

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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February 23, 2009

Start: 9:48am

Recess: 10:41am

HELD AT: Council Chambers
City Hall

B E F O R E:
TONY AVELLA
Chairperson

COUNCIL MEMBERS:
Simcha Felder
Eric N. Gioia
Robert Jackson
Melinda R. Katz
Larry B. Seabrook
Helen Sears
Albert Vann
Charles Barron
Rosie Mendez

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

Howard Goldman
Principal
Law Offices of Howard Goldman

Soly Bawabeh
Principal
Bawabeh Holdings

Steve Wygoda
Architect

Mohamed El Sayed
Owner
Horus Café

CHAIRPERSON AVELLA: Good morning, everyone. I'd like to call this meeting of the Subcommittee on Zoning and Franchises to order. I want to thank my committee members for showing up pretty much on time. Joining me are members of the Committee, Council Member Simcha Felder, Melinda Katz, Larry Seabrook and Al Vann, and we're also joined by Councilmember Charles Barron, who has the first item on the agenda this morning, which is Land Use number 975, shops at Gateway C080051ZSK. Excuse me. An application submitted by Morgan B Realty, for an amendment to the zoning resolution to allow the development of large retail establishments, with no limitation on floor area on property located on 830 Fountain Avenue in an M1-1 district. And we have the representatives of the applicant here to present the application.

HOWARD GOLDMAN: Thank you Mr. Chairman, Council Members. To my far left is Emily Simons, an attorney in my office. To my left is my partner, Caroline Harris, to my right is the developer, the client, Soly Bawabeh. And thank you for allowing us to appear here this morning. My name is Howard Goldman, and I'm

1 principle of the Law Offices of Howard Goldman.

2 I've been a practicing Land Use attorney in the

3 City for 30 years now. I started my career as

4 Deputy Counsel to the City Planning Commission.

5 My firm represents the applicant in this matter,

6 Morgan B Realty. Morgan B. is a local Brooklyn

7 Commercial developer with a good track record.

8 The applicant is requesting a special permit

9 pursuant to section 74-922 of the zoning

10 resolution to allow certain large retail stores

11 over 10,000 square feet in an M1-1 district. The

12 project is a retail center with a total of 230,000

13 square feet of floor area and 780 parking stations

14 in the Spring Creek section of Brooklyn. The

15 center is relatively small. The nearby Gateway

16 Mall, with 640,000 square feet is almost three

17 times larger. Additional retail called Gateway II

18 is currently in the public review process. The

19 difference between those projects and this one is

20 that this will cater to more moderately priced

21 stores, and it will serve a need in the community

22 that will not be met by the other malls. The site

23 is currently vacant. It was formerly used as a

24 satellite farm, which closed in the 2000s. It is

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1 surrounded, and there is a site plan to my far
2 left, by industrial uses to the north, a yard
3 waste composting facility, and a wastewater
4 treatment facility to the east, an athletic field
5 to the west and vacant land that will become part
6 of the Gateway residential development to the
7 south. The applicant seeks approval to construct
8 two or three large retail establishments totaling
9 not more than 130,000 square feet. The balance of
10 the retail, approximately 100,000 square feet
11 would consist of approximately 23 small local
12 retail stores of 2,000 to 5,000 square feet each.
13 The larger stores are necessary for the viability
14 of the entire project. The parking consists of
15 450 spaces in an interior at-grade lot, and 330
16 spaces on the roof. The parking is all as-of-
17 right and required by zoning. To eliminate any
18 impact on the neighbors, the lighting poles on the
19 roof would face down and be shielded. The
20 interior lot meets City Planning's new design
21 regulations for commercial parking lots, including
22 extensive landscaping and storm water retention
23 facilities. Now, in order to approve the special
24 permit, the findings set forth in 74-922 of the
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1 zoning resolution must be met. Most of the
2 findings concern traffic and mass transit. All of
3 these are not issues in this project. In
4 addition, finding (f) requires that such use is
5 located so as not to impair the essential
6 character or future use or development of the
7 surrounding area; and finding (g) requires that
8 such use would not produce any adverse effects
9 which interfere with the appropriate use of land
10 in the district or any adjacent district. The
11 City Planning Commission found that each of the
12 required findings was met, and unanimously
13 approved the project. The Commissions' report is
14 included in your package. Among other things, the
15 Commission found, quote, the proposed development
16 would provide a wider variety of products and
17 services currently not found in the nearby
18 community and thus offer greater shopping options
19 for surrounding community residents. Prior to
20 City Planning, the application was unanimously
21 approved by the Land Use Committee of the
22 Community Board. The Committee stated: The Land
23 Use Committee met several times with the applicant
24 regarding this project. The committee is very
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2 impressed with the past work of the applicant and
3 recommends that this project proceed forward.

4 Now, due to a lack of a quorum, the full Board did
5 not take a vote. Nevertheless, at the Board's
6 request, the applicant has been in discussions
7 with City DOT about extending a bus line to the
8 mall to facilitate access by local residents.

9 This is at the Community Board's request, and a
10 proposed bus map is included in your package
11 showing this extension. The application was also
12 approved by the Borough President with a
13 recommendation that a food store be included in
14 the project, which the applicant is exploring. So
15 to reiterate, we have unanimous City Planning
16 Commission, we have unanimous Community Board Land
17 Use Committee, and we have Borough President
18 approval with one small condition. Now a concern
19 has been expressed that the large retail stores
20 could displace local businesses. Enclosed in your
21 package is a list of potential tenants provided by
22 the applicant. This list includes clothing, pet
23 supply and variety stores. City Planning
24 specifically found that there would not be any
25 adverse impacts on surrounding areas and

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2 businesses, and I must say, this issue was not
3 even raised as a concern by the Community Board or
4 the Borough President. There is absolutely no
5 evidence in the record at any point to suggest
6 that this was ever an issue during the public
7 review process. In conclusion, in the middle of
8 perhaps the worst recessions since the 1930s, the
9 City should be doing everything in its power to
10 encourage new businesses and jobs, especially in
11 harder hit areas, such as East New York. This
12 project will create approximately 700 jobs. Let
13 me repeat; this project will create approximately
14 700 jobs. The applicant intends that all or most
15 of these jobs will go to local residents. The
16 City Council should be encouraging entrepreneurs
17 such as Mr. Bawabeh, who are willing to invest the
18 time and the resources into helping our City
19 prosper. As a Land Use matter, this application
20 is extremely strong, and as an economic and policy
21 matter, it's perhaps even stronger. So we
22 respectfully request that the Committee recommend
23 approval of the application.

24 CHAIRPERSON AVELLA: As I mentioned
25 before, this application lies within Council

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2 Member Charles Barron's district, so I'd like to
3 call on him for a statement. And of course if he
4 has, he's entitled to ask the first couple of
5 questions.

6 COUNCIL MEMBER BARRON: Well I find
7 it interesting that they didn't even mention that
8 they did meet with the Council Member and they
9 didn't even mention that the Council Member did
10 have some concerns about their project. They
11 didn't mention that they got a conditional
12 negative declaration of impact on the
13 environmental report based upon the building, for
14 the HVACs they have to build chutes because of the
15 environmental impact, that was a conditional
16 negative environmental impact. And I don't care
17 what City Planning or anyone else says, when big
18 box stores come in, when malls come into
19 neighborhoods, it does have an impact on local
20 businesses. And we sat down and we discussed it.
21 I said let me see the list of some of the stores
22 that might be coming in. We can have further
23 discussion. I just want to go on record for
24 saying that my vote on this project-- you heard
25 some other things, but my vote on this project is

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2 going to be based upon that, the environmental
3 impact; it's going to be based solely on whether
4 we think that that's a good deal for our community
5 or not in terms of its economic impact, its
6 commercial competition. Because the mom and pop
7 stores in our neighborhoods are hurting. We
8 already have a mall out there that has big box
9 stores coming in, Gateway II, we're negotiating
10 the second phase of that. They're bringing in
11 more big box stores. They could have build
12 retails stores throughout. They didn't even have
13 to come before us-- but they want us to do all
14 small retail stores, their idea of that being
15 anchored that they need these two big box to
16 anchor the retails, I'm not buying. I think that
17 they can still be very, very successful in having
18 all retail stores-- don't even have to come to us.
19 They can include the stores that they're so
20 concerned about in our community. As far as 700
21 jobs are concerned, we heard the same thing--
22 every developer that has ever come out our way has
23 1,000 jobs. And you know what happens? When you
24 first open up and you go to the area, ten people
25 will come up to you when you go into the store,

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2 can I help you, can I help you, can I help you.
3 Four months later you go into the store and say,
4 can somebody help me? Because all that help is
5 gone. So this idea of 700 jobs, and you repeated
6 it two or three times, I'm not impressed. And
7 that this is economic crises; we know that. You
8 can create all of those jobs with a bunch of small
9 retail stores without even coming here. So I
10 don't appreciate, after we had these honest,
11 straightforward negotiations that you're alluding
12 to some other things, which we'll discuss when we
13 have our meeting again. I stayed open, regardless
14 of my reservations, and said let's work this thing
15 out. Let's bring the list to me. Let's talk
16 again. For you to sit there, disrespectful,
17 didn't even say you met with us, didn't even say
18 we had a conversation; I don't appreciate that. I
19 think it's disrespectful. Don't come before this
20 Committee and act like we don't even exist. My
21 vote is going to be based upon whether this is
22 good for my community or not, no matter what you
23 try to do to allude to other things; that's going
24 to be the basis of my vote, whether I think East
25 New York needs your idea of progress, whether it

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2 needs more big box stores, retail stores; that's
3 what the vote of the City Council Member is going
4 to be based on, and I want to ask my colleagues--
5 I'm going to speak to them again after this,
6 they'll be-- not vote today, we vote on Thursday.
7 And I'm going to speak to them again so we can
8 work out some of these issues, but not this-- when
9 they come in like this I don't appreciate it.
10 Because we've had straight talk, conversations, in
11 my office on several occasions, straight talk
12 conversations. And for you to come in here and
13 ignore us like it never even existed and then
14 present it like that, I don't appreciate it. And
15 quite frankly, Mr. Chair I know you can't stop
16 them from responding, but I don't even want to
17 hear what he has to say about it. I mean he can
18 say what he wants to say. Quite frankly, I don't
19 want to hear it. I'd rather have some honest
20 discussions with him and the group, and we can
21 bring in City Council staff so I can put all my
22 stuff on record, my real concerns and then we can
23 work something out; certainly not recommending a
24 negative vote for this at this point. I think
25 some things may be able to work out, I told him

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2 that in my office, and we can still-- and I'm
3 still open for that to happen, in spite of the
4 fact that I'm livid, and your disrespect. It's
5 probably you more than the others, and I'm very
6 livid with that. But I'm not going to let my
7 emotions or my being upset take away from my
8 objectivity for what could positively come out of
9 this project for my community.

10 CHAIRPERSON AVELLA: Thank you
11 Council Member. Are there any questions from
12 Committee Members on the application?

13 HOWARD GOLDMAN: Mr. Chair, we have
14 one more speaker that got lost, the developer--

15 CHAIRPERSON AVELLA: [Interposing]
16 Sure.

17 HOWARD GOLDMAN: --would like to
18 make a statement.

19 CHAIRPERSON AVELLA: Sure.

20 HOWARD GOLDMAN: And let me just
21 say I appreciate the Councilman's concerns very
22 much. I'd be happy to continue our--

23 COUNCIL MEMBER BARRON:

24 [Interposing] First of all I don't even want to
25 hear from your appreciation and what you're happy

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2 about--

3 HOWARD GOLDMAN: [Interposing] If I
4 might--

5 COUNCIL MEMBER BARRON:
6 [Interposing] You could keep that talk for
7 somebody else.

8 HOWARD GOLDMAN: If I might--

9 COUNCIL MEMBER BARRON:
10 [Interposing] We'll have a conversation, so don't
11 try to placate me now, because I don't want to
12 hear it.

13 HOWARD GOLDMAN: I just want to
14 clarify the, quote, environmental issue. It
15 concerns the use of natural gas, which of course
16 has been agreed to, and it concerns the location
17 of the stacks on the roof of the building; that is
18 the condition that's set forth in the conditional
19 negative declaration. It's routine. It's common
20 in almost all projects. It's something you see
21 all the time. It's not unusual.

22 COUNCIL MEMBER BARRON: I just want
23 to add one other thing. They'll be right across
24 the street from some new houses that are coming up
25 and some of the-- the developer of those new

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2 houses are also concerned about the impact that
3 this project would have on those who are going to
4 be right across the street. Retail stores they're
5 all right with; the big box stores, they have some
6 concerns.

7 HOWARD GOLDMAN: Mr. Bawabeh would
8 like to make a short statement.

9 SOLY BAWABEH: Mr. Chairman,
10 Council Member. My name is Soly Bawabeh, and I am
11 a principal of Bawabeh Holdings, a Brooklyn-based
12 commercial development company. My father and
13 uncle founded this company 30 years ago, by
14 rehabbing a small, mixed-use building off Flatbush
15 Avenue. Today we have built and managed close to
16 70 commercial buildings in Brooklyn, in
17 neighborhoods such as Bed-Stuy, Brownsville, East
18 Flatbush, Flatbush, Bushwick, and now hopefully
19 East New York. Our main focus has been retail.
20 We have recently completed a 250,000 square foot
21 as-of-right project on East 98th Street and Kings
22 Highway in East Flatbush. The project contains
23 160,000 square feet of retail and a 90,000 square
24 foot charter school. Some of the retail tenants
25 include C-Town, Payless Shoes, Sleepy's, Family

Dollar, Dollar Tree, Radioshack, and Goodwill.

Our objective for the Shops at Gateway is to bring

a quality, affordable shopping center that will

serve the immediate neighborhood. The type of

tenants we envision include a discount department

store, an off-price retailer, pharmacies,

supermarket, variety, a bank store which the

community doesn't have in the immediate vicinity,

a furniture store, some quality sit-down

restaurants, a health club, apparel stores and

some shoe stores. As a long-time Brooklyn

resident and developer, we have always supported

Brooklyn contractors and supply houses. We

intended to do the same here by working with the

Community Board and elected officials to ensure

both construction and permanent jobs for the

neighborhood. We have been working on this

project for almost four years now, including three

years in the City Land Use and environmental

approval process. Despite the recession, we have

kept moving forward and have been approved by the

Community Board, Borough President and City

Planning Commission. We think this is a great

project for East New York, and respectfully ask

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2 that this Committee allows us to keep moving
3 forward, recommending its approval of the special
4 permit. Thank you for your consideration.

5 CHAIRPERSON AVELLA: Thank you.
6 Seeing no questions from Committee Members-- oh,
7 Council Member Seabrook.

8 COUNCIL MEMBER SEABROOK: Thank you
9 very much, Mr. Chairman, and thank you for the
10 testimony. Just a quick question. What is the
11 total cost of this project?

12 SOLY BAWABEH: Probably around \$50
13 million.

14 COUNCIL MEMBER SEABROOK: \$50
15 million. And what is the goals that you set up,
16 if you have any goals in terms of minority and
17 women participation in the construction business
18 side of participation? Any goals or anything?

19 SOLY BAWABEH: We've been in
20 discussions with the Community Board and we have
21 told them that the way we would like to work with
22 them is any jobs that we know are going to be
23 available from either the retailers or from our
24 contractors and subcontractors, what we'd like to
25 do is have a dialogue with the Community Board as

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2 to who they have available, you know, for these
3 specific positions and work together to ensure
4 those jobs within the project.

5 COUNCIL MEMBER SEABROOK: So these
6 are-- I'm talking about minority and women-owned
7 contractors to participate in the area of
8 construction and those particular areas as it
9 relates to building. I'm not talking about just
10 regular retail jobs. I'm talking about the level
11 of participation as in construction, electricians,
12 plumbers, boiler manufacturers, those type of
13 things that we're talking about.

14 SOLY BAWABEH: We've been working
15 with the same subcontractors for a very long time.
16 They're all Brooklyn-based. They're usually--
17 most of my jobs are 10,000, 15,000 square feet.
18 They're not this scale. They have maybe ten
19 people on staff. They're going to need a
20 significant amount of more workers for this
21 specific job, and that's why we have no problem
22 working with the community and the Council Member,
23 you know, to bring together whoever they believe
24 are qualified in the immediate neighborhood so
25 they can work on this project.

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2 COUNCIL MEMBER SEABROOK: So these
3 are union or non-union jobs?

4 SOLY BAWABEH: Non-union.

5 COUNCIL MEMBER SEABROOK: Non-union
6 jobs. So you should have easy access to picking
7 people who don't work, because most of minorities
8 aren't in the unions.

9 SOLY BAWABEH: 100%.

10 COUNCIL MEMBER SEABROOK: Oh, okay.
11 Because that's a concern I hope that the level of
12 participation with the Councilman, because he's
13 been very involved in this lack of jobs and job
14 creation when we've got over 51% of African
15 Americans and Latino males in this City that are
16 actually unemployed and that we have actually
17 trained and prepared a number of them to be in a
18 position to participate; and I would hope that you
19 work with the local Councilman on that issue.

20 SOLY BAWABEH: I'll be honest with
21 you, I mean our subcontractors now, like I
22 mentioned earlier, all our jobs take place in East
23 New York, Brownsville, Bed-Stuy, all the workers,
24 all the construction workers are coming from that
25 area already. It's not like we're bringing people

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2 from New Jersey.

3 COUNCIL MEMBER SEABROOK: Okay,
4 because that is what happens in New York City.

5 SOLY BAWABEH: Right.

6 COUNCIL MEMBER SEABROOK: And I
7 would hope that it wouldn't happen there. Thank
8 you very much, Mr. Chairman.

9 CHAIRPERSON AVELLA: Council Member
10 Jackson.

11 COUNCIL MEMBER JACKSON: Thank you,
12 Mr. Chair. Good morning. I'm sorry I was late
13 for your presentation, but I did hear Council
14 Member Barron express his issues and concerns and
15 his indignation as to the lack of communication
16 with respect to your presentation about meeting
17 with him. I've reviewed the documents and I have
18 a couple of questions. My question is how long
19 has this development been in the planning stages
20 with respects to-- I see that 700 permanent jobs
21 will come as a result of this. But I do know that
22 many projects that have been on the drawing board,
23 especially within the past several years,
24 considering the economic situation, that the
25 bubble has burst, and there are a lot of small mom

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2 and pop stores, a lot of small-- a large retail
3 businesses, and a lot of corporations and banks
4 that are going out of business as a result of the
5 economic downturn, because it was falsely
6 inflated. My question is with respect to the
7 projections of this project, do you still see the
8 necessity to go forward with this considering the
9 economic situation, and whether or not the
10 outcomes are still predicted?

11 HOWARD GOLDMAN: Well I'll take a
12 crack at that. There are no guarantees. There
13 are no assurances. It's a tough time for
14 everybody. Assuming the Council approves this
15 project, the next step for Mr. Bawabeh is to go
16 out and find the tenants. And there's no
17 assurances. But he has shown over the last three
18 years or so, a desire to keep going, to keep
19 spending money, to keep going through the public
20 process. He wants to do this project. He's a
21 young entrepreneur, and it's the kind of project
22 the City needs. So if it's possible, it will get
23 done. And then those projections, the project
24 either stands or falls as a unit. So it's not
25 like he would build half the project and stop. So

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2 if the project is built, those job projections
3 remain as stated. Also, my colleague reminds me,
4 because it will take some time to be built, as all
5 construction projects are, we're all hoping that
6 the economy will brighten up a little bit and that
7 there will be a market for this kind of
8 development project.

9 COUNCIL MEMBER JACKSON: How long
10 is-- considering that if you had the green light
11 at every step of the process, how long would it
12 take for this-- the Shops at Gateway to be totally
13 built out?

14 HOWARD GOLDMAN: It's a couple
15 years, including both construction, financing, and
16 finding the tenants.

17 COUNCIL MEMBER JACKSON: When you
18 say a couple years, are you talking about two, are
19 you talking about four or five? How many? A
20 couple-- do you know what I mean?

21 HOWARD GOLDMAN: Two to three,
22 Councilman.

23 COUNCIL MEMBER JACKSON: Two to
24 three. And I guess the question is, and you
25 mentioned it in response to my question, is there

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2 already financing for the project? Because I know
3 banks have tightened up their lending, even though
4 the developer spoke about how many commercial
5 properties that they have built up, him and his
6 family over the past 30 years from one mixed-used
7 location, is the financing there for the project
8 or are you now going to go after the financing as
9 a result of if in fact this is approved?

10 HOWARD GOLDMAN: In these time
11 nobody will talk to you unless you have your
12 public approval, so unless the discretionary
13 approvals are in your pocket. So the answer to
14 your question is, if this is approved, then he's
15 go to go out and find the financing.

16 COUNCIL MEMBER JACKSON: And I
17 heard in response to our colleague Council Member
18 Larry Seabrook, concerning jobs and employment, I
19 tell you a situation. I was up in Albany two
20 weekends ago at the New York State Black, Puerto
21 Rico and Asian Caucus Weekend, and I've served on
22 the Executive Budget Panel for the past several
23 years; and the Governor's budget director was a
24 panelist; the Assembly's budget person was a
25 panelist along with State Senator Bill Perkins;

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2 along with Wanda Williams, the Director of
3 Political Action for DC 37 and also an individual
4 from the Fiscal Policy Institute, which is a very
5 progressive institute. And everyone agreed that
6 the downturn is going to continue for at least
7 another 18 months. So obviously when you're
8 talking about jobs, everyone wants a job. And did
9 I hear that those jobs that you're looking at,
10 both permanent jobs and construction jobs, if in
11 fact this project moves forward would be for
12 people in the community of that area in which it's
13 going to be built, in the Brooklyn Community?

14 HOWARD GOLDMAN: You absolutely
15 heard that. And this is a developer unlike some
16 of the larger national developers; this is a local
17 guy. This is a Brooklyn development company.
18 They do all their jobs in Brooklyn. They know all
19 the contractors, and as Soly said, and he can
20 repeat it, he anticipates that all or most of the
21 jobs will go local.

22 COUNCIL MEMBER JACKSON: Well I
23 have-- obviously I have concerns. And my concerns
24 are the concerns that had been expressed by
25 Council Member Charles Barron. This project is in

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2 his district, and we all have respect for Council
3 Member Charles Barron. And so I would say to you,
4 to you and the developer and the people that
5 you're working with, that there needs to be more
6 effective communication and dialogue with respects
7 to the Council Member's issues and concerns. And
8 so I hope that continuous dialogue will bring
9 about a consensus where we should be able to move
10 forward with this project, and everyone will stand
11 together whenever we vote on this particular
12 matter.

13 HOWARD GOLDMAN: Thank you,
14 Councilman.

15 COUNCIL MEMBER JACKSON: Thank you.

16 CHAIRPERSON AVELLA: Council Member
17 Felder.

18 COUNCIL MEMBER FELDER: Thank you
19 very much, Mr. Chairman. I'd like-- the
20 developer, what's your name?

21 SOLY BAWABEH: Soly Bawabeh.

22 COUNCIL MEMBER FELDER: Okay. You
23 said you did other projects. You've done other
24 projects. Can you give me some examples of the
25 largest projects you've done, like two or three

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maybe?

SOLY BAWABEH: The largest project we did to date is we did a 250,000 square foot retail project on East 98th Street and Kings Highway. It's on the border of Brownsville and East Flatbush. We did--

COUNCIL MEMBER FELDER:

[Interposing] How long ago was that?

SOLY BAWABEH: We're finishing it now.

COUNCIL MEMBER FELDER: Who's is that-- is that in Councilman Fidler's district? Do you know who the Council Member is there?

SOLY BAWABEH: The Council Member I believe is Darlene Mealy.

COUNCIL MEMBER FELDER: Okay. And in that project, do you know whether the Council Member was happy, satisfied, somewhat satisfied?

SOLY BAWABEH: We took four blocks of abandoned warehouse space and we created a thriving commercial district within the community. I think they were very happy.

COUNCIL MEMBER FELDER: And where else? Can you give me one more example?

2 SOLY BAWABEH: Most of our projects
3 are taxpayers and we're strictly retail. We
4 developed most of Fulton Street between Bedford
5 and Nostrand in Bed-Stuy. We just brought the
6 first bidding--

7 COUNCIL MEMBER FELDER:
8 [Interposing] Just one minute. Fulton Street
9 between what and what?

10 SOLY BAWABEH: Between Nostrand and
11 Bedford.

12 COUNCIL MEMBER FELDER: Do you know
13 who the Council Member is there?

14 [Pause]

15 COUNCIL MEMBER FELDER: I want to
16 know if they do. Okay. So--

17 SOLY BAWABEH: [Interposing] These
18 are all as-of-right projects.

19 COUNCIL MEMBER FELDER: Let me just
20 say, can you also tell me with regard to the
21 questions that were asked by Council Member
22 Seabrook and Council Member Jackson in terms of
23 employment in the neighborhood, in the other two
24 projects that you just talked about on Kings
25 Highway and Fulton Street, who did the

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2 contracting, who did the work?

3 SOLY BAWABEH: Like I said, we've
4 been using the same contractors for a long time.
5 All their workers, construction workers, they're
6 small companies-- they're picking them up from the
7 local neighborhoods.

8 COUNCIL MEMBER FELDER: So for
9 example on the East 98th Street Project, who was
10 the contractor?

11 SOLY BAWABEH: The electrician was-
12 -

13 COUNCIL MEMBER FELDER:
14 [Interposing] Not electrician. You had, you know,
15 somebody who was responsible for the whole job.

16 SOLY BAWABEH: The G.C. was
17 Greenside.

18 COUNCIL MEMBER FELDER: What's it?

19 SOLY BAWABEH: Greenside Corp.

20 COUNCIL MEMBER FELDER: Where are
21 they located?

22 SOLY BAWABEH: They're located in
23 Greenpoint.

24 COUNCIL MEMBER FELDER: Okay. So
25 would you say, let me just be clear, I'm not in

1 favor of quotas whatsoever, but the discussions
2 that have been raised by some of my colleagues are
3 potent, not only in terms of the contracting, but
4 in terms of the employees, because it would seem
5 to me that it's impossible that these jobs, even
6 when Council Member Barron talked about those
7 people are welcoming people into these places, and
8 it may not necessarily be your responsibility, but
9 somehow, despite my opposition in any way to
10 quotas, somehow minority members of the community
11 are left at the bottom of the pole, even when
12 they're qualified. Even when they're qualified,
13 for the jobs, which is unconscionable. So that's
14 why I'm asking you about some of your experiences,
15 to see whether in fact what you're saying is so.
16 And at the end of the day, you're going to have to
17 explain that to Councilman Barron, because we are
18 going to support him in this issue, not to me, you
19 know, he's protecting his neighborhood. Now on a
20 general issue, in terms of the traffic, somebody
21 mentioned about the fact that there's no issue of
22 traffic. I don't know who said that. Yes?
23 What's the story with the-- can you explain with
24 regard if I'm coming from Brooklyn and I'm going
25

1
2 towards the airport, where would I get off to get
3 to this place? On Erskine Street?

4 SOLY BAWABEH: Yes, Exit 15.

5 COUNCIL MEMBER FELDER: Do you know
6 how much traffic there's on Erskine Street now, on
7 the Belt?

8 SOLY BAWABEH: How much traffic
9 there's on the Belt Parkway? Yeah--

10 COUNCIL MEMBER FELDER:
11 [Interposing] No, I'm not asking you a general
12 question. This is not a general interview about
13 your knowledge of the City. I'm asking you
14 whether you know how much traffic there's on the
15 Belt Parkway--

16 SOLY BAWABEH: [Interposing] The
17 answer is--

18 COUNCIL MEMBER FELDER:
19 [Interposing] At the Erskine Street exit.

20 SOLY BAWABEH: The answer is a lot.

21 COUNCIL MEMBER FELDER: Yeah. Now
22 you're going to build whatever you're going to
23 build-- I certainly would believe that the box
24 stores, no matter what you build there, you're
25 going to have a lot more traffic. You're hoping

1
2 for it. I mean, that's what I would think.

3 Whereas the retail, you usually get more of the
4 neighborhood people. If I'm coming from 18th
5 Avenue in Boro Park, I'm not going to go to a
6 retail shop on Erskine Street. I may go to a box
7 store that you put up. So how are you going to
8 handle this?

9 HOWARD GOLDMAN: Well, two
10 comments. One, of course this project is a
11 discretionary approval, discretionary Land Use
12 action. We're subject to the full City
13 environmental quality review analysis. It was
14 reviewed by DOT. It was reviewed by City
15 Planning. And Soly had his own traffic engineer
16 working with them to submit data. There were no
17 significant traffic impacts, and there was no
18 mitigation required. Sometimes they require
19 striping, they require a light, they require all
20 these things, but none of that was required here.
21 It didn't even get to that state. Secondly, this
22 is not a destination mall in the sense that some
23 of the larger malls are where people would be
24 expected to come from a wide radius. This is
25 really a local shopping center. That's the

1
2 intention of this facility. And that's what
3 distinguishes it from the other malls in the area.
4 This is a local facility.

5 COUNCIL MEMBER FELDER: Look, let
6 me just say that among those that you list as
7 possible tenants, I don't know about--

8 [Pause]

9 COUNCIL MEMBER FELDER: Oh, okay.

10 HOWARD GOLDMAN: It was a very good
11 question.

12 [Pause]

13 COUNCIL MEMBER FELDER: Let me tell
14 you that what you just said, I don't know what
15 you're talking about. Maybe you do. You look at
16 the list of, you have Conway, Conway is a store
17 that's very popular everywhere. In fact, you have
18 Burlington; you have a Sports Authority, which
19 obviously you can see I'm very familiar with; I
20 don't know A.J. Wright; I know Kohl's. I don't
21 understand how you can say that people are not
22 going to come there for that.

23 HOWARD GOLDMAN: Well I didn't
24 exactly say that. This is not a true destination
25 mall.

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2 COUNCIL MEMBER FELDER: Can I make
3 a suggestion?

4 HOWARD GOLDMAN: Yes.

5 COUNCIL MEMBER FELDER: And really
6 it's not for my sake; it's for your client's sake.
7 You may be the smartest man in the world. You
8 should stop arguing with me, and you should stop
9 arguing, certainly with the Council Member, for
10 the sake of your client. This is not about who's
11 right and who's wrong. This is about what-- your
12 developer wants to make money and the Council
13 Member wants to protect the interests of his
14 community, and that's what this is about, period.
15 There's nothing else. He's not doing it for the
16 sake of the community, but we're trying to come to
17 some agreement where you can make a profit and yet
18 maintain the integrity of the community and help
19 employment in the community. And I would just say
20 when I asked if you knew who the Council Member
21 was, please forgive me, it bothered me that you
22 did not know who the Council Members there were;
23 and not because we have to know every little bit
24 of what's going on. In fact we prefer sometimes
25 not knowing everything that's going on. But for

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2 you to do some major development without being in
3 touch with your locally elected officials, it's
4 your loss. It's your loss. So when you're coming
5 now-- I don't know. You know if I was Council
6 Member Barron, I would be somewhat weary. You
7 don't know who the Council Members on the other
8 two were. You came and did a presentation, forgot
9 that he existed; and now you're going to go back
10 and negotiate to try to come up with something
11 good, I would advise you to make sure, not as
12 Chair, because I'm just acting, to make sure that
13 that's where the direction of the discussions go.
14 And you don't have to pay me for the advice.

15 HOWARD GOLDMAN: We're not arguing
16 with you, which I don't want to do. There are
17 actually three things at stake here. One is the
18 developer making money; two is the Councilman
19 protecting his district; and three, is the
20 integrity of the Land Use process and the City
21 economy as a whole. That is another consideration
22 in which we are very conscious.

23 COUNCIL MEMBER BARRON: Will you
24 break down what you mean by the integrity of the
25 Land Use process? Explain that.

1
2 HOWARD GOLDMAN: Very simply,
3 Councilman. We got unanimous approval at the
4 Community Board. We were approved by the Borough
5 President with one very minor condition, and we
6 were unanimously approved by the City Planning
7 Commission. And in fact, let me remind you what
8 the Land Use Committee said, the Committee is very
9 impressed with the--

10 COUNCIL MEMBER BARRON:

11 [Interposing] First of all, you don't have to
12 remind me. You don't have to remind me what the
13 Land Use Committee said.

14 HOWARD GOLDMAN: [Interposing] If I
15 could--

16 COUNCIL MEMBER BARRON:

17 [Interposing] You did not get the approval of the
18 entire--

19 HOWARD GOLDMAN: [Interposing] If I
20 could--

21 COUNCIL MEMBER BARRON:

22 [Interposing] Committee because--

23 HOWARD GOLDMAN: [Interposing] --
24 finish my statement without interruption--

25 COUNCIL MEMBER BARRON:

1
2 [Interposing] --you did not. You're going to get
3 interrupted from time to time, and we'll flow with
4 this. You did not get unanimous approval of the
5 Land Use of the Community Planning Board, because
6 they didn't have a quorum for that to happen.

7 HOWARD GOLDMAN: [Interposing] Yes,
8 that's what I--

9 COUNCIL MEMBER BARRON:

10 [Interposing] Secondly, there have been plenty
11 projects that have reached this point and have
12 been rejected because there are certain things
13 that the Council Member found out that perhaps the
14 Community Board didn't reach out far enough and
15 find out and discover, and issues they may not
16 have had. The purpose of this process going like
17 that is because there will be different levels of
18 it that have different concerns. I'm certain that
19 if I came back to my community board and expressed
20 all of my concerns, they may raise them too. For
21 them not to raise it with you doesn't mean that
22 those issues don't exist. And for you to make it
23 through three levels of the process and don't make
24 it to the fourth level, that has happened on
25 plenty occasions. It does not take away from the

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2 integrity of the process. It doesn't mean because
3 you get the Community Board and you get the
4 Borough Board and then you get the Planning Board
5 that you should get the City Council. If that's
6 what you're saying; and if you don't, it takes
7 away from the integrity of the process-- we're not
8 stupid. So don't come trying to manipulate this
9 Committee. We have a right to agree or disagree.

10 HOWARD GOLDMAN: Councilman, I
11 completely agree with what you said. And I will--

12 COUNCIL MEMBER BARRON:

13 [Interposing] You know what I'm going to do with
14 this? Because I really don't want to hear much
15 more from him. I'm going to suggest that-- I'm
16 going to ask them to attend a meeting with me,
17 because I want to get some other issues cleared
18 up, which I'll share with you all at a future
19 date; to have the Deputy Chief of Staff to the
20 Speaker and the Corporate Counsel Lawyer to the
21 Speaker, I want to meet with them right after this
22 meeting, and we'll iron out some other issues and
23 we'll get back to you.

24 CHAIRPERSON AVELLA: Thank you,
25 Council Member. Seeing no other questions, thank

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you.

HOWARD GOLDMAN: Thank you very much.

CHAIRPERSON AVELLA: I see no one signed up to speak on this item. Is that correct? Seeing none, I will close the public hearing. And at the Council Member's request, in order to have more time to negotiate the items that he's concerned about, this matter, the vote on this matter will be laid over until Thursday, which will be a new meeting, by the way. So today's meeting will be closed at the end of today's agenda, and we will have a new meeting on Thursday. So, I just want to remind everybody And let me also say we still have one item on the agenda, which is in Council Member Rosie Mendez's district, and I understand that the Council Member has also asked that the vote be laid over on this item. So we'll have the public hearing on the café but that--

[Pause]

CHAIRPERSON AVELLA: But the vote on that item will also be laid over until Thursday. Council Member Vann, did you want to

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say something?

COUNCIL MEMBER VANN: I just wanted inquiry. I noticed when you left Simcha Felder assumed the chairmanship, was that your personal discretion, or was there a protocol to determine which member takes up that responsibility? You didn't hear what I said, did you? I know that. I get disrespected all the time around here.

CHAIRPERSON AVELLA: I'm sorry, Council Member.

COUNCIL MEMBER VANN: That's all right. I'm not running for Mayor. You'd better pay attention. I noticed-- that's all right.

CHAIRPERSON AVELLA: No, no. Council Member.

COUNCIL MEMBER FELDER: No, no. I want to hear. I'm not leaving until Council Member Vann speaks. I want to hear what he has to say.

COUNCIL MEMBER VANN: I noticed when the Chairman left, Simcha Felder was asked to assume the chairmanship. So I want to know, was that the Chairman's personal discretion, or is there a protocol to determine which members takes

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2 that seat?

3 CHAIRPERSON AVELLA: It's just at
4 the Chairman's discretion.

5 COUNCIL MEMBER VANN: I was closer
6 to you. I don't know why you didn't ask me.

7 [Laughter]

8 COUNCIL MEMBER FELDER: And he's a
9 lot smarter.

10 [Laughter]

11 COUNCIL MEMBER VANN: I don't know
12 about that.

13 COUNCIL MEMBER FELDER: I know
14 about that.

15 CHAIRPERSON AVELLA: Unless there's
16 some rule I'm unaware of, it's just at the Chair's
17 discretion. But see now in the future, I will
18 call on you. Of course once you sit here, you
19 know--

20 [Off Mic]

21 CHAIRPERSON AVELLA: And I also
22 assumed my glasses worked for you, since you
23 didn't notice you put on my glasses.

24 [Off Mic]

25 [Laughter]

2 CHAIRPERSON AVELLA: The next item
3 on the agenda is Land Use number 99020085198TCM,
4 an application by El Sayed Corporation, also known
5 as Horus Café, to construct, maintain and operate
6 an enclosed sidewalk café in 90 3rd Avenue, also
7 known as 601 E. 6th Street. And as I mentioned,
8 this application lies in Council Member Rosie
9 Mendez's district. We do have the applicant here,
10 and I'll call up Steve Wygoda to give the
11 presentation.

12 STEVE WYGODA: I press it? Oh, no.
13 It's on. My name is Steve Wygoda. I'm an
14 architect, and this is Mr. Mohamed El Sayed, the
15 owner. We have applied for an-- good morning,
16 everybody. We have applied for an enclosed
17 sidewalk café on the corner of Avenue A-- I'm
18 sorry, Avenue B and East 6th. This location had
19 an unenclosed sidewalk café, and it's a very long,
20 narrow restaurant, and what we're applying for is
21 ten tables and 20 seats that will be enclosed. WE
22 have passed City Planning, Consumer Affairs. This
23 is basically the last public hearing that we are
24 attending. And Mr. Sayed is her to answer any
25 questions. Also I think we've agreed with the

Council Member to come back Thursday and discuss this further. We will be discussing any other issues with the Council Member at her discretion.

CHAIRPERSON AVELLA: Council Member Mendez?

COUNCIL MEMBER MENDEZ: Thank you, Chair Avella. I originally called this up because in the past it had been a problem location with noise and other violations. We just need a little bit more time that it appears that that has been taken care of. And I'm glad I had an opportunity to meet with Mr. Sayed today. Sayed, El Sayed? El Sayed, today. And I've gotten some calls in favor of Mr. El Sayed saying he's really trying to turn this around. And at the time when I had called this up, the sidewalk café, the enclosed sidewalk café was not compliant. New plans have been filed that I just got copies of, and I understand it does now comply, and certainly an enclosed sidewalk café would abate a lot of the noise that has been part of the problem that we have heard of in the past. So if we can lay this over just to get an update from the ninth precinct, I'd look forward to on Thursday moving

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2 this forward and continuing to work with Mr. El
3 Sayed to make sure that we are all better
4 neighbors. Thank you.

5 [Pause]

6 COUNCIL MEMBER MENDEZ: This is
7 probably one of the few restaurants I have not
8 been to. So-- because I don't cook, so I visit
9 almost all of them. So I will, and a couple of my
10 friends who go there quite frequently, are telling
11 me I have to go there because the food is very
12 good. So.

13 CHAIRPERSON AVELLA: Is that on the
14 record or are you just making it up?

15 [Laughter]

16 CHAIRPERSON AVELLA: Is it Kosher
17 or Glat Kosher? Which one would you prefer?

18 [Pause]

19 CHAIRPERSON AVELLA: Thank you,
20 Council Member. And I know that there have been
21 several issues relating to violations, and that's
22 why you're asking for recent police activity at
23 the location. I have to tell you, and I'm
24 speaking to the applicant, that based upon what
25 I've heard, I'm equally concerned, as Council

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2 Member Mendez is, and that I hope you have
3 straightened out the situation. But if those
4 situations are continuing and there are police
5 activity and they do have to out, and especially
6 one of the things I've hears is underage drinking,
7 I mean that's a very serious issue. And let me
8 just reinforce what I'm sure Council Member Mendez
9 has said to you, that that is something that
10 cannot, cannot be tolerated.

11 STEVE WYGODA: My understanding,
12 Council Member Avella, is that there was one
13 incident, over a year ago, and nothing-- almost
14 two years ago, and nothing since has happened, and
15 it was-- do you mind if Mr. El Sayed explains? Go
16 ahead.

17 MOHAMED EL SAYED: As a restaurant
18 we didn't have like-- you cannot have somebody,
19 you can be under 21 to get in. I have like four,
20 five waiters. You have to check ID. If somebody
21 asks for a drink, you're supposed to check ID.
22 She just lied; she didn't ask. So we had an
23 underage. What's the-- the best I can do is just
24 fire her. I have a meeting with them. I didn't
25 allow it. I didn't okay it to have somebody

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2 underage drinking. But, people make a mistake or
3 are feeling lazy, not asking. Or if they're
4 asking, doesn't even look. You have a staff
5 meeting, give a week, not effective two days,
6 three days, you have like meeting, you just try--
7 say over and over, but mistakes happen. I had
8 once like two years ago, we never have anything
9 after that. But even then it wasn't like because,
10 you know, I'm okay or just approve it; just
11 because she didn't care. That is just--

12 CHAIRPERSON AVELLA: [Interposing]
13 Well I think that's why Council Member Mendez has
14 asked for their recent police activity. But I
15 have to tell you-- which is the right thing to do.
16 But I have to tell you that it's still your
17 responsibility to make--

18 MOHAMED EL SAYED: [Interposing]
19 Somehow it is.

20 CHAIRPERSON AVELLA: --to supervise
21 your employees.

22 MOHAMED EL SAYED: Somehow it is,
23 by book. But if you look at it, I mean, what's
24 the best case scenario? You try and figure out,
25 you try and do whatever you can, but mistakes will

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2 happen. Since after that, we have like, security
3 staying out there, checking everybody ID, have a
4 band, a wristband for somebody so she doesn't have
5 to even ask if they have-- so we don't have
6 anything after that. But to just, you know, to
7 have a mistake, you know, it was a mistake made.
8 We tried to fix it out the right way. That is the
9 best-- I'm trying very hard just to keep it going.

10 CHAIRPERSON AVELLA: Okay. Very
11 good.

12 MOHAMED EL SAYED: Thank you.

13 CHAIRPERSON AVELLA: Any questions
14 from Committee Members? Seeing none, thank you.
15 We did have a representative from Community Board
16 3, Susan? Is she still here?

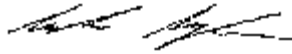
17 COUNCIL MEMBER MENDEZ: She had to
18 get to another meeting, but she had some testimony
19 she submitted to the record.

20 CHAIRPERSON AVELLA: Okay. She did
21 want to speak in opposition. Okay. Seeing-- is
22 there anybody else who wants to speak on this
23 item? Seeing none, I will close the public
24 hearing on this. And as I mentioned before, both
25 items, the vote will be at the next meeting of the

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2 subcommittee on zoning and franchises on Thursday,
3 the other items that were on today's agenda, the
4 special Forest Hills district zoning change, and
5 which was in Council Member Katz's district, and
6 two café applications, Chow and Hell's Kitchen,
7 both in Council Member Quinn's district, Speaker
8 Quinn's district. All have been laid over until
9 the next meeting of the Subcommittee on Zoning and
10 Franchises. Actually, not the next one on
11 Thursday, but the following one on March 4th.
12 Thank you everyone. This closes this meeting of
13 the Subcommittee on Zoning and Franchises.

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 3, 2009