

1 CHARTER REVISION COMMISSION
2 PUBLIC ISSUE FORUM
3 LAND USE
4 QUEENS BOROUGH PUBLIC LIBRARY
5 41-17 MAIN STREET
6 FLUSHING, QUEENS
7 6:12 P.M.

8
9 CHAIR: DR. MATTHEW GOLDSTEIN

10 COMMISSION MEMBERS:

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21 KENNETH M. MOLTNER

22 KATHERYN PATTERSON

23 CARLO A. SCISSURA

24 BISHOP MITCHELL G. TAYLOR

25

1 CHAIRMAN GOLDSTEIN: Good evening, ladies and
2 gentlemen I'm Matthew Goldstein, the Chairman of
3 the Charter Revision Commission. We are about to
4 begin our deliberations for this evening. But
5 before we do, I would like to acknowledge the
6 presence of our very esteemed Borough President
7 of Queens, Helen Marshall, who has asked for a
8 little time to welcome you and to say a few
9 words.

10 Madam Borough President.

11 BOROUGH PRESIDENT MARSHALL: Thank you very
12 much. Good evening, everyone. First of all, I
13 would like to welcome Matthew Goldstein, a
14 fabulous Commissioner, a fabulous Chancellor of
15 our City University, under his leadership has
16 expanded and grown and increased. It's a
17 wonderful contribution to the entire City of New
18 York.

19 I want to thank the Commission for coming to
20 Queens tonight to hear from Queens residents who
21 have a lot to say about land use. And I'm
22 delighted that you did choose the topic of land
23 use.

24 I welcome both Chancellor Goldstein and all
25 the members of the Commission, and I'm here today

1 to speak on behalf of the more than 2.3 million
2 people of Queens and to offer views on Charter
3 Revision. In particular, the City's land use and
4 development process.

5 I'd like to point out that when the City
6 Council -- when we did away with the Board of
7 Estimate and the City Council became the
8 governing body, one of the most important
9 responsibilities that was given to them was land
10 use. We have a great many concerns about what is
11 built, how it's built, and where it's built. And
12 that requires we have a very extensive ULURP
13 process that we refined over the years.

14 The importance of the land use process
15 extends beyond zoning changes and major
16 developments. Projects must be planned to expand
17 the Borough's need, and the possible impact on
18 the environment, and the quality of life in our
19 communities to be considered.

20 I have recently been involved in planning
21 development of large areas. Such as Willets
22 Point, Hunters Point, Flushing Commons, and
23 recent and right now working on the whole Queens
24 Borough Plaza. When you cross that bridge it's
25 going to look very different. In fact, it's

1 already starting look different, and it's going
2 to be beautiful. I worked on countless other
3 smaller projects that are just as important to
4 local residents.

5 Working with developers, community
6 representatives and city officials, I had helped
7 to shape or modify projects and make them more
8 appropriate to their respective communities.
9 Also, I helped to obtain agreements from the
10 developers that are a benefit to the community.

11 The Borough Presidents Charter-Mandated role
12 in the land use and development process is
13 already significant, but it should be much
14 stronger. Also, Community Boards, too often
15 ignored by the City, need to be given stronger
16 voice. I know that when we developed the ULURP
17 process it was an attempt to do that, but it has
18 not completed the job. Therefore, I am calling
19 for a number of revisions to the City Charter
20 which are intended to make Borough Presidents and
21 Community Boards more effective with stronger
22 roles in land use and development.

23 Borough Presidents as independently elected
24 officials with Charter-mandated duties in land
25 use and development must be given an

1 independently determined baseline operating
2 budget.

3 The ULURP process should be amended to
4 require that the City Planning Commission can
5 only overturn a Borough President's
6 recommendation by a supermajority vote. Borough
7 Presidents should be given appointments to the
8 Landmarks Commission, the Board of Standards and
9 Appeals and the Art Commission. Too much of that
10 is now advisory.

11 Borough Presidents must be given the
12 resources to operate their planning offices to
13 fulfill their Charter mandates, to provide
14 technical assistance to their Community Boards.
15 They must also have the resources to hire or
16 contract with environmental experts.

17 The Charter also requires that Borough
18 Presidents have a consulting engineer on staff.
19 Most of us can only afford to have a part-time
20 engineer. The Charter should provide a way for
21 Borough Presidents to monitor and, of course, in
22 compliance with Community Benefit Agreements.
23 Fair Share principles should be applied during
24 the planning stages on a Citywide basis so that
25 no individual Borough gets saturated with more

1 than its Fair Share of certain kinds of buildings
2 or facilities.

3 The Charter should provide for the creation
4 of Borough Infrastructure Committees chaired by
5 the Borough President. Community Boards must also
6 be given the resources to perform their Charter-
7 mandated duties. They should have guaranteed
8 budgets, access to urban planners and other
9 professionals with technical expertise. These
10 are just some of the suggestions which would
11 ensure that land use changes in developments
12 advocated by the City do not have unanticipated
13 and negative impacts.

14 I can say to you that when a project is
15 being proposed, a land use project is being
16 proposed for a community, they all have land use
17 committees, they all have zoning committees, and
18 they go out and look, and they also know their
19 community. They also have a right to look and
20 see who is applying for liquor licenses. They
21 all know which ones have been doing the wrong
22 thing, they should not be granted a new license.

23 They're the people, and as we move forward
24 with this process, we have perfected Democracy.
25 But we must never stop perfecting Democracy. We

1 have the voice of the people. Every month
2 there's 50 people, a group of 14 people 14 bodies
3 on each Community Board, who are sitting in,
4 anticipating and analyzing the needs of their
5 district. That is a major, major change, and it's
6 wonderful. I was on the first, early Community
7 Boards, and we've come a long way. And each
8 Charter revision has made the Community Boards
9 even stronger. They are the voice of the people,
10 and we have to rely on them. And we have pretty
11 strict -- we work with them very closely. I have
12 a representative from my office at every single
13 meeting and we work closely together.

14 I thank you very much for this opportunity.
15 I have a more lengthy, I have a more lengthy
16 statement, but I'm not going to read it now.
17 You'll have it so that you can look at it at your
18 leisure. Thank you.

19 CHAIRMAN GOLDSTEIN: Thank you very much,
20 Borough President Marshall.

21 Tonight the Commission, as all of you
22 undoubtedly are aware, will focus on land use.

23 Just very briefly, in 1975 the Charter was
24 amended to create a uniform procedure for the
25 review of land use applications, or more commonly

1 known as ULURP. The Board of Estimate exercised
2 jurisdiction over land use decisions until it was
3 eliminated by voter approval of the 1989 Charter
4 Revision Commission proposals. The '89 Charter
5 vested final say over land use decisions in the
6 City Planning Commission and the City Council.

7 Tonight's forum we will hear from experts in
8 land use from academia, the private sector, and
9 City government who will shed light on how the
10 processes work in practice and how they can be
11 improved, and I will introduce our very esteemed
12 panel in just a minute.

13 Just in terms of process, this is the 10th
14 forum that we have had. The first were a series
15 of five forums, one in each Borough. And the last
16 five, this being the last of the five, were on
17 issue forums that were again discussed in each of
18 our Boroughs.

19 When we finish tonight, the Commission and
20 the staff will have very serious discussions
21 amongst ourselves to get a sense of all of the
22 materials that we have discussed and learned
23 about and will provide an opportunity in written
24 form to give a preliminary assessment of where we
25 think we wish to go as the process winds down.

1 By winding down, we will do a series of five
2 extra forums, one in each Borough, and those five
3 forums will help to inform our initial set of
4 ideas that ultimately could be part of a series
5 of recommendations that we will provide to the
6 voters in November of 2003 [sic].

7 I've used the term an iterative process, and
8 by that I mean as we learn more we alter and
9 shape some of our recommendations until we
10 converge on a set of recommendations that we
11 believe are the best informed ideas with the kind
12 of due diligence that we have worked so hard to
13 develop.

14 The innovation in this particular Commission
15 is the idea of using experts, as we are using
16 today, and the use of technology that we are all
17 very proud of. We are Web casting this
18 proceedings tonight. We're on Facebook, Twitter,
19 and throughout the evening I will be sharing with
20 the audience responses from people who want to
21 participate in tonight's discussion but for
22 reasons that only they know are not here to share
23 them in person.

24 We will start the last series of events in
25 July. July 19, 21, 26th 28th and August 2nd will

1 be devoted to the last group of open forums where
2 we will again shape some of our ideas. But we are
3 looking forward, I mean, if we provide an
4 opportunity for the voters, then by statute the
5 work of this Commission ends. But we want to
6 prepare for events that will take place after we
7 retire from our work. If the Mayor so desires to
8 reshape another Commission it might be all of us.
9 It might be some others. It may not be a
10 Commission at all. But in anticipation of that,
11 we are working diligently to put together
12 position papers that will inform areas of deep
13 interest to all of us on the Commission that will
14 help to pave the way for others who may be asked
15 to do something similar to what we've done. So
16 not only are we looking in the short run, but
17 we're looking in the long run as well.

18 I am deeply privileged to be associated with
19 the women and men who are part of this Commission
20 and the extraordinary staff that we have that
21 really are working tirelessly to help us get the
22 best information that we can as we proceed in
23 this process.

24 I would like to start by introducing a very
25 brief introduction of each of our experts this

1 evening. I will ask each of them to make an
2 opening statement and try to keep your opening
3 remarks to about 10 minutes. After we go through
4 the entire five we will have a discussion with
5 the experts and the members of the Commission,
6 and we will continue that discussion until we
7 feel that we have gleaned the kind of knowledge
8 and information that we desire.

9 When we are finished with that we will
10 probably take a quick break just to exercise a
11 little and move our legs and then open up the
12 proceedings with questions from the audience.
13 And I would ask that you in the audience restrict
14 your comments to land use. There will be ample
15 opportunity in the other forums to talk about
16 anything else. But tonight the issue is around
17 land use, which is huge and complex, nuanced,
18 deep, and will evoke lots and lots of questions
19 that will be developed from questions that are
20 asked by each of you.

21 I will also ask that those of you in the
22 audience restrict your questions to no more than
23 three minutes. We have a lot of people who are
24 signed up tonight. And we want to make sure that
25 all of you have an opportunity to be heard.

1 So let me go to my notes here and introduce
2 our panelists. And after I mention your name if
3 you could just raise your hands so that the
4 audience knows exactly who you are.

5 Let me start with Professor Tom Angotti. Tom
6 is the one in the blue shirt and you could see
7 without a tie is a professor. Right, Professor?

8 PROFESSOR ANGOTTI: And a shiny head.

9 CHAIRMAN GOLDSTEIN: Well, I have a shiny
10 head, too, so we have that in common.

11 Tom is a Professor of Urban Affairs and
12 Planning at Hunter College and Graduate Center of
13 the City of New York, which houses all of our
14 doctoral programs. He is also Director of the
15 Hunter College Center For Community Planning and
16 Development and has chaired the Graduate Urban
17 Planning Program at Pratt Institute and was a
18 Senior Planner at the New York City Department of
19 City Planning and in Massachusetts. He's written
20 widely and is a well-respected scholar in the
21 areas that he has been trained and for which he
22 makes major contributions.

23 Paul Selver. Paul Selver is partner in the
24 law firm of Kramer, Levin, Neftalis and Frankel,
25 where he Co-Chaired, he is the Co-Chair of the

1 land use department. A New York City-based
2 attorney in private practice since 1972, his
3 legal work encompasses all aspects of land use
4 and development law with a special emphasis on
5 environmental zoning and historic preservation.

6 Welcome, Mr. Selver.

7 Vishaan Chakrabarti.

8 MR. CHAKRABARTI: I'm still figuring it out.
9 Chakrabarti.

10 CHAIRMAN GOLDSTEIN: You're still figuring it
11 out.

12 MR. CHAKRABARTI: Chakrabarti.

13 CHAIRMAN GOLDSTEIN: Mr. Chakrabarti is the
14 Mark Holiday Professor of Real Estate and
15 Director of the Real Estate Development Program
16 at Columbia University.

17 He was named the Jacqueline T. Robinson
18 Visiting Professor in Architecture at the
19 University of Virginia from 2009 to 2010. He is
20 the founding principal of VDCDC, an urban design
21 firm based in Manhattan, and formerly an
22 Executive Vice President of the Related
23 Companies. Thank you for being with us tonight
24 as well.

25 Christopher Collins. Christopher Collins is

1 the Vice Chair of the New York City Board of
2 Standards and Appeals, a five-member body that
3 hears and decides zoning variance cases, certain
4 special permits, and administrative appeals from
5 the decisions by other City agencies. And his bio
6 goes on as well.

7 And lastly, but certainly not least by any
8 means, is David Karnovsky who is bookend with
9 Mr. Collins. David is the General Counsel to the
10 New York City Department of City Planning. Prior
11 to joining the Department of City Planning, Mr.
12 Karnovsky served as Special Counsel to the Deputy
13 Mayor of Operations and Chief of the Legal
14 Counsel Division of the New York City Law
15 Department.

16 Welcome to all of you. I'm going to start
17 from left to right if that works for all of you?
18 If you could turn your signs since we know who
19 you are, but just to make sure that our
20 Commission members know exactly who each of you
21 are.

22 Mr. Collins could we ask you?

23 MR. COLLINS: We have informally --

24 CHAIRMAN GOLDSTEIN: Tell me how you want to
25 go. You want to start with David, Mr. Karnovsky.

1 MR. KARNOVSKY: I would, because I'm going to
2 try to give some general background.

3 CHAIRMAN GOLDSTEIN: Okay.

4 MR. KARNOVSKY: Hopefully inform the
5 Commission a little bit as well as some
6 editorializing, of course.

7 On behalf of City Planning, I'm happy to be
8 here tonight to talk about Charter land use and
9 to answer your questions.

10 The Charter addresses land use in a variety
11 of ways, including provisions governing the Board
12 of Standards and Appeals, the Landmarks
13 Commission and the Department of Buildings. But
14 tonight I'm going to focus my remarks on Chapter
15 8 of the Charter, City Planning, and in
16 particular only the Uniform Land Use Review
17 Procedure, or ULURP.

18 Given the limited time available tonight,
19 I'm not going to touch on other aspects of
20 Chapter 8 but, of course, we'll be happy to
21 answer any questions you have along those lines
22 later.

23 To understand ULURP it's useful to go back
24 to 1975. As the Chancellor said, it dates from
25 that period and was adopted by the voters at that

1 time. Although it's now 35 years since it took
2 effect, what was done then and what was said then
3 remains important today. ULURP is a product of
4 that Charter revision, and that Commission left
5 behind a very detailed report describing the
6 issues it was confronting in land use and what it
7 was trying to accomplish.

8 And the report makes clear that the keyword
9 in ULURP is uniform. What the '75 Charter
10 Commission found was that the City at that time
11 had a bewildering different set of procedures for
12 different types of major land use answers, that
13 there was very little public participation in
14 many of them, and that there were often
15 significant time delays in the process, and very
16 little sense of accountability, and that no one,
17 whether the local communities, the City agencies,
18 or the private sector were well-served by the
19 process.

20 And here is part of what the Commission
21 said. It said that "the multiple approval by
22 numerous central bodies with little coordination
23 between them is one problem. Another is the
24 absence of time pressure on the approval process.
25 A third is the lack of formal procedures by which

1 the views of local communities can be ascertained
2 during the early stages of development. The City
3 needs a simplified uniform procedure for
4 resolving land use issues."

5 In thinking through this new system, a key
6 challenge for that Charter Commission was how to
7 provide for a local voice in the land use review
8 process while allowing for a balancing of local
9 Borough and Citywide concerns. And here the
10 Commission said, "The dilemma is how to give the
11 local communities a say in shaping important land
12 use policies without granting veto power over the
13 public welfare. In other words, how to
14 strengthen, not balkanize the cities,
15 neighborhoods and communities."

16 And in considering this issue, the
17 Commission rejected the notion that there are
18 some land use issues which are inherently local
19 and for which the local community should have a
20 decisive say and others which are inherently
21 regional or Citywide such the local input was
22 irrelevant. It recognized that in a dense,
23 changing city such as New York all land use
24 matters both affect the local community and
25 implicate citywide interests and concerns. So the

1 basic insight reflected in the ULURP process
2 devised by the '75 Commission is that local
3 communities should take first action on all major
4 land use issues that affect their areas through
5 publishing hearings and formal recommendations.

6 The process that resulted from the
7 Commission's work is thus a layered and sequenced
8 process that moves consideration of land use
9 issues from the local to the Borough to the
10 Citywide level in order to ensure that the local
11 voice is heard and that broader considerations
12 are also addressed.

13 The other significant innovation in ULURP
14 was the creation of a fixed time clock for land
15 use review. This clock ticks inexorably and no
16 party to the process can call time out and
17 suspend review. This promotes predictability in
18 the process and ensures that a decision will be
19 made. This is actually unlike many other
20 jurisdictions where land use actions are not
21 subject to any kind of time clock and there is a
22 significant potential for applications to end up
23 in a kind of limbo.

24 The clock is also a good forcing device that
25 pushes parties to come to the table and try to

1 address the issues.

2 Over the years, the argument has been made
3 that the clock may be a good idea but that it is
4 simply too long. In total, assuming that all
5 parties to the process take the full-time
6 allotted to them, the ULURP process can take as
7 much as 215 days. However, in many instances the
8 process in fact takes less than the full clock,
9 and further, each of the parties to the process
10 can rightly say, "I think that they need all the
11 time given to them under the clock in order to
12 fully discharge their responsibilities."

13 The clock also pushes applicants to think
14 through and anticipate issues before the process
15 begins. A savvy applicant, whether a City agency
16 or private party, will touch base with the
17 parties to the process, the Community Board, the
18 Borough President, the Council Member, well prior
19 to the commencement of ULURP in order to gauge
20 reactions, consider comments, and make changes
21 and adjustments in the proposal. This is exactly
22 what the Department of City Planning itself does
23 with respect to its own proposals, and we view
24 early outreach to the Community Board and others
25 as critical to a successful outcome in the

1 rezoning process.

2 This brings me to another one of the
3 criticisms of the process that has been made from
4 time to time that because the Community Board and
5 the Borough President role is only advisory they
6 are ignored by the Commission. As I've indicated,
7 the decision to give the Boards and the Borough
8 Presidents nonbinding roles in the process was a
9 careful and deliberate decision by the '75
10 Commission, and was reexamined and left intact by
11 the '88 Charter Commission. But a
12 characterization of the role as merely advisory
13 grossly understates the importance of the Boards
14 and the Borough Presidents to the process.

15 By taking first action in the ULURP process,
16 the Boards provide a key input from the local
17 level and frame the issues as they move towards
18 the Borough Presidents, the Commission and the
19 Council.

20 The Community Board recommendations take
21 four basic forms: Approval, approval with
22 conditions, disapproval, and disapproval with
23 conditions. Approval with conditions means
24 essentially that the Board supports the
25 application provided that certain conditions are

1 met, while disapproval with conditions means that
2 the Board is essentially against the application
3 unless certain conditions are met. In both cases,
4 the Boards' conditions are a key focus for the
5 Borough President, the Commission and the Council
6 in the subsequent stages of the process.

7 The Planning Commission is required to take
8 these recommendations into account, and it takes
9 that responsibility seriously. The first step in
10 that process takes place when prior to the
11 Planning Commission's own public hearing the
12 Department of City Planning staff presents the
13 Community Board recommendations to the Planning
14 Commission at a working meeting, which is known
15 as the review session. At the public hearing of
16 the Planning Commission a representative of the
17 Community Board will often testify before the
18 Commission and reiterate those recommendations
19 and answer questions. Following the hearing, the
20 Planning Commission discusses the hearing
21 testimony as well as the Community Board
22 recommendations in order to decide what direction
23 it wishes to take. And then in its written
24 report the Commission outlines those
25 recommendations and discusses its responses to

1 them. The Charter requires that.

2 The response to the Community Board can take
3 several forms. First, it's important to note that
4 there are oftentimes when either by the time the
5 application gets to the Commission, or during the
6 Commission review period itself, the Community
7 Board recommendations result in the applicant
8 submitting a revised application that addresses
9 some or all of the issues. In those cases, if the
10 Planning Commission approves the application the
11 application it is approving incorporates
12 Community Board concerns. In other cases there
13 is no revised application, but the Commission
14 itself makes modifications at the time of its
15 vote to reflect its own concerns as well as those
16 of the Community Board.

17 In some cases, of course, the Planning
18 Commission may disagree with the Community Board
19 recommendations. In other instances, it may
20 conclude that some of the Community Board
21 recommendations are outside the purview of the
22 land use review process. For example, a
23 recommendation that the City require Community
24 Benefits Agreement as a condition of approval. Or
25 the Commission may conclude in some instances

1 that a Community Board recommendation, can really
2 only be implemented through a new or separate
3 ULURP process other than the pending application.

4 In the case of the Borough President's
5 recommendations take the same four forms I
6 described. In formulating their positions, the
7 Borough Presidents take careful heed of the
8 Community Board recommendations. On some
9 occasions they may in fact disagree with the
10 Board position.

11 The Commission follows the same approach
12 with respect to the Borough President
13 recommendations as it does with the Community
14 Board recommendations, and it pays careful
15 attention how the Borough President has reacted
16 to or reframed the concerns expressed by the
17 Board.

18 Now, this sort of dry description doesn't
19 really capture the full flavor of the process
20 and, in particular, it doesn't capture the simple
21 reality that if after 90 days of reviewing the
22 ULURP process -- 60 days of the Board and 30 days
23 of the Borough President -- no progress has been
24 made in resolving the issues raised by the Board
25 am Borough President, the application arrives at

1 the Planning Commission facing a very healthy
2 degree of skepticism. The Planning Commission
3 looks to the Board and the Borough President to
4 identify and frame issues and to provide a
5 critical perspective on the application. It
6 expects applicants to come before it having shown
7 good faith efforts to meet Community Board and
8 Borough President concerns. And I think it's fair
9 to say that no applicant can come before the
10 Planning Commission and say in effect "Ignore
11 them; they're only advisory." That simply isn't
12 the way the process works.

13 At the same time, the Commission, as the
14 City's professional land use body is charged with
15 bringing a Citywide planning perspective to the
16 table and must make its own decision. However,
17 while the Commission may choose not to adopt a
18 Community Board or Borough President
19 recommendation, it does not do so lightly.

20 Now partly this is a function of the
21 composition of the Planning Commission, which
22 consists of 13 members with seven appointed by
23 the Mayor, five by the Borough Presidents and one
24 by the Public Advocate. However, it's also
25 important to keep in mind that while the Planning

1 Commission includes five members appointed by the
2 Borough Presidents, neither these members nor the
3 members appointed by the Mayor, nor the members
4 appointed by the Public Advocate act as delegates
5 of their appointing officers.

6 In establishing the new Planning Commission,
7 the 1988 Charter Commission was not trying to
8 recreate the Board of Estimate or representatives
9 of the Mayor, the Borough Presidents. And the
10 City Council President voted at the direction of
11 their principles. Instead, what the '88 Charter
12 Commission provided in the Charter was that
13 "members of the Commission shall be chosen for
14 their independence, integrity and civic
15 commitment."

16 I think it's fair to say the '88 Charter
17 Commission envisioned that the members of the
18 Planning Commission would generally reflect the
19 philosophy and viewpoint of their appointing
20 officer but they are not representatives of that
21 official.

22 Now, of course, the professional land use
23 layer of review of the Planning Commission is not
24 the last stop in the process and is in turn
25 balanced by political oversight at the City

1 Council. And there's a long history of the 1988
2 Charter Commission and deliberation over the role
3 of the Council to the extent in which it would
4 have in fact succeed fully to the powers of the
5 Board of Estimate. I don't have time to go into
6 that, but it's an important history to
7 understand.

8 One of the concerns, though, raised at that
9 time was that if the Council could take
10 jurisdiction over every ULURP item, which is the
11 way that the Charter ended up being written, it
12 would invariably do so and that the process would
13 get bogged down and somehow get overly
14 politicized. We looked recently at the 745 ULURP
15 applications subject to elective jurisdiction by
16 the Council, not mandatory jurisdiction. In
17 other words, applications which the Council may
18 but need not review and does so at its
19 discretion. There were 745 of them between 2000
20 and at the end of 2009. And of those, 46 percent
21 were called up. The figure actually overstates
22 the number, because some of those applications
23 were associated with zoning map or text
24 applications that the Council had mandatory
25 jurisdiction over. So it seems to us that the

1 prediction that the Council would somehow use its
2 authority to take up any and all ULURP
3 applications has not in fact come to pass.

4 To sum up, the ULURP process we have today
5 is a result of both the 1975 and the '88 Charter
6 revisions and it is strong and it's robust. It
7 provides multiple opportunities for public input,
8 for public hearings at the Board, the Planning
9 Commission and the Council, and at the discretion
10 of the Borough President at the Borough President
11 stage of the process. It has a logical and a
12 coherent structure which allows local issues and
13 concerns to shape and influence projects as they
14 move towards the Planning Commission and the
15 Council.

16 It is slow, but it is also predictable, and
17 it allows sufficient time for issues to both
18 percolate and get resolved. It allows for
19 balancing of local Borough and Citywide concerns.
20 It also provides a balance of Mayoral and Council
21 authority as well as a balance between
22 professional planning concerns and political
23 oversight.

24 While we think that the ULURP process has
25 stood the test of time, no process is perfect --

1 I'm not here to suggest that it is -- but the
2 fundamentals are sound.

3 During your process various proposals for
4 change had been made. At this point in time it
5 doesn't really permit me to comment on the
6 specifics of what others have said, but I'd
7 obviously be glad to answer any questions you
8 might have about them during the question period.
9 Thank you.

10 CHAIRMAN GOLDSTEIN: Thank you very much, Mr.
11 Karnovsky, that was a very fine presentation.

12 Let's move now to Professor Tom Angotti.

13 PROFESSOR ANGOTTI: Thank you for this
14 opportunity. I will again try to be brief and
15 present in two sections. First, talking about
16 the problems that I see with the ULURP process.
17 And the second section with some recommendations
18 where we can go from here to fix them. I don't
19 have time to show the connection between all of
20 these, so it's a little scattered, but perhaps
21 what I put on the table will have time to discuss
22 in further detail later on. Also, many of these
23 come from my decade of work with the Task Force
24 on Community-Based Planning, which is made up of
25 a coalition of some 50 organizations, 13

1 Community Boards, 11 elected officials, and a
2 group of professionals. And I'm going to talk
3 about three things: The ULURP process, City
4 Planning and Community Boards, because they're
5 all interrelated.

6 The problems with the ULURP process are also
7 problems with planning at the Citywide and
8 community level, and there are problems their
9 affect Community Boards.

10 First, the ULURP process. Number one
11 problem is there is today a sharp divide between
12 the pre-ULURP and the ULURP process. Pre-ULURP
13 process is everything that happens before an
14 application is certified by the City Planning
15 Department as complete. And the ULURP process is
16 the seven-month process that Dave Karnovsky
17 explained. And what happens in the pre-ULURP
18 process is that there are agreements made between
19 private and public officials and communities that
20 occur outside the sunshine of the public process.
21 Many of them behind closed doors. They are
22 informal arrangements, informal meetings, and
23 quite logically they happen before the ULURP
24 process, as Mr. Karnovsky mentioned, because no
25 applicant wants to go through a seven-month

1 process, all of the time and effort that it
2 involves, and find that at the end their
3 application is going to be turned down because
4 they didn't predict or couldn't, didn't
5 anticipate the opposition of certain groups.

6 So this is the problem. We have a pre-ULURP
7 process without sunshine, where a lot of
8 negotiations and deals get made and decisions get
9 made that affect public resources. And then when
10 they get to ULURP what happens is it becomes a
11 fairly formalistic process. This leads to
12 frustration, cynicism, division and anger within
13 communities, because what they perceive that
14 what's presented is a fait accompli. They feel
15 that the time and resources that they invest in
16 ULURP process are wasted, and they are constantly
17 reminded that the Community Board's vote is only
18 advisory. And if that's not a message that the
19 City Planning Department is sending, who is
20 sending it? Because I can tell you many
21 Community Boards get that message. Their vote is
22 only advisory and they feel very disempowered.

23 Another problem is the environmental review
24 process, which is also prior to the ULURP
25 certification. The purpose of environmental

1 review is to disclose to decision makers the
2 potential negative environmental impacts of any
3 given action. And the problem is that the
4 environmental reports are too long, too
5 complicated, they're not analyzed or interpreted
6 in useful ways for average citizens and they
7 don't really inform decision making, because many
8 decision makers don't understand them or even get
9 to read them.

10 And then the third problem with ULURP is the
11 way it is organized and the rulemaking that has
12 been done largely by the City Planning
13 Department, but it's really a government-wide
14 problem.

15 As one example of poor rulemaking we have
16 the Charter-mandated Fair Share process, which
17 was intended in the 1989 Charter revision to
18 prevent the concentration of heavy infrastructure
19 of City facilities in certain neighborhoods, and
20 because of rulemaking this process has resulted
21 as being a meaningless one, and most
22 infrastructure decisions do not go through the
23 Fair Share review.

24 Secondly, the second set of problems was
25 planning, and planning relates to the ULURP

1 process, because it is the background and the
2 backdrop for the ULURP process. It's the basis
3 for making land use decisions if there's a
4 comprehensive framework. But Citywide
5 comprehensive planning is inadequate. The
6 Department of the City Planning is fixated on ad
7 hoc localized zoning instead of planning. And it
8 brags that over the last eight years they've done
9 a hundred rezoning's. But they haven't done a
10 hundred plans.

11 Zoning is only a regulatory framework for
12 the built environment. It does not deal with the
13 complex issues that New Yorkers care about. It
14 regulates new development but does little for the
15 existing City.

16 Charter-mandated comprehensive planning
17 documents such as the Strategic Plan, the City
18 Planning Department's only Strategic Plan, are
19 not subject to public review and approval. They
20 are virtually unknown documents that get filed
21 away.

22 Now there has been a major publicly
23 disseminated comprehensive plan, the first one in
24 decades, plaNYC 230 issued in 2007 by the Mayor's
25 Office. However, this was not submitted for

1 debate and approval by the City Planning
2 Commission, the Community Boards, the City
3 Council and Borough Presidents in accordance with
4 section 197(a) of the City Charter.

5 Now, the 2030 plan includes many good
6 projects, but it has major gaps, and it does not
7 recognize a role for neighborhoods in
8 communities, and it remains a strictly executive
9 document. I report that may have a life limited
10 by the tenure of the Mayor. Also, since the 1989
11 Charter revision gave Community Boards explicit
12 authority to introduce comprehensive plans of
13 their own under section 197(a) a dozen only, only
14 a dozen 197(a) plans have been approved. At this
15 rate, it will take a century before every
16 community has an approved plan. Not that they
17 all want them. But because of narrow rulemaking
18 by the Department of City Planning, the process
19 is lengthy and onerous. I can tell you from
20 personal experience, I've been through it, and
21 the City Planning Commission can hold it up in
22 definitely. There's no clock on the 197(a) plan
23 process.

24 Community Boards also do not have adequate
25 resources to do the planning. They have to

1 scrape together and seek the funds in order to
2 pay a planner. By turning plans only advisory
3 also, the Department of City Planning itself and
4 staff do say this in public foras, has rendered
5 that they are advisory. The DCP has rendered the
6 197(a) plans meaningless. You say that they are
7 advisory, that means once they're finished they
8 can be put on the shelf, which is the dungeon
9 that all professional planners are condemned to.
10 Produce a report and put it on the shelf.

11 Now in some cases also, DCP has returned to
12 communities that have completed 197(a) plans that
13 were approved through the official 197(a) process
14 by the City Planning Commission and City Council
15 and rezoned those neighborhoods in direct
16 contradiction to the 197(a) plans.

17 Williamsburg in Brooklyn is case No. 1 where
18 two years after those -- Williamsburg completed a
19 12-year long process of producing its own
20 community plan, City Planning came up with a
21 rezoning proposal that directly contradicted the
22 community's is own plan and it was approved. So
23 the planning process is problematic and does need
24 some fixing so that we can improve the land use
25 review process.

1 Third, Community Boards themselves, for
2 better and for worse, Community Boards are the
3 major venue for city participation and Democracy
4 in a highly centralized city government, but
5 participation is still too limited. They lack
6 the professional and financial resources to plan
7 and fully engage in the land use review process.

8 The average Board has a budget way under
9 \$200,000 a year, shrinking as we speak, to cover
10 an average population of 135,000, which is larger
11 than most municipalities in the State of New
12 York. Together, the Boards get less than .0001
13 percent of the City budget. And too often
14 Community Board members, and this is a criticism
15 of Community Boards, do not reflect the diversity
16 in there communities. Too often Community Board
17 members don't understand the complex land use
18 issues before them, because there is no
19 systematic training for Community Board members.
20 And there is inadequate oversight of Community
21 Boards. So these are the problems as I see them.
22 And I think they're all interrelated.

23 Some quick notes about how to fix them that
24 we can discuss in more detail later on. First,
25 the ULURP process make public participation

1 matter by bringing sunlight to the pre-ULURP
2 process, requiring open public meetings and full
3 reporting of all side agreements and all
4 discussions prior to the ULURP certification
5 process.

6 Second, every Community Board should be able
7 to hire and fire their own professional staff and
8 their own professional planner so that they can
9 have a planning framework; and that when there is
10 a complex Environmental Impact Statement to
11 review, they can advise the Community Board about
12 what it says and interpret it for them.

13 And we need to restructure the environmental
14 review process to ensure that there's greater
15 transparency, public understanding and oversight.

16 Second set of proposals for planning,
17 Citywide and community planning. The principles
18 that these are based on are very simple, that
19 good planning is essential for good policy and
20 good land use decision making; that it's not a
21 time waster; that in fact if it's done right will
22 save everyone time and money and planning should
23 be both top down and bottom up from the community
24 and from the highest levels of government.

25 And finally, another important principle is

1 that reports producing paper is not planning.

2 Okay. So here's some ideas about how the
3 planning process can be improved. DCP should be
4 required to complete and regularly update a
5 comprehensive strategic Citywide plan that serves
6 as the framework for community plans and provides
7 specific guidance to Community Boards, not a
8 report that gets filed by the Mayor's office.

9 Secondly, all comprehensive city plans
10 should be subject to approval in accordance with
11 section 197(a) of the City Charter.

12 Third, don't let zoning trump planning.

13 And fourth, the City should create an Office
14 of Plan Implementation that holds agencies
15 accountable for implementing proposals in
16 approved plans and sees that the priorities that
17 are set out in the Community District Needs
18 Statements of Community Boards are followed. And
19 in approved plans, every proposal should have
20 connection to the City's capital and expense
21 budget if it has budget implications.

22 And then the third set of proposals is
23 related to Community Boards. Establish rigorous
24 outreach application process for Community Board
25 membership consistent throughout the City, not

1 borough by borough, the same process in every
2 borough. Establish independent panels to select
3 Community Board members based on a set of
4 criteria that ensures diversity and fairness.
5 Community Board votes need to have a greater
6 weight. And I don't know what the formula is, but
7 the current, the current only-advisory vote is
8 inadequate. And perhaps making a "no" vote by a
9 Community Board giving it greater weight and
10 allowing it to in a greater way to determine the
11 outcome I think is necessary.

12 And then finally, I think on this issue
13 mentioned about approval with conditions and
14 approval without conditions. There's terrible
15 confusion in Community Boards about what
16 conditions mean. And too often the argument is
17 made, "Vote 'yes' for this, put out your
18 conditions, and maybe the City Planning
19 Commission will listen to them."

20 In practice the way it works is you vote
21 "yes" and it's a "yes" vote. Conditions, nobody
22 has to pay attention to conditions. Thank you.

23 CHAIRMAN GOLDSTEIN: Thank you very much,
24 Professor Angotti. I believe, Mr. Angotti, you
25 could leave if you have written testimony.

1 PROFESSOR ANGOTTI: Yes, I do.

2 CHAIRMAN GOLDSTEIN: And David Karnovsky, if
3 you do as well. We'd really like to receive this
4 so that we can duplicate it for all members of
5 the Commission.

6 Let's turn now to Paul Selver.

7 MR. SELVER: Thank you, Mr. Chairman.

8 Good evening, Mr. Chairman, members of the
9 Commission, and my fellow panelists. My task
10 tonight is to offer suggestions for changes to
11 those portions of the City Charter dealing with
12 land use that reflect both the concerns of the
13 real estate industry and we hope the interests of
14 the City as a whole.

15 I start from the premise that there are two
16 principal goals of the process. The first is that
17 it should facilitate New York City's continued
18 role as one of the leading cities of the world.
19 And as a place of opportunity through the renewal
20 of the City's physical infrastructure.

21 The second is that it should be designed to
22 allow all of the stakeholders in a land use
23 decision an appropriate say in the process.

24 We'll start with ULURP. ULURP, and I include
25 what's called pre-certification period in ULURP,

1 isn't perfect. But its basic structure is sound.
2 The participants at each level and the weight
3 that's given to their decisions, be they
4 recommendations or dispositive decisions, has
5 struck the right balance between the interests
6 that exist at the neighborhood level, the
7 interest that exists at the Borough level, and
8 the interest that exists at the Citywide level.

9 As represented through Community Boards,
10 Borough President, the City Planning Commission,
11 and actually the City Council represented both in
12 many ways. So our suggestions for change are
13 more on the order of fine-tuning the motor rather
14 than reinventing the wheel.

15 The first is to provide that CPC approval is
16 final for all special permits. This would
17 recognize that a special permit represents a
18 legislative finding that a use, a site plan, or a
19 buildings bulk is appropriate so long as
20 specified administrative findings are made.

21 City Council action upholding a special
22 permit is therefore redundant. City Council
23 action denying the permit is either a de facto
24 modification of the administrative findings, or
25 an impermissible rejection based on generalized

1 community opposition. In any case, it is
2 unnecessary.

3 The second is explicitly prohibit the
4 imposition -- rather direct or indirect -- of
5 conditions on a ULURP approval without a proper
6 nexus. We believe that under the Noland and Dolan
7 decisions this is the state of the law today.
8 However, and despite this rule, commitments
9 having no relationship to project impact have
10 been demanded and made either through Community
11 Benefit Agreements or otherwise in recent land
12 use approvals.

13 We believe that a clear prohibition of these
14 conditions in the Charter will at least have an
15 auditory effect. It certainly will reduce the
16 likelihood that a ULURP applicant will be
17 required to "voluntarily agree" to such
18 conditions in the future.

19 The third is to establish a sunset period of
20 ten years for 197(a) plans. These plans have
21 become more common and have become better
22 integrated, we believe, with the City
23 environmental quality review and ULURP decision
24 making procedures. If they have to become
25 meaningful they need to be both current and

1 accurate. Asking that they be revisited once
2 every decade is reasonable and appropriate in
3 light of the speed with which a New York City
4 neighborhood can evolve.

5 Fourth, require that 25 percent of all
6 Community Board members be owner-operators of
7 businesses within the community planning
8 district. The business community may have a
9 vision of a neighborhood that is different from
10 the vision of its residents or the vision of the
11 people who merely work there. Requiring that it
12 be represented will ensure that Community Board
13 fairly represents all of the stakeholders within
14 its jurisdiction.

15 And finally, provide for a 30-day statute of
16 limitations for all actions that are subject to
17 ULURP. The four-month statute of limitations
18 currently used is the default for proceedings
19 brought under Article 78 of the Civil Practice
20 Law and Rules, which is the standard way of
21 seeking judicial review of administrative
22 decision. It serves no good purpose. Indeed, it
23 ensures that those seeking judicial review of a
24 public action will wait till the very last day of
25 the very last month before commencing it.

1 Shortening the period of limitations will,
2 therefore, require the proceedings and allow them
3 to be resolved more quickly without prejudice to
4 any of the parties. And resolving these
5 litigations more quickly will remove a major and
6 unnecessary drag on the implementation of
7 projects and actions that have passed through the
8 public process successfully.

9 Turning from the ULURP itself, we also
10 believe that it's important that the City
11 Planning Commission be required, as it was prior
12 to 1977, to be directly involved in the
13 preparation of the capital budget. The current
14 Commission has on its own initiative made sure
15 that it is participating meaningfully in that
16 process. But there are no guarantees that future
17 commissions will be as thoughtful and energetic
18 as this one. Requiring City Planning involvement
19 through the Charter will ensure that in the
20 future there will be continued coordination
21 between land use policy and infrastructure
22 development in the City.

23 And finally, I'd like to suggest changes to
24 the provisions of the Charter governing actions
25 by the Board of Standards and Appeals and the

1 Landmarks Preservation Commission. Our suggestion
2 for the Board of Standards and Appeals reflects
3 the fact that since the zoning resolution was
4 first written two generations ago, both the
5 states common law and its zoning enabling
6 legislation have differentiated clearly the test
7 for both variances of the fashion from use
8 variance. There's no reason why the test for
9 variance in New York City should be different
10 from the test elsewhere. And for that reason we
11 believe the BSA's power to grant variances should
12 be redefined so that it is coextensive and has to
13 be coextensive with other boards of appeals in
14 New York State.

15 Our comments on the landmarks law reflect
16 the fact that in many parts of the City it has
17 become de facto the principal form of land use
18 regulation. Given its importance, the City can no
19 longer afford a landmarks law that limits the
20 matters to be considered along the limits, depth,
21 nature and degrees of architectural, historical,
22 and similar matters; nor can it afford one that
23 regulates building massing and features that are
24 not accessible physically or visually to the
25 general public. What is needed is a more

1 considered designation process and a less
2 draconian regulatory process. We therefore urge
3 that first the Landmarks Preservation Commission
4 be required to consider the economic impact of
5 designation on the building or districts which
6 are being designated.

7 Second, that the City Planning Commission
8 report be required to explicitly consider the
9 economic impact of a designation as well as the
10 relationship of that designation, the zoning
11 resolution, and its underlying planning policy.
12 We think that that's what it does today. We're
13 not sure that City Planning actually does it. But
14 we'd like to be sure that they do.

15 Third, the City Council be required to
16 consider broadly social and economic
17 considerations, a role that it has been denied
18 since the 1990's when an Appellate Division
19 decision said it was entitled only to consider
20 the same factors that the Landmarks Commission
21 was required to consider in any designation
22 proceeding.

23 And finally, landmarks regulation should be
24 focused on protecting what the public can see,
25 not what is hidden from its view. And it should

1 also occur only for those aspects of a building
2 or of a district that the Commission identifies
3 in the first instance as important architectural
4 features. There shouldn't be the element of
5 surprise. You should know if you own property in
6 a landmark district, what you can and cannot do
7 in it, from the time it's designated.

8 So thank you for giving me the opportunity
9 to speak, and I'm happy to answer your questions
10 from the Panel.

11 CHAIRMAN GOLDSTEIN: Thank you, Mr. Selver.

12 We'll now turn to Professor Chakrabarti.

13 PROFESSOR CHAKRABARTI: Thank you, Chair
14 Goldstein. Thank you, Commissioners. I'm going
15 to try to frame my comments tonight on the very
16 important topic you have at hand and how it
17 impacts our global competitiveness as a city.

18 I'm a bit of a multiple personality
19 disorder. I come at this, I've been around this
20 process as an urban planner, as a Community Board
21 member, as an architect, as a developer; and from
22 2001 to 2005 I served as the former Director of
23 the Manhattan office for the Department of City
24 Planning.

25 I categorically believe that ULURP works. I

1 believe that it works because everyone comes out
2 of the process somewhat unhappy. And that is
3 probably some kind of a sign of success. The fact
4 that we have a predictable process, as David
5 said, with a clock that cannot be intervened I
6 think is extraordinarily important to a steady
7 flow of our land-use decisions. Predictability
8 is a key factor to a healthy marketplace and a
9 healthy debate over the City's future. That is
10 not to say that there is not significant input.
11 And I think sometimes this business of advisory
12 roles by the Community Board or the Borough
13 President is overlaid as advisory.

14 If you take, for instance, the Hudson Yards
15 rezoning that was done in 2005, Community Board 4
16 played an absolutely critical, erudite role in
17 the influencing of that rezoning and the future
18 of that neighborhood. And I think the fact that
19 it is somehow advisory I think really veils the
20 true fact that a Community Board, or in fact in
21 that example of Borough President, can have a
22 tremendous, tremendous impact in the ULURP
23 process.

24 I also believe that this notion there is
25 zoning and then there is planning. If you look

1 at the major planning initiatives that have gone
2 forward such as the High Line, a very detailed
3 block-by-block comprehensive plan is done before
4 a rezoning like that takes place. And I think it
5 would be -- I think it's understating it to say
6 it's somehow otherwise. And I think if you look
7 at an example like that, that was a win, win, win
8 for the development community, for affordable
9 housing advocates, for open space advocates, and
10 for the surrounding community as well as the
11 City's overall economic growth.

12 I am deeply troubled by the proliferation of
13 Community Benefit Agreements. I believe it is an
14 external process that is not predictable, not
15 accountable, and not negotiated by the elected
16 officials tasked with negotiating community
17 benefits. Community needs should be negotiated
18 through their representatives in the ULURP
19 process, namely, the ULURP process, the Borough
20 President and the local Council Members. At
21 their best, CBA's are the means for mischief and
22 at their worst, they could cripple our ability to
23 grow as a city.

24 I do agree with some of my colleagues that
25 there are problems with what is known as the

1 pre-ULURP process, the process before
2 certification, particularly in the environmental
3 impact process. The environmental impact process
4 is not predictable in the way the ULURP process
5 is. If you look, for example, at Moynihan
6 Station, which is a project I spent five years of
7 my life working on, there have been I think by
8 now about four EIS's done for Moynihan Station,
9 probably about \$12 million worth of soft costs
10 spent, and yet we have no train station. We have
11 process. And what that really leads to is the
12 fact that that very process is so time consuming
13 that major infrastructure cannot be built because
14 it outlives the economic boom-and-bust cycle that
15 is natural in any kind of economic society we
16 live in. So I think that in terms of reform,
17 basically, the EIS process has to be looked at in
18 some way with the Federal government in something
19 that is reformed, streamlined, and actually
20 becomes predictable like the ULURP process
21 itself.

22 And then a few governance issues. I think
23 there is still insufficient coordination between
24 the Department of City Planning and our Economic
25 Development Corporation. We have a brilliant City

1 Planning Chair in a Amanda Bergman, her staff.
2 But most of the focus has been on rezoning,
3 because that is the primary tool that City
4 Planning controls.

5 As part of this Commission, I believe that
6 we should consider the creation of a New York
7 City Redevelopment Authority, as many
8 municipalities have working right now, that in
9 some manner merges or overlaps the economic
10 development role of EDC with the planning role of
11 Department of City Planning. This would enable us
12 to more comprehensively plan publicly on sites,
13 plan for infrastructure, build affordable housing
14 and so forth.

15 Also, a governance issue and with all due
16 respect to our partners in State government, I
17 think far too much of the City's land use is
18 controlled by Albany. The World Trade Center
19 site, Moynihan Station, Atlantic Yards. It is
20 extraordinary to state the list of publicly
21 controlled sites that we do not control as a
22 City, and I think that is largely vestigial and
23 is largely inappropriate in a major global city
24 like New York today. And we should control our
25 own destiny.

1 A final point in terms of our global
2 competitiveness. At Columbia we are putting an
3 intense amount of study into our competitiveness
4 as a City. We do a tremendous amount of
5 traveling, and as I travel it seems to me there
6 is no question that as a city we are steadily
7 becoming anti-growth in comparison to London, to
8 Hong Kong, to Shanghai, Sao Paulo and Mumbai. We
9 cannot just assume that employers will simply
10 stay in New York City because of great songs
11 written by Frank Sinatra and Jay Z.

12 Our infrastructure is old and it is failing.
13 Our taxi and bus fleet is far behind what
14 operates today in New Delhi and in Coratiba,
15 Brazil. Our political class and our leaders need
16 to understand that we have to wake up to this, to
17 these issues, before we see our tax base eroded
18 to the point of no return.

19 In summary, I'd just like to say that I do
20 believe ULURP works. I think some of the EIS
21 process does not, and that we need a far more
22 logical governance structure in terms of State
23 and City control, and in terms of our control of
24 economic development as we build major
25 infrastructure projects and try to move our City

1 forward. Thank you very much.

2 CHAIRMAN GOLDSTEIN: Thank you, Professor
3 Chakrabarti. That was a very fine presentation.

4 Let's conclude now with Mr. Collins.

5 MR. COLLINS: Thank you very much,
6 Mr. Chairman, and members of the Commission.

7 Prior to my appointment to the Board of
8 Standards and Appeals I was the Counsel for the
9 Land Use Committee at the City Council for 13
10 years. It's from that perspective I want to
11 offer just a couple of comments on the ULURP
12 process.

13 Overall, like several of my colleagues, I
14 believe had in the ULURP process works well and I
15 think it succeeds in balancing local neighborhood
16 needs to with Citywide needs. I think the
17 timeframes in the ULURP process are generally
18 reasonable, and I think they lead to
19 predictability, which I think from a community
20 perspective as well as from a developer's
21 perspective is a very important component to the
22 process.

23 In my experience at the City Council, the
24 recommendations of Community Boards were always
25 considered, and in many cases Community Board

1 leaders remained a part of the process long after
2 the Community Board's 60-day clock had expired.
3 To simply say that Community Boards are advisory
4 is not the same as saying that they are without
5 influence.

6 Chair of the land-use committees, chairs of
7 the subcommittees, members of the committee
8 always would ask of the staff where is the
9 Community Board on this? If there was a split
10 vote at the Community Board they wanted an
11 explanation of why it was split, who was for it,
12 who was against it, what kind of conditions the
13 Community Board sought.

14 I think that the drafters of the current
15 Charter in 1989 -- David mentioned just a little
16 bit -- feared that there would be excessive
17 parochialism on the part of the City Council,
18 there would be 51 -- at the time 35 --
19 flagstones. But I think in large measure that
20 has not materialized.

21 The idea that an individual Council Member
22 has some sort of an effective veto over land use
23 matters within his or her own district is simply
24 not the case. Their position certainly carries
25 great weight and they certainly are part of

1 whatever discussions or negotiations take place
2 at the Council. But I had seen numerous
3 occasions where the local Council Members'
4 position on a land use matter was overruled when
5 the leadership of the Council decided that
6 City-wide implications, Citywide importance,
7 outweighed local concerns.

8 David also mentioned this point, that's the
9 division of subject matter within ULURP, and the
10 idea there's eleven categories of subject matter.
11 Three of them go to the Council automatically.
12 They're referred to as "mandatory reviews" and
13 those are zoning map amendments, housing and
14 urban renewal plans, and the disposition of
15 certain real property.

16 The other eight categories are subject to
17 what they call "call up" the assertion of
18 jurisdiction over them. I was surprised at the
19 number that David mentioned, 46 percent. I seem
20 to recall far, a far lesser percentage. But
21 nevertheless, even at that number, even if that
22 number is correct, I think that is further
23 evidence that the Council as a body has not
24 sought to put its hands into every single
25 possible thing that comes through the pipeline.

1 It's a cumulative process. And if there are
2 issues with a given ULURP application, sometimes
3 they're negotiated at the Community Board, then
4 they're negotiated at the Borough President, then
5 they're negotiated again at the City Planning
6 Commission. So that by the time applications get
7 to the Council there may be no unresolved issues.
8 And so it's not uncommon for a Council Member
9 when asked by the staff, "Do you want to call up
10 this particular item?" To say, "No, I'm happy
11 with it, everything's been resolved." So being
12 the last actor in the process, I think that the
13 Council doesn't necessarily want to call things
14 up just for the sake of doing it.

15 Although I do not have a specific
16 recommendation for the Charter Commission on this
17 somewhat esoteric point, I would urge that you
18 and your staff spend a little bit of time on the
19 limitations that are currently imposed on the
20 City Council's ability to modify decisions of the
21 City Planning Commission. This is commonly
22 referred to as a "scope determination" and it's a
23 limitation that you'll find in section 197-d(d)
24 of the City Charter. It requires the Council
25 when the Land Use Committee is considering a

1 modification to a City Planning decision to send
2 that proposed modification back to the City
3 Planning Commission to answer the following
4 question: Are the proposed modifications of such
5 significance that additional review of
6 environmental issues or additional review
7 pursuant to section 197-c of the Charter is
8 required?

9 I remember when that limitation was imposed
10 by the '89 Charter Commission, and it was very
11 clear that it was to serve as a check on the
12 Council to have the so-called "expert body," the
13 City Planning Commission, keep an eye, if you
14 will, on the Council with a political eye.

15 I think that the Council believes that this
16 sometimes is a fair debate on that issue, and
17 that there are important modifications that they
18 would like to make and support a project. But
19 that it could be shot down by an adverse "scope
20 determination" made by the City Planning
21 Commission.

22 Finally, I would just recommend that if the
23 Commission is going to take a look at the time
24 periods within the ULURP clock there are two you
25 may want to speak with staff at the City Planning

1 Commission, or City Planning Department, and at
2 the City Council. That scope determination
3 period is 15 days, and so it is sometimes as a
4 practical matter difficult to get all of the
5 transmittals back and forth between the two
6 bodies.

7 Similarly, when the Mayor vetoes a land use
8 determination by the City Council there is just a
9 10-day period in which to opt in, which would
10 override the veto.

11 Now clearly, the Council is very serious
12 about overriding a Mayoral veto. They schedule a
13 meeting if they have to. But it sometimes
14 creates a practical difficulty and you may want
15 to look at those as well.

16 I just want to conclude my comments on ULURP
17 by saying that my experience as both a Community
18 Board chair, which I was about 18 years ago under
19 this Charter, and as former Counsel to the Land
20 Use Committee, I do not see what I would call a
21 major problem with the Uniform Land Use Review
22 Procedure and I would urge great caution in
23 changing it.

24 CHAIRMAN GOLDSTEIN: Thank you, Mr. Collins.
25 That was also very fine. And all of you were

1 really terrific and deep and serious and very
2 helpful to all of us here on the Commission.

3 Before we engage in a conversation with you,
4 I'd like to have an opportunity for our
5 Commission Members to identify themselves, and
6 I'll start with Commissioner Steve Fiala.

7 COMMISSIONER FIALA: Steve Fiala.

8 COMMISSIONER COHEN: Hi, I'm Hope Cohen.

9 COMMISSIONER CASSINO: Hi, I'm Tony Perez
10 Cassino.

11 COMMISSIONER BANKS: Hi, I'm John Banks.

12 COMMISSIONER FREYRE: Angela Mariana Freyre.

13 COMMISSIONER TAYLOR: Bishop Mitchell Taylor.

14 COMMISSIONER BETTY CHEN: Good evening, I'm
15 Betty Chen.

16 COMMISSIONER PATTERSON: Katheryn Patterson.

17 COMMISSIONER DAVID CHEN: David Chen.

18 CHAIRMAN GOLDSTEIN: I'd also like to
19 acknowledge the presence in our audience of some
20 of our very able staff, starting with our
21 Executive Director, Lorna Goodman; Joe Viteritti,
22 back from a wonderful trip, and you'll have to
23 tell us about that; Matthew Gorton is mulling
24 about; Jay Hershenson, Ruth Markovitz; and if I
25 see anybody else I'll identify them. Thank you

1 all for being here and the work that you do.

2 So, let's start with anybody on the
3 Commission who would like to ask a question.
4 Start with Hope Cohen.

5 COMMISSIONER COHEN: Thanks to all the
6 panelists. Really, for a land use geek this is a
7 treat.

8 I think there are a couple questions I'd
9 love to ask, but I would like to start with --
10 and this is probably mainly for Panelists Angotti
11 and Chakrabarti -- the question of integrating,
12 planning, zoning, more holistically and in
13 particular within the context that Mr. Angotti
14 mentioned of PlaNYC, and the Sustainability
15 Office, the City Council by local law amended the
16 Charter in recent years to establish the
17 Sustainability Office in the Mayor's Office of
18 Operations after it was kind of floating around,
19 doing PlaNYC for a few months or a year. And I
20 wonder about the question -- let me say as an
21 aside in general, I am uncomfortable with lots of
22 things in the Charter, including over-re-
23 mandating organizational structures, but that's a
24 longer-term project. For now, my question is
25 about these two disparate organizational

1 structures, each with some kind of planning
2 mandate, the Strategic Plan in the Department of
3 the City Planning, the Sustainability Plan in the
4 Office of Sustainability, the very fact that we
5 have the separate entity called the Office of
6 Long-Term Planning. So I wanted to hear what you
7 have to say about integrating those
8 organizationally and integrating those
9 functionally and coming out with something that
10 does provide some type of long-term planning
11 framework.

12 That's my big complicated question and since
13 I have the mike I want to throw out a more
14 nitpick-y organizational question, and that is to
15 ask you about one of the few still existing
16 specific Charter mandates on Borough Presidents
17 that they have topographical bureaus. And I was
18 wondering if you could give us some input on that
19 in the age of GIS, with all kinds of modern
20 tools, that I would think the Department of City
21 Planning could manage more effectively.

22 CHAIRMAN GOLDSTEIN: Don't be shy.

23 MR. ANGOTTI: Okay. Well, I was excited to
24 see PlaNYC 2030 because it was an opportunity --
25 first of all, it was the first time that there's

1 been a long-term sustainability plan for the
2 City, and that sustainability became a priority
3 in setting policy over a long period.

4 The 2030 Plan would have been an excellent
5 opportunity to integrate Citywide and community-
6 based planning except it remained at the top, it
7 never got to the bottom, and my proposal that it
8 be submitted as a formal 197(a) plan was not
9 because I like formal plans; it was because that
10 would have allowed a discussion at every single
11 one of the 59 Community Boards about
12 sustainability, and about how the citywide goals
13 could be applied at the neighborhood level, and
14 how you could have sustainability at both levels.
15 So that is -- I think, the answer is very simple,
16 top down and bottom up planning. And this is one
17 way to do it.

18 The City's strategic plan could be another
19 opportunity. But right now that's just the
20 report of that's filed away.

21 There are many different media, we shouldn't
22 get hung up on the -- and I agree just changing
23 the Charter by itself won't make it happen. You
24 can create an Office of Long-Term Planning and
25 the next Mayor can decide not to fund it.

1 PROFESSOR CHAKRABARTI: I guess I would just
2 start by saying that in many ways our
3 predecessors figured out sustainability well
4 before we did. And by that I mean that if you
5 look at the statistics, the average New Yorker
6 uses a third less energy than the average
7 American simply by virtue of the fact that we
8 live in a highly transit oriented environment and
9 we live in party wall instruction where we heat
10 and cool each others apartments, right, without
11 any sort of fancy green gimmicks, right? And so
12 I think the most fundamental thing that we can do
13 as a City and through the Department of City
14 Planning is plan for as much transit oriented
15 development as we can and put as much density
16 near enhanced infrastructure for the maximum
17 extent we can.

18 That said, there's obviously many other
19 pieces of the armature of City government that
20 influences this. Green buildings, which I think
21 has to get adjudicated both in terms of what the
22 Zoning Code says but also in terms of the
23 Building Code. In terms of what DOT does in
24 terms of what buses get deployed, how those buses
25 are managed, so forth. So I think there is room,

1 therefore, for a comprehensive look at
2 sustainability from the angle of the Department
3 of City Planning. But I also think it makes
4 imminent sense for the Mayor's Office to have a
5 coordinating function across many different
6 agencies to look at sustainability holistically
7 in terms of how the City is handling that,
8 because I think for City Planning to do that on
9 its own would be asking it to get into a kind of
10 operational theater that it doesn't operate in.
11 And I think that is part of the role of City
12 Hall. So that's what I would say on the first
13 question.

14 And the second question I guess I really
15 would defer to David in terms of the GIS and that
16 kind of thing.

17 MR. KARNOVSKY: The mapping process through
18 ULURP and as it's handled at City Planning,
19 bureaus of the Borough Presidents is clearly an
20 area which could benefit from more technology and
21 from better recordkeeping. There's no question
22 about that. And I think that's an area which
23 isn't necessarily an area for Charter reform so
24 much as an area which should be focused on in
25 terms of bringing to bear some of the

1 technologies that have already been implemented.
2 For example, the Department of Buildings, to
3 improve the management of the records, the
4 processing of the changes, and the archiving at
5 the bureaus and City Planning. It's a process,
6 of course, that dates back to the 19th century,
7 and in some respects still has some of those
8 features. So it's ripe for some reexamination
9 from a process improvement standpoint.

10 CHAIRMAN GOLDSTEIN: I'd like to acknowledge
11 John Banks, Commissioner Banks.

12 COMMISSIONER BANKS: Good evening, everyone.

13 Dr. Angotti, you said something that really
14 peaked my interest with regard to the pre-ULURP
15 process. Everyone I talked to says the process at
16 215 days that David spoke of, the formal
17 application being recognized, is already too
18 long. Developers think it's too long. Community
19 members think it's too short.

20 When you suggested the pre-review process be
21 opened, pre-ULURP process be opened, how would
22 you determine who has the right to participate in
23 that? I can imagine that although might not be
24 directly related to my particular community, but
25 I can envision some ancillary problems that might

1 happen. For example, the next day I know traffic
2 in all of downtown Brooklyn is going to be pretty
3 horrific. How do you limit the people who want
4 to be involved in that some wacko from wherever
5 wants to come and have input on somebody else's
6 community?

7 MR. ANGOTTI: Well, the question ought not to
8 be how to limit the participation but how to
9 improve the quality of the participation and the
10 decision making. If everybody is invited to the
11 ULURP process and can testify and participate,
12 why shouldn't everybody be invited to the
13 pre-ULURP process when important decisions are
14 being made and deals are being cut?

15 That doesn't mean that you have to have a
16 huge party with a hall that can fit everybody
17 that lives in the community, because not
18 everybody will come. But everybody should be
19 invited. It's something about the Democratic
20 process that says it ought to be open and
21 transparent. And if the ULURP process is open and
22 transparent why shouldn't the pre-ULURP process
23 be open and transparent?

24 COMMISSIONER BANKS: Well, the Democratic
25 process to me, as a citizen, I'm not allowed to

1 participate with elected officials during their
2 deliberations. The point at which what we
3 discuss or what elected officials discuss in
4 private becomes public, and at that point I have
5 an opportunity as a citizen to participate.

6 I guess I'm sort of struggling with how do
7 you begin this discussion? Because I would
8 imagine that what would happen is there would be
9 private discussions prior to the pre-ULURP
10 process, which would in fact eliminate the
11 sunshine that I would want to have. So again, I
12 understand what you're saying. I'm struggling in
13 a very practical sense where you begin to allow
14 interested third parties in that process?

15 MR. ANGOTTI: I understand what you're
16 saying, and I certainly would not want to -- the
17 purpose is not to open up a unpredictable process
18 that precedes ULURP. The purpose is to make the
19 pre-ULURP process just as predictable and to
20 shorten it so that it too does not have to drag
21 out for years and years. But it can be -- the
22 environmental review process is a very lengthy
23 one, and it all occurs prior to certification.
24 That process actually could be collapsed a great
25 deal and made much more meaningful by focussing

1 on the real environmental issues, not simply
2 those that have to be covered to protect the
3 applicant from future lawsuits.

4 CHAIRMAN GOLDSTEIN: Mr. Selver.

5 MR. SELVER: Yes. I want to comment, because
6 essentially any private applicant who has a
7 project of even small magnitude, if that
8 applicant knows what he or she or it is doing
9 will in fact reach out for each of the players,
10 each of the players in the ULURP process, for the
11 Community Board, for the Borough President, for
12 the Council Members, for in fact the Council --
13 the individual Council Member and then for the
14 Council land use staff to touch base and see,
15 understand what the issues are, what's important,
16 what's not. And sometimes there are changes made
17 in the project during that period and sometimes
18 there aren't. But you don't go into the ULURP
19 process precisely because it is only seven months
20 long, and you can't extend it without having a
21 very clear idea of what the participants and
22 stakeholders think.

23 And the other thing I would say is, you
24 know, the length of the process is really a
25 function of the pre-certification process is more

1 a function of the environmental review than it is
2 anything that's in the Charter.

3 I think we have the State Legislature to
4 thank for SEQRA, and I think until there are some
5 changes there we will have to live with the
6 system that we have. Not that we're happy with
7 it, but it's there.

8 COMMISSIONER BANKS: Just one question. Over
9 the course of our hearings several people have
10 raised the issue of changing the process so that
11 if the Borough President, Community Board both
12 reject a proposal requiring the City Planning
13 Commission having a supermajority, or two-thirds
14 majority, in order to override that local
15 objection. Does anybody want to comment on that?
16 I'm sure David might want to say something?

17 MR. KARNOVSKY: I think as I said, I believe
18 the balance between local borough and Citywide in
19 the current process works.

20 The other point here, though, is as I said
21 earlier, the members of the Planning Commission
22 who are appointed by the Borough President are
23 not representatives of the Borough President.
24 They are selected by the Borough President but
25 are supposed to be independent; that is the

1 criteria for the Charter. The implication of that
2 proposal, perhaps, and this is what I fear about
3 it is in requiring a supermajority vote at the
4 Planning Commission for applications disapproved
5 by the Borough President that there would be an
6 attempt to recreate the Borough deference model
7 of voting that characterized the Board of
8 Estimate, and that I think would be a great
9 disservice to the process.

10 CHAIRMAN GOLDSTEIN: Commissioner Cassino.

11 Mr. Selver?

12 MR. SELVER: I was going to echo David's
13 comments that I think it distorts the balance
14 that now exists between the different layers of
15 the process, and it would not be in the best
16 interests of the City as a whole, I think, which
17 is really where the land use decision should be
18 made.

19 MR. ANGOTTI: I'd just like to add something.
20 I believe that the common impression out there is
21 that the Mayor controls the votes on the City
22 Planning Commission. The great ideal of
23 independent City Planning Commissions is just
24 that. It's people are appointed, people are
25 political people. And the Mayor's appointments

1 dominate the vote in the City Planning
2 Commission. That's a fact that's a reality in
3 practice. And so in theory they may be
4 independent, but that's the practice. And there
5 are deviations from this on some votes. But by
6 and large. So, I think there needs to be -- I
7 think it is not balanced. Right now the balance
8 is heavily towards City Hall. And I'm not exactly
9 sure, I don't know what the right formula is, but
10 I think to balance it we need to give some more
11 weight to the communities at the community level.
12 I'm not speaking for Borough Presidents, but at
13 the community level I think that's where it's
14 strategic and it's key.

15 Improve, improve the ability of communities
16 to have a say about the futures that are going to
17 affect them directly.

18 CHAIRMAN GOLDSTEIN: Commissioner Cassino.

19 COMMISSIONER CASSINO: Thank you,
20 Mr. Chairman. I chaired a Community Board in the
21 Bronx, Board 8, and we were one of the few boards
22 that the 197(a) plan that was approved. The
23 process was a very difficult process. And I think
24 it's a real shortcoming that most Boards haven't
25 entered into the process, and there really isn't

1 much guidance, resources, et cetera, because I
2 think that's at the core of it all.

3 One of the major functions we should be
4 doing at the Community Board is planning. And
5 overall, my experience has been, and I think this
6 Panel bears it out, and many of the comments
7 we've heard in our meetings bears it out, that
8 overall this process is a pretty well-crafted
9 process overall. Everybody's talked about mainly
10 tweaking as opposed to a real overhaul.

11 My experience, even though we were advisory,
12 was that often City Planning really did hear us
13 on many things. It wasn't perfect, but it was a
14 good balance, and as a non-elected official, I
15 felt I had a great deal to say in that process
16 when I was a Community Board Chair, and our Board
17 did. And I guess we heard many more problems
18 quite frankly with the BSA there and here, that
19 seems to be much more of a problem in our City,
20 City's planning and functioning.

21 My question goes to that issue of zoning and
22 planning, because 197(a), we looked at a vision
23 for the community and, again, most aren't doing
24 that, you're looking at a zoning, and there's a
25 lot of frustration that some of that is done

1 without looking at enough of the other issues,
2 like, what's the impact on parking and schools
3 and all of the impacts that go with that, whether
4 it's for rezoning or any other land use action,
5 what's the consideration given to that? How much
6 of that is in there? Because that's why we
7 rezoned our community.

8 Our request was put in there because so much
9 was being built that we felt it was out of
10 context. We did a down zoning, contextual down
11 zonings. So how much consideration? Where is
12 that in the process, the discussion about all of
13 the impacts that development has? It certainly
14 was in our 197(a) plan. If you don't have one
15 you're not going to have that process. Where is
16 it elsewhere?

17 MR. KARNOVSKY: Let me just say about that
18 that 197(a) plan to illustrate something that I
19 think hasn't been said, which is implementation.
20 I think the suggestion was made that they are put
21 on a shelf.

22 In your case I believe there had been about
23 four rezoning's in 2004, 2005 and 2006 that
24 specifically implemented recommendations of the
25 197(a) plan, illustrating that they are not dead

1 letters, they are not put on the shelf, they are
2 implemented by City Planning and the Parks
3 Department and other agencies. That doesn't mean
4 that they all happen at once or that they happen
5 fully, but actions are taken. So I wanted to
6 make that clear.

7 With respect to this issue of planning and
8 thinking about infrastructure, I think Paul
9 Selver noted this, but one of the hallmarks of
10 the rezoning approach that we've taken is that
11 we're not simply rezoning and rewriting the book.
12 I think City Planning has taken an approach where
13 it looks at a neighborhood and develops a plan
14 for the neighborhood in junction with the
15 operating agencies -- whether it be DEP, Parks
16 Department or DOT -- and the zoning is the
17 translation of some aspects of that plan into a
18 binding form. So that does take place.

19 We believe that the record we have of a
20 hundred rezoning's reflects that and that that's
21 the approach we've taken. So there is integrated
22 planning that goes on, there is coordination with
23 the other agencies, and that is the approach we
24 take.

25 MR. ANGOTTI: I could actually think that's

1 not quite the way it works. There is some
2 planning that occurs. But first the department
3 determines how to change the zoning and then
4 prepares a preliminary land use study and
5 contextual study.

6 The City of Los Angeles, City of Chicago,
7 before they rezone, they have a comprehensive
8 plan. Other cities in the United States,
9 Seattle, smaller cities, they do the same thing.
10 They have a comprehensive plan to start with,
11 then they do the rezoning based upon that
12 comprehensive Citywide plan and a comprehensive
13 community-wide plan. What happens is the zoning
14 here goes first.

15 What's happened as a result of that is we
16 have communities in which there have been up
17 zones that today are finding that there aren't
18 enough schools. The schools are all of a sudden
19 overcrowded because planning for school
20 facilities did not occur when the rezoning
21 happened. Transportation problems are arising,
22 overcrowding on subways. Even in those areas
23 that were designated for transit oriented
24 development, transit is now operating over
25 capacity because no new transit was built. So,

1 this is not comprehensive planning, I think.
2 There is some planning going on but it's not
3 adequate. And that's why community -- and also
4 may I add that some 197(a) plans have been
5 implemented, but very few, and those who have
6 not, ones that I have worked with, are low-income
7 communities of color, like Red Hook, places like
8 Williamsburg, that have severe environmental
9 burdens. And those are the communities where
10 there's intense development interest, and they've
11 been up zoned contrary to the indications of the
12 197(a) plans. So it's a very, very uneven
13 experience with 197(a) plans. Very few have
14 actually have had the success that you've had.

15 PROFESSOR CHAKRABARTI: I would just like to
16 chime in on this in the sense that if you're
17 there on the ground at City Planning I think you
18 see a tremendous amount of planning take place.
19 I do not believe the zoning comes first. I very
20 much believe that planning comes first before a
21 zoning proposal is written. I've seen it time
22 and time again both in Manhattan, Downtown
23 Brooklyn, the Williamsburg/Greenpoint,
24 waterfront, there are numerous examples of this.
25 And so I think that's very important to say.

1 The other thing is I frankly don't know how
2 one would do a Citywide land use plan in a way
3 that wasn't completely top-down. You know, we
4 have to have the flexibility of having proactive
5 neighborhood planning from City Planning as well
6 as a kind of reaction to what communities want,
7 where the market is headed.

8 I think in a city as large and as complex as
9 ours, we are not, you know, we're not Portland,
10 right? That it's almost inconceivable to imagine
11 that we could imagine all five Boroughs, all
12 equal people under the umbrella of one Citywide
13 plan that would manage all of our land use that
14 wouldn't in fact completely miss the mark in
15 neighborhood after neighborhood in terms of what
16 the communities wanted and where the market was
17 going.

18 CHAIRMAN GOLDSTEIN: Mr. Karnovsky.

19 MR. KARNOVSKY: I would just say on this
20 whole concept of a comprehensive plan or a master
21 plan, bear with me, and I just want to read
22 something from 1975, because the issue was there
23 in 1975. And what the Charter Commission said was
24 that "a Citywide master plan for the physical
25 development of the City is an anachronism, it's

1 never been implemented, and the whole vision that
2 you could have a single plan is a fallacy."

3 And what it said the Charter should cast off
4 this master plan approach to planning and instill
5 the reality of comprehensive planning as a
6 continuing dynamic process which deals with both
7 Citywide and local issues. And that really is the
8 process we've been following since 1975.

9 This notion that there can be a document
10 that reflects a Citywide plan is a mirage.

11 CHAIRMAN GOLDSTEIN: Let me acknowledge
12 Commissioner Fiala and then Commissioner Betty
13 Chen.

14 COMMISSIONER FIALA: Thank you, Mr. Chairman.

15 Let me, first of all, let me with
16 Commissioner Cohen a happy birthday.

17 Let me also this Panel is wonderful. I
18 particularly point out Mr. Collins, who I had the
19 privilege of working with a number of years and
20 whose guidance I relied on heavily as a City
21 Council Member. So I appreciate all of you being
22 here.

23 We have criss-crossed this City several
24 times over now, and we've heard from hundreds of
25 different folks, elected officials, Community

1 Board members, average citizens, business
2 interests. There is a lot of diversity of
3 opinion on all of the subject matter we've heard.

4 Land use is about as complex a subject we
5 could talk about. Just the five-member panel
6 here, when we talk about diversity of opinion
7 this reinforces my belief that this is one of
8 those very complex subject matters that require
9 extensive amount of review. We've dug, we've dug
10 deep, and every time we think we're getting down
11 to a layer we realize there's another three
12 layers to go and then we have hit bottom and go
13 further.

14 The Charter, the '89 Charter, spelled out in
15 I think a fairly extensive detail both the
16 structure and the process relating to land use,
17 and it's supplemented by City Planning, City
18 Planning's authorized, promulgate rules and
19 whatnot. We got extensive verbiage on land use
20 in this City.

21 I'd like to focus on the structural aspect.
22 We could spend the next hundred days on specific
23 sections of the Charter relating to process. But
24 if we don't deal with the big threshold issues of
25 structure first I'm not sure that the less

1 matters as much.

2 I'd like to do this through my own
3 observations and then let you comment rather than
4 asking individual questions, if you don't mind.

5 With respect to structure, this City
6 operates on three levels of representation:
7 Citywide, a Borough-wide, and a district. We
8 elect a Mayor to represent our interests in the
9 Citywide basis. We elect a Borough President to
10 speak for the interests of a Borough, and we
11 elect a City Council Member to represent the
12 interests of the district. Maintaining Community
13 Boards, which I maintain are advisory and should
14 stay advisory, I want to focus on that middle
15 player, because the '89 Charter, I think most
16 people would agree, eviscerated the role of
17 Borough Presidents. And in doing so, they did so
18 because they had to. The Supreme Court ordered
19 that the government is unconstitutional and the
20 Charter Review Commission had to come up with a
21 new proposal. They came up with a pretty good
22 one, it's a pretty good document, even though I
23 voted against it originally. It's a pretty good
24 one, well thought out.

25 Twenty years later we've now got twenty

1 years of real experience, and I think it's
2 legitimate to ask at this point isn't it a
3 disservice to the City when we have these three
4 levels of government, all with elected
5 officials -- and mind you, these are elected
6 officials -- and that Borough-wide perspective
7 isn't given the same weight as are the Mayoralty
8 and that districtwide perspective? They're
9 simply not. And I tell you, I being a former City
10 Councilman, I have never believed that a
11 legislative body should have final land use
12 authority on most matters. Zoning yes, the big
13 issues, yes, but I believe land use is primarily
14 an executive function. And it seems to me since
15 we got a Countywide official representing the
16 interests of, let's say, all of Manhattan, all of
17 Staten Island, that's a pretty weighty voice.
18 That person has received more votes than an
19 individual Council Member. That person should
20 have some higher degree of authority than simply
21 an advisory role.

22 I don't think that the reliance upon a
23 Community Board and a Borough President having to
24 both say "no" and then go through the triple "no"
25 process really does a disservice to the notion of

1 checks and balances that I think we had intended.

2 A Borough President is separate and apart
3 from the Community Board. They're elected by
4 Borough residents. So, I'd like you to address
5 that separate and apart from the Community Board.
6 And you may want to deal with it in this context.
7 ULURP is a well-thought-out process. There's a
8 timeline and we can again on the operational side
9 with respect to the pre-certification, maybe we
10 need to tweak the timeline there. There is a six
11 month provision where specific parties can
12 actually interject in the process and request an
13 expedited procedure. But I want to propose one
14 idea. We've got this Borough President position
15 and they don't have a meaningful voice. A
16 meaningful voice is not something that can be
17 achieved if it's advisory only. It should be
18 somewhat binding. Is it possibly time that we
19 look at the three primary institutions of land
20 use: Landmarks Preservation Commission, BSA, and
21 the City Planning Commission? And say that the
22 Borough President should have appointments. City
23 Planning does, I'm aware of that; the other two
24 don't.

25 With respect to the City Planning process in

1 ULURP, what would be so wrong when it gets to the
2 Borough President in that ULURP process if a
3 Borough President said, "No. Forget about what
4 the Community Board said. It's the Borough
5 President." The Borough President says, "No. It
6 would require a two-thirds majority of the City
7 Planning Commission."

8 Bear in mind, if that Borough President
9 couldn't get the votes it goes forward. And also
10 bear in mind that under the present construct the
11 City Council continues to retain authority. It's
12 simply injecting a meaningful voice in allowing a
13 player that has been eviscerated to have some
14 kind of a negotiating authority within this
15 framework that we've constructed, because
16 underlying this issue is the notion of the
17 Borough-wide perspective no longer exists in a
18 meaningful way.

19 MR. SELVER: I'll try to start. The final
20 decisions, dispositive decisions, in ULURP are
21 made both by Citywide bodies. You may be an
22 individual Council Member who represents a
23 district, but you're a part of the Citywide body
24 that has Citywide responsibilities. And that I
25 think is as it should be.

1 The final, the decisionmaker, should be
2 people who are people who have a Citywide
3 perspective either institutionally or because
4 those are the folks who were elected.

5 To give an official with a narrower
6 perspective, the potential to veto something that
7 is of Citywide value -- and whatever you may say,
8 giving the Borough President the ability to
9 trigger a supermajority on the City Planning
10 Commission would do that -- I think would again
11 distort the process, and it has the potential to,
12 I guess to let the Borough Presidents in effect
13 tweak more power than perhaps they're entitled
14 to. Because by sticking together they could in
15 fact prevent many things from happening at the
16 City Planning Commission.

17 Now, that doesn't mean that the Borough
18 Presidents are powerless. I think Scott Stringer
19 has done a fantastic job, really fantastic job,
20 going out there, using his bully pulpit to bring
21 communities and developers together that have
22 worked with the Council Members to do what, you
23 know, to do what a public official really ought
24 to do. And so I think the Borough President can
25 be very effective under this system. He or she

1 does not need to have the trigger for some kind
2 of veto power or supermajority.

3 I would also add if you think about where in
4 land use super majorities are required, it's
5 generally where a body, a body, an inferior body
6 is going against a superior body.

7 In New York State, the County Planning Board
8 says, "No. You are required to have a
9 supermajority at the local Planning Board." And
10 that makes sense, because the County Planning
11 Board is responsible for the county. So, I think
12 that it's kind of backwards if you give the
13 Borough President the ability to trigger
14 supermajority.

15 CHAIRMAN GOLDSTEIN: David?

16 MR. KARNOFZKY: I would say to echo Paul,
17 one should not underestimate the influence of the
18 Borough Presidents on the process. And in my
19 experience there have been a number of major
20 projects which rose or fell on the Borough
21 President's approach towards a project. And I
22 echo what Paul said about the Manhattan Borough
23 President in particular who has used his
24 influence to shape major projects in a very
25 significant way so that when they get to the

1 Planning Commission they bear the clear imprint
2 of the Borough President.

3 MR. COLLINS: If I can just add a comment on
4 the whole issue, the broad issue of whether or
5 not there is a Borough perspective.

6 At the City Council, as you well remember,
7 Commissioner, there are Borough delegations. All
8 of the members of the City Council from the Bronx
9 get together and they, for example, select one
10 person to be their budget negotiator. They
11 oftentimes will opine on matters that are pending
12 before the Council. So I think there is even
13 within the Council there are instances where
14 there is a Borough voice that is heard.

15 There are certain boards and commissions
16 that the City Council appoints people to, and
17 that's often done by the Borough delegations as
18 well. So I think the Borough voice is heard in
19 places other than just by the Borough Presidents.

20 CHAIRMAN GOLDSTEIN: Let me acknowledge
21 Commissioner Betty Chen who would like to ask a
22 question.

23 COMMISSIONER BETTY CHEN: Thank you. In the
24 various public testimonies we've heard a range of
25 opinions about Community Benefit Agreements. Many

1 people have stated that public officials in
2 making land use decisions should be basing their
3 deliberations and opinions on environmental
4 impacts on land use issues and not on political
5 or financial considerations.

6 We've also heard members of the community
7 come to us and say that certain deals were made
8 with developers that certain things weren't lived
9 up to and where can they go for satisfaction, or
10 for someone to regulate that, or somehow enforce
11 those agreements.

12 And I guess as it seems that Community
13 Benefits Agreements are more and more a fact of
14 life, doesn't look like they're going away
15 anytime soon. Does anyone on the Panel believe
16 it's actually the responsibility of City
17 government to get involved in this somehow? To
18 establish clear standards? Or is it really more
19 appropriate for City government and whatever we
20 might do through the Charter to just stay clear
21 of this issue altogether?

22 MR. ANGOTTI: As a matter of full disclosure,
23 I'm on the John Liu's task force on Community
24 Benefits Agreements and which does not speak with
25 a single voice about this. There's a great

1 variety of opinion about it. But it has become
2 very clear to the task force that ULURP is part
3 of the reason for the rise of Community Benefits
4 Agreements; that the land use review process is
5 not incorporating the needs, the demands, and the
6 desires of both developers and communities to
7 deal with issues through the land use process.

8 Community Benefits Agreements are agreements
9 between developers or applicants and the
10 community and they're unregulated. I believe
11 they should be, they should be audited, they
12 should be written, there should be guidelines,
13 and there should be sunshine so that they're open
14 and transparent and they're not backroom deals
15 that undermine the ULURP process.

16 And Community Benefits Agreements are only
17 part of what's undermining the ULURP process.
18 The other is what we call "side agreements." And
19 these are growing. These are growing. They're
20 agreements between the Mayor's Office and
21 community-based organizations in order to get a
22 rezoning passed in order to get a major project
23 through. The Kingsbridge Armory was, of course,
24 in the news recently. It was one of those that
25 didn't make it. This needs to be brought into

1 sunlight, I believe, and there need to be some
2 standards and some oversight of the law. But it
3 also sends us a message that something's wrong
4 with the ULURP process, because these are issues,
5 the side agreements.

6 And the Community Benefits Agreements imply
7 public actions and the expenditures of public
8 funds, even capital monies. It implies changes to
9 the City services. These are of public interest,
10 and they need to be made public and discussed
11 publicly.

12 COMMISSIONER BETTY CHEN: But how could you
13 lay wages and local hiring at the feet of the
14 ULURP process? Of the land use discussions?

15 PROFESSOR CHAKRABARTI: You shouldn't.

16 MR. COLLINS: You shouldn't, absolutely.

17 MR. ANGOTTI: Why not?

18 PROFESSOR CHAKRABARTI: They're not land use
19 issues. Fundamentally, they're not land use
20 issues.

21 MR. COLLINS: There's a whole body of case
22 law that requires that these types of so-called
23 "deal sweeteners" actually have a nexus to the
24 impacts of the development project that's
25 created, and so I think the City needs to be

1 exceedingly cautious about the growth of
2 Community Benefit Agreements.

3 I think that government approvals can be
4 torpedoed if the City enters into an agreement
5 that is not legally defensible.

6 There's a threshold question to ask when
7 looking at the so-called "Community Benefit
8 Agreement." Who is the community? Is it the
9 elected officials? Is it the civic association?
10 Is it the Community Board? Who gets to decide
11 who's on the community team? There's no guidance
12 that really tells us that.

13 I think that if the Commission wants to look
14 at this and write something into the Charter as a
15 starting point, there are two very good studies
16 by the Association of the Bar of the City of New
17 York. One just came out recently and another one
18 that I believe goes back to the Koch
19 Administration of the '80's where I think it was
20 called "Zoning for Sale." You should take a look
21 at those, because I think both of those set out
22 some very good, some very solid principles that
23 will be instructive on the question of what can a
24 municipality legally extract from a developer in
25 the context of the public approval process.

1 CHAIRMAN GOLDSTEIN: Thank you.

2 MR. KARNOVSKY: I think there is a
3 distinction to draw, I'd like to make it here.
4 When you're talking about a private application
5 for a rezoning, a regulatory action, where the
6 issues are about land use impacts and
7 implications and environmental issues, I think
8 the law is clear that what is required of the
9 applicant must have a nexus to those land use
10 issues, and the environmental issues. And the use
11 of CBA's raises some very profound problems. But
12 I do want to note that when the City of New York
13 is acting in its proprietary capacity and in fact
14 is disposing of property, that it has the ability
15 to integrate into its economic development
16 procedures some community benefits. And I think
17 the issue, in part, for the City is how to do
18 that within its own process. Not through side
19 agreements, and not through so-called "private
20 agreements" between self-appointed community
21 groups and the developer, but rather by the City
22 itself. And I think that is a distinction which
23 one should keep in mind.

24 But as to ULURP, where you're really talking
25 about a regulatory action governed by standards

1 in the zoning resolution, the issues of jobs,
2 wages and so forth, really don't have a part in
3 the process in my mind.

4 CHAIRMAN GOLDSTEIN: Professor Chakrabarti.

5 PROFESSOR CHAKRABARTI: I truly believe, and
6 I don't want to state that this represents a
7 grave threat to the economic growth of New York
8 City, that fundamentally it could stop
9 development in its tracks. Unfortunately, there
10 are a few people who would like that. But it
11 truly -- and I'm not an attorney, but what I
12 truly see is a kind of end run around a very
13 established land use review process and an end
14 run around elected officials. I think it's highly
15 dangerous from that perspective. I think people
16 are unhappy with the benefits that their elected
17 officials are negotiating through the ULURP
18 process, and they need to get more involved with
19 their Community Board, or they need to run for
20 office, right? But this notion that somehow
21 unelected third parties can start creating
22 unpredictability and creating extractions in a
23 development process is extraordinarily dangerous
24 for the growth of the City.

25 CHAIRMAN GOLDSTEIN: You know, I've been

1 struck that there's been virtually no discussion
2 amongst the panelists about learning from other
3 villages around the world. I think it was you,
4 Mr. Chakrabarti, who had mentioned Mumbai and
5 Shanghai and London.

6 Now, there are different societies, there
7 are different political systems, there are
8 different pressures and so forth. What I am very
9 concerned about is the amount of time that
10 important projects like the Hudson Yards in
11 Manhattan, like Moynihan Station in Manhattan as
12 well, are taking to get done. And in part it's
13 because of the length of time that it transports
14 from one economic cycle to another --

15 PROFESSOR CHAKRABARTI: Yes; exactly.

16 CHAIRMAN GOLDSTEIN: -- to another economic
17 cycle. And as for those of us who follow
18 financial matters, I think all of you will agree
19 that we're in a much more volatile time, and that
20 volatility is continuing to spike, and probably
21 will continue to spike over a period of time.

22 So my question is can we learn from other
23 parts of the world where there is enormous,
24 enormous development, where the time frames are
25 compressed relative to what we see here in New

1 York? And if we could hold aside the political
2 systems, which obviously are deeply dependent on
3 things that are not transferable to a place like
4 New York. But are there structural ways in which
5 things are done? For example, Environmental
6 Impact Statements and so forth --

7 PROFESSOR CHAKRABARTI: Yes.

8 CHAIRMAN GOLDSTEIN: -- and so forth.

9 I remember Moynihan Station, because I think
10 you came to my office once and talked about this.

11 PROFESSOR CHAKRABARTI: Yes.

12 CHAIRMAN GOLDSTEIN: -- with us about whether
13 the University would be interested in part of
14 that. And I remember responding to you at the
15 time that if we were to make some deal now it
16 would take so long that the balance sheets of
17 either The City of New York or the University
18 would be transformed in that time. So, is there
19 something that we can learn from other parts of
20 the world to bring to a place like New York that
21 could inform structural changes, regulatory
22 changes, that could inform this Commission?

23 Now, I don't know if we would have the time
24 to do that, but future Commissions that we might
25 be able to set a pathway towards that would

1 enable us to deal with the inevitable
2 consequences of changing business cycles that
3 have plagued the City for a very long time,
4 because it has taken so long to get from A to B.
5 And I wonder if any of you could comment on that?
6 It's almost as if we're living in a village that
7 is hermetically sealed from the rest of the
8 world.

9 PROFESSOR CHAKRABARTI: Chairman, if I may,
10 it's a great question, and I think we are
11 hermetically sealed at a certain level because we
12 don't understand.

13 If you look at this last stimulus package
14 that the Federal Government issued in comparison
15 to both China and India. China issued a \$585
16 billion stimulus package. The vast majority of
17 that went to infrastructure. They have the
18 fastest passenger train in the world. If we had
19 that train you could travel from New York City to
20 Chicago or Charlotte in three hours, eliminating
21 the need for regional air traffic and, therefore,
22 clearing up our airports and our skies.

23 I think you can list, you can list example
24 after example and it's not just the growing
25 economies. It's London with St. Pancras Station,

1 Berlin, with Berlin Hauptbahnhof. You can list
2 place after place.

3 Fact is, is when the Obama Administration
4 passed the stimulus package there was a look at
5 whether NEPA could be streamlined in some way to
6 get the environmental impact process to somehow
7 be more efficient. And frankly I think we have a
8 severe problem in terms of our ability to deal
9 with the infracture because of the environmental
10 impact process, and also because there is simply
11 too much political infighting around these very,
12 very important issues that impact the growth of
13 our City.

14 CHAIRMAN GOLDSTEIN: I would underscore, I
15 would add one additional element. Infrastructure
16 I think is a large underbelly not only in this
17 City but in the United States as well. But I
18 would also indicate that the very weak balance
19 sheet of states across this nation are another
20 plague that we are going to have to deal with
21 that's going to affect dramatically our ability
22 to plan and to develop things in order to be
23 competitive in a much more global setting.

24 MR. SELVER: If I may. Clearly, Vishaan spoke
25 to one of the most, if not the most important,

1 factor in making infrastructure development
2 difficult, and in fact making large private
3 development projects more difficult. To that I
4 would add, and this may sound strange coming from
5 a lawyer, but litigation. The United States is a
6 relatively litigious country. And one of the
7 ways that a single individual can hold up a very
8 large project is to challenge the process by
9 which it was approved or the process by which --
10 the process by which it was approved. Those
11 litigations can drag on for some time, and that
12 is a second drag on getting things done.

13 And the third is that Democracy is very
14 messy, and for whatever reason I think there is a
15 sacrifice, and we could spend a lot of time
16 debating about where that line is drawn. There's
17 a line to be drawn between getting something done
18 in an expedited manner and making sure that all
19 potential stakeholders had a role in shaping it.
20 The more you bend toward the latter, the longer
21 and more complex the process can be.

22 CHAIRMAN GOLDSTEIN: I'd like to thank Mr.
23 Karnovsky, Professor Angotti, Mr. Selver,
24 Mr. Chakrabarti and Mr. Collins for a very, very
25 spirited discussion this evening. It was smart,

1 it was informative, and it certainly was helpful
2 to the Commissioners. I thank you all, and I
3 think the audience wants to show their
4 appreciation.

5 We'll take a very short break. We have a
6 list of people that would like to be heard this
7 evening, so if we could take about a seven-minute
8 break and reconvene.

9 (Whereupon, a short recess was taken between
10 8:14 P.M. and 8:28 P.M.)

11 CHAIRMAN GOLDSTEIN: Could the rest of the
12 Commissioners come up here, please. I know there
13 are some commissioners that are...

14 MR. COLLINS: Mr. Chairman, do you want us
15 here?

16 CHAIRMAN GOLDSTEIN: You're welcome to stay.
17 You're more than welcome to stay.

18 MR. COLLINS: Be happy to.

19 CHAIRMAN GOLDSTEIN: Okay. Let's convene.
20 There are two microphones on either side of this
21 room and, again, I would ask that each of you
22 maintain the procedure of really staying and
23 responding no more than three minutes, because we
24 have a number of people and I want to make sure
25 that we get to everybody. There is a clock that

1 will prompt you around the time your time is up.

2 So let me start with Susan Stetzer.

3 Welcome. Do I have your name correctly?

4 MS. STETZER: Yes, you do. Susan Stetzer.

5 Thank you.

6 CHAIRMAN GOLDSTEIN: Nice to have you here.

7 MS. STETZER: I'm here for Community Board 3

8 in Manhattan, which is the Lower East Side in

9 Chinatown, and I'm the District Manager.

10 Community Board 3 has passed a formal
11 resolution, which I will not read, I will submit
12 it, so I'd just like to list some points from it.

13 This Commission is charged with examining
14 changes made by the 1988 and '89 Commissions. The
15 '89 Commission added sections 203 and 204, Fair
16 Share provisions, to publicly announce all City
17 facilities to be cited, expanded, reduced, or
18 closed in each of the 59 Community Boards in the
19 Citywide Statement of Needs.

20 The Commission also amended the section
21 197(a) calling for City Planning to propose
22 minimum standards for form and content of 197(a)
23 plans to allow for review by the department
24 within a reasonable time period.

25 Since the '89 revision, City Planning has

1 enacted rules making the Fair Share process
2 meaningless. City Planning has also enacted
3 rules allowing for very lengthy times to review
4 197(a) plans. Low-income community of colors
5 overwhelmingly bear the brunt of facilities and
6 polluting of City facilities and polluting
7 infrastructure.

8 Community Board 3, therefore, calls on the
9 Charter Revision Commission to reform Fair Share
10 and 197(a) sections of the City Charter this
11 year. My community is not one that bears an
12 unfair share, but we strongly believe in the Fair
13 Share provision.

14 Manhattan Community Boards 1, 2 and 3 and a
15 large part of the community are currently engaged
16 in creating a 197(a) plan for Chinatown. This
17 work is extremely important for our community and
18 we need Charter revision to ensure that this work
19 is meaningful.

20 And I'd also like to say I was really glad
21 on the Panel that at least one person had
22 experience on the Community Board.

23 I would urge the Commission regarding the
24 comments made what Community Boards were confused
25 about or what we liked or we didn't like. I

1 would urge you to listen to that only from
2 Community Boards and not for people speaking for
3 Community Boards, because that's the basis of
4 community-based planning. We don't need people
5 to speak for us, thank you.

6 CHAIRMAN GOLDSTEIN: Thank you very much.

7 Nizjoni Granville.

8 MS. GRANVILLE: Good evening. I'm the
9 Chairperson of Community Board 8 in Brooklyn.
10 Good evening, Chairperson Matthew Goldstein, and
11 members of the Charter Revision Commission.

12 We ask the Charter Revision Commission to
13 strengthen Community Board roles in ULURP to
14 ensure that our residents' desires are not
15 brushed aside and discounted as irrelevant.

16 Too often developers seek loopholes to avoid
17 the input of the community they are attempting to
18 infiltrate. Currently, ULURP is not being
19 optimally utilized as developers are able to
20 circumvent the process if they receive government
21 funds that are not obtained from New York City.
22 This opens the door for damaging construction and
23 development projects as well as over saturation
24 of social service facilities with little or no
25 community input, no disclosure information for

1 residents, and culminates in a haphazard approach
2 to sustaining amicable community relations.

3 Ideally, Community Boards should be able to
4 review and approve any and all government funded
5 use of real property within the respective
6 community district regardless of purview.

7 While we realize this lofty goal may not be
8 sustainable based on the small stature of
9 Community Boards, we will request, at the very
10 least, that ULURP be expanded to require
11 Community Board review and approval of all
12 projects and all contracts designed to provide
13 residential and supportive services; and also
14 those projects designed to provide affordable
15 housing with or without residential supportive
16 services where the funding source for either is
17 either governmental or quasi governmental entity
18 or a not-for-profit corporation dispensing funds
19 from governmental or quasi governmental sources.

20 It is unfortunate that the quality of life
21 of Community Boards of New York City residents is
22 being stifled and even ignored. The benefits of a
23 Community Boards' presence far outweigh the
24 operating costs.

25 Subsequently, we strongly urge you to

1 maintain our presence and enhance the scope of
2 ULURP and in our role in the ULURP process in the
3 City Charter.

4 CHAIRMAN GOLDSTEIN: Thank you, Miss
5 Granville.

6 Juliana Dubovsky.

7 MS DUBOVSKY: Hi, good evening. My name is
8 Juliana Dubovsky, and I'm the Government External
9 Relations Associate in New Yorkers for Parks. We
10 are the independent organization fighting for
11 greener, cleaner, safer parks in all five
12 boroughs. Thank you for this opportunity to
13 contribute. Our testimony will cover four major
14 issues: ULURP, concessions, parkland alienation,
15 and revenues for parks.

16 Over the past few years, New York City has
17 undergone some of the largest development in
18 re-zoning projects in decades. These projects
19 have extraordinary impacts on New Yorkers'
20 quality of life and particularly their access to
21 open space. Currently, the City's environmental
22 review process, ULURP, ensures that these large
23 scale actions proceed through a series of public
24 reviews beginning at the most local level of the
25 Community Board, and continuing to the BP, City

1 Planning Commission, and City Council levels.

2 While the Community Board and Borough
3 President reviews are not binding, it's at these
4 more local levels of public intercourse that the
5 review process provides community members with a
6 meaningful arena in which to share their analysis
7 of the plans based on intimate, experienced
8 knowledge of the area. This dialogue can provide
9 significant on-the-street perspectives on the
10 impacts of the proposed action and can help to
11 shape the plan in a way that is better for the
12 community.

13 New Yorkers For Parks encourages this
14 Charter Review Commission to continue to ensure a
15 robust public community through ULURP.

16 Concession are defined by the City Charter
17 as "a grant made by an agency for the private use
18 of City-owned property for which the City
19 receives compensation other than in the form of
20 the covered administrative costs."

21 While major concessions are subject to four
22 public hearings and review by four to seven
23 public agencies through ULURP, minor concessions
24 are subject to the FCRC and only one public
25 hearing.

1 The concessions rules do not protect
2 parkland against the cumulative effect of
3 multiple concessions in a single park and do not
4 address the relative size differences in parks.
5 Furthermore, they exempt proposals promoting
6 active recreation from extensive public and
7 governmental and governmental review. For
8 example, the concession proposed by the City and
9 the Randall's Island Sports Foundation to
10 renovate dozens of ball fields on the Island in
11 exchange for private use was subject only to one
12 single vote by the FCRC despite vocal public
13 protest ending in a lawsuit.

14 We recommend that the rules be expanded to
15 explore a middle option that includes increased
16 public review.

17 In addition, the rules established by City
18 Planning exempt new concessions that continue a
19 currently existing use or permit a use which
20 existed lawfully on property at any point in the
21 preceding two years. Thus, due to the way the
22 Randall's Island lawsuit was decided, within two
23 years of the completion of the Sports Field
24 Development Project, the City could enter into a
25 concession agreement with private schools for any

1 or all of the sports fields and approve it via
2 the FCRC. Under the Charter, this would require
3 only 15 days public notice.

4 I see that I only have 24 seconds, so I do
5 have multiple copies of the testimony, and it
6 goes into alienation and general fund issues,
7 which are very important, so thank you for your
8 time.

9 CHAIRMAN GOLDSTEIN: Thank you, Miss
10 Dubovsky.

11 Walter Mankoff.

12 MR. MANKOFF: Thank you, Chairman Goldstein,
13 and members of the Commission. My name is Walter
14 Mankoff. I'm representing Manhattan Community
15 Board 4 tonight. Our Board covers the West Side
16 of Manhattan from 14th Street to 60th Street, had
17 and been the scene of many land use actions for
18 many years.

19 I speak with some familiarity having been
20 both Board Chair and Chair of the Land Use
21 Committee.

22 The Charter recognizes the unique role
23 Community Boards can play in shaping City actions
24 and policies. Unfortunately, the Charter does not
25 adequately translate this promise into reality.

1 This is particularly true in land use. I'll just
2 touch on two of them.

3 The first relates to the use of experts. The
4 Charter recognizes that we may need the
5 assistance of experts and authorizes their
6 engagement, but it does so subject to budget
7 availability. Since the City does not provide
8 adequate funds in Board budgets for such
9 purposes, the Charter authorization is generally
10 rendered meaningless.

11 The Charter also requires City agencies to
12 assist Community Boards by providing information
13 and technical assistance. But what agency will
14 help a Board prepare critical comments or to pose
15 their pet projects? Even the friendliest and
16 most cooperative agency does little more than
17 provide data supporting their proposal. Once
18 again promise does not translate into reality.

19 To mitigate the problem, we urge a revision
20 of the Charter to assure the availability of
21 independent expert consultants on zoning, urban
22 planning, and perhaps even finance, to assist the
23 Boards in performing the tasks assigned to them
24 by the Charter. This can be done in several
25 ways. Possibly by guaranteeing funds or using the

1 services through Borough Presidents' offices, or
2 the Comptroller's office, or some independent
3 agency.

4 The second thing is that the Charter intends
5 for the City actions to reflect the unique
6 conditions of each community through the
7 involvement and comments of the Boards. But all
8 too of often our position is ignored. And I'm
9 talking now primarily of things like permits and
10 other areas of that kind rather than broad
11 zoning.

12 The zoning regulation says that City
13 Planning may issue a permit. The courts and the
14 City agencies have converted it to mean it must
15 issue a permit. It requires that all that the
16 findings are present. And you can't make
17 allowance, basically, for unique community
18 conditions when it's making these decisions. We
19 believe that this is wrong and that the Charter
20 should change it. Thank you for giving me the
21 opportunity to talk to you tonight.

22 CHAIRMAN GOLDSTEIN: Thank you, Mr. Mankoff.
23 Corey Johnson.

24 MR. JOHNSON: Thank you. My name is Corey
25 Johnson. I am following up on Walter Mankoff, the

1 former Chair of Community Board 4. I'm the Vice
2 Chair of Community Board 4 in Manhattan and I'm
3 Co-Chair of the Chelsea Preservation Planning
4 Committee, the Land Use Committee for Chelsea.

5 I was visiting with you all out on Staten
6 Island a couple of weeks ago and I want to
7 reiterate something that was said at that
8 Government Structure Charter Revision hearing,
9 which I think relates, related to Community
10 Boards related to land use as well. That is that
11 to be able to fulfill and discharge our
12 Charter-mandated responsibilities, Community
13 Boards must have, if you don't want to call them
14 independent budget, a baseline budget that we
15 must be able to operate off of or we cannot
16 fulfill our Charter-mandated responsibilities.
17 That's the first thing.

18 The second thing is that it's a
19 recommendation I think by the Manhattan Borough
20 President but one that I think is important.
21 Currently, full ULURP review goes for any zoning
22 map change in the land use process.

23 I think it be would helpful for Community
24 Boards to be able to also comment to the full
25 ULURP process on any proposal that would amend

1 the rezoning resolution. That means disposition
2 of City-owned air rights or zoning text
3 amendments. A quick and recent example of this
4 is City Planning came to us, Community Board 4,
5 about two months ago, and we've been working on a
6 project on two NYCHA-related properties on
7 affordable housing. For nearly three years we've
8 been working on this project, and it stalled and
9 gone through different processes, and finally it
10 was just about to get there we were told, "You
11 have about 30 days to go over this text." And we
12 didn't have enough time, and we were negotiating
13 back and forth, back and forth. If it could go
14 through a text change, go through a full ULURP
15 process, it would have been hashed out in a
16 meaningful, smart weigh. And we have really good
17 working relationships with the Department of City
18 Planning and the City Planning Commission.

19 I don't have much time left, but I'd like to
20 say I'd like to follow up on something
21 Commissioner Fiala mentioned at the previous
22 meeting, and was mentioned at this meeting, and
23 professor Angotti had mentioned as well, which is
24 I believe that Community Boards and the Borough
25 Presidents, they should have a heightened barrier

1 if there is disapproval at the Community Board
2 level or at the Borough President level, a
3 heightened barrier for approval by the City
4 Planning Commission. I don't know if the
5 supermajority is the correct barrier, but I think
6 it be would good if this Charter Review
7 Commission looked into a trigger or something
8 involved.

9 And lastly, I just want to say that the
10 dynamic that currently exists between Community
11 Boards and City Planning I think is overwhelming
12 and actually positive. There are some large scale
13 projects that are high profile and that take up a
14 lot of time and press that are controversial.
15 But Community Board 4 has been mentioned tonight
16 by some of the panelists, has a pretty good
17 working relationship with City Planning. We
18 worked in a positive way on the Western Rail
19 Yards, on the Eastern Rail Yards, on Hudson
20 Yards, in general. And we actually had a 197(a)
21 plan back in the 1980's, the Chelsea Plan.

22 So thank you for allowing me to testify, and
23 I appreciate all your hard work on this.

24 CHAIRMAN GOLDSTEIN: Thank you, Mr. Johnson.

25 John Rozankowski.

1 MR. ROZANKOWSKI: Good evening. I'm John
2 Rozankowski, Bronx community resident. I come
3 here all the way from the Bronx to appeal to you
4 to guarantee the independence of Bronx Community
5 Boards.

6 Newly appointed Board members are summoned
7 to the Borough President's office, where they are
8 sermonized that their role is important and they
9 have to vote their conscience. But when Bronx
10 Community Board 10 voted against the Home Depot
11 projects, then-Borough President Fernando Ferrer,
12 who favored it, expelled all the dissenters.
13 When an overwhelming majority of Bronx Community
14 Board 4 voted against Yankee Stadium then-Borough
15 President Carrion, who favored it, removed every
16 single "no" voter. He went on brazenly to declare
17 to the media that Community Board members must
18 follow his vision. And recently, when the Chair
19 of Bronx Community Board 8 challenged an
20 entrenched incumbent in the primary he was also
21 expelled.

22 The effects of these actions are
23 far-reaching. First, Board members, that is, U.S.
24 citizens, are being punished for voting their
25 conscience and exercising their rights.

1 Second, those remaining on all Bronx Boards
2 are clearly intimidated to vote as they are told.

3 Third, the most vibrant community activists
4 won't consider applying for what is increasingly
5 perceived as a political club.

6 While we are sending observers to foreign
7 countries to monitor elections, our voting
8 freedoms are being abused right in our own
9 backyard.

10 You must and can and must state in clear-cut
11 language that Borough Presidents cannot remove
12 members for the way they vote.

13 You can also mandate an independent
14 commission handle Board reappointments following
15 the lead of Manhattan Borough President Scott
16 Stringer.

17 Only you can end this direct assault on our
18 voting freedom. Only you can restore respect for
19 voting rights. And only you can give the people
20 of the Bronx the real Community Board
21 representation which they deserve.

22 So rise to the challenge and please don't
23 let us down. Thank you very much.

24 CHAIRMAN GOLDSTEIN: Thank you.

25 Matt Ryan? Mr. Ryan?

1 MR. RYAN: Hi, my name is Matt Ryan. I'm the
2 Campaign Director of New York Jobs For Justice.
3 Tonight I'm submitting testimony on behalf of
4 both New York Jobs For Justice and Harlem allied
5 organization, Urban Agenda.

6 New York Jobs For Justice/Urban Agenda are
7 both permanent coalitions of community and worker
8 organizations. We work in strategic alliance
9 with a shared mission of creating sustainable and
10 prosperous New York.

11 Tonight, a lot of our comments are really to
12 look at the fact that one-fifth of our City has
13 been rezoned since 2003. This formula for growth
14 has led to real estate construction that's often
15 out of scale with communities. Job growth has
16 concentrated on low-wage sectors like retail.
17 There's been generally little support for
18 higher-wage industries like manufacturing and
19 transportation.

20 Our organization along with a number of
21 other spearheaded an effort called One City One
22 Future, which is to investigate this and find a
23 new blueprint for more shared prosperous growth
24 in the City. Urban Agenda spearheaded a similar
25 initiative looking at sustainability. It was

1 called the Green Collar Jobs Roadmap. So I'm
2 going to give a handful suggestions tonight,
3 which are both taken from these documents.

4 The first suggestion that we tighten the
5 screws of existing laws to increase community
6 participation. We believe there's some
7 relatively simple fixes which need to be made to
8 previous Charter reforms that are already on the
9 books but have been weakened through legislation
10 and currently fail to meet their intended
11 purpose.

12 The first would be to close the Fair Share
13 loopholes. We heard this from a number of people
14 tonight, and we support efforts to look at
15 section 203 of the Charter which is currently
16 regulated but does not account for all
17 infrastructure of polluting facilities that
18 burden a community and a neighborhood. As a
19 result, these communities do not have the
20 information they need to review land use issues
21 regarding the siting of public facilities. This
22 should be fixed to make sure Fair Share applies
23 to broader facilities, incorporates relevant
24 health indicators, and more frequently updates
25 the Statement of Needs information.

1 I see my time is running out, so I'll move a
2 little quicker here.

3 We support efforts to increase the --
4 improve the viability of community-led
5 development plans. We also want to highlight a
6 few other issues that we think would take the
7 full scope of the Charter to look into. Really
8 characterizes lifting up the hood of the engine
9 to rethink how we view land use policy, and make
10 sure for equitable economic development and
11 equitable growth in the City.

12 First to be considered, community impact
13 reviews to more adequately look at how many more
14 jobs we've created, the quality of these jobs,
15 who has access to these jobs, what would be the
16 impact on affordable housing in a neighborhood.

17 Second would be to establish minimum
18 standards for the quality of jobs, and who has
19 access to those jobs.

20 We also support efforts for comprehensive
21 Citywide planning. We also support the idea of
22 making the Chair of the City Planning Commission
23 more independent and more in position to be able
24 to take the variety of considerations into
25 account whenever we have a public project in

1 front of us. Thank you.

2 CHAIRMAN GOLDSTEIN: Thank you very much.

3 Mr. Williams? Nadezhda Williams? No?

4 Mel Siezler?

5 MR. SIEZEL: Hello, my name is Mel Siegel.

6 CHAIRMAN GOLDSTEIN: I have it, Z-E-L. Sorry.

7 MR. SIEGEL: I'm left-handed.

8 CHAIRMAN GOLDSTEIN: It was written by
9 somebody else.

10 MR. SIEGEL: No, it was written by me.

11 My name is Mel Siegel from Broadway Flushing
12 Homeowners Association, which is an area
13 approximately a mile from the east, a mile to the
14 east of here. And in common with many other civic
15 associations and neighborhood associations in
16 Queens, we have been fighting a long, bitter
17 battle to keep our neighborhood from being
18 destroyed piece by piece. It's been a somewhat
19 unequal battle, because the forces that are out
20 to destroy our neighborhood are powerful, greedy,
21 and totally indifferent to the wishes of the
22 community. The little impact we can make comes
23 through the ULURP process and the roles of the
24 Community Boards. So, therefore, I would urge
25 the Charter Commission to please see to it that

1 the ULURP process and the role of the Community
2 Board in its process is not eviscerated.

3 If I were to indulge in a real fantasy, I
4 would ask that it be enhanced.

5 I believe it was professor Angotti who
6 stated that the view in general is that --
7 particularly when it comes to land use issues --
8 is very centralized, controlled by City Hall.
9 That certainly is the view in Queens. And the
10 manner, and the manner and timing of this Charter
11 Revision process leaves us to fear that even more
12 centralization is in the offing. So we in the
13 communities are not pleased with this. We're
14 very angry about it, particularly here in
15 northeast Queens, where we feel we're fighting an
16 uphill battle.

17 So again to preserve what little impact we
18 can make, please see to it that ULURP and the
19 role of the community Boards is not weakened.
20 Thank you.

21 CHAIRMAN GOLDSTEIN: Thank you, Mr. Siegel.
22 Stuart Garmise?

23 MR. GARMISE: I'm a member of the Community
24 Board Health Association. I'm the Zoning Chair.

25 I think we have to do two things. Number

1 one, strengthen the Community Board and number
2 two, change the rank of 4 members (indiscernible)
3 and number three, remove the Borough President
4 from the process. Thank you.

5 CHAIRMAN GOLDSTEIN: Thank you very much.

6 Sarah Watson.

7 MS. WATSON: Hi. Good evening. I'm Sarah
8 Watson. I'm a Policy Analyst at Citizens Housing
9 & Planning Council. We're a civic organization
10 for over 70 years. We conduct research analysis
11 on Citywide housing and planning issues.

12 I'm just going to sort of repeat a theme
13 that was already discussed in the forum about
14 long-term planning.

15 New challenges and opportunities in New York
16 in relation to land use, housing and planning
17 have emerged over the last two decades, and we
18 believe this shift must now be reflected in the
19 City Charter. The Administration's PlaNYC
20 launched in 2007 was the articulation of this new
21 era for the City. It set out the key goals that
22 are overarching for a sustainable 21st Century
23 city and CHPC stands in full support of PlaNYC.
24 And so we agree that with PlaNYC that more
25 housing is needed along with long-term Citywide

1 planning to manage the complex process.

2 But New York currently has no long-term
3 Citywide Planning process. The work of the
4 Department of City Planning is solely to zoning
5 resolution and though a new office of Long-Term
6 Planning and Sustainability was set up to oversee
7 PlaNYC, its decision making powers, its influence
8 on other government agencies, and its role in the
9 land use review process were not established
10 under the City Charter.

11 We fully believe the City Charter Revision
12 Commission should focus on this central question:
13 How can the long-term Citywide planning
14 objectives described in PlaNYC be better
15 integrated within the structure and processes of
16 New York City government? And to explore the
17 answers to this question we ask the Commission
18 specifically focuses on three areas.

19 Firstly, we ask the Commission explore how
20 to achieve a strong institutional authority
21 responsible for long-term Citywide planning. For
22 example, looking into how the role of a long-term
23 planning office and a long-term Citywide plan can
24 be elevated so there's greater influence on other
25 key government agencies and on the capital

1 budget.

2 Second, we believe that the land use review
3 process should be reexamined so proposals can be
4 assessed using the criteria of our long-term
5 Citywide goals. For example, currently projects
6 that meet PlaNYC's goals, either wholly or in
7 part, have no formal uniform way to represent
8 this in the review process.

9 And finally, we believe there should be
10 procedures to improve public reporting on the
11 work of agencies in government departments so
12 their accomplishments can be assessed through the
13 lens of PlaNYC's long-term Citywide goals. For
14 example, the Department of City Planning should
15 not be reporting on the number of rezoning it's
16 approved, but rather should also report to the
17 extent the rezoning's have met stated goals and
18 objectives.

19 CHAIRMAN GOLDSTEIN: Thank you very much,
20 Miss Watson.

21 Patricia Dolan.

22 UNIDENTIFIED VOICE: She left.

23 CHAIRMAN GOLDSTEIN: She left, okay. Thank
24 you.

25 Elena Conte?

1 MS. CONTE: Hi. Good evening. I'm Elena
2 Conte, speaking for the Pratt Center for
3 Community Development.

4 For more than 45 years we worked with
5 community-based organizations in lower income
6 neighborhoods throughout New York to build
7 stronger, more sustainable neighborhoods through
8 planning.

9 I'd like to thank Chair Goldstein and the
10 Commission for deciding to make land use one of
11 your five areas of focus.

12 The Charter's land use provisions called for
13 a holistic view, but currently under the current
14 version long-term planning for the City is not
15 taking place. The absence of this planning leaves
16 New York without the foundation for sound future
17 growth or the ability to effectively serve its
18 current population.

19 The establishment of the Mayor's Office of
20 Long-Term Planning and Sustainability represents
21 a preliminary step but PlaNYC's sustainability is
22 a vision, not a plan. It was developed without
23 meaningful grassroots engagement or a way to
24 ensure that City agencies follow through to
25 achieve the important goals.

1 So given this, we'd like to ask the Charter
2 Review Commission to step up to this historic
3 opportunity and bring inclusive comprehensive
4 plan to New York City through four
5 recommendations that I'm touching on now, and
6 there are more details in our testimony.

7 First, that an independent Commission should
8 create an inclusive and bidirectional process
9 that creates a planned framework to make sure
10 rezoning's serve neighborhoods and the City as a
11 whole. This should involve a broad range
12 participants. The emerging challenges that the
13 City faces require mandates that the Commission
14 has had in the past and is one that may be best
15 served by the creation of a new entity that has
16 the power to steer budget as well as policy
17 decisions and integrate what are currently
18 conceived of as sustainability and planning
19 functions.

20 Number two. Fair Share needs repair. The
21 Charter's Fair Share provision requires the City
22 to review all proposed public facilities with the
23 already accepted goal of making sure that no one
24 community is stopped hosting maybe more than
25 others. Yet despite this, a few largely

1 low-income neighborhoods continue to host most
2 facilities, suffering the harmful health
3 consequences that come with those that pollute.

4 Along with NYJA, the Pratt Center recommends
5 that fixing Fair Share be addressed this year by
6 this Commission by removing loopholes and
7 modernizing the review. Fair Share must include
8 a wider range of facilities and implementing
9 rules currently defined. Fair Share not be able
10 to escape review by subverting environmental and
11 Statement of Needs process. Fair Share
12 (indiscernible) steps that enforce minimal
13 standards for all communities.

14 I'm going to skip the third one which is in
15 favor of community-based planning and go to side
16 agreements. All agreements should be made
17 public. Because the City Council has limited
18 power to revise language proposals, it sometimes
19 conditions its approval of a rezoning on
20 commitments from the Mayor to provide community
21 benefits. We've been involved in shaping such
22 agreements and we support the principle that the
23 land use review is the appropriate venue for
24 review of the impact of rezoning. But currently
25 the Mayor's Office and the City Council treat

1 these as private agreements.

2 The Charter must create a mechanism to
3 recognize such commitments as part of the public
4 land use record and City Planning process must
5 itself recognize that these side agreements are a
6 byproduct of a broader failures in City Planning
7 and development policy. They've become necessary
8 because Planning did not take a look at Citywide
9 needs, forcing the City Council to address local
10 needs or to mitigate impacts project by project.
11 There are no substitutes for strong Citywide
12 standards promoting affordable housing and good
13 jobs. A Citywide planning framework in the
14 context of such standards and with the mandate to
15 take into neighborhood needs will help render
16 such agreements unnecessary. Thank you.

17 CHAIRMAN GOLDSTEIN: Thank you very much.

18 Henry Euler. You know that you have a very
19 famous mathematician in your family.

20 MR. EULER: I do. I hope I'm related to him
21 as well.

22 CHAIRMAN GOLDSTEIN: Instead of Henry he was
23 called Henre Euler.

24 MR. EULER: I was a math teacher, so maybe
25 there is a connection.

1 CHAIRMAN GOLDSTEIN: You ought to look him
2 up. You would be very proud. He could be your
3 great great uncle.

4 MR. EULER: Thank you. My name is Henry
5 Euler, and I'm a lifelong resident of Bayside,
6 Queens. I am also Vice President of the
7 Auburndale Improvement Association and a member
8 of Community Board 11 here in Queens. The
9 opinions that I express tonight are my own.

10 I've made a list of different suggestions
11 for each of the agencies involved with land use.
12 I've had some suggestions for the Department of
13 Buildings, which I find to be one of the most
14 dysfunctional agencies the City. The Board of
15 Standards and Appeals, for the Department of City
16 Planning, and for the Landmarks Preservation
17 Commission.

18 Just to mention a few of the suggestions
19 that I do have, for the Board of Standards and
20 Appeals and Landmarks, I feel that they should be
21 decentralized. I think that they should have
22 offices in each of the five Boroughs. I find
23 that too much of the City government is Manhattan
24 centralized. And I feel that we have four other
25 Boroughs besides Manhattan and they should be

1 given their due as well.

2 With regard to the Board of Standards and
3 Appeals, I also feel there should be an appeals
4 process. If the public or the other people
5 involved disagree with the decision made by BSA,
6 and for that matter for Landmarks, there should
7 be some kind of an appeals process to go through.

8 With Department of City Planning regarding
9 rezoning, once a plan has been certified there
10 should be a moratorium on granting permits to
11 build under the old zoning. Too often developers
12 rush to get in a foundation before a down zoning
13 plan is approved by City Council and becomes
14 enacted. This enables the developer to beat the
15 system and build an inappropriate building in a
16 neighborhood. If the developer wishes to build,
17 he or she should have to build under the
18 certified plan.

19 I also feel that we need to look at
20 community facilities. Those regulations should be
21 reexamined. The Department of Buildings, I agree
22 with the Queens Civic Congress, that really needs
23 to be split into two agencies, one for issuing
24 permits and one for enforcement. And there should
25 be more stringent enforcement of all building

1 rules and zoning regulations.

2 Hope you will put a lot of these issues
3 before the public when we come to vote in
4 November, but I think you're rushing things a
5 little bit. I think you should take time and get
6 opinions from all of the public. Perhaps most of
7 these issues should come before the voters in
8 November of 2011. This November we have a very
9 heavy ballot, new voting machines, and I think we
10 need to take time as we revise the City Charter.
11 Thank you for listening to me.

12 CHAIRMAN GOLDSTEIN: I'd like to ask if Brian
13 Cook is in the audience?

14 MR. COOK: Good evening. I'd like to thank
15 the Chair and the Commission for the opportunity
16 to testify tonight. My name is Brian Cook. I'm
17 the Senior Manager and Policy Advisor for
18 Manhattan Borough President Scott Stringer. Our
19 office has submitted in the record and we're
20 passing out now for anyone who hasn't seen it.
21 However, with specific recommendations for land
22 use items I'd like to highlight a few of them
23 that have already brought up before the Panel,
24 though I recommend a read of the report because
25 we do address items like expanding what should

1 and should not be in ULURP and to make up CPC and
2 BSA.

3 Specifically, I feel the need to address CPC
4 voting rules, because I am in the dubious
5 position of being both an office representative
6 for somebody who recommended changing CPC voting
7 rules and being cited as an example for why those
8 changes aren't needed.

9 Our office has worked very, very strongly.
10 We have very good relationships with the
11 Community Boards and with City Planning, and in
12 some regards through that success we have noticed
13 that there's a need to institutionalize the
14 strength of the roles of both bodies.

15 In that regard, we believe that if you have
16 a situation where an applicant cannot meet and
17 pass the Community Board and cannot make
18 sufficient changes or meet the borough-wide
19 perspective, it is not unreasonable to have a
20 supermajority which would only require the vote
21 of two additional members of the City Planning
22 Commission. It should be noted that this is not
23 unheard of. There's actually a provision in the
24 Charter right now for site selection that
25 includes these exact rules.

1 We believe that this will actually create a
2 more inclusive process and be better for the City
3 as a whole as items will get resolved faster
4 before they hit City Planning and hopefully
5 before they hit the City Council, improving the
6 overall process of negotiation.

7 The second thing I would like to address is
8 the notion of comprehensive planning. I think
9 it's very telling to note that the City in some
10 level does require comprehensive planning in a
11 final Strategic Policy Statement as well as a
12 report by the City Planning Commission on
13 planning and zoning. But neither report is
14 actually performed. We believe that there are
15 probably a lot of reasons for this. But as the
16 Mayor has the option to follow or not follow the
17 Charter, it strikes us as necessary to create an
18 Independent Planning Office which would have the
19 responsibility of looking at the overall plan of
20 how we can grow, where we can sector economic,
21 cultural, that might be useful from an
22 independent perspective, not like the IBO, and
23 then take that plan through the review process.
24 We have a more detailed discussion of that.

25 And the last thing I'd like to highlight is

1 consistently the need for communities to get more
2 involved, 197(a), to learn about environmental
3 review. That cannot happen unless the Charter's
4 amended to provide an urban planner for every
5 Community Board.

6 We have seen when Community Boards have
7 expertise that we reach a level of success that
8 is mutually beneficial. It's when they do not
9 know the process that it ultimately gets
10 hindered. I thank you.

11 CHAIRMAN GOLDSTEIN: We have a number of
12 Facebook and Twitter communications and some
13 webcast's as well. Let me just read three,
14 because I want to give everybody else an
15 opportunity to speak.

16 Claudio Simpkins communicates: "It would a
17 tremendous asset if the Commission could bring
18 about an improved way to develop areas like
19 Willets Point."

20 And Kristen Lucibello writes: "Outer
21 Boroughs suffer too much under development. The
22 City needs to protect us."

23 And lastly, Alyssa Carfi writes: "The City
24 needs to grow and change. Change is a good
25 thing."

1 Let me now acknowledge Ed Jaworski
2 Mr. Jaworski here?

3 MR. JAWORSKI: Good evening. My name is Ed
4 Jaworski. I'm president of the
5 Madison-Marine-Homecrest Civic Association in
6 Brooklyn, and a member of the Board of the Four
7 Borough Neighborhood Preservation Alliance.

8 I've seen the following quotes in the New
9 York Times recently:

10 "The clearest indication to date that a
11 hodgepodge of oversight agencies granted
12 exceptions to rules."

13 "Financial concerns added pressures."

14 "The agency has for years had a dual role of
15 both fostering and policing the industry."

16 "A cozy relationship was allowed to go
17 unchecked."

18 Those activities were not seen as disasters.
19 They were viewed as desirable alterations of the
20 landscape."

21 As I read about the Gulf oil spill, I
22 couldn't help but think these quotes all sound
23 applicable to the development of my neighborhood.
24 No doubt there was political collusion rather
25 than planning in 1968 [sic] when a new zoning

1 rule came into being, ZR73-622, Special Permits.
2 Only two people showed up at the City Planning's
3 ULURP hearing. All Borough Presidents at the time
4 said the idea should be scrapped, but it was
5 given to three and a half Community Boards in
6 Brooklyn. Since we now know that there is no
7 comprehensive plan behind it, it amounts to
8 illegal spot zoning.

9 The main City agency dealing with it is the
10 BSA. In the Charter's Chapter 27 on the Board of
11 Standards and Appeals, section 659, the number of
12 commissioners needs reviews -- needs review, and
13 there must be appointments by someone besides the
14 Mayor. A financial analyst is needed as is a
15 known preservationist-citizen advocate. Someone
16 needs to keep an eye on this political body, as
17 Mr. Collins mentioned about the City Council.

18 An alternative to expanding it is to have
19 the BSA body in each borough. Buildings and
20 Planning have Borough Commissioners, as Mr. Euler
21 suggested, why not the BSA?

22 There's another idea. Instead of having the
23 Special Permit in the various process proceed to
24 the BSA after going to the Community Boards,
25 reverse it from the bottom up. From the top down

1 rather. Let the applications first receive
2 screenings and hearings at the BSA. Then go to
3 the Community Boards accompanied by the expert
4 analysis of the BSA. But this would only work if
5 Community Boards and the BSA were depoliticized,
6 as many people have suggested.

7 BSA's Charter section 663 says oaths may be
8 administered. They should have been. There's no
9 standard for testimony unless you count the
10 regular conclusory statements, questions
11 unanswered, and requests for information
12 unfilled.

13 Section 666 of the Charter says the BSA has
14 the authority to make, amend and repeal rules,
15 but it doesn't -- otherwise it should have done
16 something about ZR73-622 even if it was just
17 having a one-year moratorium.

18 We heard the BSA attorney tell Commissioners
19 not to take a certain step because it be would
20 arbitrary or capricious. We've heard agents
21 demand a permit because "you've given them to me
22 in the past." The BSA and Community Boards
23 should represent the public, not the developers.

24 Just one more thing about the DOB's
25 relationship to the BSA. The Charter's Chapter

1 26 on the DOB, Section 645, refers to the DOB
2 Commissioner allowing exceptions for certain
3 situations as long as the spirit of the law is
4 observed. But it can't allow variances from BSA
5 rulings. Yet we've seen this happen. The DOB
6 granted variances from what the BSA has approved
7 by a Post Approval Amendments, PAA's. This needs
8 correction.

9 Of course, nothing will work without the
10 de-politicization, ethical behavior and
11 accountability and proceeding in good faith.
12 Thank you very much.

13 CHAIRMAN GOLDSTEIN: Thank you, Mr. Jaworski.
14 David Reck.

15 MR. RECK: That's me. I'm David Reck. I'm
16 Chair Board 2 Manhattan's Land Use Committee.
17 I'm also a registered architect. I very
18 specifically got on the Community Board 13 years
19 ago to rezone my neighborhood, and I'm very happy
20 to say in 2003 City Planning rezoned my
21 neighborhood. I have been chairing the Board's
22 Land Use Committee ever since then.

23 I have a number of comments to make. But
24 first let me say I would reiterate what Paul
25 Selver said. The Manhattan Boroughs President's

1 office has been terrific on land use; much better
2 than the previous Borough President. They've
3 been become a true asset for the Community
4 Boards, and that's one of the big failures in
5 Community Boards. Yes, I'm an architect.
6 There's another architect on my committee. There
7 are people with real estate experience. We are
8 all volunteers.

9 To give you an basic idea of what we're up
10 against. We were halfway through this new St.
11 Vincent's Hospital when everything went to hell
12 on us. We went through one of the most complex
13 landmarks issues you ever heard of. Only the
14 second time that a non-profit had ever filed for
15 a hardship and got permission to tear down a
16 building. And we were just beginning to read the
17 environmental impact and the proposed land use
18 provisions. And I mean, you're talking a \$750
19 million hospital. Come on now. I'm a volunteer.
20 Where's our expertise? We have had to rely a lot
21 on the Borough President's office for that. I'm
22 also co-chairing a committee that's reviewing
23 NYU's long-term urban plan. They're talking
24 right in Greenwich Village 1 1/2 million
25 square-feet and another million and a half for

1 the rest of the City.

2 These are real grassroots issues, and a lot
3 of the stuff that's been talked about here about
4 community agreements. One of the huge issues in
5 the rezoning of my neighborhood was the fact that
6 as the manufacturing was moving out the
7 nightclubs were moving in, and I'm talking about
8 places where people got murdered. No urban
9 planner would have ever predicted that. It takes
10 people on the ground to understand what's going
11 on in their real neighborhoods. So you really
12 need good Community Board people to be there and
13 to give this kind of advice.

14 And in addition to the planner on the Board,
15 Community Board members should also be required
16 to go and take education classes. I've been
17 teaching at Pratt School of Education to other
18 architects and engineers on real-life land use
19 issues. And my Community Board members have a lot
20 less understanding than the people who attend my
21 class. That shouldn't be so. I also went to
22 (indiscernible) rezone my neighborhood I should
23 avoid the 197(a) zoning plan like the plague. It
24 is a very good idea that's gone totally awry. The
25 197(a) zoning plans around me, it took, like, 10,

1 12 months to do -- pardon me. My neighborhood had
2 to wait 10 to 12 years. We would just be talking
3 about ULURP my neighborhood would have gone to
4 hell. So the 197(a) zoning plan, it's got to be
5 revamped. It's got to have relevancy. It's got
6 to happen on a timely basis. There's a whole
7 bunch of other things I would talk about,
8 environmental, Community Board (indiscernible).
9 There's also in the Manhattan Borough President's
10 file there's a comment about how city air rights
11 should not be sold without a ULURP. We had a city
12 water tunnel project that we went through all of
13 these wonderful hearings. We got promised all of
14 these wonderful parks on top of it, and isn't all
15 wonderful for our neighborhood, and we thought it
16 was very wonderful until they all of a sudden
17 here's an application under a Landmarks
18 Preservation where a developer shows up with this
19 huge building and we find out that they sold the
20 air rights to that water tunnel to the adjoining
21 developer and that's why that building is so
22 huge. We had no say about the hugeness of the
23 building. There are a bunch of other insights
24 Board 2 has not yet put together a resolution for
25 the Commission. We will have it to you shortly.

1 CHAIRMAN GOLDSTEIN: Thank you, Mr. Reck.

2 Joan Levine.

3 MS. LEVINE: Thank you for the opportunity
4 to the testify. My name is Joan Levine, and I am
5 Co-Chair of the Morningside Heights/West Harlem
6 Sanitation Coalition, a small grassroots
7 environmental justice organization in the
8 Community Board 9 district of Manhattan. We are
9 also members of the New York City Environmental
10 Justice Alliance.

11 I would like to speak to you tonight
12 primarily about strengthening the 197(a)
13 provision of the Charter, although living in a
14 district with a huge sewage treatment plant, two
15 bus depots, a natural gas facility, and in one of
16 the most highly trafficked part of Manhattan, I
17 certainly see the need for a strong Fair Share
18 provision as well.

19 Our community is still in the midst of the
20 convulsions caused by Columbia University's
21 acquisition of most of the land in the
22 Manhattanville section of West Harlem. The
23 proposed expansion was preceded earlier by the
24 careful development of a 197(a) plan by Community
25 Board 9 with input from neighborhood groups. This

1 plan would have allowed for the expansion of
2 Columbia as well as the retention of homes and
3 business. However, Columbia's desires resulted
4 in extensive rezoning, forced selling and
5 evacuation of the land under the threats of
6 Eminent Domain. The community's 197(a) plan was
7 totally washed away by the Planning Commission's
8 insistence that Columbia's 197(c) different plan
9 be reviewed along with the 197(a). As one
10 neighbor remarked, "The only outcome of our
11 197(a) plan was the development of cynicism among
12 local people."

13 Obviously, the 197(a) provisions need
14 strengthening so that they cannot be just trumped
15 by powerful developers and/or the City Planning
16 Commission. 197(a)'s provisions must be more than
17 just advisory in order for the process to have
18 some meaning.

19 In addition, Community Boards need to be
20 strengthened to more fully reflect the wishes of
21 their community and not special interests.

22 Despite the recession, developers are eager
23 to acquire land willy-nilly in many neighborhoods
24 disregarding the community's wishes. The sooner
25 these reforms can be put into the Charter the

1 stronger our City's local communities will
2 become.

3 I urge you to put a greatly strengthened
4 197(a) and Fair Share provision to the voters
5 this fall. Thank you very much.

6 CHAIRMAN GOLDSTEIN: Thank you, Miss Levine.

7 Lou Sepevsky.

8 Is Lou Sepevsky here?

9 Helen Rosenthal?

10 MS. ROSENTHAL: Thank you. My name is Helen
11 Rosenthal. I'm the former Chair of Community
12 Board 7 in Manhattan and I've been on the Board
13 for 10 years. And I would be remiss if I didn't
14 start by saying that it be would great if the
15 City Charter could include the requirement that
16 there be a land use planner for each Community
17 Board and that the budget for each of the
18 Community Boards be linked to that of the Mayor
19 like the IBO. Many people suggested, in my
20 experience I've seen those things being so
21 important, and the fact we don't have those
22 things has caused a lot of waste of time of
23 well-intentioned volunteers.

24 But what I'd really like to talk about is
25 urging you to have a single guiding philosophy as

1 you review the Charter, and that is what
2 Professor Angotti referred to as transparency and
3 sunshine. It has applied to every aspect of our
4 Community Board time.

5 First up, in the context of pre-ULURP deals,
6 our Community Board -- and I'm going to give you
7 examples at the end -- but it's often been the
8 case that these pre-ULURP deals end up not being
9 not so good for our community, number one, and
10 they end up -- actually, the example I have here
11 is directed to Hope Cohen. But by not having a
12 thorough discussion, all that ends up happening
13 is the losing of faith of the Community Board
14 members in the process itself, which is very
15 discouraging.

16 Secondly, David Karnovsky spoke about the
17 value of the process itself. Again, it's this
18 transparent process that brings the thoughtful
19 discussion and brings about valuable changes in
20 projects that otherwise would not have happened.
21 We have numerous examples of that.

22 And lastly, and this gets into the examples
23 for those who are knowledgeable about the Upper
24 West Side, and so these will ring true for Hope
25 Cohen, there are examples of successes when

1 there's been an open process like our Lincoln
2 Center Task Force, when we were able to get rid
3 of the \$6 million tunnel to nowhere. And our
4 entire Landmarks and Preservation Committee at
5 every single meeting makes multiple changes that
6 are never heard about from the Commission itself,
7 but the changes are already put into place.

8 And lastly, our biggest failure has been the
9 loss of an opportunity for a school that where
10 negotiation was made in private by the City and
11 even the next year there was a hundred and sixty
12 waiting list for zoned families who couldn't get
13 into their school, but had there been an open and
14 Democratic process I think the outcome would have
15 been very different. Thanks so much for your
16 time.

17 CHAIRMAN GOLDSTEIN: Thank you, Miss
18 Rosenthal.

19 Wilhelm Ronda?

20 MR. RONDA: Good evening. I'm here to
21 deliver testimony on behalf of Bronx Borough
22 President Ruben Diaz.

23 Chairman Goldstein and distinguished members
24 of the Charter Revision Commission, thank you for
25 addressing land use issues this evening and

1 affording me the opportunity to highlight several
2 concerns.

3 I am calling for the Office of the Borough
4 President to have a binding determination within
5 the Uniform Land Use Review Procedure, or ULURP.
6 As it stands today, a Borough President's ULURP
7 recommendations are merely that, recommendations.
8 These can be set aside by the City Planning
9 Commission, the City Council and the Mayor. No
10 office, however, is more familiar with the
11 developing needs and community concerns that
12 proposed development brings to light than the
13 offices of the Borough President.

14 I am representing that a determination by
15 the Borough President requires a supermajority of
16 nine members of the City Planning Commission to
17 override. The City's environmental review
18 process doesn't go far enough to mitigate the
19 impact of new capital project other than for
20 traffic and environmental issues. But the
21 threshold mitigation of education and health
22 should be lowered to require more detailed
23 analysis. Despite proposed changes to further
24 loosen the City's Environmental Quality Review on
25 this issue, our main concern about large Borough

1 projects that are not required to undertake
2 economic impact, educational and health services
3 analysis.

4 Land use has moved beyond zoning. The
5 Borough Presidents' Offices, Community Boards,
6 and community organizations in effect are at the
7 leading edge of recognizing the inadequacies of
8 the City's planning process when they consider
9 Community Benefits Agreements to address the
10 essential community needs.

11 In order to ensure objective impact
12 analyses, the consultants conducting the impact
13 studies should not be selected and directed by
14 the developer but rather chosen by the City from
15 a pool of consultants that have little or no
16 prior relationship with the developer.

17 I am calling for my office to have a greater
18 voice in the decisions of the Board of Standards
19 and Appeals. As it is currently, the power of the
20 BSA rests entirely within the Mayor. Borough
21 Presidents should have an appointment of their
22 own to the BSA. The BSA should furthermore be
23 required to solicit binding comments from our
24 office, such as it is required to do from
25 Community Boards.

1 I strongly believe that the Fair Share
2 requirements of the City Charter as indicated by
3 the City wide Statement of Needs of City
4 facilities, the SON, requires reform. The SON is
5 an annual process that has the Borough President
6 Offices and Community Boards going through the
7 motions of weighing in on agency plans to site
8 City facilities. Year after year, however, we
9 respond that City agencies have not provided an
10 adequate location for our facility or not willing
11 to consider and alternative location suggested by
12 our office or the community.

13 I therefore recommend that agencies be
14 required to submit actual proposed locations as
15 part of the SON and not be permitted to
16 circumvent the process.

17 The City's Fair Share provisions have also
18 failed to relieve low-income neighborhoods of the
19 saturation problem because cost is such a
20 deciding factor. I recommend the SON's
21 accompanying Selected Facilities and Program
22 Sites Report identify all private and government
23 funded special needs and supportive facilities,
24 not just those funded by New York City.

25 As part of the SON, agencies should be

1 required to review sites submitted by the Borough
2 President and respond in writing before giving
3 detailed design of any project.

4 We support giving the 197(a) Community
5 Planning Process the effect of policy and are
6 concerned about the indefinite holding up of
7 applications. Thank you very much.

8 CHAIRMAN GOLDSTEIN: Thank you.

9 Donald Burns.

10 MR. BURNS: Good evening. I'm James Rouse.
11 While I'm a colleague of Wilhelm's, I'm
12 speaking --

13 CHAIRMAN GOLDSTEIN: I'm sorry, what is your
14 name, please?

15 MR. ROUSE: -- of the Bronx Borough
16 President's Office -- James Rouse. I speaking on
17 behalf of President Donald Burns for the American
18 Planning Association. New York Metro Chapter of
19 the American Planning Association represents
20 1,200 planners and policymakers involved in the
21 planning and design of the region's communities
22 and is part of the American Planning Association
23 with a national membership of 41,000. Our
24 members work on myriad issues and projects
25 related to the physical, social and economic

1 environment in the New York City metropolitan
2 region. As a professional educational advocacy
3 organization, we make recommendations on selected
4 planning and economic development issues.

5 The creation of this Charter Revision
6 Commission offers an opportunity to revisit some
7 of the procedures dealing with land use
8 regulations and historic preservation. We would
9 like to offer the following suggestions. Our
10 comments can be grouped into three general
11 categories: ULURP. While we believe ULURP
12 functions well overall, there are few minor
13 revisions to the process which would help to
14 ensure better public participation while still
15 maintaining the overall timeframes.

16 First, allow the City Council 60 days to
17 review ULURP applications.

18 Second, allow the City Council to approve
19 minor modifications to the ULURP plan without
20 having to return to the City Planning Commission.

21 Three, authorize Borough Presidents to
22 require a scoping session for all ULURP
23 applications.

24 Four, allow the City Planning Commission to
25 make a final determination on all administrative

1 land use permits.

2 The Board of Standards and Appeals. To
3 ensure the BSA has adequate technical experience
4 to ensure that decisions are merit-based, we
5 recommend the following. Commission an
6 appointment must be approved by Borough Boards
7 and the City Council; require that a land use
8 attorney be appointed to the BSA along with the
9 required planner, architect and engineer; and
10 require that the removal of a Commissioner before
11 their terms expire be approved by the City
12 Council. Allow the City Council to review BSA
13 decisions with the ability to invoke an appeal
14 with a two-thirds majority vote.

15 Community Benefits Agreements. While the
16 goals of ensuring equity in local participation
17 and in construction and that neighborhood
18 amenities are laudable, CDA's are susceptible to
19 misuse, it does not always achieve the intended
20 result and are largely unregulated and generally
21 negotiated outside the ULURP process. While we
22 do not advocate eliminating CDA's entirely, there
23 should be guidance, enforcement, and limitations
24 on their use.

25 We appreciate the opportunity to offer these

1 comments, are willing to work with the City of
2 New York on future land use issues. Thank you.

3 CHAIRMAN GOLDSTEIN: Thank you very much.

4 Eddie Bautista. Bautista?

5 MR. BAUTISTA: Good evening. I'm Eddie
6 Bautista from the New York City Environmental
7 Justice Alliance. I'm here to talk about asking
8 the Commission to act on Fair Share 197(a) reform
9 this year. A lot of our comments we've submitted
10 before. I'd kind of like to point out three
11 things.

12 One reason you really need to act on it this
13 year, there's no guarantee there's going to be a
14 Commission next year. I mean, the Mayor's been
15 silent on this. We have no idea whether the
16 Mayor will appoint another Commission.

17 While I understand there may be concerns
18 about revamping ULURP and some of the other more
19 complicated land use issues, to just act on term
20 limits this year and not take up something like
21 Fair Share and 197(a), which were vetted and
22 voted 21 years ago, ended up becoming a huge
23 waste of civic time, and I think there's a real
24 opportunity for you guys to act on Fair Share and
25 197(a) this year.

1 The other reason you guys should consider
2 acting on it this year, there's been a whole
3 generation grown up without the protections of
4 Fair Share. It's the reason why three Community
5 Boards and others are passing resolutions asking
6 the Charter Revision Commission to act on these:
7 Community Board 1 in Brooklyn, which is
8 Williamsburg/Greenpoint; Community Board 7, which
9 is Sunset Park, and you heard earlier from
10 Community Board 3 in Manhattan.

11 What's happened from 1989 to this date is,
12 for example, in Williamsburg/Greenpoint, you've
13 seen an explosion of waste handling capacity in
14 that community. Between 1989 and today what's
15 happened, you had a growth of up to today about
16 28 percent of the City's entire solid waste is
17 handled in the Williamsburg/Greenpoint. If you
18 look at Community Board 7 in Brooklyn, they
19 handle 8 percent of the City's entire DSNY's,
20 Department of Sanitation's, management of solid
21 waste.

22 There's been talking from the South Bronx,
23 about there impacts. But the point is you've had
24 a whole generation that's lived without the
25 protections that were voted on 21 years ago. And

1 that leads me to the final point, which is in
2 terms of acting on Fair Share and 197(a), what
3 you'll be doing is restoring confidence and
4 commitment from two different entities. One,
5 your predecessor Commission. When the '89
6 Commission passed this, it passed it with very
7 clear intentions that were undermined by the
8 agency rulemaking that happened subsequently. And
9 you'll also be undermining some of Mayor
10 Bloomberg's commitments, because if you look at
11 what the Mayor has done and the City Council with
12 solid waste mapping with PlaNYC, clear
13 commitments to environmental injuries throughout
14 both communities continues to be undermined by
15 the lack of support for Fair Share and 197(a).

16 So with that said, I really strongly suggest
17 that you guys at least act on those two. If
18 you're not going to act on any other land use
19 provisions, that those would be the easiest and
20 the most just ones. As we've been told time and
21 again the arc of history is wrong. It should
22 have bent toward justice, and this is the year
23 for you guys to act on that. Thank you.

24 CHAIRMAN GOLDSTEIN: Thank you, Mr. Bautista.

25 Yes.

1 COMMISSIONER COHEN: I have a question of
2 the -- Mr. Bautista?

3 CHAIRMAN GOLDSTEIN: Mr. Batista,
4 Commissioner Cohen would like to ask a question?

5 MR. BAUTISTA: Sure.

6 COMMISSIONER COHEN: Now, I can guess what
7 suggestions might be made about 197(a) and hinted
8 at or specifically mentioned with regard with
9 regard to, with the situation with
10 Manhattanville. But while we have received quite
11 a bit of testimony, as you note, voicing concern
12 about Fair Share, I don't know that we actually
13 got any suggestions about what we should do about
14 it. And in fact, it seems like mainly the
15 concerns are that it hasn't been implemented
16 properly or the rulemaking has undermined it.
17 And although that sounds like it's something not
18 actually within our scope, so if you could give
19 us some kind of specific guidance about what
20 you're looking for from the Charter Commission.

21 MR. BAUTISTA: Absolutely. Two things. One,
22 we submitted testimony in the early, I think in
23 the first round in the April hearing which you
24 guys had in the Bronx. You heard the Borough
25 President's Office also mention it, but there

1 were very specific changes that you could make.
2 For example, the Statement of Needs. The
3 Statement of Needs was to supposed to lay out the
4 City agencies' facility agenda for each one of
5 the Community Boards. What happened when
6 rulemaking happened subsequent to the '89 Charter
7 Revision was that all of a sudden agencies were
8 allowed to submit facility decisions after the
9 Statement of Needs at any time during the year,
10 just by sending a one-paragraph letter to
11 communication to the Community Board. What that
12 did was it made any sort of Fair Share hearing
13 process meaningless, because if you're a
14 Community Board and you're going to have a Fair
15 Share hearing you're going to propose alternative
16 sites. For example, how can you possibly have a
17 hearing if you don't have all the information in
18 terms of what agencies are proposing which
19 facilities for which locations?

20 Second of all, since 1989 you've had an
21 explosion in GIS mapping. There's all kinds of
22 information that the original Charter Commission
23 didn't put in, was left to rulemaking and, of
24 course, in the subsequent rulemaking a lot of
25 things were left out, including capturing the

1 true baseline of a community's burdens.

2 If you're going to look at a community's
3 environmental burdens, air emissions doesn't just
4 come from city facilities. They come from State
5 facilities, they come from private facilities.
6 There's a wealth of GIS, TRI, all sorts of
7 environmental mapping data that if you build a
8 real database of emissions for a community it
9 gives you a real community health profile.

10 If you look at how Fair Share is supposed to
11 act after the Statement of Needs where Community
12 Boards are given the opportunity to have a
13 hearing process, if you don't give all the
14 information up front, and if you're not allowed
15 to be able do have hearings on it, that's why
16 Community Boards have been moving on it. So I
17 will tell you this. A lot of people have been
18 holding back, giving you a guys a lot of detailed
19 information, recommendation, because what's the
20 point? If you don't let the public know that
21 you're going to act on this, then what's the
22 point of getting lost in the weeds in terms of
23 policy recommendations?

24 We've made some, but until we know that you
25 guys are serious, that you're actually going to

1 take this stuff up, you're not going to get a lot
2 of the policy recommendations, because people
3 really want to see this Commission signal what
4 it's going to act on. And this is a great first
5 shot. You've got five issues hearings and it's
6 given people a lot of hope. But we won't know
7 until July what you guys are really intending.

8 CHAIRMAN GOLDSTEIN: Mr. Bautista, let me
9 make a friendly suggestion to you without laced
10 in cynicism. We are going to make known within a
11 few weeks, a very few weeks, a first pass of what
12 we believe to be a reasonable set of actions that
13 we will now bring back to the community. So we
14 would like you to be serious because this
15 Commission is serious. So take the time over the
16 next few days to draft some of these ideas and we
17 will make sure that it's properly aired to the
18 Commission.

19 MR. BAUTISTA: I'll resubmit the previous
20 testimony.

21 CHAIRMAN GOLDSTEIN: Thank you very much.
22 Kelly-Terry Sepulveda? Sepulveda?

23 MS. SEPULVEDA: Thank you. Sepulveda.

24 Chairman GOLDSTEIN: Did I mispronounce your
25 name? I'm sorry.

1 MS. SEPULVED: Like Sepulveda Boulevard,
2 although I've never been there. Not yet.

3 CHAIRMAN GOLDSTEIN: You should go.

4 MS. SEPULVEDA: Good evening, Honorable
5 Matthew Goldstein and Members of the Commission.
6 I thank you very much for allowing me to offer
7 some testimony this evening.

8 I am speaking on behalf of the Point
9 Community Development Corporation. We are a
10 non-profit organization dedicated to youth
11 development and the cultural and economic
12 revitalization of the Hunts Point section of the
13 South Bronx. We want to carry out this
14 Commission's mission in concert not only with
15 fellow community-based organizations but very
16 closely with several City agencies and really do
17 appreciate all the effort.

18 I should also note in full disclosure that
19 we are a member, an active member, of the New
20 York City Environmental Justice Alliance.

21 In our role as a Community Development and
22 Environmental Justice agency, we strive to
23 represent the voices of our community and
24 communicate needs and solutions that would
25 improve the overall quality of life for our

1 neighbors. With that in mind, we offer these
2 comments to encourage the Commission to seriously
3 address the urgent matters of 197(a) and Fair
4 Share reform in the 2010 election cycle.

5 Originally, 197(a) plans and Fair Share were
6 created to create transparency and accountability
7 in the siting process of undesirable City
8 facilities in a way that bestows power to local
9 Community Boards to call for hearings on siting
10 issues as well as create their own land use plans
11 for their neighborhoods based upon their local
12 expertise. That's when my father used to tell me
13 that Community Boards used to actually be
14 Community Planning Boards. I had never known
15 such an existence.

16 Unfortunately, the outcome as it currently
17 stands has been less than ideal. In both 197(a)
18 and Fair Share are in need of a fix. The
19 intentions of Fair Share were circumvented during
20 rulemaking in the early 1990's, as the Department
21 of City Planning created a way around the
22 required Annual Statement of Needs. That would
23 have provided Community Boards with the advance
24 notice necessary for any siting changes and allow
25 them to call a public hearing on the process.

1 Similarly, Community Board-initiated 197(a) plans
2 do not reach their full potential because they
3 were downgraded to simply advisory in nature.

4 Let me make a note to some of the earlier
5 comments about what the advisory status means.
6 We have to take into effect that overburdened
7 community like Hunts Point have 15,000 trucks in
8 and our of our neighborhood, hosting a number of
9 privately and City-owned facilities that do
10 environmentally pollute; that sometimes it's
11 about a capacity, it's not about a desire to have
12 input into the process, but it's about the
13 capacity.

14 So with that said, we do encourage you,
15 strongly urge you to act on Fair Share and 197(a)
16 plans. We will submit full testimony, some of
17 the suggestions specifically relating to Fair
18 Share, because Eddie spoke about 197(a), just
19 mandating that City facilities siting's and
20 expansions and reductions be properly identified
21 in the Annual Statement of Needs -- they don't
22 make any -- they should be required to wait a
23 year.

24 And just in terms of 197(a) plans, my
25 apologies, prevent City Planning from trumping

1 current and pending 197(a) plans when evaluating
2 zoning changes or amendments under ULURP and
3 initiate Community Board reform by mandating
4 annual funding, Board member appointments that
5 reflect the diversity of the respective districts
6 and the provision of land use training.

7 With that said, I graciously thank you for
8 all of your time.

9 CHAIRMAN GOLDSTEIN: Thank you very much.
10 Representing Congressman Serrano, is
11 Mr. Sanchez? Thank you.

12 MR. SANCHEZ: Good evening, thank you for
13 your time. On behalf of Congressman Serrano, my
14 name is Siddhartha Sanchez and I'm the
15 Environmental Liaison for the district office
16 here in the Bronx.

17 Due to administrative rulemaking following
18 the '89 Charter revisions, which were counter to
19 the intent of New York City voters, low-income
20 community of color such as Bronx Community Board
21 2 continue to be disproportionately targeted by
22 the City facilities.

23 The post-Charter regulatory loopholes which
24 allows amendments to the Annual Statement of
25 Needs is particularly harmful since it allows the

1 City to propose any facility siting or expansion
2 whenever it chooses by filing amendments to the
3 Statement of Needs making the 197(a) response
4 process completely meaningless. As a result of
5 the stated intend to spread the burdens of City
6 facilities of 203 is undermined. Moreover, 203
7 cannot work in connection with the Statement of
8 Needs in 204, which identifies all City
9 facilities slated for expansion or siting
10 expansion because this can be amended without
11 integrating community input required in the
12 original '89 Charter revisions.

13 In addition, an exhaustive listing of
14 facilities of the communities in question,
15 including State and private, in the citywide
16 Atlas of facilities is necessary in order to
17 illustrate the true environmental burden, the
18 accumulative environmental burden faced.
19 Moreover, indicators of burdened health indicate
20 a number of brown fields and highways and air
21 quality that have developed since 1989 must be
22 used to accurately assess the environmental
23 footprint and impact on communities.

24 Lastly, in order for 197(a) plans to be
25 meaningful, Community Board reform should include

1 annual funding provision of land use training and
2 the diversity of appointments that is
3 representative of their communities.

4 In addition, zoning changes or amendments to
5 ULURP should not be used to override 197(a)
6 plans, which must be given timely review in their
7 own right. Fair Share, 197(a) reform will also
8 serve to undermine the City's current Waterfront
9 Revitalization Program, which have openly
10 designates six environmentally overburdened
11 communities as significant maritime industrial
12 areas.

13 Now that the 2010 Charter Revision
14 Commission has been impaneled by the Mayor with
15 an express purpose of examining the
16 voter-approved revisions made by the '89 Charter
17 Commission, in light of new challenges and
18 opportunities, it is time to reverse the damage
19 done to environmentally overburdened communities,
20 like the Bronx's Community Board 2, and give
21 Fair Share a fair shake. Thank you.

22 CHAIRMAN GOLDSTEIN: Mr. Sanchez, please give
23 my regards to the Congressman.

24 MR. SANCHEZ: Thank you.

25 CHAIRMAN GOLDSTEIN: Thank you very much.

1 Nick Milsino?

2 MR. MIGLINO: Yes. My name is Nick Miglino.
3 Penmanship. And I went to Catholic school.

4 CHAIRMAN GOLDSTEIN: Did you get an A?

5 MR. MIGLINO: Not obviously in penmanship.
6 It's not an uncommon complaint.

7 However, my name is Nick Miglino. I've lived
8 in Flushing just about my whole life; moved into
9 a Section 213 cooperative about two miles from
10 here under the Housing Act of 1954. I am a
11 twenty-year veteran of Community Board 7. And
12 unfortunately, the Board is recessed until
13 September. But at the beginning of this process,
14 when this first hit the papers, there was a
15 couple of stories that suggested the abolishment
16 of Community Boards, they did no good. That is
17 about as far from the truth as Beelzebub is from
18 Heaven, believe me.

19 You have to come, if you haven't already, I
20 know there's a former Councilman here who knows
21 what Community Boards do, but if you haven't been
22 to a Community Board, before you start to tweak
23 it you've got to come to a meeting.

24 My Board, major hospital expansion to New
25 York Hospital. Major library built on the Queens

1 College campus. All came before Community Board
2 7. We got street names, too. You know, private
3 so-and-so, God rest his soul, killed in Iraq, Mom
4 wants what's known as an AKA Rider. They come to
5 the Community Board. All kind of things. And we
6 are one of the largest Boards in the City of New
7 York. And you're about a block and a half from
8 one of the major transportation hubs in this
9 City. Just try to walk down the Street about a
10 quarter to six at night and catch a bus. There
11 are 40 bus lines and a major subway line, okay.

12 The only way that the community's needs from
13 the street naming to the fact that there aren't
14 enough buses get addressed is at the local
15 Community Board meeting.

16 We meet the second Monday of every month
17 except for the summer, unfortunately, or I'd have
18 you come to the next one. But do, if you're
19 around, come to the September meeting. Or go to
20 another Community Board meeting and sit there and
21 see how essential they are. If only for people
22 who got an axe to grind to come and get their
23 three minutes, because a lot of times we're there
24 until 12:00 o'clock at night, so we've got to
25 limit the speaking time. But just to have the

1 opportunity to listen to the members of the
2 community vent, because it really is important.
3 They feel they're being heard, and they are,
4 because there are 50 of us and we sit there. And
5 sometimes, let me tell you, I've been there a
6 long time, it gets a little boring. But we do it.
7 And we don't get paid for it.

8 If you want to make a reform. When I was on
9 a Neighborhood Advisory Board which I'm out of
10 the (indiscernible) district, we got \$25 a
11 meeting. And that's not a hell of a lot of
12 money. But the fact of the matter is Board
13 Members are volunteers, and on an hourly basis if
14 I got \$10 or \$15 an hour you'd owe me a lot of
15 money.

16 CHAIRMAN GOLDSTEIN: Thank you Mr. Miglino.

17 MR. MIGLINO: Thank you.

18 The next three speakers are the last three
19 speakers, so I'd like them all to get ready.
20 Mr. Morano, Mr. Singh and Mr. Johnson.

21 Start with Frank Morano who, let the record
22 read, is 10 for 10. 10 for 10 meaning that he's
23 testified at 10 of our hearings so far.

24 MR. MORANO: It was the only test that I
25 ever got a hundred on.

1 COMMISSIONER CROWELL: Frank, I have a
2 question?

3 MR. MORANO: Yes.

4 COMMISSIONER CROWELL: What do you do for a
5 living?

6 MR. MORANO: I work in radio.

7 COMMISSIONER CROWELL: What kind of radio?

8 MR. MORANO: Talk mostly.

9 COMMISSIONER CROWELL: Who is your employer?

10 MR. MORANO: I worked for WABC for many
11 years. I work for a station called The Apple
12 now.

13 COMMISSIONER CROWELL: What do you do for
14 WABC?

15 MR. MORANO: I'm a producer.

16 COMMISSIONER CROWELL: For what?

17 MR. MORANO: For several different talk
18 shows. The Curtis Sliwa Show. And some others.

19 COMMISSIONER CROWELL: Okay. Sir, you come
20 up here every week and give us your perspectives.

21 MR. MORANO: Right.

22 COMMISSIONER CROWELL: I wonder where it's
23 leading. If it's Borsch Belt schtick, which is
24 fine, you're really smart. I'd like to know
25 where it's leading?

1 MR. MORANO: When you say "Borsch Belt
2 shtick" I'm not sure which --

3 COMMISSIONER CROWELL: You're funny, it's
4 funny, but I want to know where it's leading,
5 that's all.

6 MR. MORANO: Well, first of all, I have do
7 have several land use proposals I was going to
8 mention. I have substantive proposals in all the
9 previous Charter Revision Commission hearings.
10 You know, if you didn't find them substantive,
11 I'm sorry.

12 CHAIRMAN GOLDSTEIN: Mr. Morano, why don't
13 you just give your testimony.

14 MR. MORANO: I do want to mention several
15 land use suggestions. But first, since not to
16 get off topic, but since it is the final meeting
17 of this round of the Charter Revision Commission
18 hearings, and you're now probably going to meet
19 amongst yourselves and come up with the drafts of
20 proposals you'd like to offer before the voters,
21 I thought it would be appropriate for us as New
22 Yorkers to thank you or all the great work you've
23 done for no pay and all the countless hours and
24 everything. And to Mr. Crowell's point, I have
25 tried to offer a series of ideas across a wide

1 spectrum of topics. So to that end, rather than
2 forcing you to go through whatever ideas I might
3 have had that you might have thought had merit
4 and some that may not, I've tried to compile them
5 all in the booklet that I'm submitting to you so
6 I hope you'll review that.

7 CHAIRMAN GOLDSTEIN: We appreciate that.

8 MR. MORANO: And I started to come, I was
9 going to address Mr. Crowell's question without
10 being asked, I started come to all the Community
11 Board hearings -- excuse me, all the Charter
12 Revision Commission hearings not because I didn't
13 have anything to do. I do have a pretty busy
14 schedule, believe it or not, but in a post-term
15 limits overturn world, I thought that this
16 particular Charter Revision Commission and the
17 composition of this membership represented the
18 City's best hope for reform at a time when New
19 Yorkers are so frustrated and so cynical about
20 their government. And it was my hope when I
21 first started coming here that I would offer some
22 idea, some that you might like, and some that you
23 might even put before the voters. But I now --
24 and I still do hope that you do that. I do hope
25 you put on some of the revisions this year. But

1 I have come to believe that even if you put no
2 question before the voters, which as I said I
3 hope you don't, that this Charter Revision
4 Commission has been a resounding success.

5 I've been attending Charter Revision
6 Commission hearings since, I think, 2001 or 2002,
7 and this is by far the most exhaustive, thorough
8 and comprehensive review of the City Charter of
9 any Commission that I've observed. And I think
10 for the next two decades, maybe more, every
11 future Charter Revision Commission hearing is
12 going to look at the work that you've done here
13 with an appreciation for the fact that you've
14 laid such a great foundation, and I appreciate
15 the fact that the process has been so
16 transparent.

17 Now, I don't really consider myself an
18 expert in much, and I certainly don't consider
19 myself an expert in land use, but three basic
20 suggestions that I did want to make and I hope
21 you'll consider is the (1) to consolidate the
22 Department of City Planning and the Department of
23 Buildings into a single agency. This is
24 something that Council Minority Leader Oddo had
25 suggested in Staten Island and I believe a couple

1 of other Council Members had suggested around the
2 City. But I think the primary reason to do this
3 is because it would give the same agency the
4 ability to enforce the rules that they are
5 charged with making, whereas now it becomes this
6 massive layer of bureaucracy that every member of
7 the City Council that takes an active interest in
8 land use that I've spoken about has a big problem
9 with it.

10 Second, if you give Borough Presidents a
11 full vote each on the Franchise Concession Review
12 Committee rather than have them share a vote on
13 issues of concessions that include multiple
14 Boroughs, I think that would go a long way
15 towards not only enhancing the role of the
16 Borough President but increasing local control.

17 And lastly, if you were to move rulings on
18 scope -- and I believe one of the previous
19 speakers mentioned this earlier -- from the City
20 Planning Commission and allow the City Council to
21 do it I think you would see their voters holding
22 their legislators more accountable for land use
23 decisions. Thank you very much.

24 CHAIRMAN GOLDSTEIN: Thank you very much, Mr.
25 Morano.

1 Mr. Singh.

2 MR. SINGH: Good evening and welcome to
3 Queens. My name is Harbachan Singh, and I'm the
4 Vice President of Queens Civic Congress, which is
5 an umbrella group of more than one hundred
6 grassroots neighborhood and civic organizations
7 representing residents of the City's biggest
8 Borough. Developers and so-called free marketers
9 love to hate ULURP and it's companion CQR. Their
10 model city is a place devoid of human scale.

11 Three decades and more of holding back the
12 idea, the tide of uncontrolled development, tells
13 us that ULURP is the key to a Democratic city.
14 Without the means to control and regulate
15 development, New York would soon be unlivable.

16 The Queens Civic Congress recommends that
17 ULURP and CQR be retained. QCC further
18 recommends that additional actions be subject to
19 ULURP, including legislative review such as
20 zoning text amendments, transfer of air rights,
21 block mergers.

22 Copies of full text of this statement on
23 various other areas from our president of the
24 Queens Civic Congress has been handed over to
25 your representative. In order to save time I

1 shall not dwell on that. Thank you.

2 CHAIRMAN GOLDSTEIN: Thank you, Mr. Singh.

3 Linda Johnson.

4 MS. JOHNSON: I thank you this afternoon for
5 making --

6 UNIDENTIFIED VOICE: I can't hear you.

7 MS. JOHNSON: I would prefer being an
8 important --

9 CHAIRMAN GOLDSTEIN: Could you put the mike a
10 little closer.

11 MS. JOHNSON: I would prefer being in a
12 Court setting. I'm glad that you've made
13 permissible that I can testify.

14 Reversing, going back to the young man who
15 mentioned the stimulus package. With the Obama
16 Administration, I have been very prosperous
17 making money. I kept up my end of the bargain so
18 that the economy could grow. And it's like it's
19 all on my shoulders. I took lots of the money
20 that was in the Treasury for me and some that was
21 sent to me, which I never received, and told them
22 buy GMC with it and to go into real estate with
23 it. And that's what they supposedly have done. So
24 I was told.

25 I hereby found the government is not regular

1 people. The government is the problem. They're
2 human but they're the problem. And the problem
3 lies within my family, with the Tea Party, and
4 the government. Okay. Maybe I shouldn't -- I
5 don't have time to really go into details, but
6 things just aren't correct.

7 I told them to take the money and pay the
8 first stimulus package. That was paid. So he
9 said. Now, currently, when I listen to the
10 news -- I'm better known as "America", they
11 regard me as "America." I say, "Well, there's so
12 much malice in the family I'll go in for
13 freedom." They disregarded that.

14 Everything I want to do in my life, to go on
15 with my life, it's like I'm discarded from it. So
16 I just want to say they have homes. They often
17 talk about their castles and their homes. Where
18 is mine? It's like I have nothing. And one I won
19 before Frank Sinatra, the singer, died they said
20 Mr. Fonda has control of it and he sold it to
21 some other sisters of mine. Or wants to sell it.
22 This is the kind of bizarre behavior I'm
23 confronted with. It's ludicrous. Lots of the
24 government people are psychos. Thank you.

25 CHAIRMAN GOLDSTEIN: Thank you, Miss Johnson.

1 That completes our list of speakers --

2 MS. JOHNSON: Excuse me. Please, proceed
3 with ULURP. Am I pronouncing it right?

4 CHAIRMAN GOLDSTEIN: Yes.

5 MS. JOHNSON: Proceed with this.

6 CHAIRMAN GOLDSTEIN: I'd like to thank you
7 all for coming tonight.

8 I'd like to ask for a vote to adjourn.

9 COMMISSIONER BANKS: Move.

10 CHAIRMAN GOLDSTEIN: All in favor?

11 (A chorus of aye's.)

12 CHAIRMAN GOLDSTEIN: Thank you all. We'll
13 see you next time.

14 (Whereupon, at 9:55 P.M., the above matter
15 concluded.)

16

17

18 I, NORAH COLTON, CM, a Notary Public for and
19 within the State of New York, do hereby certify
20 that the above is a correct transcription of my
21 stenographic notes.

22

23

24

NORAH COLTON, CM

25