3.6 to 2.7, however
7 the height stays the same, at 125, which means
8 that they can shrink the bulk of the project, but
9 they don't necessarily need to reduce the height
10 of the project. And I do believe that that is a
11 significant objectionable point that both the
12 community and the Community Board would take issue
13 with. Now the last point that I'll note just for
14 the record and quickly, is that the Gowanus Canal
15 would not have been approached by developers at
16 all, I believe, had it not been for the 1999
17 reactivation of the Gowanus Flushing Tunnel and
18 Pump Station, which effectively removed a good
19 deal of the odor from the neighborhood that had
20 been plaguing the Gowanus for decades. And we
21 have been relying since the 1999 project on the
22 Department of Environmental Protection coming back
23 to us with a facility upgrade, which was supposed
24 to have happened in Fiscal Year 2010. It's a
25 multi-million dollar project. It would involve

1 replacing the original design pump with a series
2 of sophisticated pumps so that there would be
3 built in redundancies so that they can be taken
4 out of service for maintenance periodically. It
5 would increase the amount of flow capacity through
6 the canal so that they would be bringing in fresh
7 water more than it's bringing in now. And we
8 understood that the DEP found that this project
9 was absolutely necessary in order to keep the
10 oxygenated water flowing in the Canal and the odor
11 away from the Canal. Well, I just reviewed the
12 Mayor's preliminary budget that he released last
13 month, and we cannot find trace of that project in
14 the budget at all at this point. What was
15 originally told to us would happen in 2010, we
16 have no way of knowing whether it will happen at
17 all, and frankly, as soon as that DEP project goes
18 online, the Flushing Tunnel will be shut down for
19 a period of 18 months while the facility is being
20 upgraded. And I can't stress that point as being
21 important enough. People will not be able to
22 comfortably walk by the canal. As you drive over
23 the bridges, you will need to roll up your
24 windows. And frankly, I would hate to see any
25

1
2 potentially future residents of that area
3 subjected to something like that, because it is
4 frankly inhabitable as a place for people to call
5 home. And so, we have been asking all of the
6 other agencies to coordinate with the Department
7 of Environmental Protection to assure that there
8 would be some continuation of an odor free
9 environment. And frankly, if DEP is dropping this
10 project or pushing it off for several years, it
11 seems to defy logic, reason and fairness for any
12 kind of residential development to move forward in
13 the absence of a commitment like that.

14 BUDDY SCOTTO: My name is Salvatore
15 Buddy Scotto, and I founded the Carroll Gardens
16 Association back in the 1960s, with the express
17 purposes of doing something about cleaning up the
18 Gowanus Canal. In 1970, I was one of the
19 founders, along with other members of the Carroll
20 Gardens Association, and we established IND, the
21 Independent Neighborhood Democrats, and we did
22 that out of necessity, because we couldn't get the
23 regular democratic organization at the time
24 committed to develop the resources necessary to
25 clean up the Gowanus Canal. In 19-- oh I guess it

1 was around 1975 or thereabouts, we were able to
2 secure the support of Nelson Rockefeller, then the
3 Vice President of the United States, in securing
4 the necessary moneys to develop \$458 million do
5 develop the sewer treatment plant that was built
6 in the Brooklyn Navy Yard. And we were able to
7 get that done because Congress had authorized a \$2
8 billion job development program at the time, an
9 incentive program, if you will. And since we
10 could establish that the sewer treatment plant was
11 a great job development program, the-- Washington
12 took a bit of that money, gave it to the City so
13 the City could put it in their budget to match the
14 12.5% for the \$458 million that then required the
15 State to give a match, and the Federal Government
16 came in with 75% percent. So essentially it
17 didn't cost the City a dime, and we got \$458
18 million to build the Red Hook Sewer Treatment
19 Plant. If we hadn't done that, none of us would
20 be here today. A short time after that we were
21 able to secure several millions more to
22 rehabilitate the Flushing Tunnel, which was
23 totally inoperative at the time, and we got that
24 done. We've been busy to say the least in getting
25

1
2 the things necessary to redevelop the entire
3 Gowanus Canal area, turning it around from a joke,
4 from something that we could be embarrassed--
5 excuse me-- to something we could be proud of.
6 And we think we're on the verge of getting it done
7 right now. It took a little while, longer than I
8 expected, but it's just about ready to happen now.
9 And I want to thank the Toll Brothers for taking
10 that first step. They want to build on that
11 Canal, and they want to build up to 12 stories
12 because they want to include affordable housing.
13 And we'll accept 12 stories. I certainly will
14 accept 12 stories, without even a hesitation,
15 because there is enough economic development
16 potential for this entire Gowanus Canal area, this
17 together with the Public Place site, which they've
18 already decided on 12 stories, by the way, is
19 going to give a wholesale redevelopment. We're on
20 the verge of getting a San Antonio River Project,
21 a moderated San Antonio River Project, here,
22 something the state of Texas is extraordinarily
23 proud of. And the economic development potential
24 here for the City of New York is immense. And I
25 think we should consider this. See, I'm already

1
2 short of time and I haven't even begun to tell you
3 what the rest of the story is. But, I am most
4 assuredly in total favor of this, including the 12
5 stories, because it does include the affordable
6 housing. Thank you.

7 [Pause]

8 ROBERT FURMAN: Okay. My name is
9 Robert Furman. I am the President of the Brooklyn
10 Preservation Council, but I am speaking at this
11 time as an individual in favor of the project
12 under consideration. I'd like to begin by giving
13 you a little bit of personal and community history
14 that might be relevant to this examination, since
15 I'm also a Brooklyn historian. The Gowanus Canal
16 began life as the Gowanus Creek, and at that time
17 it was surrounded by what were called meadows, but
18 we would probably call swamp. In other words, it
19 was a tidal drain area that was fed by mostly
20 underground streams, and as such it was-- kept a
21 balance of nature. When the Gowanus Canal was
22 created in the mid 19th Century, it was
23 straightened out, obviously, into the current form
24 that it holds. One thing that was done that was
25 probably inadequate both in this area and in Red

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2 Hook was that the landfill that was added to this
3 area and to Red Hook, which was basically a series
4 of marsh islands also, was probably inadequate to
5 the amount of development that it would see. In
6 other words, it's only about eight feet above mean
7 high water, and it should probably be a lot more.
8 And that's probably some of the problems that we
9 have today in terms of flooding. This has
10 obviously been an issue for a very long time. 30
11 years ago I was the Vice-Chair and the Land Use
12 Committee Chair of Community Board 6, and these
13 issues were coming up at that time also, when Mr.
14 Scotto was beginning his quest for cleaning up the
15 Canal. I think it's great that housing and
16 parkland is being developed here. I think that we
17 should try to address community concerns here,
18 especially with regard to affordable housing. I
19 am concerned that the 30% figure needs to be
20 legally enforceable in this project. If the
21 community is to be forced, as Craig said, to
22 accept buildings that are somewhat out of scale
23 with the rest of it, I think that the tradeoff
24 certainly should be that there be no chance that
25 the affordable housing will not be provided. I'd

1
2 also like to second Borough President Markowitz's
3 request that one of the buildings be only eight
4 stories, that three-bedroom units be created and
5 that there be stores along 1st Street to create
6 some neighborhood street life, which in most parts
7 of our City is an extremely valuable asset to the
8 community, and that we also try to address, as was
9 described, flood concerns and water flow concerns
10 in terms of keeping the canal a relatively
11 natural, as far as possible, body of water. Thank
12 you.

13 CHAIRPERSON AVELLA: Thank you.
14 Not at this time, but if you can hang around.

15 [Pause]

16 CHAIRPERSON AVELLA: Next is a
17 panel in opposition. Lizzie Olesker, how do you
18 pronounce it? Olesker. Friends of Bond.

19 [Pause]

20 CHAIRPERSON AVELLA: Glenn Kelly,
21 Carroll Gardens Neighborhood Association. Cynthia
22 Simmons, and Matt Fenton.

23 [Pause]

24 LIZZIE OLESKER: Good morning. I'm
25 Lizzie Olesker, and I'm here on behalf of my

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2 neighbors, who together formed the Friends of Bond
3 out of our deep concerns about the proposed Toll
4 Brothers development. I have been living on 1st
5 Street between Hoyt and Bond for the last 11
6 years, raising a family and making a life in my
7 beloved Gowanus Community. My children have all
8 attended a public school on Carroll Street, just a
9 few block away from where we live. Our walking
10 route to school has taken us over the Carroll
11 Street Bridge every day. Though I'm no expert, I
12 have seen firsthand what happens to the Canal, how
13 on a day of heavy rain the water comes within a
14 few feet of the Bridge; how when the flushing
15 mechanism breaks down, which is often, the sewage
16 and debris, the raw sewage buildup, not to mention
17 the smell, within a matter of hours; how on a good
18 day, quote unquote, we marvel at seeing schools of
19 minnows and crabs swimming just below the surface,
20 rare birds and even a family of ducks swimming by.
21 On a small immediate scale we can see with our own
22 eyes both the ravages and possibilities contained
23 in the Gowanus Canal. My neighbors and I have
24 come together because we want to see our community
25 developed in ways that address the real needs of

1 those who live and work in this community, this
2 City, along with the real needs of future
3 residents rather than those who can profit only
4 from us. When the Toll Brothers propose a project
5 that is completely out of context with the
6 existing historic brownstones and industrial
7 buildings of the Gowanus area, one has to look at
8 the underlying motivations. When the added
9 component as, quote, affordable housing, is used
10 as a justification for going ahead with immediate
11 construction apart from considering the many
12 environmental question and infrastructure demands
13 a large scale, like theirs, building demands, one
14 has to wonder whether this isn't simply a carrot
15 being thrown to us in the ultimate interest of the
16 developers and the politicians serving them. This
17 is particularly true when we now find out that
18 affordable housing is far from confirmed, that it
19 will depend on the Toll Brothers applying for
20 State subsidies and tax abatement in a time of
21 severe budget restrictions. What will happen if
22 those promises of affordable housing don't come to
23 fruition, a strong possibility given the recent
24 economic climate? Will the proposed size of this
25

1
2 project change? We are told no. Instead, we're
3 left with oversized 12-story towers filled with
4 condos set at market prices that no one can
5 afford, towers that create shadows along the
6 fragile ecosystem of the Gowanus Canal, and create
7 a new view forever altering a place of historic
8 significance; shadows in an area that was unique
9 precisely because of its abundance of light and
10 sky, its small scale, and small neighborhood feel,
11 the very things attracting new investment and new
12 residents. But what my neighbors and I are most
13 concerned about is the fact that when we raise the
14 issue of toxic pollutants and the necessity of
15 cleaning up the Gowanus Canal before construction
16 can begin, we're told that this can only happen if
17 we let the Toll Brothers build. We're told that
18 intelligent and transparent decision making for
19 zoning of the entire Gowanus area, with
20 consideration to the fact that we're in a serious
21 flood plan in a time of rising waters, is not
22 pragmatic. My neighbors and I, who've suddenly
23 become active around these important civic, public
24 issues, who are compelled to take action, have
25 experienced that our statements and concerns fall

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2 on deaf ears time and time again. Are we
3 frustrated and angry? You bet we are. I just
4 want to end-- can I finish, wrap up? When we
5 leave here, we'll go back to our jobs, our homes,
6 we'll check of the sump pumps, illegal but very
7 necessary in our basements, are still working for
8 the next heavy rainfall, and we'll try to tell our
9 kids, that we looked our elected officials in the
10 eye and that they're deciding right now what real
11 development will look like. Will it include
12 affordable housing? Will it be committed to a
13 green environment? Will it respect the
14 significance and scale of a historic industrial
15 and brownstone area? Did this Committee and
16 Council do the right thing? Were we considered,
17 our voices, in the community? Is this what we
18 will be able to say to our children? Thank you
19 for your time.

20 GLENN KELLY: Thank you,
21 Commissioners. My name is Glenn Kelly and I'm
22 writing to or speaking to express our support for
23 appropriate development along the Gowanus Canal,
24 and our concerns about the Toll Brothers Project.
25 I've worked with the Carroll Gardens Neighborhood

1
2 Association for the past few years, and served as
3 an Executive Committee Director and co-chair of
4 the Land Use Committee. The CGNA has determined
5 that there is consensus in Carroll Gardens for
6 some control over the redevelopment occurring in
7 our neighborhood, and we are acting upon that
8 consensus. New York City Planning has recently
9 introduced its plan for the rezoning of the
10 Gowanus Corridor and has committed to moving
11 forward on the contextual zoning of Carroll
12 Gardens. This will both allow for future
13 development, and protect the character and quality
14 of life in the neighborhood. The Gowanus Plan is
15 a good start and shows that a great deal of
16 thought and community input went into it,
17 including lessons learned from the Park Slope 4th
18 Avenue rezoning. We are hopeful that further
19 refinements will be made as we move through ULURP.
20 We have a great opportunity here and we have to
21 get this right. Our concern over the Toll
22 Brothers application is that we are circumventing
23 the master rezoning process and allowing a
24 developer to take the lead on how the Gowanus will
25 look and work. While the plan has some wonderful

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2 aspects, it is the first one they presented. We
3 should not be so quick to accept it without
4 community input. It can be better. We should not
5 forget that while we don't own the property, we as
6 citizens, do own the right to rezone the land and
7 increase its value. This right and this value
8 have too often been undervalued. Since we as
9 local residents have to live with the results, we
10 should not allow developers, with only a profit
11 motive to guide them, to hijack the planning
12 process. The Gowanus Plan will undergo changes
13 and improvements, which should apply to all of the
14 development there in order to get the best result,
15 and one which we can all be proud of. So we
16 support development along the canal, but we want
17 some guarantees. We want to guarantee that the
18 project that has been presented by Toll Brothers,
19 we will not jettison the architectural quality
20 that they've included, that we will not lose the
21 affordable housing component, which seems to be in
22 question, and we want to make sure that everything
23 is done properly, and the only way that we can be
24 sure of that is if the Gowanus rezoning is allowed
25 to proceed and that everything is taken into

1
2 consideration before we let somebody jump the gun.
3 Thank you.

4 CYNTHIA SIMMONS: My name is
5 Cynthia Simmons, and I'm the Vice President of
6 the-- closer? Okay. My name is Cynthia Simmons.
7 I'm the Vice President of the Mill Condominium,
8 which is on Presidents Street between Hoyt and
9 Bond. And I've pretty much either submitted
10 written testimony or attended every single hearing
11 that has been on this. And, you know, nothing has
12 changed. I don't believe the community is
13 listened to. I don't believe the input that we've
14 had is meaningful. So I'm not going to take up
15 any time. But the project hasn't changed, as I've
16 said. My condominium board, unfortunately, has
17 not changed, and I'm just going to submit written
18 testimony as to what was presented a year ago to
19 City Planning. So. Here's that.

20 CHAIRPERSON AVELLA: If you want,
21 you know, you can summarize what's in that for the
22 record.

23 CYNTHIA SIMMONS: For the record?
24 Well I'd like to submit the written statement for
25 the record.

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CHAIRPERSON AVELLA: Okay.

CYNTHIA SIMMONS: Which hopefully
it is in-- it did go to CB 6 and City Planning.

CHAIRPERSON AVELLA: Okay.

CYNTHIA SIMMONS: But I'm angry.
Yeah.

CHAIRPERSON AVELLA: Okay, thank
you.

MATT FENTON: Hi. I'm Matt Fenton,
homeowner of a nine-resident brownstone nearby.
Thank you for this opportunity to speak. I would
love more affordable housing in my neighborhood,
however, not an additional 1,000 plus residents in
one and a half blocks, mostly affluent car owners.
My specific concern here is the parking and fire
and emergency access. Beyond Borough President
Markowitz's few words today, I've not heard any
discussion of the Carroll Street Bridge, the one-
way, main source of egress at the corner of this
property. This is an antique, historic landmarked
wooden drawbridge. It is so fragile that bikes
are required by law to be walked across it. No
cars are allowed over five miles per hours.
Beyond this eight blocks on either side there are

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2 only two other paths across the Canal with only
3 one heading west. When these bridges are raised,
4 there is no eastern access whatsoever. This will
5 force the vast majority of the traffic and all of
6 the parking to the west, towards Hoyt and Smith,
7 the streets which are currently overflowing
8 without any excess parking, and they would have
9 probably 300 to 400 more vehicles, 100 looking for
10 parking spaces. The incomplete study was done on
11 a tiny circle half blocked by the canal. As for
12 that study, this was done last summer when 10% of
13 the locals are away, when the schools and buses
14 are empty and that summer, the alternate side was
15 suspended. But even more important, the study was
16 one quarter mile from the center of the project,
17 not from the edges. Imagine a study a half mile
18 from the pitcher's mound at City Field; there
19 would be no impact beyond the parking lot. So
20 here, with the full circle, it runs just short of
21 the two busiest corners on Smith Street, busy for
22 cars, where the subway station is and where the
23 school students go by. The neighborhood will be
24 at a standstill. This is an area with alternate
25 side double parking. Fire and emergency vehicles

1
2 already have troubles with the existing EMS
3 station, let alone when the bridges are up. Smith
4 Street toward the City and towards the already
5 overcrowded schools, is already at a five mile per
6 hour crawl at rush hour. During and after this
7 construction, congestion will be a tremendous
8 disaster and a tremendous risk in cases of any
9 form of emergency. Thank you.

10 CHAIRPERSON AVELLA: Council
11 Member?

12 COUNCIL MEMBER DE BLASIO: Thank
13 you, Mr. Chairman. I just am moved to respond a
14 bit here. You know, I'm sorry. We have a
15 fundamental disagreement, and it's good to be
16 honest about it and I would like there to be
17 mutual respect, if there's no interest in mutual
18 respect, go in peace. I think the notion that,
19 quote unquote, politicians serve developers, is so
20 inappropriate I can't even begin to describe it.
21 I certainly think, he's a politician, and I can
22 give you a list a mile long where he has not
23 served-- some of which we disagree on, I can give
24 you plenty of instances where I've disagreed with
25 developers. So if it's comforting to you to make

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2 that allegation, god bless you. It's just not
3 true. There are some people amongst us who are in
4 elected office who are way too soft on developers,
5 but to make the blanket statement is unfair.
6 You're either serious about affordability or you
7 aren't. So I respect everyone's concerns. I
8 don't think anyone is raising concerns about
9 preserving the character of our neighborhood,
10 environmental issues or any of the other issues
11 involved here, or the planning considerations, the
12 sequencing considerations, I don't think any of
13 that is dishonest. I don't think any cynicism
14 about government agencies not following through or
15 developers not following through on commitments is
16 dishonest. I think it's all fair; and I've
17 listened to all of it, and I think there's this
18 amazing disconnect when you speak and people hear
19 you and don't agree with you, you think you're not
20 being heard. But you are being heard. We just
21 sometimes don't agree. I have my own set of
22 values, by the way I ran for office, like everyone
23 else, expressing exactly what my vision was, and
24 people get to decide, do they want to buy into
25 that vision or not. That's a democracy. My

1 vision is affordable housing. I think it doesn't
2 happen if we consistently put so many barriers in
3 the way of it. And I think in this instance, the
4 way to get to affordable housing, it does run
5 through height and density, I'm sorry. It's true.
6 And I do not want to see our neighborhood or
7 Brooklyn in general be for only one economic class
8 of people. To me, that would be the ultimate
9 failure, and that's what's been happening over the
10 last few decades. Let me just finish. So, I--
11 it's not because I think developers have good
12 intentions. I don't. That's not what they're
13 here for. They're here to make a profit. I got
14 that part. If we create programs like 421-A to
15 force their hand, that's the whole notion, that's
16 why we fought so hard in this body to change 421-A
17 to make it less advantageous to developers and to
18 demand a lot back for our community. That's why a
19 lot of us have been fighting the fight over
20 inclusionary zoning. So, we have a disagreement,
21 but that does not stop me from wanting to clarify
22 once again, I can't accept a neighborhood that's
23 only one kind of people. That's not democracy.
24 So this to me is one way to start to defend
25

1
2 diversity and keep Brooklyn at all the way it is.
3 You can't keep putting it off for another day.
4 This is a proposal that makes sense, and I believe
5 fundamentally that the subsidies in place force
6 the hand of the developer. It's not that they can
7 run away from the subsidies. They're too rigid.
8 They either build this project or they don't build
9 this project. The build it, it's going to have
10 the affordability. Finally, the issue of the
11 Canal. I'm sorry, but I have watched this
12 history, and that Canal has not had substantial
13 cleanup despite many people's best efforts, and it
14 does require some critical mass of development to
15 start that effort. I wish I could say we were in
16 a perfect world where that were not true. But the
17 history is too consistent. We-- and I don't
18 believe the Carroll Street Bridge or any other
19 part of our infrastructure will be overwhelmed by
20 this amount of population. I think there are huge
21 questions going forward with Public Place and with
22 the Gowanus in general about the impact on schools
23 and other infrastructure, and we should not move
24 forward with those pieces until we get those
25 answers nailed down. But in this instance, I

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2 think this contributes substantially to the
3 cleanup of the Canal, and I'm a public servant
4 saying that. I would not feel good, and in terms
5 of our children I would not feel good letting this
6 go by, because I think we would be delaying the
7 day that we got that cleanup. So, Mr. Chairman,
8 thank you for giving me this opportunity. I felt
9 personally the need to respond, and I appreciate
10 it.

11 CHAIRPERSON AVELLA: Council

12 Member, I wasn't planning to make a comment at
13 this point, but based upon your comments and the
14 comments of the panel, I disagree with you in a
15 general sense, and I know that you want to do the
16 best by your community, but I happen to think that
17 the real estate industry does have too much
18 influence with elected officials in this city, and
19 I think the real estate industry controls the
20 agenda, not us. That's my personal opinion. I
21 also happen to think, and I agree with you that
22 affordable housing is absolute necessity. But I
23 think all too often we allow affordable housing to
24 dictate what we do with a lot of these projects.
25 And I can tell you, sitting here as Chair, a lot

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2 of these projects have gone past, got approved and
3 we don't see the affordable housing component. So
4 I understand what the community is saying. I
5 understand what you're saying. But we have to be
6 very careful, in my opinion, that we just don't,
7 since a project says oh, we're going to include
8 affordable housing, bend over backwards to make
9 sure it's done. I think has to be done in the
10 right way so that we do get the affordable
11 housing. And I think we're in agreement on that
12 issue. But I have to tell you, the other comment
13 I wanted to make is, based upon-- I forget who
14 said it as part of their testimony, that I happen
15 to agree that, except maybe for this Committee,
16 that all too often a lot of the public hearings
17 people come and nobody listens. I happen to agree
18 that that is going on. I used to think that the
19 ULURP process was a great process; I no longer
20 think that. Having to sit through a lot of public
21 hearings and participated in City Planning
22 hearings, people come, people say their opinions
23 and they don't get addressed, quite frankly. I'm
24 not happy with the process the way it is these
25 days. And I think a lot of people come and they

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2 have great ideas, but nobody pays attention. We
3 try to pay attention, at least at this Committee.
4 But I think the comment that was made is
5 absolutely apropos, and there needs to be change
6 in the system and you know, I've talked about this
7 before, but I think has to be said over and over
8 again. And whoever said it, I appreciate that you
9 said it, because you're right. With that, let's
10 go on to the next panel, which will be a panel in
11 favor. Rachel Yanda; Anthony Pugliese, I hope I
12 pronounced it right, especially as a fellow
13 Italian; and Anthony Williamson.

14 ANTHONY PUGLIESE: Pugliese.

15 CHAIRPERSON AVELLA: Pugliese.

16 Thank you.

17 [Pause]

18 CHAIRPERSON AVELLA: Push the
19 button.

20 RACHEL YANDA: Good-- Sorry.

21 CHAIRPERSON AVELLA: [Interposing]
22 When the light is on, it's...

23 RACHEL YANDA: It's confusing. My
24 name is Rachel Yanda, and I'm here as a
25 representative for Members of Local 32BJ, which is

1
2 the Service Employees International Local in the
3 City, and I'm here today to represent them and
4 their strong support for the Toll Brothers City
5 Living Development along the Gowanus Canal. This
6 project is a model for responsible development in
7 your neighborhood. The project addresses the need
8 of the communities in many ways. It goes beyond
9 traditional affordability requirements by
10 providing 30% of the residential units at various
11 affordable rates. It makes the historically
12 inaccessible waterfront open to the public,
13 offering public space that will benefit the whole
14 community, and the development will also generate
15 numerous jobs, both during and after construction.
16 Toll Brothers recognizes the need for these jobs
17 to pay good wages and provide benefits for workers
18 and their families. Their commitment to creating
19 good, permanent jobs, many of which will be held
20 by people who live in the community, sets a
21 precedent for future development in the area.
22 Responsible development in Brooklyn is crucial,
23 and their ambitious plan has demonstrated their
24 commitment to the Brooklyn community, and we hope
25 that you recognize the benefits of this project

and assure that it succeeds. Thanks.

CHAIRPERSON AVELLA: Thank you.

Sir?

ANTHONY PUGLIESE: Anthony Pugliese with the Carpenter's Union. Yes, it is Pugliese, but when my father came into this country, no one in America would accept that the G is silent, so he sort of went with the flow, but I use Pugliese because it is easier. And I am born and raised in Red Hook and I live on Smith Street for the past, since 1964. My daughters attended school in PS 58 and now one's in college and one's in high school. I'm part of that community, been there my whole life. I'm on the Community Board for the past 10 years. I've seen my community change. I've seen that there is nothing there for me. My wife went to look at a Brownstone around the corner, they want over \$2 million. This is a home that's just as old as mine, probably needs work to be done in it. There's no programs for a middle class person today to buy something. So the area itself has never been looked at to create things. Affordable housing is something that Toll Brothers, with organized labor, will put something that I've

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2 watched-- I'll be 55 in June, I've watched my
3 whole life. I've seen the stagnation there. I've
4 seen nothing. I guarantee nothing. And I've said
5 to Toll Brothers, instead of showing what
6 beautiful you're going to do, you should show the
7 negative, show you what's there now. There is
8 nothing there. There will be nothing there until
9 someone comes along and does something, creates
10 the inertia. Mr. de Blasio said, to move it
11 forward so somebody else will come and be a
12 responsible contractor. This is the first time
13 I've heard Community Board 6 use the word Union,
14 because there have been other developers in our
15 area that have come and developed, made the
16 profit, walked away, gave nothing back but a few
17 bucks to some people that they exploited. But
18 nobody complained from the community, there are
19 people on the other side of the street, because it
20 didn't affect them. Well this is how life is. If
21 I make the world better for my kids, I make the
22 world better for somebody else's. If I do for
23 theirs first, my daughters reap the benefits.
24 This is not a panacea, but it's a start in the
25 right direction that someone's going to come and

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2 take that canal that I've walked over that bridge
3 over 40 years ago, with my mother, go to Prospect
4 Park to look at lions and tigers and bears, when
5 there used to be in Prospect Park, and walked over
6 those creaky bridge, and no one was there. And my
7 parents had to buy their home with cash, because
8 there was no banks then for them to get a mortgage
9 on. So there has been nothing there for the
10 people, my whole life, other than some of the
11 active people, even the opposition I acknowledge
12 them because they try to get their point across.
13 But at the end of the day, you must look what's
14 there, understand that there's nothing there, and
15 then you, the City Council, has to make that call,
16 whether do we build and move forward or keep it
17 the way it is. And keeping it the way it is will
18 bring nobody else there. It will stay the same
19 because it's ugly. When they fixed that flushing
20 tunnel the first time, they didn't even bring the
21 proper contractor in, and that contractor messed
22 up and they had to bring a contractor in who
23 repaired it-- it was a union contractor, because
24 that's Millwrights, that's part of my
25 organization, that do that. And then the flushing

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2 tunnel didn't have the proper screening, it broke
3 down. That water is there because there's no
4 movement of the water. Make the movement on the
5 land work first so we can walk along a promenade
6 that's there. Set this in motion. There's
7 something that can go in a direction where others
8 will follow and create what's needed there. And I
9 thank you for this opportunity.

10 CHAIRPERSON AVELLA: Push the
11 button.

12 ANTHONY WILLIAMSON: Good
13 afternoon, Mr. Chairman, Members of City Council,
14 members of the Brooklyn community, members of
15 organized labor. My name is Anthony Williamson
16 and I'm from the Mason Tenders District Council of
17 New York City and Construction and General
18 Building Laborers Local 79. I'm an organizer in
19 Brooklyn. I represent over 10,000 construction
20 laborers in New York City. And we are fully in
21 support of Toll Brothers' initiative in this
22 project. We see this project as economic
23 development with a special and particular need for
24 the community, and it should be used as a role
25 model for future projects. Toll Brothers have

1
2 reached some of the fundamental needs of a
3 community in terms of economic development. And
4 some of the things we need to look at, and all of
5 us as concerned citizens, is not only about
6 building, but it's also about what's derived from
7 the construction. We're talking about the
8 environment, cleaning up the canal; we're talking
9 about recreation; we're talking about affordable
10 housing; we're talking about having career
11 opportunities and decent jobs that will generate
12 income that will make the community thrive.
13 That's what's important in economic development.
14 When you look across Brooklyn, many developers
15 come build in Brooklyn and leave. But Toll
16 Brothers will be setting an example that we think
17 others should follow. So, we of the Mason Tenders
18 District Council and of the Construction and
19 General Building Laborers, we are fully in support
20 of this kind of development, and we hope that all
21 parties concerned share the same views. Thank
22 you.

23 CHAIRPERSON AVELLA: The next panel
24 in opposition is Diane Buxbaum, Gary Riley, Josh
25 Skaller, and Anthony Marchese. And then we'll

1
2 have one more panel in opposition after that.

3 [Pause]

4 CHAIRPERSON AVELLA: And then I'm
5 going to ask the applicant to come back, because
6 then now I'm going to-- then I will ask my
7 questions.

8 JOSH SKALLER: Button? There you
9 go. Councilman Avella, Councilman de Blasio,
10 thank you so much for having me here today. I
11 want to speak in opposition to the project as it
12 stands right now. I do understand that there are--
13 -

14 CHAIRPERSON AVELLA: [Interposing]
15 Introduce yourself.

16 JOSH SKALLER: Josh Skaller. My
17 apologies, Josh Skaller, running for City Council
18 in the 39th Council District. How's that? Got to
19 get that in there, right? While I recognize that
20 there are good motivations on both sides of this
21 issue, I would like to start from a point of
22 evaluation of the site itself. We've talked a lot
23 about using development as a tool for cleanup.
24 However, the canal and the brown fields on which
25 this site would exist aren't problematic simply

1
2 because they smell. They're not problematic
3 simply because there are sewage issues down there,
4 although that seems a fairly reasonable place to
5 start a complaint; they're problematic because
6 they're toxic. And without a fully fledged
7 cleanup down there that we have seen to be
8 effective, the notion of increasing density is to
9 me foolhardy and capricious and frankly dangerous
10 to the people who would move in. Councilman de
11 Blasio, I know you've done a lot of work with
12 children and child protective services and I know
13 that's something dear to your heart, and so I
14 think you must have found a way to feel okay about
15 it. I would like to know what that way is.

16 Currently we're being presented with a scrape and
17 cap. The effectiveness of that typically is not
18 long lived. There are no long-term scrape and cap
19 studies-- you know, we see these things crack. We
20 also see flooding from the canal, and that's a
21 canal that's incredibly toxic along the bottom.
22 So nobody's shown me that there's an effective
23 cleanup in place. So I would start my opposition
24 first and foremost, if you want to increase
25 density down there, clean it up first and make us

1
2 feel comfortable with the notion that you're going
3 to house people there. That's rule number one.
4 In addition, I'd just take brief exception with
5 the Toll Brothers working with the community. I
6 know that you feel like they've worked closely
7 with you, Councilman de Blasio, and I appreciate
8 that. Those were clearly different meetings than
9 I've had, because I don't feel they've worked
10 closely at all and heard our concerns. Just to
11 read into the record, the Toll Brothers president
12 was talking specifically about the New York
13 housing market in the media, and to quote him he
14 said, it has felt some of the storm, he's talking
15 about New York, that has come to the residential
16 real estate market in the country. If we sense
17 any slowdown, we'll take the money and run instead
18 of hanging around and waiting. That's a direct
19 quote from Bob Toll. Now, that in addition to the
20 hiring of AKRF, which has shown itself to be a
21 fairly duplicitous outfit in terms of presenting
22 the needs of the community, and the balloon study,
23 which we all saw to be fictitious at best, I would
24 have serious concerns about the honesty of the
25 Toll Brothers in terms of their dealings with the

1
2 community. So thank you for your time.

3 GARY RILEY: Fair enough. Sure.
4 My name is Gary Riley. I'm a resident of 1st
5 Place in Carroll Gardens, also a candidate for
6 City Council in the 39th District, believe it or
7 not. I have-- I don't want to reinvent the wheel
8 in terms of testimony that everybody has given
9 this morning, but, you know, I've also gone to a
10 lot of meetings and listened to scores of members
11 of the community testify to their concerns about
12 this project on environmental grounds, on grounds
13 that it's in a flood plane on the, you know,
14 toxicity of the site versus that of the canal, on
15 the density. For me it goes to a starting point
16 of the process itself and why we've carved out the
17 Toll Brothers project ahead of the broader Gowanus
18 rezoning. I think what happens when you do
19 something like that is that you take away from the
20 quality of the ULURP process by considering the
21 impacts of a two-acre site separately from the
22 broader rezoning. And so we're not getting the
23 whole picture on what the impacts are. And so for
24 that reason alone I think that the site should be
25 considered only as part of a broader rezoning

1
2 process and I would vote no on it on that basis
3 alone. Secondly, if the Council were to accept
4 that that is a fine and dandy way to go about the
5 evaluation process, you know, with a matter like
6 this we're changing something from an industrial
7 zoning classification to something completely
8 different, which is residential with the mixed-use
9 component, and that is a major change that Glen
10 Kelly alluded to earlier, in the value of that
11 land. And it's something that we as the citizens
12 of the City own. We don't really think of it, I
13 think most people, as an asset, but it's something
14 that belongs to us, the ability to change the
15 value and the use of a particular piece of
16 property. And all too often it's something that
17 as a City we give away, basically without
18 conditions, and you hope that the developers are
19 going to do the right thing. I know that
20 Councilman de Blasio is very committed to
21 affordable housing, and I commend that. I have
22 less faith in Toll Brothers to, you know, not even
23 alleging any sort of bad faith at this point, but
24 you know, if the market changes, things change,
25 once the zoning change is in affect, suddenly an

1
2 asset that they have in their books it increases
3 in value fairly dramatically, and they have a lot
4 of options. You know, any corporation is going to
5 evaluate those options in the face of the market.
6 So, you know, they could sell that approval to
7 someone else. They could develop the parcel
8 without affordable housing. They could actually
9 do what has been proposed. But it's really out of
10 our hands at that point. Once this approval goes
11 through without an actual concrete requirement for
12 the affordable component to be included, then it's
13 out of our hands. And I'd be highly concerned
14 about that and I would vote no on that ground as
15 well. And lastly, I think that density, and
16 particularly height of 12 stories along the canal
17 for the reasons put forth by John Hatheway earlier
18 is also a major concern, and it should be kept to
19 a lower, more contextual size. Thank you.

20 ANTHONY MARCHESE: Councilman, good
21 afternoon, thank you for the opportunity to speak.
22 My name is Anthony Marchese. I'm a resident of
23 Carroll Gardens on 2nd Street, two blocks away
24 from the proposed site. I just wanted to ask some
25 questions. All of the momentous issues have all

1
2 been very eloquently presented by my neighbors and
3 friends from the neighborhood. I have a question
4 about what I read in the report, the proposed
5 scope of work. The bulkhead is going to be
6 replaced on the edge of the project site. The
7 drawings show a pristine waterway with bulkheads
8 on both sides of the waterway restored to a
9 functional and presentable condition. And yet,
10 there is nowhere in the report that I read
11 anything about what's being done on the bulkhead
12 opposite the site. I would like to pose that
13 question to the Toll Brothers representatives here
14 to maybe come up with an answer. Has this been
15 considered or is this supposed to happen with
16 future development? And I also have a question
17 about the L&M Equities; they are the reputable
18 affordable housing developer. When Toll Brothers
19 spoke before they said that they were developers
20 of housing nationwide, so I can't really
21 understand their tie-in with L&M. Does L&M take
22 over for the affordable housing because they do
23 work cheaper or because they put in fewer kitchen
24 cabinets or because they put in one bath instead
25 of two and a half baths in the apartments? Would

1
2 they please explain that? Because I don't quite
3 understand how that works. Although I would like
4 to say that comparing this to the River Walk is
5 really just a fantasy. And it only works with
6 people who have never seen River Walk. I have
7 seen River Walk, and River Walk is a very vital
8 commercial place. And Gowanus Walk, with 2,000
9 square feet of-- we're promised 2,000 square feet
10 of retail or commercial, is just like a tiny drop
11 in the bucket. Only those who have never seen
12 River Walk can talk about it and make that
13 allusion. But I would like to end with just one
14 compliment to the Toll Brothers, and that's for
15 their sponsorship of the Saturday Afternoon Opera.
16 Thank you Toll Brothers for the Opera sponsorship.
17 Thank you very much, Councilman.

18 DIANE BUXBAUM: My name is Diane
19 Buxbaum. I'm speaking on behalf of myself as a
20 resident of the community and also as conservation
21 co-chair of the New York City group of the Sierra
22 Club. And I want to thank the City Council for
23 allowing me to make my statement at this time. I
24 am very concerned, I feel like I'm a voice crying
25 in the wind. We are facing issues here throughout

1
2 New York City, throughout the entire coastal area
3 of the United States and in fact the world. We
4 are facing sea level rise issues. I just comment
5 on 117-page waterfront text amendment that didn't
6 have one word about storm surge protection or sea
7 level rise. I'm okay. When I get nervous I--
8 anyway. So anyway. The sea level is rising. The
9 ice sheet is melting all over the world. We are
10 going to face warmer temperatures, and if you
11 listen to Malcolm Bowman of Stony Brook, we're
12 going to see storm surges here that we haven't
13 seen before. They're going to become more
14 frequent and more serious. Vivian Gornitz in her
15 presentation at the Academy of Sciences a few
16 years ago showed pictures of what the subways will
17 look like. I mean we have to start thinking about
18 what we're doing to our coastline. I have been
19 saying over and over again, stop the building next
20 to the water. We were a wetlands. Even the Corps
21 of Engineers in their study of this site calls it
22 a wetlands. Lets do wetlands restoration. And I
23 heartily concur for our public health issues,
24 let's clean up. We need to do the cleanup. When
25 the storm surges come it's going to be-- I mean,

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2 what was it, three years ago with eight days of
3 constant rain? There was water coming up on my
4 block, Sackett Street; there was water coming up
5 on 2nd Place; there was water going over the Canal
6 in a number of places. This is going to become
7 commonplace. I know I won't be listened to, but
8 this is my statement, and I would like to have
9 everybody in City and State government-- we have
10 two task forces, the Mayor's Taskforce on Climate
11 Change, the DEC Taskforce on Sea Level Rise. You
12 know, we need to look at what we're doing and to
13 restore a natural contour so that we can absorb
14 some of these issues that we will be facing. I
15 will submit my testimony for the record. Thank
16 you.

17 CHAIRPERSON AVELLA: Thank you,
18 hold on one second. Council Member de Blasio.

19 COUNCIL MEMBER DE BLASIO: Thank
20 you, Mr. Chairman. Just to Josh Skaller's point.
21 Again, I will never blame anyone for being cynical
22 about any and all government agencies. I will
23 simply say to you, Josh, respectfully, my
24 conversations have been with the Department of
25 Environmental Protection, the State Department of

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2 Environmental Conservation and the Army Corps of
3 Engineers, and I believe in my heart that these
4 agencies are actually trying to protect the
5 environment. And I'm not saying they're perfect
6 by any stretch, and I think we want many layers of
7 oversight. We want a lot of transparency. We
8 want strong citizen voices calling them out if
9 things are ever not being done right and citizen
10 involvement. But I'm also, I have to be honest
11 with you, it's a little black and white to paint
12 the world as, you know, all government agencies
13 have no interest in serving the people. So I
14 believe, wait a minute; I didn't say you said
15 that. I'm saying a broad point. They believe
16 that this can be done and they believe an
17 effective capping can be done. And I had a wildly
18 detailed conversation with the Army Corps of
19 Engineers about this, and they believe in fact you
20 can substantially restore the wetlands. So there
21 is a fundamental strategic disagreement,
22 respectful one, about what will create the
23 momentum for that to happen. I believe history
24 points out that the absence of development has not
25 made that happen. I think development will. If I

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2 thought for a moment that the people who would
3 live there, of course I couldn't support it. So,
4 I appreciate your construct, how did I or anyone
5 else convince themselves; and I'm saying I think
6 for people who are serious public servants, we go
7 and talk to people who we believe are experts and
8 have responsibility. And you know, I think as you
9 know, the Army Corps of Engineers put a lot of
10 energy into the canal, which is appreciated. And,
11 you know, I'm going to believe them unless I'm
12 given a specific reason not to, that we can clean
13 this up effectively and that it is an appropriate
14 site for development. If there's evidence to the
15 contrary, I'm always-- I always want to hear that
16 because I'm certain that, you know, every public
17 debate needs to be constantly refueled with new
18 information. So I would welcome that.

19 CHAIRPERSON AVELLA: The
20 Councilmember is happy to have your response, so
21 you can respond. Because this isn't a debate, you
22 know.

23 JOSH SKALLER: Yeah no. In the
24 form of a question. I sincerely thank you for
25 engaging. We do have leakage along the low site

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2 down there, right? I mean we know that there's
3 oozing tar coming up from where the cap was. Now
4 I'm not saying these two sites are the same sites.
5 Obviously they're not. But the Corps of Engineers
6 has basically, from my understanding, said that it
7 would be prohibitively expensive to do a real
8 dredge on the canal, a full dredge on the canal.
9 And short of that, I haven't seen the level of
10 engagement and discussion and dialogue with the
11 community about what exactly those cleanup plans
12 are going to be. What are the details of those
13 cleanup plans and what is the long term-- what are
14 the long term health concerns? What I've heard
15 much more about are the sort of, the rezoning
16 issues, the affordable housing area-- which I
17 think is a very important discussion, obviously.
18 But those environmental concerns, at least for me,
19 have not been addressed, and I think I've been
20 pretty diligent about going to a lot of these
21 meetings, so. If you, if your office could assist
22 people in understanding exactly what the cleanup
23 looked like, I think that would help some of us
24 for sure.

25 COUNCIL MEMBER DE BLASIO: I think

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2 that's a perfectly fair point, and we've tried,
3 but I think we need to do better obviously. And
4 one of the things we've been trying to get these
5 agencies to do is come in together. We did have
6 one public forum last year where they all came
7 together, but we should do another one now. And I
8 think your point is very well taken; lay out
9 chapter and verse what's happening currently, what
10 can be done going forward. And I think you're
11 right, there are problems with dredging, which is
12 why capping makes sense and restoring the wetlands
13 makes sense, and we should show how that can and
14 will work. So I think that community debate makes
15 a lot of sense. I don't think that's a reason to
16 not move this piece forward for a lot of other
17 reasons but I think we need to do that for the
18 community. So we will take responsibility for
19 that.

20 CHAIRPERSON AVELLA: Thank you all.
21 The next and last panel, Ken Baer and Therese
22 Cunningham.

23 [Pause]

24 CHAIRPERSON AVELLA: And we still
25 have two sidewalk applications to review after

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this item.

[Pause]

THERESE CUNNINGHAM: Okay. Press the button?

[Pause]

THERESE CUNNINGHAM: Okay. I completely agree with Josh as far as there hasn't been enough discussion about the cleanup. I've gone to a lot of the meetings. I agree, we need affordable housing. But the environmental factors are very important. And I'm a resident of Bond Street. I live about 50 feet away from the proposed project. And my primary concern is the health hazards that myself and my neighbors will be exposed to once demolition and digging start. It's common knowledge that the ground is full of carcinogens, heavy metals and other hazardous chemical compounds, and it's to my understanding that the Toll brothers are the ones responsible for cleaning this highly toxic place. I don't think that the responsibility should be on them, as I found through research that this company has a lot of history of no accountability. I've discovered Toll Brothers have made a Climate Watch

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2 list of companies compiled on the basis that they
3 are lagging behind their industry peers in
4 responses to climate change. Others on this list
5 include Exxon Mobil Oil, Bed Bath and Beyond and
6 other major corporations. As this proposed
7 project is lying on a known flood plane and
8 Bloomberg actually acknowledge this year that New
9 York City will be affected by climate change, I
10 find this highly disturbing. If the Army Corps of
11 Engineers and the EPA have failed to adequately
12 clean the canal in all this time, why do we have
13 to trust the Toll Brothers to do it? Our current
14 economic downturn has occurred through the average
15 citizens trust in corporation such as Toll's and
16 look at where we are now. And our landscape is
17 already littered with empty, quote, luxury
18 condominiums as it is. Why do we need this one so
19 bad? Don't the environmental factors alone raise
20 red flags? Also, the fact that the condominium
21 projects along 4th Avenue and Atlantic Yards are
22 going to be adding additional sewage runoff to the
23 canal is another concern. Just how much can this
24 small body of water take? And I have family in
25 the trades and I'm not against creating jobs for

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2 the community, but I'm highly aware they're
3 needed, and I don't think this project is going to
4 create jobs beyond construction. I believe the
5 workers on this project will be putting not only
6 themselves and their families and the community at
7 risk the second the ground opens up. Thank you.

8 [Pause]

9 KEN BAER: Good afternoon, Council
10 Members. My name is Ken Baer. I'm a candidate, a
11 democratic candidate for City Council in the 33rd
12 Council District, which borders the Gowanus Canal
13 for a few blocks. I am testifying in opposition
14 to the rezoning of 363-365 Bond Street. The
15 proposed rezoning of Bond Street would allow for
16 residential development in an area that is grossly
17 polluted. The Gowanus Canal area is a massive
18 brown field and an immediate health hazard. The
19 clean up of the two lots controlled-- or in
20 contract by Toll Brothers in and of itself will
21 not protect the residents of this proposed
22 project. The Toll Brothers project is not an
23 environmental bubble protected from the rest of
24 the contamination in the area. The presumption by
25 pro-development parties that once residents are

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2 settled in to a project along the Gowanus Canal
3 that the canal and the adjacent brown field lots
4 will be magically cleaned is wishful thinking at
5 best. The Gowanus Canal area must be cleaned of
6 all pollutants before any rezoning occurs. I call
7 upon this City Council to initiate a health study
8 to determine if there are any cancer clusters in
9 the Gowanus area. This information is needed
10 before any intelligent decision is made that would
11 allow people to populate the area around the
12 canal. Not to have this knowledge and to proceed
13 with the rezoning of the area is taking a big
14 gamble with the lives of children, adults and the
15 elderly. As responsible citizens, we must resist
16 the temptation of indulging in instant
17 gratification. We must be patient and go forward
18 with the reclaiming of the Gowanus Canal area in
19 an intelligent a careful approach. When it comes
20 to the health of human beings, we must be diligent
21 in our assessment of facts and not get carried
22 away with our most positive desires if they are
23 not prudent. Please reject these rezoning
24 applications until a health study has been
25 completed and the Gowanus Canal area has been

1
2 decontaminated. Thank you.

3 CHAIRPERSON AVELLA: Thank you. Do
4 I see anybody else signed up to speak on this
5 item? Okay. Seeing none, I'd like to call Toll
6 Brothers back to discuss the testimony that we've
7 had. And I have-- now I'll be asking my
8 questions. I don't know if the Council Member has
9 any additional questions.

10 [Pause]

11 CHAIRPERSON AVELLA: Well I mean
12 you've obviously heard the concerns of the
13 community. I have several points I want to go
14 over, some of which we went over during the
15 meeting that you had with me when you briefed me
16 on the project. I happen to agree with some of
17 the people who mention that this project should
18 have been held off until the rezoning of the
19 entire neighborhood went ahead. Why did you-- why
20 didn't you not just wait until the rezoning went
21 ahead? Is there some real financial consideration
22 here given the economic market in such a downturn,
23 why not wait until the entire rezoning goes ahead,
24 and then your project sits in with the overall
25 scope of the area?

2 DAVID VON SPRECKLESEN: Well one of
3 the reasons is when we started in 2004, we had
4 begun discussions with City Planning and they had
5 talked about doing a framework and that they were
6 going to move forward with a framework pretty
7 quickly. And so we went forward. We entered into
8 options for the properties and started doing our
9 planning set aside from what the City was doing
10 with regard to the framework. And later, now
11 they're talking about doing the rezoning, but as
12 the Councilman said, it's on again, off again, on
13 again, off again. So it made sense for us to move
14 forward. And we have time constraints and limits
15 with regard to the options we have on the
16 properties.

17 CHAIRPERSON AVELLA: But if City
18 Planning would have said to you, listen, you can't
19 proceed until we do the rezoning, you would have
20 had to listen to what they were saying, correct?

21 DAVID VON SPRECKLESEN: I wouldn't
22 have entered into the options.

23 CHAIRPERSON AVELLA: Okay. All
24 right. Let's go over the environmental cleanup
25 issue, because again, we talked about this. And I

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2 did ask for some background material on the hot
3 spots, and I only got it, and I have to tell you,
4 late on Friday. I would have wished to have
5 gotten it much earlier so I had time to review it.
6 Is there somebody here that can go over this in a
7 little detail as part of the public testimony?

8 DAVID VON SPRECKLESEN: First let
9 me apologize for getting to you late, but let me
10 also say, before Mimi speaks, that these
11 properties are no different from properties that
12 Toll Brothers has developed in the New York City
13 area. They're classic urban fill. They have some
14 hot spots. We have developed 450 condominiums in
15 Williamsburg and we did a large project in Long
16 Island City, and Mimi can tell you that these
17 properties are virtually the same in terms of
18 what's in the soil. We did apply to Browns Fields
19 for one of the blocks in the Gowanus, and we were
20 rejected because it wasn't dirty enough.

21 MIMI RAGUARDETSKY: Sure.

22 CHAIRPERSON AVELLA: First of all,
23 identify yourself and move the mic closer.

24 MIMI RAGUARDETSKY: My name is Mimi
25 Raguardsky, I work at Environmental Liability

1 Management, and I've been a consultant to Toll
2 Brothers for several years on this project.
3 Starting in 2004 and going into 2005 we thoroughly
4 and carefully investigated this site. We
5 completed a phase 1 environmental site assessment
6 followed by three separate sub surface
7 investigations of the property. During the phase
8 1, we identified what's typically found in urban
9 waterfront areas, and that is particularly in
10 cities as old as New York, a 100-year industrial
11 and manufacturing history. There were a couple of
12 USTs identified on this site, there were spill
13 listings identified for the site, and there's also
14 fill material present on this site when the
15 Gowanus canal was filled in the 1850s. During our
16 testing program, as I said, it was very thorough.
17 We installed 32 soil borings, 16 monitoring wells
18 and six test pits. We collected 59 soil samples
19 and 17 ground water samples. And what we found
20 was what we expected. We found limited releases
21 of industrial raw materials and other waste
22 products that occurred over the long industrial
23 and manufacturing history of the site. The
24 constituents that were detected in soil and to a
25

1 limited amount in ground water included petroleum
2 related compounds that were significantly degraded
3 due to the long residence time in the subsurface,
4 along with other compounds typically associated
5 with cinders and asphalt in urban fill material.
6 On this site there is a layer of clay located
7 between five and 17 feet below grade, which acts
8 as an aquitard, restricting the downward migration
9 of contaminants on the site, therefore
10 contamination is limited to the surface of the
11 site. These constituents, the detection of these
12 constituents really is consistent with our
13 anticipated findings, and it's also consistent, as
14 David said, with numerous sites that Toll Brothers
15 and other developers have developed on waterfront
16 sites both in New York City and in other urban
17 areas around the country. As important as what we
18 did find is what we didn't find. This is not
19 Public Place; we did not find large, free phase
20 plumes of MGP, coal tar or other significant
21 contamination. We didn't find anything that
22 indicates that this site is not suitable for a
23 proposed residential use. Now I'll speak briefly
24 about the site remediation. The site is going to
25

1
2 be remediated under the City DEP and the state
3 DEC. The objective of the remediation is to
4 provide a site that's protective of human health
5 and the environment. In order to do that we have
6 a multi-phased approach. The first thing that we
7 plan to do is to remove the significant areas of
8 concern. We found two areas where there were
9 product saturated soils. Those soils will be
10 removed from the site. Besides that there are low
11 levels of volatile constituents and metals that we
12 identified in soils. Those soils are either going
13 to be treated in place or-- treated in place
14 through an injection program or solidified in
15 place. Sure.

16 CHAIRPERSON AVELLA: Do you have a
17 diagram that shows where those sites are on? Do
18 you have a board that shows that?

19 MIMI RAGUARDETSKY: It was in the
20 package that was sent to you. Unfortunately I
21 didn't bring a copy with me of that figure.

22 CHAIRPERSON AVELLA: Well can you
23 have somebody point out on a site map where they
24 are?

25 MIMI RAGUARDETSKY: Sure. I can

show you.

[Pause]

MIMI RAGUARDETSKY: Hello? Better?

Okay. Great. The two areas where product-saturated soils were found were roughly here and here on this parcel. There were areas where residual volatile organic compounds and metals, low levels, I will repeat, will were identified on other areas of both properties. And those areas will be either treated in place or solidified.

CHAIRPERSON AVELLA: And the two hot spots I'm talking-- how are you going to remediate that? I'm sorry.

MIMI RAGUARDETSKY: We will be digging them out and permanently removing them off site.

CHAIRPERSON AVELLA: And who will do the oversight to make sure that you've removed everything.

MIMI RAGUARDETSKY: We'll be collecting end point samples.

CHAIRPERSON AVELLA: Okay. And submitting those findings to who?

MIMI RAGUARDETSKY: To both the

1
2 City DEP and to the State DEC.

3 CHAIRPERSON AVELLA: Okay.

4 MIMI RAGUARDETSKY: And the removal
5 and solidification or treatment of the soils on
6 site is going to lead to an improvement on
7 groundwater conditions on site. I will note that
8 groundwater is really not very impacted beneath
9 our site. We found very low levels of exceedences
10 of regulatory criteria beneath the site. In
11 addition to the soil treatment that we'll be
12 doing, we'll also be capping the site with two
13 feet of clean fill or impermeable surfaces, and
14 the new buildings that will be built on the site
15 will be constructed both with a vapor barrier and
16 a sub-slab depressurization system. This will
17 protect future residents from direct exposure
18 through both dermal contact and inhalation with
19 any residual contaminants that may remain on site.

20 CHAIRPERSON AVELLA: You mentioned
21 that, and correct me if I'm wrong, they'll be two
22 feet of clean soil or a capping?

23 MIMI RAGUARDETSKY: That's correct.
24 And my understanding is with the current
25 development plan there are no landscaped areas

2 that are anticipated to occur directly above
3 existing soils. There will always be, because of
4 the presence of a garage on the lower levels,
5 there will always be an impermeable surface in
6 place.

7 CHAIRPERSON AVELLA: So you're
8 going to use the garage as the cap.

9 MIMI RAGUARDETSKY: The foundation
10 of the garage to-- it's kind of a redundant
11 system. There would be the garage, plus the vapor
12 barrier, plus the sub slab system.

13 CHAIRPERSON AVELLA: And where-- I
14 guess I'm trying to get a more specific idea of
15 where you're doing the capping and where you're
16 doing the soil. Do you actually have a diagram
17 that shows on each, on location-- yeah, the
18 diagram you gave me, I think you need to have a
19 PhD to understand it, I mean to be perfectly
20 honest, that's why I'm trying to get the common
21 sense answer here.

22 DAVID VON SPRECKLESEN: Well maybe
23 Mimi should go up and-- do you want to take it up
24 and show it to him?

25 MIMI RAGUARDETSKY: Sure.

CHAIRPERSON AVELLA: Well you can't take it up and show me as part of the record. That's the problem.

DAVID VON SPRECKLESEN: Sorry.

MIMI RAGUARDETSKY: I see. I see. The-- Navid, correct me if I'm wrong, but the foundations for the proposed structures actually encompass property boundary to property boundary, with the exception of the parkland area long the waterfront. Is that correct?

[Pause]

MIMI RAGUARDETSKY: Correct me if I'm wrong but the foundations for the proposed structures--

NAVID MAQAMI: [Interposing] Yes.

MIMI RAGUARDETSKY: Essentially encompass property boundary to property boundary with the exception of the waterfront?

NAVID MAQAMI: That's correct.

MIMI RAGUARDETSKY: Okay. And so, the proposed buildings, which is the majority of the site, including these areas, these landscaped areas, are actually located above lower level, lower levels. Correct, Navid?

2 NAVID MAQAMI: That's correct.

3 MIMI RAGUARDETSKY: Yeah. And so,
4 these areas will have a redundant system of a
5 building foundation plus a vapor barrier, plus a
6 sub-slab system to protect future inhabitants and
7 users of this site from dermal contact and
8 inhalation to any residual contaminants. Along
9 the waterfront, there will be either impermeable
10 surfaces or landscaped areas above two feet of
11 clean fill with a demarcation layer in place that
12 will also serve to protect users of the park from
13 any risk via dermal contact.

14 CHAIRPERSON AVELLA: Forgive me for
15 keeping going into this but, in terms of the
16 foundation and the vapor level, how far down is
17 that foundation? Because I think you're raising
18 the building up four feet. Is that correct?

19 NAVID MAQAMI: We are actually
20 creating a fill, which is gradual. It's about
21 four feet at this end of the site near the water,
22 and it's minimal towards Bond Street.

23 CHAIRPERSON AVELLA: So at what
24 point does the foundation come into play? Is the
25 foundation going to be at ground level then? Or

1
2 is it going to be four feet above, that four feet
3 that you're going to raise it?

4 NAVID MAQAMI: No. The foundations
5 of the building can't go below--

6 CHAIRPERSON AVELLA: [Interposing]
7 Right. So how far down are you going?

8 NAVID MAQAMI: --that's the
9 footing, but that's not where people live.

10 CHAIRPERSON AVELLA: I understand
11 that.

12 NAVID MAQAMI: The foot traffic is
13 going to be approximately one foot above the flood
14 plane throughout the project.

15 CHAIRPERSON AVELLA: So let's just
16 take it from ground level. How far below is going
17 to be the foundation of, let's say, the garage?
18 Because you're using that with the vapor level to
19 say that's where you're capping, correct?

20 NAVID MAQAMI: No. The garage is
21 actually going to be at grade one foot above the
22 flood plain as well.

23 CHAIRPERSON AVELLA: Okay.

24 NAVID MAQAMI: There's going to
25 actually be new fill over that.

CHAIRPERSON AVELLA: Okay.

NAVID MAQAMI: So imagine the existing site.

CHAIRPERSON AVELLA: Right.

NAVID MAQAMI: We're actually going to put a layer of fill over it throughout the site, which brings the site above this flood plan.

CHAIRPERSON AVELLA: And how does that relate to the park area then? What I'm trying to say-- trying to get at is, where is the entire site protected equally at this point? Because I'm hearing there are two different types of protections; there's the foundation with the vapor level and then there's the two feet of soil.

MIMI RAGUARDETSKY: Sure. And there's actually two different risk scenarios that you're looking at. There's one risk scenario where you have residents that inhabit a building. Those residents could come in contact-- I want to take one step back, via the soil removal plus the solidification or injection, the treatment program that we're doing, we anticipate removing the majority, if not all of the volatile organic compounds that are known on the site. So what

1
2 we're planning, what we would be addressing via
3 these capping scenarios are any possible residual
4 volatile organic constituents, or low levels of
5 metals that would remain in the sub surface. So
6 that's what we're dealing with. Now two different
7 risk scenarios, one for inhabitants of the
8 building, they could either come in contact with
9 soils through dermal contact or they could breathe
10 any volatile organic compounds that might pass
11 through the foundation and accumulate within the
12 buildings. In order to combat those risks, what
13 we're doing is constructing a foundation, which in
14 and of itself, limits dermal contact. As two
15 added protective measures to protect from
16 inhalation of volatile organic constituents, we're
17 going to add beneath the foundation a vapor
18 barrier and a sub-slab system. Now when you're in
19 parkland, the risk of inhalation does not exist
20 because any residual vapors that might possibly
21 rise to the surface in a park immediately
22 dissipate into the open air; it's not an enclosed
23 surface. So what you're really dealing with in
24 the parkland is dermal contact. And by the mere
25 presence of a paved surface, you inhibit dermal

1
2 contact with contaminants, constituents that may
3 remain below grade. And by placing two feet of
4 clean fill in landscaped areas above a demarcation
5 barrier, you're essentially serving the same
6 purpose. And the depth of two feet, what it
7 actually-- the genesis of the two-foot level is
8 because that's as deep as a child might be
9 expected to dig with a shovel in a park, and there
10 will be a demarcation barrier.

11 CHAIRPERSON AVELLA: What is the
12 schedule for the cleanup? How are you
13 progressing? I mean especially with the material
14 that's being removed.

15 MIMI RAGUARDETSKY: Sure. The
16 material that's being removed would be removed
17 prior to and or concurrent with building with
18 foundation construction, and that's commonly done
19 all over the City on remediation sites.

20 CHAIRPERSON AVELLA: I know it's
21 commonly done, but I don't think it's the best
22 way. You know, my personal opinion is that all
23 the materials should be removed first before any
24 construction goes on. Would you agree to do that?

25 DAVID VON SPRECKLESEN: We haven't

1
2 developed schedules yet. Obviously the first
3 thing we have to do is demolish the existing
4 structures and, you know, beyond that-- I can take
5 it back to our engineers and see if it's something
6 that would be under consideration.

7 CHAIRPERSON AVELLA: Okay. Let's
8 move on. In terms of the height issue. Now we
9 had the presentation by Mr. Hatheway about the
10 fact that you could--

11 COUNCIL MEMBER DE BLASIO:

12 [Interposing] I didn't realize you were moving to
13 another topic. Let me stay within environment for
14 a moment. So I think we also want to focus on the
15 question of the canal water itself and the future
16 of the canal. So one of the things, again, we
17 will organize a public meeting with the different
18 City, State and Federal environmental agencies.
19 But I want to you to give us all publicly a sense
20 of what evaluation you did in terms of the siting
21 that this was a site that you could put a
22 residential building next to, meaning the canal
23 itself. And you know, obviously, we all share the
24 goal of getting a series of things to happen to
25 improve the canal. But what was your thinking

1
2 about what you could do on that site with the
3 Canal as it is currently, and what is your vision
4 of what the various levels of government have
5 committed to so far in terms of cleanup?

6 DAVID VON SPRECKLESEN: Well when
7 we did the initial due diligence. And I walked
8 down to the site, I noted that there are people
9 living on 2nd Street between Bond and the Canal,
10 and I think that was very significant to me. I
11 know a lot of people testified earlier and
12 suggested that we don't care about children, but
13 there are children living there right now, so I
14 found that a little bit offensive. But we saw
15 people living there. We read all the reports. We
16 saw what the Army Corps was planning to do, what
17 DEP was planning to do, the level of improvement
18 that transpired since '99 and we felt comfortable
19 enough to move forward with it. And so obviously
20 we will be encouraging everybody in the public
21 sector along the way to hold to the dates that
22 they're suggesting that they're going to do these
23 remediation measures.

24 SPENCER ORKUS: If I could add, if
25 you have specific questions about the water

1
2 quality and health issues, we have Bob White here
3 from AKRF, who can talk about the analyses that
4 were done as part of the environmental--

5 COUNCIL MEMBER DE BLASIO:

6 [Interposing] If the Chairman would indulge me,
7 that would be helpful.

8 [Pause]

9 COUNCIL MEMBER DE BLASIO: I think
10 just to hone the question please, I think the
11 point being to understand exactly what analysis
12 you did, on the assumption that you'd have the
13 existing water quality and you'd have a
14 residential building next to it, and then again,
15 if there's any specific pieces you want to
16 highlight about what you see happening in terms of
17 government actions that you believe are a given as
18 part of a cleanup effort, in addition to anything
19 else we might try and achieve.

20 SPENCER ORKUS: You have to turn
21 the light, shut the light.

22 BOB WHITE: Now it's on. Very
23 good, thank you. My name is Bob White. I'm with
24 the firm of AKRF. We prepared the Environmental
25 Impact Statement for this project and worked

1
2 closely with other City agencies, including DEP
3 and the Department of Environmental Protection,
4 that reviewed the Environmental Impact Statement
5 and did a particular focus on the infrastructure
6 chapter. The project itself currently is an
7 industrial site. And I'll talk first about what
8 the project would do in terms of its-- the water
9 quality analysis was done and the work that was
10 done to ensure that the project wouldn't impact
11 the water quality of the Gowanus Canal. The Bond
12 Street frontage of the site currently has
13 buildings that have roof drains that drain into
14 the Bond Street sewer, which is a large
15 interceptor combined sewer that current has issues
16 that I think you've heard a lot about today. In
17 addition, the streets don't have storm sewers. So
18 taking that into consideration we did a, what I
19 would say for a project of this size, a very
20 thorough modeling analysis with respect to the
21 response of the infrastructure system, taking into
22 account that the project would create impervious
23 surfaces along the waterfront, would at its own
24 expense install new sewers in the streets, would
25 take the roof drain runoff that currently goes

1
2 into Bond Street, and the new buildings would
3 separate that runoff and would also pre-treat it
4 before it goes into the storm sewers. And there
5 is also-- we'd like to collect a little bit of
6 what currently on Bond Street flows into-- the
7 street itself, flows into a catch basin there. So
8 the project I think has done everything it can do
9 within the confines of its boundaries to eliminate
10 any storm water contributions to the combined
11 sewer system, recognizing that combined sewer
12 overflow is a major impact on the Gowanus Canal.
13 It will pre-treat it and the modeling analysis
14 that was performed shows that the project would
15 not have any combined sewer overflow impacts on
16 the Gowanus Canal, and also would not have any
17 water quality impacts on the Gowanus Canal. I
18 think part two of that is, we had heard earlier I
19 guess some testimony about the pumping station at
20 the head of the Canal, which is a very important
21 facility in terms of getting the use attainment
22 that I think people want out of the canal, which
23 currently it's only permitted for-- the use
24 designation is really to allow fish to survive,
25 but I know there are people that Kayak out there

1
2 and there's an objective of having what's called
3 secondary contact recreation including kayaking
4 and boating, some of which actually there are
5 boats out there. So recognizing that that's a
6 desire for the public in terms of the use of the
7 water, not that it will ever be suitable for shell
8 fishing, which is the highest and cleanest quality
9 of water classification, but the Department of
10 Environmental Protection has this project at the
11 Gowanus Pump Station, which has two parts to it.
12 One is to, it has an impellor that takes in
13 cleaner water from New York Harbor, Buttermilk
14 Channel, brings it in to the canal and flushes it
15 starting at the head; and the second part of that
16 is improvement of the force main, which would take
17 sanitary flows that currently go down the Bond
18 Street sewer and direct them to the collector
19 sewer over in Red Hook so that it would bypass the
20 Bond Street sewer, the sanitary flow, and would go
21 to the Red Hook Water Pollution Control Plant.
22 That greatly reduces the combined sewer overflow
23 impacts as currently happen on the Gowanus Canal.
24 And that project has a build year of 2013, and
25 that was all coordinated and worked through with

DEP as part of our Environmental Impact Statement.

COUNCIL MEMBER DE BLASIO: But I'm going to try-- Mr. Chairman, forgive me. I'm still not getting the answer I'm looking for. You analyzed the current water quality to determine, because we all know that some of these governmental efforts are happening and some we need to make happen, but you had to assume that you were building with what you had in front of you as the environmental reality. So, how did you assess the appropriateness of having a residential building on the canal? How did you go about doing that?

BOB WHITE: The water quality conditions that you have on the canal and the data that's available through the Harbor Survey that's conducted by the City doesn't prohibit water, residential uses or open space uses on the adjacent up lands. As part of the scoping process for the EIS, we also met with the Department of Health and Mental Hygiene and performed, I would say, all the necessary analysis to demonstrate that residential uses on the adjacent uplands are appropriate. We're not proposing any new contact

1
2 type of uses. I mentioned fishing earlier; none
3 of that is proposed as part of this project. This
4 is really a use on adjacent upland, some of which,
5 David mentioned, exists today, including public
6 streets that cross the canal. And there was no
7 data to indicate that this would be a significant
8 threat to the public health of future residents.

9 COUNCIL MEMBER DE BLASIO: So just
10 to finish, the point is as is, based on your
11 meeting with the Health Department, etcetera,
12 other analysis, other comparisons, there's not a
13 threat. The question that we all need to work on
14 is the appropriate cleanup, that the cleanup
15 itself doesn't create a new problem. In other
16 words, based on my conversations with the Army
17 Corps of Engineers and this notion of capping,
18 which again, we have to make sure is done right
19 and is done in as permanent a fashion as is
20 humanly possible, and potentially restoring the
21 wetlands, that's the part that has to be very
22 carefully organized so that we don't create any
23 new exposure. Is that the right way of looking at
24 this?

25 BOB WHITE: I would say that's

1
2 correct. And I think you touched upon it earlier,
3 there's a choice, an economic choice, that has to
4 be made in terms of how much it costs to excavate,
5 which would be millions of cubic yards of sediment
6 that would have to go somewhere, and there's have
7 to be an awful lot of money, I think, to address
8 the remediation in that way versus other choices
9 in terms of capping, which could be more
10 beneficial-- provide the same benefit at a
11 different level of cost.

12 COUNCIL MEMBER DE BLASIO: Okay.

13 Thank you, Mr. Chair.

14 CHAIRPERSON AVELLA: And to get
15 back to some of the other issues. The height.
16 Now you saw the presentation by Mr. Hatheway, and
17 I assume you've seen it at other public hearings.
18 Why not make the change from the 12 stories to the
19 eight stories given that there is-- that you are
20 able to carry over that density, that you're
21 really not losing anything other than the height
22 of the two stories? And also, comment on the
23 Borough President's suggestion, that the height of
24 one of the towers be reduce to eight stories.

25 DAVID VON SPRECKLESEN: The-- and

1
2 Navid can speak also, but there are a couple of
3 key components that we would lose if we were to
4 limit the height to eight stories across the
5 board. One would be design. It would be
6 monolithic; I think it wouldn't be attractive. It
7 would be different building types. We would lose
8 the townhouses, which are a key component of this,
9 because they reflect the local community. They're
10 also eyes on the streets; there's stoops, there's
11 little green spaces in front of them, and it's a
12 part of the project that we feel strongly about.
13 In addition, we would lose parking spaces. And I
14 think that's also something that's significant to
15 the community.

16 CHAIRPERSON AVELLA: How many
17 parking spaces would you lose?

18 NAVID MAQAMI: We looked at losing
19 about 15 spaces when you do that on one of the
20 blocks.

21 CHAIRPERSON AVELLA: And what does
22 that figure out into percentage?

23 NAVID MAQAMI: It's just less than
24 ten percent of the total parking numbers.

25 CHAIRPERSON AVELLA: I just wanted

1
2 to comment on one thing you said. You mentioned
3 about you would lose the context of the
4 townhouses. But isn't it correct that the
5 townhouses are not immediately adjacent to the
6 rest of the community? You actually have a
7 building in-between, which is the affordable
8 housing composing, which is not, isn't that not
9 taller? So I mean, if you're making the argument
10 that you cannot switch the bulk because you're
11 worried about losing the townhouse component, but
12 the townhouses don't face the immediate
13 neighborhood, and there's a building in-between,
14 which is part of your affordable housing
15 component, which is actually bigger, correct?

16 NAVID MAQAMI: That's not quite
17 accurate, because on Bond Street you don't have
18 townhouses necessarily. You have other types of
19 buildings. The townhouses typically in New York
20 City on the avenues, on the wider streets, you
21 typically have bigger buildings. As you go into
22 the blocks they are set back and you have the
23 townhouses, which are in scale with the width of
24 the streets. That's what you typically find both
25 in Brooklyn and everywhere else in New York City.

1
2 Just a point about the presentation that was made.
3 I've actually included a package in there for your
4 review. I'm disappointed that the presentation
5 actually keeps morphing. There's a history to
6 this presentation and we have actually covered it
7 in our package. It was initially shown. I don't
8 know whether it's just trying to be misleading or
9 incompetence, the initial presentation was widely
10 exaggerated, and we examined it. The people who
11 had created the presentation came to the community
12 and publicly acknowledged that they were not
13 correct, that they were not accurate. We have
14 continued to work with them. We invited them to
15 our office. There have been accusations that we
16 are not trying to listen to anybody; we've
17 actually asked them to come to our office. We've
18 tried to understand, and we've created drawings
19 that you will see in your package today, as well
20 as I went over them with you briefly the other
21 day.

22 CHAIRPERSON AVELLA: Well I always
23 find it interesting that both sides say the other
24 one isn't accurate.

25 NAVID MAQAMI: Well no. They

1
2 actually made it public, publicly. They actually
3 publicly made the point that they were not
4 accurate, in a Community Board presentation.

5 CHAIRPERSON AVELLA: Let's go to
6 the other major issue that has come up in terms of
7 the affordable housing component. Now, during our
8 meeting I mentioned to you, I had asked for a
9 little more information as to how this was going
10 to break down. I saw in the package, I got a
11 little bit more. But I agree with the community,
12 it doesn't seem to be set in stone. There seems
13 to be a lot of discussion back and forth. And
14 also, how do we make sure, since this is something
15 that the community and the Council Member are very
16 interested in, that the affordable housing
17 component actually does happen? And what's the
18 scenario if it doesn't?

19 DAVID VON SPRECKLESEN: Well what
20 we're doing is pursuant to inclusionary housing,
21 where we're given an FAR bonus if we were to do
22 the affordable. We would like that FAR bonus. We
23 want to do the affordable; we believe in
24 affordable. We believe in mixed communities. In
25 addition to that, if we were not to do the

1
2 affordable, we would not get 421-A, which is a
3 very significant development tool. So I think as
4 the Councilman had said before, there's quite a
5 few reasons for us to do this. And it's a part of
6 our program that we've shown from day one, going
7 back four years, and we're committed to it.

8 CHAIRPERSON AVELLA: How do you
9 answer, and I think it was Craig from the
10 Community Board who brought up the issue of if you
11 don't get the affordable housing component and
12 it's reduced, the bulk is reduced, you still have
13 the right to do the additional height, the two
14 towers. So that's a concern from the community,
15 apparently, that they're agreeing to the
16 additional height based upon the fact that there's
17 going to be an affordable housing component. So
18 is his analysis correct, that if you don't get the
19 affordable housing, you could still do the 12
20 stories?

21 DAVID VON SPRECKLESEN: That's
22 correct.

23 CHAIRPERSON AVELLA: And you
24 recognize the fact that that's not what the
25 community is agreeing to. They're agreeing to in

1
2 effect, and you know if the Community Board wants
3 to come back and say I'm wrong I'll entertain
4 their testimony, that if they're only agreeing to
5 the 12 stories based upon the affordable housing
6 component. And they would be saying no to the
7 project if you weren't doing the affordable
8 housing and thereby still doing the 12 stories.

9 DAVID VON SPRECKLESEN: I think
10 that's what they're saying now.

11 CHAIRPERSON AVELLA: Well how do
12 you address that?

13 DAVID VON SPRECKLESEN: Well we--

14 CHAIRPERSON AVELLA: [Interposing]
15 How do you assure them--

16 DAVID VON SPRECKLESEN:
17 {Interposing} When we initially looked at the site
18 and when it was sort of an open context and we
19 were looking at appropriate heights, I know at
20 that time the City was looking at a framework for
21 14 stories. We never went up to 14. We were
22 consistently at 12. We believe it's contextual.
23 You know, everyone has different opinions with
24 regard to height. We believe-- you know, all I
25 can say that we believe it's contextual and we

1
2 would want the ability to do it. And I think that
3 I can't speak for City Planning, but my guess is
4 that's somewhere down the line, you know, in the
5 framework on in an area wide there will be small
6 components of the canal where you could go up to
7 12 stories. We're only talking about eight
8 percent of our site going up to 12 stories.

9 CHAIRPERSON AVELLA: Council Member
10 do you have any additional questions before I sort
11 of--

12 COUNCIL MEMBER DE BLASIO: Thank
13 you. I think people need to hear more clearly how
14 your economics work here. Because the point is,
15 if you take away the 421-A and the inclusionary,
16 you're left with a very different project. And we
17 need to understand your vision of what that means,
18 because from my vantage point you're left with an
19 unworkable project. But, you know, you should be
20 very clear with people if that's not accurate.
21 You know, how, is there any scenario where you
22 would reject the 421-A and the inclusionary
23 option?

24 DAVID VON SPRECKLESEN: We're
25 planning on doing affordable, and we're planning

1
2 on getting the subsidies because we believe that
3 they're going to be there. If we weren't able to
4 get that, could we go forward with some type of
5 project? I haven't even run the numbers. I don't
6 know. It would be tough without 421-A.

7 COUNCIL MEMBER DE BLASIO: I think
8 with all due respect you confused the matter a bit
9 in the last days by suggesting something I think
10 was not the accurate picture, which is in terms of
11 421-A and inclusionary, I don't think there's a
12 question about your ability to get them. I
13 understand the environment we're in. I understand
14 the competition, but I think given that those are
15 the subsidies you're going for, I don't believe
16 there's any plausible dynamic where you don't
17 receive them. So I'm working from the assumption
18 it's a given that those are available to you. Are
19 you saying, you know, so everyone's clear about
20 it, that that's how this project works? If you
21 take away those subsidies it's a very, very
22 different project. It's a much smaller project at
23 that point. Isn't that accurate?

24 DAVID VON SPRECKLESEN: That's
25 accurate. And if your assumption is that the

1
2 subsidies are there, then I can tell you that
3 we're doing the affordable housing.

4 COUNCIL MEMBER DE BLASIO:

5 Respectfully, and I'm not a lawyer and I don't
6 blame anyone who puts a qualification on things
7 because life is generically uncertain, but I have
8 not-- in everything we've done here on this
9 Council on inclusionary and on 421-A, I haven't
10 heard a plausible argument that they would not be
11 available. You could certainly say that is true
12 of certain other types of subsidy programs; but in
13 these two instances, I for one have not heard any
14 plausible argument they wouldn't be available to
15 you. So, you know, if you believe there's a real
16 strong chance that that could be the case, we
17 should put that on the table. But if you're being
18 sort of cautious for the sake of being cautious, I
19 think you should say that. In other words, are
20 you basing your caution on a specific fear that
21 those subsidies will not be available to you, or a
22 sort of general concern that you want to make sure
23 you have them before you state that every last
24 element is in place?

25 DAVID VON SPRECKLESEN: As a

1
2 general concern. You know, affordable housing is
3 not developed in this City without subsidy. And
4 so there was a suggestion very late in the process
5 in the ULURP process, where we sign some kind of a
6 deed restriction forcing us to do--

7 COUNCIL MEMBER DE BLASIO:

8 [Interposing] No, I'm sorry. I'm going to
9 interrupt you. I want you to answer the question
10 fully. Has anyone from HPD, for example--

11 DAVID VON SPRECKLESEN:

12 [Interposing] Absolutely not.

13 COUNCIL MEMBER DE BLASIO: Any
14 place else said to you there's a reason you
15 wouldn't get the 421-A or the inclusionary?

16 DAVID VON SPRECKLESEN: Sorry. No.

17 COUNCIL MEMBER DE BLASIO: Okay.

18 So I would urge you, respectfully, I think you
19 muddied the waters a few days ago. I don't think
20 it was helpful, in terms of people honestly trying
21 to make sense of the issue. But you know, I'm
22 always happy to have more discussion, but I think
23 what you said left an unclear impression of what's
24 proceeding. So you're saying that in terms of
25 your dealings with the people who give the

1
2 subsidies, that they are not suggesting any
3 problem with you getting 421-A or inclusionary?

4 DAVID VON SPRECKLESEN: Absolutely
5 correct.

6 COUNCIL MEMBER DE BLASIO: You're
7 saying if you don't get them you're building by
8 definition a much smaller project.

9 DAVID VON SPRECKLESEN: Yes.

10 COUNCIL MEMBER DE BLASIO: And is
11 that bad for your economics?

12 DAVID VON SPRECKLESEN: Yes.

13 COUNCIL MEMBER DE BLASIO: That's
14 what I'm trying to get at. Respectfully, people
15 have every right to be cynical. And I don't-- you
16 know, I think the notion and this is the challenge
17 for you, that you're representing a national
18 company, that's another reason why people would
19 say, is that company going to be responsive to our
20 local needs. But that's why we went to the effort
21 to create subsidy programs that, with all due
22 respect to your field, force the hands of
23 developers. So this is the generic, you know,
24 made you an offer you couldn't refuse that this is
25 the way that you can make this work, is you have

1
2 to provide the affordability. And I think if
3 that's the whole reality here, you should be
4 explicit about that.

5 DAVID VON SPRECKLESEN: That is.

6 COUNCIL MEMBER DE BLASIO: Thank
7 you, Mr. Chairman.

8 DAVID VON SPRECKLESEN: And I
9 apologize if I was unclear before.

10 CHAIRPERSON AVELLA: I certainly
11 appreciate those questions. You still haven't
12 addressed my issue, though. Obviously we're not
13 voting on any of the items today, and the votes
14 will be laid over until Monday at the next meeting
15 of my Committee. And I think we're recessing this
16 meeting until Monday. But I have to tell you that
17 I side with the Community on this one. And, you
18 know, my vote is dependent upon whether you
19 address some of the issues that have been brought
20 up. I don't think anybody's saying don't-- or I
21 shouldn't say that. There are people who would
22 just as soon have the project killed. I think the
23 project, if it goes ahead with, you know, certain
24 conditions, certain amendments, I think would be a
25 very good project. And I think we're close enough

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2 that you could do some of these things. The
3 community is concerned about the affordable
4 housing, the height issue and at least letting us
5 know, on paper, a little bit more of the
6 environmental cleanup and a commitment that you
7 would move-- all the material that has to be
8 removed gets removed before you actually start
9 construction. And I think, if we can get an
10 agreement here, I think we should all go to the
11 City of New York and say to DEP, the project to
12 renovate that pump station has to go ahead
13 immediately and not be pushed back to 2013. I
14 mean I think that's a disgrace on the part of the
15 administration. So, the discussion, at least from
16 my end, I know the Council Member supports the
17 project, but the discussion, for my vote at least,
18 continues. Thank you.

19 DAVID VON SPRECKLESEN: Thank you.

20 CHAIRPERSON AVELLA: We will now
21 move on to the last two items, and I know people
22 have been waiting patiently.

23 [Pause]

24 CHAIRPERSON AVELLA: All right. If
25 I could just have quiet while we go into the last

1
2 two items, because I know those people have been
3 waiting patiently. The next item is Land Use
4 number 998, for a petition by Gallo Nero, to
5 establish, maintain and operate an unenclosed
6 sidewalk café at 185 Bleecker Street. And I do
7 apologize for you sitting through this, but this
8 is one of those days.

9 [Pause]

10 MELVIN MAHAN: Mr. Chairman Avella,
11 I'm Melvin Mahan [phonetic], a Council Liaison
12 from Speaker Quinn's District Office. With me I
13 have Zella Jones, she's the--

14 CHAIRPERSON AVELLA: [Interposing]
15 Can I ask-- you're testifying? Because it's
16 unusual to have the representative of the Council
17 Member's office sit with the applicant.

18 MELVIN MAHAN: Okay, I apologize,
19 sir.

20 CHAIRPERSON AVELLA: Well I'm just,
21 you know, saying, is that your intention? Because
22 that's very unusual.

23 MELVIN MAHAN: Yes.

24 CHAIRPERSON AVELLA: Okay.

25 MELVIN MAHAN: Yes, it was. With

me I have Zella Jones, she's the Chairwoman of the Quality of Life Committee for CB 2.

ZELLA JONES: Sidewalks Committee.

MELVIN MAHAN: Sorry.

ZELLA JONES: That's all right.

Mr. Chairman, it has been a long wait, but I've found all of this testimony today very, very educational, certainly. It's been a pleasure to be educated as well as I have this morning in the testimonies. My name is Zella Jones, I Chair the Sidewalks and Public Facilities Committee for Community Board 2. I'm here to read into the record--

CHAIRPERSON AVELLA: [Interposing]

Wait.

ZELLA JONES: Certainly.

CHAIRPERSON AVELLA: Where's the applicant? Okay. You're part of public testimony. You should not be sitting up there with the applicant.

ZELLA JONES: Sure.

CHAIRPERSON AVELLA: The normal procedure is the applicant makes the presentation. If we have any questions, then we go to public

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testimony.

ZELLA JONES: Sure.

CHAIRPERSON AVELLA: That's why I questioned you.

[Pause]

CHAIRPERSON AVELLA: Push the button.

MARCELLO ASSANTE: My name is Marcello Assante. I'm the owner of Gallo Nero, Inc. Restaurant in the Village. And basically, I'm asking, as we've been speaking with the Council back and forth, we've been talking and I would like at this moment-- also, because we have--

CHAIRPERSON AVELLA: [Interposing] I'm sorry. You know, this is a little confusing here for us.

MARCELLO ASSANTE: This is basically for a sidewalk café.

CHAIRPERSON AVELLA: Which restaurant are you testifying on behalf of?

MARCELLO ASSANTE: Gallo Nero, Ciao Restaurant.

CHAIRPERSON AVELLA: Okay.

2 MARCELLO ASSANTE: And we've been
3 consulting with the Council and with the Community
4 Board. The only things I'm asking them and they
5 is to review this meeting by next week, because we
6 still-- we don't have the plan with the architect
7 and decided what basically to forward. And if the
8 Committee is allowed me, we're going to bring this
9 by next Wednesday and there will be a problem-- if
10 there will be no problem.

11 CHAIRPERSON AVELLA: So I
12 understand that there are negotiations going on--

13 MARCELLO ASSANTE: [Interposing]
14 Yes.

15 CHAIRPERSON AVELLA: --with the
16 Speaker's office and between you. And hopefully
17 by the time we have our next meeting you will
18 reach an agreement.

19 MARCELLO ASSANTE: Yes.

20 CHAIRPERSON AVELLA: Okay. What--
21 your present application is for 11 tables and 22
22 chairs?

23 MARCELLO ASSANTE: Yes.

24 CHAIRPERSON AVELLA: And for a two-
25 year term.

2 MARCELLO ASSANTE: Yes.

3 CHAIRPERSON AVELLA: And the
4 Speaker is actually requesting significantly less.

5 MARCELLO ASSANTE: Yes.

6 CHAIRPERSON AVELLA: Okay. Thank
7 you.

8 MARCELLO ASSANTE: Thank you.

9 CHAIRPERSON AVELLA: That takes
10 care of your testimony. Now we have the public
11 signed up to speak, is that correct, on this
12 issue? Where is her slip? Did you fill out a
13 slip?

14 [Pause]

15 CHAIRPERSON AVELLA: Okay. We have
16 it. Thank you, come on up. Now you can-- you're
17 done. You're finished. Oh. You're from the
18 other café?

19 PETER MESKOURIS: Yes.

20 CHAIRPERSON AVELLA: You shouldn't
21 be sitting up there. That's the whole thing.

22 PETER MESKOURIS: Sorry.

23 CHAIRPERSON AVELLA: I'm sorry. Go
24 ahead. Push the button.

25 ZELLA JONES: My name is Zella

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2 Jones. I chair the Sidewalk Committee for
3 Community Board 2, Manhattan. I'm first here to
4 read into the record the resolution. I can just
5 go to the therefore be it resolved unless you want
6 the entire-- you do have a copy, so. It was
7 approved by the full Board unanimously, therefore
8 be it resolved that CB 2 Manhattan recommends
9 approval of the renewal of application for
10 revocable consent to operate an unenclosed
11 sidewalk café for Gallo Nero, Incorporated, doing
12 business as Ciao, at 185 Bleecker Street, block
13 540, lot 43, police precinct number 6, with 11
14 tables and 22 seats, DCA number 1099505;
15 conditional upon the permanent provision of an
16 eight-foot pedestrian right of way on Bleecker
17 Streets and MacDougal Streets and the submission
18 of accurate plans with this resolution forwarded
19 to DCA. I'd just bring your attention to the fact
20 that this resolution was passed in June of this
21 year. I have also submitted, I think I only-- two
22 copies, pictures of the location. These are from
23 my agenda at the time of the hearing. You will
24 find four, five, six, seven pictures showing the
25 conditions at that time in June. Subsequent to

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2 that time, we have not received approvable plans
3 at the Community Board, in spite of a request and
4 there have been some further issues with the
5 tables that are placed on the sidewalk moving into
6 the public pedestrian way. And as the applicant
7 has stated, there have been several meetings and
8 we have tried to persuade or fix this, but it is
9 now March and the conditions have not been
10 improved, and I am lately told that there is some
11 possible doubt that an application of this nature
12 should ever have been approved by DCA,
13 particularly for the MacDougal side of this
14 sidewalk. This may or may not be the fault of the
15 applicant. Possibly it's a grandfathered
16 location; I'm not clear at all. But the issue and
17 the reason to bring it here and to bring it in
18 testimony is to get it on the record that we'd
19 like this to be straightened up and done right,
20 and that eight months from a hearing and a
21 Community Board's conditional approval is a long
22 time to wait.

23 CHAIRPERSON AVELLA: Absolutely.

24 ZELLA JONES: Okay.

25 CHAIRPERSON AVELLA: I would just

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2 mention that DCA has the tendency to approve a lot
3 without ever going out to these locations and see
4 whether there are violations or not. And that is
5 a problem systematically, you know, across the
6 board that we find with the agency, that they
7 almost rely on the Council to keep everybody
8 honest.

9 ZELLA JONES: I know they do and
10 I've now been Chair of this particular Committee
11 for two years and I have not once had a
12 satisfactory experience with DCA in adjudicating
13 what I have offered as suggestions and actual
14 violations with pictures that I've actually taken
15 myself. So I have prevailed upon the good will of
16 this Committee to write a number of things in the
17 record as a way of just protecting the public and
18 making the rules evenly applied. And I appreciate
19 your willingness to hear these things, and we
20 wouldn't be doing this if DCA were doing their
21 job, I'm sorry to say.

22 CHAIRPERSON AVELLA: Right. And,
23 you know, I agree. I agree. Thank you for your
24 testimony and I would just say to the owner that
25 this Committee takes very seriously violations of

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2 the law, and that if in fact an agreement is
3 reached and approval given, there had better damn
4 well be, you know, consideration given to doing
5 the right thing by the law when it comes to these
6 unenclosed sidewalk cafes. And that when you come
7 back to the Committee, we'll be seriously looking
8 at whether or not you've followed the law. Seeing
9 no one else signed up to speak on this item.
10 There's somebody else? Is there a Melvin Mahan
11 here? Oh, that's you.

12 MELVIN MAHAN: Yes, that's me, sir.

13 CHAIRPERSON AVELLA: Okay.

14 MELVIN MAHAN: But I don't think I
15 need to say anything more.

16 CHAIRPERSON AVELLA: Okay, because
17 you just have yourself down here as an individual.

18 MELVIN MAHAN: Correct, sir.

19 CHAIRPERSON AVELLA: Seeing no one
20 else, we'll close the public hearing on this item
21 and we'll move on to the last item now, sir.

22 Which is an application, Land Use number 999,
23 Hell's Kitchen, an application by 523 9th Avenue
24 Incorporated, also known as Hell's Kitchen, to
25 continue to maintain an operate an unenclosed

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2 sidewalk café at 523 9th Avenue. Press the
3 button.

4 PETER MESKOURIS: How are you
5 doing?

6 CHAIRPERSON AVELLA: We should have
7 a tape record that says that.

8 PETER MESKOURIS: I actually turned
9 it off when I got here. My name is Peter
10 Meskouris. I'm the owner of Hell's Kitchen Café.
11 I was required to come down today and to state and
12 read this and that I would, that I will remove
13 four illegal sidewalk planters, two of which
14 specifically block fire escape egress, and that
15 violate fire code. And I came down to say that I
16 will comply.

17 [Pause]

18 CHAIRPERSON AVELLA: So I
19 understand that negotiations with the Speaker are
20 also going on with reference to your application.
21 And we will obviously be voting on this matter on
22 Monday.

23 PETER MESKOURIS: Yes.

24 CHAIRPERSON AVELLA: Okay. Thank
25 you.

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[Pause]

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CHAIRPERSON AVELLA: Thank you. I see no one else. I'm sorry, go ahead. Do you want to speak on this item?

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[Pause]

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MELVIN MAHAN: Excuse me Chairman Avella, in this instance we were hoping to have it laid over to Wednesday's vote, possibly, because this gentleman still has to be approved by the Community Board.

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[Pause]

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CHAIRPERSON AVELLA: --neither did I. I believe that's the case, but we have to sort of straighten out, because apparently there are now two meetings of my Committee after today. So I see no reason why we can't accommodate this request, but I think we just have to work out the specific days, you know, the time of the meetings.

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MELVIN MAHAN: Okay.

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CHAIRPERSON AVELLA: Thank you.

22

PETER MESKOURIS: Thank you very much, sir.

23

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[Pause]

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CHAIRPERSON AVELLA: Thank you

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SUBCOMMITTEE ON ZONING AND FRANCHISES204

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everyone. I am now recessing this meeting until

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next week.

C E R T I F I C A T E

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



Signature _____

Date March 16, 2009 _____