

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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August 2, 2018
Start: 10:32 a.m.
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HELD AT: Council Chambers - City Hall

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

COUNCIL MEMBERS: Costa G. Constantinides
Barry S. Grodenchik
Rory I. Lancman
Stephen T. Levin
Antonio Reynoso
Donovan J. Richards
Carlina Rivera
Ritchie J. Torres

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

Donald Bernstein, Counsel Representing
Calle Dao Chelsea Restaurant

Marco Britti, Owner, Calle Dao Chelsea Restaurant

Andy Humm, Secretary, London Terrace Tenants Assoc.

Maryellen Carroll, Shareholder/Owner, London Terrace
Towers, 465 West 23rd Street at 10th Ave, Chelsea

Horace Chowdhury Appearing for: Juliana Fry, London
Terrace Towers Co-op Board Member

2 [background comments, pause] [sound
3 check] [pause]

4 CHAIRPERSON MOYA: Good morning and
5 welcome to the meeting of Subcommittee on Zoning and
6 Franchises. I'm Council Member Francisco Moya, and
7 we are joined here today by Council Members Rory
8 Lancman and Steven Levin. Today, we will be holding
9 public hearings on four sidewalk cafes, and we'll
10 also be voting on a number of items. If you are here
11 to testify on any item on the calendar, please fill
12 out a white speaker slip with the sergeant-at-arms
13 and indicated the LU number of the item you wish to
14 testify on that slip. It's like this if you haven't
15 done so already. The first hearing will be on LU
16 169, the application by Calle Dao Chelsea for a
17 revocable consent to operate an unenclosed sidewalk
18 café at 461 West 23rd Street in Speaker Johnson's
19 district in Manhattan. I now open the public hearing
20 on LU 169. Okay, Donald Bern-Bernstein. [background
21 comments] Right there. Yeah. [pause] Turn on your
22 microphone and please state your name for the record.
23 [background comments] Press the button. Yeah.

24 DONALD BERNSTEIN: Is that working now?

25 CHAIRPERSON MOYA: Yeah.

2 DONALD BERNSTEIN: Good morning. Thank
3 you. Donald Bernstein, Counsel for Calle Dao. With
4 me is Marco Britti who is the owner of the
5 restaurant. May I proceed? Thank you. Good
6 morning, Mr. Chairman and Council Members. Thank you
7 for having us on your agenda this morning. This is
8 an application for an unenclosed sidewalk café at a
9 restaurant that has been at this location on 23rd
10 Street, the north side of 23rd Street just about a
11 100 some odd feet east of 10th Avenue. They've been
12 open for about a year. We are applying for a very
13 small sidewalk café that consists of four two-tops.
14 So there will be a total of eight tables, which is
15 significantly less than the legally permitted number
16 of 25 seats that could fit in this space. This is,
17 as you well know, a zoning issue. The question of
18 whether or not to approve a sidewalk café is not a
19 referendum. It is not an election. It is determined
20 by law by whether or not there are land uses issues,
21 and it is in compliance with the zoning resolution,
22 and those issues have been previously determined.
23 Back in 2014-15, the then restaurant was operated as
24 Barchetta, and Barchetta had applied for an almost
25 identical sidewalk café. They applied for two tables

1 with a total of eight seats. We are very much aware
2 of the fact that there are residents in the building
3 who do not want a sidewalk café. I want to point out
4 that while this is not a referendum, there are many
5 residents in the building who do want the sidewalk
6 café. We have submitted to you in a package that I
7 just handed up a number of petitions and letters in
8 support of this sidewalk café. The zoning issue was
9 considered by in 2015. Department of Consumer
10 Affairs specifically asked us to get a survey and a
11 title report back then, and I—I say we because I
12 happened to have represented Barchetta at that time.
13 We provided to DCA. We applied—provided that to City
14 Planning, and we were advised back then that it is
15 properly zoned as a split lot for a sidewalk café.
16 Though that issue was challenged, it was put to rest
17 and the sidewalk café was approved by this committee,
18 by the Land Use Committee and by the City Council.
19 Archetta operated for about a year I think after
20 that, and then they closed. The sidewalk café here
21 only goes out about seven feet from the side of the
22 restaurant leaving an avenue sized sidewalk of 23
23 feet. I'm sorry. The width of the sidewalk is 23
24 feet. So, it leaves—leaves a clearance of 16 feet
25

1 well beyond the statutory requirement and limit. As
2 you're aware, we dealt with this issue a number of
3 years ago when counsel for the committee confirmed
4 that the only basis for denial can be a land use
5 rezoning issue. It cannot be based upon community
6 opposition, and I'm sure you're very well familiar
7 with the—with the cases that discuss that point, and
8 make that very clear. With respect to the propriety
9 of the space as a sidewalk café, there are cases that
10 say that classification of a particular use as
11 permitted in a zoning district is equivalent to a
12 legislative finding that the permitted use is in
13 harmony with the general zoning plan, and will not
14 adversely affect the neighborhood. That's a matter
15 of law. In addition, the—the scope of this sidewalk
16 café is such that it is not going to be a problem.
17 First of all, this is a full service sit-down
18 restaurant. It is a Cuban-Chinese fusion restaurant.
19 Very unusual. There's nothing like it to my
20 knowledge, and based upon what Marco is telling me in
21 New York it just so happens there was unbeknownst to
22 me a large Chinese population in Cuba in the last
23 century and many of them came here, and we're
24 offering that cuisine. As I said, the sidewalk café

2 only will have four tables and eight seats maximum.
3 We will agree to close it at this hours that are
4 requested by Community Board 4, which is 10:00 p.m.
5 during the week and 11:00 p.m. on weekends. We had a
6 meeting. The Speaker was very gracious in having his
7 staff meet with us two days ago to discuss this and
8 discuss ways that we can limit its effect on the
9 community, and we came up with a number of ideas
10 about how to do that. We are amenable to doing that.
11 As I said, we could have had by law perhaps 25 seats,
12 and we're not interested in doing that. An important
13 part here is that if you look at Lincoln-London
14 Terrace, the building on the north side of 23rd
15 Street, which stretches all the way for 9th to 10th
16 Avenue. It's a very large residential building, and
17 it is very difficult to see that there is a
18 restaurant at this location. The façade of the
19 restaurant blends in with the façade of the
20 residential building. There have been at least four
21 restaurants over the years. The have all failed.
22 The space was dark for a very long period of time
23 before Marco took the space. That's not good for a
24 community. It's not good to have a revolving door
25 space where one restaurant comes in and they fail,

1 another one comes in and they fail. It's important to
2 have this presence on the street. The sidewalk café
3 goes a long way towards giving that presence to us.
4 So, that's why it is important. Additionally, in
5 terms of land use, and I've attached photographs in
6 my submission to you, there is a railing on the
7 ground. It's a flower bed that goes along almost the
8 entire length of this block from about 150 feet in
9 from 10th Avenue all the way to about 150 feet from
10 9th Avenue. It doesn't—it's not in front of the
11 restaurant. So, there's a natural alcove right in
12 front of the restaurant where we could put these
13 seats and they will impede no traffic whatsoever. I
14 would also note that I've attached as an appendix to
15 my submission the chart of 311 complaints in the
16 city. I've showed it in this area. There are in the
17 past year two 311 complaints on the stretch of—on
18 the—on 23rd Street in that area. One of them relates
19 to a party in an apartment and the other relates to a
20 problem with a tree. So, in the past year there have
21 been no 311 complaints relating to this restaurant.
22 We think that this would be an amenity to the
23 community. We have support from residents. We have
24 letters from residents who think that this is a good
25

2 idea. We are in compliance with zoning. We are in
3 compliance with the code. There is no discernible
4 land use issue, and we would request that this be
5 approved just as the Barchetta one as approved.

6 CHAIRPERSON MOYA: Thank you. Thank you
7 for your testimony. You're dismissed. Thank you.
8 The next panel we have Andy Humm, Horace Chowdhury,
9 Anne Northrup, and Mary Ellen Howell.

10 MARRY ELLEN HOWELL: [off mic] Howell.
11 [background comments, pause]

12 CHAIRPERSON MOYA: Good morning. Yeah,
13 if you'd just push the button and state your name for
14 the record, you may begin.

15 ANDY HUMM: Thank you. Thank you, Mr.
16 Chairman. My name is Andy Humm. I'm the Secretary of
17 the London Terrace Tenants Association. We were
18 founded in 1953. We represent 1,000 rental units in
19 the London Terrace Gardens on West 23rd and West 24th
20 between 9th and 10th, and we strongly urge you to deny
21 this application from Calle Dao for an outdoor café.
22 We're joined in opposition by the London Terrace
23 Owners-Towers owners whose building where Calle Dao
24 is, and the unanimous opposition of the Building
25 Licenses Permits Committee of the Community Board 4

1 and the Full Board itself unanimously. When we met
2 with the owner, Marco Britti prior to him getting his
3 liquor license, we knew he had a very checkered
4 record, which is in my—attached to my testimony of
5 being rejected before, of violating stipulations.
6 So, we were nervous about him, but he said—he made a
7 bunch of promises to us, and he put them in writing
8 for the Community Board, and I have that and I'm
9 happy to supply his signed stipulations with the
10 Community Board where he promised I will not seek a
11 sidewalk café unless I have the support of the
12 Tenants Association of the Towers, and of the
13 Community Board, and if I don't get that, I want to
14 be a good neighbor, I'm not going for it. He
15 promised in writing. He also promised in writing in
16 this document: I will not have a storm enclosure
17 outside the restaurant. He put one up anyway, and
18 even if he had the right to do it, it would have been
19 illegally large, and it was complained about on 311.
20 So, I don't know if they're citing all the 311
21 complaints. The other thing he promised in writing
22 was: I will not have a bottomless brunch. He's got a
23 bottomless brunch advertised on the weekends every
24 weekend. He promised not to do these things. So, in
25

2 other words, in order to win our support, he made all
3 kinds of promises in writing to a government body.

4 Does that not mean anything? If someone signs
5 something to a government body are they allowed to
6 just ignore it. If you—if you allow him to go
7 forward and violate his promises, what respect are we
8 supposed to have for government in general if people
9 can just lie in order to get what they want. And by
10 the way, Mr. Bernstein told several

11 misrepresentations when he just testified. He said
12 all the restaurants there were unsuccessful. La

13 Traviata was very successful there, a beloved
14 restaurant. He said that we don't have any Cuban-
15 Chinese places in the city. I mean [laughs] we-we-

16 we—there were some wonderful ones in Chelsea until
17 they were all, you know, moved out by rents for I

18 mean 40, 50 years. So, that's—that's crazy. Well,
19 alright. Let me just go back. You know, the

20 problem—see, we were asked, you know, alright, he

21 wants to a sidewalk café. Negotiate with him and try
22 to get him down to certain things and if we—and if—

23 and we were told if you don't negotiate with them

24 for—for fewer tables, they can just go to court and

25 they can get these 25 tables and they can stay open

2 'til 1:00 in the morning, but the problem is when we
3 negotiate, as we did before, and we got a promise,
4 they just violate it anyway. So, we're not dealing
5 with someone—I mean and that's his record in previous
6 establishments: Agreeing to things and then not
7 doing what he says. So, we—we strongly urge you to
8 reject this application because, you know, he
9 promised not to do it. Thank you.

10 CHAIRPERSON MOYA: Thank you.

11 MARYELLEN CARROLL: Good morning. My
12 name is Maryellen Carrol and I'm a shareholder and
13 owner in London Terrace Towers at 465 West 23rd
14 Street at 10th Avenue. I've lived in the building
15 since 1996, and Chelsea since 1992. I'm here to
16 speak on behalf of my fellow shareholders, the Board
17 members and in solidarity with the residents on the
18 block and in the apartments, including Andy and the
19 people that he's representing, but also the people in
20 the neighborhood. I would like to begin by noting
21 that there have been numerous calls made to 311 about
22 the restaurant that has included complaints about
23 loud noise, staying open after hours, groups of
24 people smoking front of the buildings, garbage and
25 vomiting. If there's some confusion about this in

terms of the record, it may be because the address may have been given at 465 rather than 461, but this needs to be noted. The extracurricular activity of patrons drinking to excess to the point of vomiting is a part of the Calle Dao's history. One thing that living atop these establishments provides is a direct view including the live audio of adults who are not being curbed by their friends. If only they would do the same with their dogs as evidenced by the photos and the other materials that I'm going to submit via email. It's worthwhile now to quote the city back to itself and the New York City Affairs Guidelines for Sidewalk-Sidewalk Café design and regulations.

Sidewalks are used by the people to stroll, shop, go from work to and from. Sidewalks of New York were originally designed for 4 and 5-story buildings.

They now accommodate 40-story buildings and higher.

In fact, sidewalks have become smaller as the demands of motorized vehicles have grown and crowded streets, pedestrian malls, they're closed to vehicles.

Shoppers accept pedestrian congestion, and walkers sometimes even enjoy it, but certain vital arteries such as 23rd Street have congestion problems that slow down the life of the city. The High Line now

2 has over seven million people going up to its
3 entrance at 23rd Street as estimated by the
4 organization and the architecture firm Dillard
5 Schofield and Renfro who I spoke with this morning.
6 Twenty-third street is one of the main arteries for
7 people to get to the High Line and the west side
8 highway, and to the parks on the west side now, and
9 this includes access from the CME Line and also the
10 buses and other forms of transportation that people
11 utilize to get there. As stated in the Guidelines,
12 on these streets cafes are not visible options.
13 Sidewalk safety, there's no need—there's a need to
14 prevent situations that would be uncomfortable and
15 down right dangerous to pedestrians. This need is
16 especially great when sidewalk cafes, which consume
17 large portions of the sidewalks are imposed upon
18 public thoroughfares already occupied by other
19 obstructions. So, we're going to submit some
20 detailed—I'll submit some detailed plans and
21 measurements that actually show what these
22 obstructions are, and including photographs of the
23 congestion of the people that are actually on the
24 sidewalk, and this is 24/7. Our concern is for the
25 growing crowding on the sidewalk, the noise, the

1 smells, the trash, attracting vermin, cigarette
2 smoking, all seriously degrading the quality of life
3 and putting at real risk the residents and public as
4 well as the unique character of this historic block
5 between 9th and 10th Avenue. It will have a negative
6 impact on all the residents and buildings, and do we
7 have to continue to go through this process with our
8 elected officials when we've already made the case
9 against this on numerous occasions with all of you?
10 In addition, I'm going to also submit drawings that
11 regard the ADA compliance that with Mr. Bernstein's
12 testimony would make it impossible within that six-
13 foot alcove to have four feet of ADA access that
14 would also include a three-foot area for serving, and
15 the ventilation that's required by the building that
16 has the—the dryer vents, and also the HVAC system
17 that vents directly out onto the street. So, another
18 question is: Who in their right mind would want to
19 sit at a café table with some kind of Fabreze or
20 other material blowing onto them while they're
21 enjoying their Cuban-Chinese meal? So, in closing—
22 excuse me. I just have two. I just want to thank
23 the Committee for hearing this testimony, and also
24 that there's going to be consideration, um, that the
25

2 constituents and voters that we implore you to
3 consider all of the statements that we're making, and
4 the actual facts that we're going to present to you.
5 This is our city, and this is a unique block that
6 provides a much needed repose from the traffic and
7 congestion, and that it is the entrance to the High
8 Line and let's keep it this way. Thank you.

9 CHAIRPERSON MOYA: Thank you.

10 HORACE CHOWDHURY: Hello. My name is
11 Horace Chowdhury. I'll be—I'm representing Juliana
12 Fry of the London Terrace Towers Co-op Board Members,
13 and we'll now present her testimony. Dear members of
14 the Land Use Committee, I'm writing today in
15 opposition to the proposed outdoor tables and chairs
16 that the operator of the restaurant Calle Dao is
17 requesting. My understanding of how the previous
18 restaurant owner Barchetta got a split ruling on
19 their sidewalk table was by calculating the feet from
20 the 10th Avenue curb to where their basement storage
21 rooms began inside our co-op, not inside their
22 restaurant, but inside our co-op in the—in the
23 basement. The storage room falls within 100 feet or
24 so of the curb, but it is not in the essence of the
25 law to calculate in-basement storage units, which are

most likely in violation of city code themselves as they use them as a back-up prep area for their kitchen. No ventilation. Only mice. Between the 8-foot by 3-foot laundry room vent, which is situated in the middle of the proposed outdoor café area, and the lack of a proper 3-foot service aisle or an ADA compliant access to this area, and the approximate 8-foot x 5 foot tree pits, the bike racks, the sandwich boards, and the potted planters, there's simply no room for outdoor tables on the street. Barchetta used to move their tables into the pedestrian sidewalk every day to avoid the air pushed out through the 24-hour laundry room vent. This establishment will definitely have to do the same. You are setting them up for failure if you allow the tables, and you are burdening our residents with the job of policing their illegal behavior. It is also discouraging to think that an operator for profit would be considered over the public's needs for more sidewalk space especially considering we now have over seven million visitors walking this very block to the High Line each year. It is a terrible decision to grant any tables, and will only cause much anguish and many complaints from hard working residents trying to get

2 some rest at home after work. Why the City Council
3 would want to grant an operator with a terrible track
4 record permission to continue their bad behavior on
5 our residential block will be inconceivable to our
6 entire community. I would like to point out as well
7 that there is not one outdoor table on 23rd Street
8 from the East River to 10th Avenue. These are all
9 large residential blocks and London Terrace is the
10 sum total of 2,178 apartments located on one full
11 city block. That is a heck of a lot—that is a heck
12 of a lot of potential complaints from one community.
13 I encourage you to deny the request for any outdoor
14 tables at this location. Thank you.

15 CHAIRPERSON MOYA: Thank you.

16 [pause/background noise]

17 ANN NORTHRUP: Good morning. I'm Ann
18 Northrup and shareholder/owner in London Terrace
19 Towers at 46 West 23rd Street. I've lived there
20 since 1993. I have to say it kind of breaks my heart
21 to be here. When Mr. Britti first applied for a
22 restaurant license in our building, we did meet with
23 him. We had a very cordial meeting. We had a
24 meeting of the minds, and we did negotiate a quality
25 of life agreement that worked for all of us. So, to

2 have to come here a year later because he has decided
3 that he has changed his mind about that agreement is
4 really heartbreaking, and certainly upsetting that we
5 have to keep fighting this month after month going to
6 community board hearings, this hearing and any number
7 of other things. I'm—and I want to echo what Andy
8 said about La Traviata having been a very successful
9 restaurant for at least 10 years in that space. It
10 does not—they had no outdoor tables. It does not
11 require outdoor tables. Le Pif right next door to
12 Calle Dao has no outdoor tables nor does any other
13 restaurant, as we've heard, on the whole stretch of
14 23rd Street have outdoor tables. So, I really don't
15 think that's going to solve his problem, but I'm
16 interested in what Mr. Bernstein said about the fact
17 that he has a legal right to these tables barring
18 adverse impact on the community. This will have an
19 adverse impact on the community. Smoking we haven't
20 talked about. The smoking is—all outside the
21 restaurant is already permeating the apartments of
22 people living over the restaurant, and Maryellen
23 lives on the second floor right over the restaurant,
24 and others who have testified at other hearings talk
25 about the impact of that smoke. You cannot fit the

2 tables into that six-foot area, that alcove. Yes,
3 the sidewalk is wide, but those tables must go in
4 that six-foot area, and they will not fit in there
5 with the laundry vent pouring hot air from the
6 laundry right into those tables. There is a real
7 quality of life here—issue here and a real adverse
8 impact on the community. It is unimaginable that
9 they would put those tables there, and we have
10 suggested to them that they put an unoccupied table
11 or two out there to advertise the restaurant.
12 They're not willing to do that as a compromise. They
13 want to put out tables that are serving no matter
14 what the community says, no matter what inconvenience
15 it poses to people walking by, and there are large
16 crowds on that sidewalk, and no matter the impact on
17 all the residents living above them who will be
18 impacted by the smoke, the noise, the garbage, the
19 vomiting of drug patrons. Barchetta violated the
20 agreement about how many hours to be open. We expect
21 the same will happen here. We are really horrified
22 of the idea of having these outdoor tables. Thank
23 you.

24 CHAIRPERSON MOYA: Thank you. Thank you
25 all for your testimony today. Are there any members

of the public who wish to testify on this issue?

Seeing none, I now close the public hearing on this

application. Our next hearing is on LU 170, the

application by Two Hands Tribecca, LLC for a

revocable consent to operate an unenclosed sidewalk

café at 251 Church Street in Council Member Chin's

district in Manhattan. I now open the public hearing

on LU 170. Seeing that there is no applicant, are

there are any members of the public who wish to

testify on this issue? Seeing none, I now close the

public hearing on this application. Our next hearing

is on LU 171, the application by Sugary Goddess,

Corporation Whai Oyster Arka Wahizza for a revocable

consent to operate an unenclosed sidewalk café at

4486-4488 Broadway in Council Member Rodriguez's

district in Manhattan. I now open the hearing on LU

171. [background comment] No applicants. Are there

any members of the public who wish to testify?

Seeing none, I now close the public hearing on this

application. Our next hearing is on LU 172. The

application by Sylvia L. Duran, Grito Mexican Grill

for a revocable consent to operate an unenclosed

sidewalk café at 1555 Saint Nicholas Avenue in

Council Member Rodriguez's district in Manhattan. I

2 now open the public hearing on LU 172. With no
3 applicant being here, are there any members of the
4 public who wish to testify? Seeing none, I now close
5 the public hearing on this application. And now
6 we're going to take a short recess, and we'll be
7 back. Thank you. [Committee in Recess] [background
8 comments, pause]

9 SERGEANT-AT-ARMS: Quiet, please.

10 CHAIRPERSON MOYA: Thank—thank you. Thank
11 you all for your patience. We are not going to
12 resume the committee meeting. We will now move on
13 out votes. We will be voting to approve two of the
14 four cafés, which just—we just held a hearing on in
15 accordance with the recommendations of the local
16 members. They are LU 170 and 172. We will be voting
17 to disapprove LU 169, the application by Calle Dao
18 Chelsea. Given the issues raised in the testimony of
19 the residents of the area that we just heard, the
20 café would be a nuisance to the community based on
21 the testimony. We will be voting to disapprove LU
22 171, the application by Whai Oyster Arka Wahizza due
23 to the information in the resolution of the Community
24 Board about drunk and disorderly conduct of the
25 patrons demonstrating that the café would be a

1 nuisance. We will also be voting to approve LUs 141,
2 the post office and to file LU 142 Nobody is Perfect.
3 These two sidewalk cafes were the subject of hearings
4 on July 17. The Post Office Café has the support of
5 Council Member Reynoso. Nobody is Prefect Café
6 application was withdrawn by a letter dated August 1,
7 2018, and will be—and we'll vote to file it, to
8 remove it from the calendar. This morning we will—we
9 will be voting on the modifications to an application
10 consisting of six separate land use actions submitted
11 by the Economic Development Corporation that together
12 make up the Inwood Rezoning, LUs 135 through 140.
13 The Inwood Rezoning Proposal would rezone 59 blocks
14 of the Inwood neighborhood to require contextual
15 building and a new affordable housing and to promote
16 economic development. Additionally, the proposal
17 would facilitate public access to waterfront open
18 space and to major affordable housing developments
19 with a community facility and economic development
20 components on city-owned land. The Council is
21 modifying the Zoning Map and the Zoning Text
22 Application in response to concerns voiced by
23 community members and elected officials regarding
24 potential displacement of existing businesses and
25

1 residents. The urban design of the new building stock
2 and affordability—affordability levels of new
3 development. The Council is modifying the Zoning Map
4 Amendment LU 135 to eliminate the upzoning in most of
5 the Commercial-U and along Dyckman west of Broadway
6 while retaining the upzoning of the Inwood Library
7 and certain adjacent sites. Additionally, the Council
8 is—additionally, the Council is lowering the proposed
9 density on certain blocks with large concentration of
10 rent regulated housing to reduce the incentive to
11 redevelop these buildings. Even in the areas removed
12 from the upzoning, the Council is still mapping the
13 proposed C2-4 commercial overlay, and allowing
14 commercial development on the second floor of mixed
15 buildings to promote economic development. The
16 Council is modifying the Zoning Text Amendment LU 136
17 to remove Mandatory Inclusionary Housing Option 2 and
18 to allow deep affordability options. This means that
19 the final version will map MIH Option 1 and the deep
20 affordability option, which together require the
21 deepest affordability possible. Additionally, the
22 Council is modifying the application to make the
23 proposed Mandatory Inclusionary Housing areas and
24 transit easement zones match the final upzoned areas.
25

1 The Council is also establishing new urban design
2 rules to require building base heights in certain
3 areas to substantially match the local neighborhood
4 character, which consists primarily of six-floor
5 walk-up buildings. To facilitate these rules, the
6 Council is creating four subareas within Upland Area
7 Subdistrict D, which of these, which each of—each of
8 which has locally appropriate based height rules.
9 Additionally, the Council is retaining the proposed
10 Special District in the portion of the Commercial-U
11 removed from the upzoning via a new Subdistrict F in
12 order to promote affordable housing and contextual
13 urban design. The Council's modification would allow
14 developers in this new subdistrict to take advantage
15 of the lower parking requirements proposed for the
16 rest of the Special District if they provide at least
17 20% affordable housing at 60% of the area median
18 income, which could be achieved with 421-A, Option A
19 and follow the Quality Housing Bulk Rules that result
20 in contextual buildings. Additionally, new mixed-use
21 quality housing buildings in the Commercial-U would
22 be relieved of their parking requirements for
23 commercial and community facilities uses—facility use
24 to promote economic development, which is similar to
25

1 what is proposed for the rest of the Special
2 District. To protect the light and air of existing
3 residents, buildings in the area that use the Quality
4 Housing Bulk Rule will be able to take advantage of
5 proposed special rules found elsewhere in the Special
6 District that allow new buildings to go 10 feet
7 higher if they set the building back from existing
8 windows that are on or near lot lines. [coughs] The
9 council is also retaining the 25-foot limit on bank
10 frontages in the Commercial-U to help retain the
11 local retail character of the area while removing the
12 underground floor controls from scope reasons. The
13 Council's modifications would retain the Special
14 Permit for new hotel construction through out the
15 entire Special District and also allow for gyms and
16 health clubs to be developed as a right-as-of-right
17 throughout the Special District even in areas removed
18 from the upzoning. The only other action the Council
19 is modifying is the proposed acquisition of the
20 library, LU 138. While the City Planning Commission
21 approved an acquisition of approximately 18,000
22 square feet based on the size of the current library.
23 The Eliza development is projected to contain
24 approximately 20,000 feet of library space, and the
25

2 Council is modifying the application accordingly.

3 The community is represented by Council Member

4 Rodriguez who has engaged with the de Blasio

5 Administration and the community for many years to

6 make sure that this process result is the best

7 possible outcome for the community. I would like to

8 invite Council Member Rodriguez to make a few remarks

9 prior to the vote.

10 COUNCIL MEMBER RODRIGUEZ: Thank you

11 Chairman Moya. I would like to invite, you know,

12 members of our community to get together tonight at

13 one of those restaurants, the one on Ocean and it's

14 on Sherman and Broadway Casa Del Mofongo because I

15 think that it is important for the community to come

16 together. The voices of all of you as I said have

17 been hard from my end loud and clear. Like I'm a

18 community organizer. I'm the guy I have shared my

19 history. I haven't done a rezoning in my nine years

20 even though I've been invited to engage on big

21 rezoning Broadway from 155th to 225th, 100 feet side-

22 to-side, I said no, this will change our community.

23 I was invited to the rezoning of Herbie (sic) and

24 Broadway. I say no because it didn't make sense for

25 our community. I was invited to the rezoning on

2 Major (sic) and Broad at the former gas station. I
3 said no. I was invited to engage in conversation for
4 rezoning at Broadway and Sherman. I said no. I feel
5 that a community that as I said before has been built
6 by Jews that came from Germany, Irish, Italian,
7 African-American, Greek. You know, we have some that
8 are spread on there as a reminder that that community
9 should be a strong Greek population, the Cubans, then
10 all the Latinos. Today we have a big responsibility
11 to respond to a crisis that didn't happen overnight.
12 Our crisis like the MTA have been the accumulation of
13 decades of elected officials voting for vacancy
14 decontrol of elected officials allowed the advantage
15 and Pinnacle and others for they were using bad
16 tactics—a lot of tactics to push our people. You
17 know, in nine years that I've been here, I can tell
18 you over and over in the HPD report and the budget
19 system and when I hear her and read all those years
20 that community were getting thousands of
21 preservation, 2,000 of preservation, 2,000 new
22 affordable housing, I always question why Northern
23 Manhattan in the last 25 years has received less than
24 1,000 affordable housing built. Why our community
25 didn't get investment in preservation. Very clear.

1 We're a state community wanted to push our people.
2 They stopped providing—allowing people with Section 8
3 to get their apartment since 2001 into 2009 when
4 they—then there was no more Section 8. So, I
5 listened to all of you loud and clear. I work again
6 with the great Chairman of this Zoning Committee and
7 Council Member Moya, Council Member Salamanca,
8 Speaker Johnson and our esteemed Land Use, the
9 Mayor's side providing all the information, listening
10 to you. You said loud and clear this rezoning was
11 too big. This rezoning was too large, and that's why
12 we decided that's your victory. That's not my
13 victory. That's every victory of you, all of you who
14 say R7A have to be established in our community so
15 that we protect Sherman, Vermilya, Academy, 204 where
16 for now on we put a limit and there is not any
17 incentive for anyone to try to build higher in that
18 area. Also, we heard that small business had to be
19 protected that there's a gradual mom and pop store in
20 the city, and that we live in a city that we provide
21 billions of dollars of subsidy to the big
22 corporations, but few dollars to the small business,
23 and that's why I'm so proud to say that for the first
24 time in the City of New York in that rezoning area,
25

1 when any developers build with city subsidy, we will—
2 we are establishing a commercial rent control in
3 those sites where the mom and pop store that we get a
4 lease for 10 years and they will be working out a
5 process to control those increases. I'm happy to say
6 that we got a lot of things, and you were ready
7 because for the first time in this Administration and
8 this Council any agreement there are open data.
9 Anyone will have access to read what were those
10 agreements, but I can tell you one of the most
11 important things a big number for preservation,
12 protection and creation with a plan to build and
13 preserve 5,100 in the next five years when did we get
14 it, when we go less than a thousand in the last 25.
15 We're getting DOT sites, the 1205 between 9th Avenue
16 the river that will be disposed of (sic), and we will
17 use that site to build 100% affordable. There's a
18 commitment that the Sanitation site at 215 between
19 Broadway and 9th Avenue, 10th Avenue we will close
20 that site when the city builds all the Sanitation
21 sites, and that site will be used to build 100%
22 affordable. We're going to be working on this plan
23 to work in the Vermilya site. You know, I was told
24 by some people that that site had been heavily used.
25

1 You—we walked through Vermilya Avenue how many times,
2 how often do we see children using that site to do a
3 sport? So, we want for that site. We have vision
4 for that site to build as a recreation center in the
5 first floor for the school and community use and
6 affordable housing. That's part of the plan, but
7 also we are building in our city and in this case
8 we're privileged to say that in the tip—in the higher
9 point of the island, the first of the nation
10 Immigrant Research Center Performance Arts. The
11 Research Center is run by the public library.
12 Therefore, it doesn't matter who the politician is,
13 who the Council Member is in the future, we guarantee
14 that the future generation will have a site where we
15 will research and celebrate the contribution of all
16 of us together with a big performance art around 250-
17 seat theater for us not to have to go to the Victory
18 Theater to see a play, but to be able to have those
19 resources in our community. We are investing more
20 than \$50 million in the George Washington campus.
21 You heard from the teachers, from the principal, the
22 superintendents and start to teach during the winter
23 those windows that are not working. We're changing
24 all the windows in that campus. We are building. We

2 put in \$20 million, \$10 million from the Council, \$10
3 million for the Mayor to build to renovate the two
4 pools with bleachers and area and—and area for
5 students and parents that will be able to use those
6 two pools for the students and the community. We are
7 also getting a PTEC a 9 to 14 school that will be
8 focused on Megatronic STEM education. We got in this
9 process a commitment with resources that our students
10 will be taking Algebra in the middle school, but
11 we're going to be building the pipeline from
12 elementary school so that they are able to make the
13 transition, and there's going to be resources to
14 train and retrain our teachers. We want to make all
15 our schools to teach around STEM education. Female,
16 black and Latino have been left out in the tech
17 field. Our number I am representing there in Apple,
18 Facebook and Google and we need to create the
19 pipeline with that commitment. We are bringing this-
20 the STEM center that now operates at City College
21 into the George Washington campus to work with the
22 students and the community. So, I'm one I can tell
23 you a lot of things that you will be able to see and
24 with more details, I will be able to celebrate all of
25 you. I think that we as a community came through a

1 long process. I'm proud to say that your voices were
2 heard here loud and clear. That probably is not a
3 perfect one, but I feel that downsizing the rezoning
4 taking care of a lot of investments there's going to
5 be around \$500 million investment in capital. Our
6 park will be getting more than \$150 million
7 investment in our park and the waterfronts, something
8 that we have never seen before. So, again, thank
9 you. I want to thank again everyone, you know, from
10 the Speaker, Rajo, George, Jim, my staff including my
11 Chief of Staff Jose Lewis, Deputy Chief of Staff
12 Stephanie Milanio, Allison James, Evelyn Wong, Van
13 Troy, the former DDC Commissioner Feniosky Pena-Mora.
14 I know he left. He's a tenure Professor at Columbia
15 former Dean of the School of Engineers. He being one
16 of the top advisory in this process as also Evan
17 Sennet (sic) and other members of the Executive
18 Committee of our Community. [Speaking Spanish] I
19 want to thank [Speaking Spanish] Thank you, Chair.

21 CHAIRPERSON MOYA: Thank you, Council
22 Member Ydanis. We will be voting to approve LUs 144
23 through 146 the East 14th Street and Irving Place
24 Tech Hub Applications for property in Union Square in
25 Manhattan in Council Member Rivera's district. The

1 NYC Economic Development Corporation and 14th at
2 Irving, LLC are applicants for a zoning map change, a
3 zoning text amendment and special permit. These
4 actions would facilitate the redevelopment of city-
5 owned site currently occupied by the two-story PC
6 Richard Build-P.C. Richard Building with a 21-story
7 technology focused office and retail building in the
8 Union Square neighborhood of Manhattan in Council
9 Member Carlina Rivera's district. I now want to turn
10 it over to Councilwoman Rivera for her remarks.

11
12 COUNCIL MEMBER RIVERA: Thank you Chair
13 for the opportunity to speak today in regards to LU
14 144, 145 and 146. These three Land Use items would
15 respectively amend the Zoning Map and grant the
16 Special Permit to facilitate the development of a
17 digital skills training center on property located at
18 124 East 14th Street at the Form P.C. Richards site.
19 Known colloquially as the Union Square Tech Hub.
20 This building could provide a variety of amenities,
21 over 1,400 jobs and provide benefits to our
22 communities from University Place to Avenue D. These
23 are the streets where I grew up and nothing means
24 more to me than finding a balance that preserves,
25 protects and brings opportunity to every corner of

District 2. Before we vote on these Land Use items, I want to thank the members of the Subcommittee, the Speaker, the Council's Land Use Division, my staff, and all of the community members who spent months and countless hours working with my team as we navigated the ULURP process. As I vote yes at this Subcommittee hearing, I want to make it clear that I am doing this so that I can continue negotiations with the Mayor's Office towards the possibility of reaching a deal that will satisfy all impacted communities before next week's stated meeting. The Mayor's Office came to the table with a set of proposals and I appreciate their commitment to work with us. Over the next few days I look forward to negotiations and getting to the point where I and stakeholders are satisfied. The fight to keep history is important, and our vision for the neighborhood includes character and vibrancy for all generations to come. I will continue to involve all the—al the people, all the stakeholders, the people who are in this room who have worked tirelessly for this including the neighborhood advocate and the organizers during these negotiations , and I appreciate the calls and the letters I have received from so many constituents

1 regarding this decision. I will not stop working
2 until we reach a deal that provides us with a
3 comprehensive, holistic approach to both access to
4 technology education and protections of our vibrant
5 community. Again, I want to thank everyone for the
6 last few months of negotiations. I really think that
7 we can come to a place where we find a balance and we
8 could have projects and protections that we are proud
9 of, and again, I want to thank the Subcommittee, my
10 team and, of course, the Speaker and the Land Use
11 Division for all of your work. Thank you.

12
13 CHAIRPERSON MOYA: Thank you,
14 Councilwoman Rivera. We will be voting to file LUs
15 166 and 167, and the 40-30 82nd Street Rezoning,
16 which was withdrawn by the applicant on July 16th
17 will be taken of the calendar. [background comment]
18 Oh, I'm sorry. Yeah, so we will also—we will be
19 voting to modify the East 33rd Street Rezoning, LUs
20 147 and 148. The applicant the 33rd Street
21 Acquisitions, LLC seeks a zoning map change from R8-A
22 to a C1-9A and a zoning text amendment to apply MIH
23 Option 1 to the rezoning area, which is in Council
24 Member Rivera's district in Manhattan. Modification
25 will be to add MIH Option 2 to the Zoning Text

2 Amendment. LU 148 which applies to a larger area
3 than just the applicant's property. Councilwoman
4 Rivera you're up one more time.

5 COUNCIL MEMBER RIVERA: Okay.

6 CHAIRPERSON MOYA: Thank you.

7 COUNCIL MEMBER RIVERA: Okay, thanks.

8 Thank you, Chair Moya for your graciousness today. Um
9 thank you for the opportunity to speak in regards to
10 LU 147. LU 147 would allow for an amendment of the
11 Zoning Map for the property located at 339-345 East
12 33rd Street that would permit the construction of a
13 new 23-story building that would contain
14 approximately 40 permanently affordable housing
15 units. After continued negotiation regarding this
16 land use item with the developer, 33rd Street
17 Acquisition, LLC I believe we've reached a fair
18 agreement that requires the developer to partner with
19 unions to hire locally, ensures that construction
20 will be completed with as minimal impact as possible,
21 encourages the applicant to seek a community use for
22 the ground floor retail space, and provides for
23 community involvement throughout the process. In
24 addition, I feel this deal that provides for strong
25 protections and options for existing tenants to

1 return to the completed building regardless of their
2 income level. In the process, based on conversations
3 with HPD, there exists the possibility that this
4 would lead to additional affordable units being
5 created. I want to thank the applicant, the
6 Council's Land Use Division, Community Board 6 and
7 all of the constituents who assisted me during the
8 ULURP process. I consider housing to be my top
9 priority as a Council Member and I appreciate
10 everyone's hard work to maximize affordability in a
11 neighborhood that is becoming more and more difficult
12 for the average New Yorker to live in. Thank you so
13 much for the opportunity to make some remarks.

14
15 CHAIRPERSON MOYA: Thank you,
16 Councilwoman. I now call for a vote in accordance
17 with the recommendations of the local Council Members
18 to approve LUs 137, 139, 140, 141, 144, 145, 146,
19 147, and new cafes that are 170 and 172 and to
20 approve with the modifications I have described on
21 LUs 135, 136, 138 and 148 and to disapprove 169 Calle
22 Dao Café, and 171 Whai Oyster and to file LUs 142,
23 146 and I'm sorry-142, 166 and 167. Counsel, please
24 call the roll.

2 LEGAL COUNSEL: All items are coupled.
3 Chair Moya.

4 CHAIRPERSON MOYA: Aye.

5 LEGAL COUNSEL: Constantinides.

6 COUNCIL MEMBER CONSTANTINIDES: With
7 reservations I vote aye.

8 LEGAL COUNSEL: Lancman.

9 COUNCIL MEMBER LANCMAN: Aye.

10 LEGAL COUNSEL: Levin.

11 COUNCIL MEMBER LEVIN: I vote aye.

12 LEGAL COUNSEL: Reynoso.

13 COUNCIL MEMBER REYNOSO: I vote aye.

14 LEGAL COUNSEL: Richards.

15 COUNCIL MEMBER RICHARDS: Aye.

16 LEGAL COUNSEL: Rivera.

17 COUNCIL MEMBER RIVERA: Aye.

18 LEGAL COUNSEL: Torres.

19 COUNCIL MEMBER TORRES: I vote aye, but
20 I'm going to abstain on the Inwood Rezoning.

21 LEGAL COUNSEL: All items are approved by
22 a vote of 8 in the affirmative, 0 negatives and no
23 abstentions except for Land Use Items 135 through
24 140, which are approved by a vote of 7 in the

1 affirmative, no negatives and 1 abstention and all
2 items are referred to the full Land Use Committee.

3
4 CHAIRPERSON MOYA: Thank you. Before we
5 conclude this Subcommittee meeting, I would just like
6 to read a statement that I have prepared. As I've
7 said previously before this Subcommittee and I will
8 continue to say is that I believe that housing is a
9 human right. It's our duty as legislators and the
10 government's obligation to ensure that safe, secure
11 and affordable housing is available to those who need
12 it. New York City is in the grip of a housing crisis
13 and we're going through it. We first need to
14 understand it, and here's the truth: This housing
15 emergency only affects low-income households. There
16 is no housing crisis for market rate renters. What
17 we need are more affordable units, not luxury and
18 market rate apartments. To continue building market
19 rate units is to treat a problem that doesn't exist
20 while at the same time ignoring the critical threat
21 that's affecting countless working-class New Yorkers.
22 As a city, we have yet to find and implement a
23 solution to this housing emergency, but it's clear
24 that that solution will include rezonings. We must
25 take a mindful approach to each rezoning so we don't

1 doom the communities that we're trying to aid. That
2 means ensuring rezoning developments include
3 responsible contractor language, and that the men and
4 women tasked with building these projects are paid a
5 living wage, and work under safe conditions. It means
6 that we need to study neighborhoods before and after
7 they're rezoned to get a holistic understanding of
8 their effects, specifically of secondary
9 displacement, and it means expanding the certificate
10 of no harassment to protect residents from predatory
11 landlords. Additionally, the city must make higher
12 NYC data available to the New York City Council and
13 the public so that we have a substantive
14 conversation, a substantive conversation about this
15 initiative and how effective it is at promoting local
16 hiring. It's no secret I also have fundamental
17 misgivings about the city's strategies to create
18 affordable housing, specifically, the Mandatory
19 Inclusionary Housing program. I believe we need to
20 change the conversation and stop relying on the
21 market to save us. We are in the midst of a housing
22 crisis. If you haven't noticed, perhaps it's because
23 you're not spending 40, 50, 70% of your income on
24 housing like many working class New Yorkers are? The
25

2 housing emergency is real, and the market isn't
3 coming to rescue us. It's time to created affordable
4 housing because it's the moral and human thing to do.
5 Not because private developers can turn a profit.
6 But lastly I want to speak directly to everyone in
7 the audience here today and those that are watching
8 on the live stream is I want to apologize for the
9 protracted delay that we had in this hearing, and
10 thank you for your patience. You should not have to
11 sit here waiting while these last minute negotiations
12 drag on. It's shameful that the Mayor's Office drags
13 negotiations out to the eleventh hour down to the
14 last second. There are thousands of lives dependent
15 on a responsive and responsible government and
16 subjecting their fates to this treatment is an insult
17 to all New Yorkers. Having said that, there have
18 been some truly amazing people who have worked on
19 this, a tireless effort to get this rezoning done,
20 and that is the staff in Land Use, and I really want
21 to take this opportunity to thank George Zakarian
22 (sp?), James Lloyd and my co-pilot here Julie Lubin,
23 Raju Mann and Amy Levitan. These folks spend
24 countless hours and probably didn't go to sleep until
25 about 4:00 this morning to make sure that they can

2 bring the best possible project forward. So, I
3 really want to take my hat off to the Land Use staff,
4 and thank them for everything that they've done.
5 This concludes today's hearing, and I would like to
6 thank the public, my colleagues, Council and, of
7 course, the Land Use staff for attendance. This
8 meeting is hereby adjourned. [gavel]

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C E R T I F I C A T E

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



Date August 4, 2018