

LAND USE COMMITTEE – MEETING MINUTES

March 8, 2017

Committee Members Present

Wayne Benjamin, Chair
Andrea Kornbluth, Asst. Chair
Anita Barberis
James Berlin
Isaiah Bing
Jason Compton
Karen Taylor

Committee Members Absent

Osi Kaminer (Excused)
Jonathan Reyes (Excused)
Steve Simon (Excused)

Board Members Present

Public Member Present

Public Member Absent

Vivian Ducat (Excused)

Staff: Ebenezer Smith

Guests: Oliver Grullon, Deirdre Carson, Fred Mosher, Matt Mahoney, Jenny Pichardo, Christina Reyes, Jeremy Kozin, Randy Apfelbaum, Gary Hansen, Allison Ruddock, Jeannie Infante, Angelo Ortiz, Allegra LeGrande, Nathan Epler.

1. The meeting of the Land Use Committee (“Land Use” or the “Committee”) was called to order present at 7:10 PM. Land Use Chair Wayne Benjamin welcomed guests, and Committee members introduced themselves. Quorum was achieved at 7:30. [Note: The Committee meeting was not held on its regularly scheduled date; per Community Board 12 Manhattan By-Laws Committee members absent are excused.]
2. **Board of Standards and Appeals (“BSA”) application seeking a variance to operate a school in a C8-3 zoning district at 3896 10th Avenue.**
 - a. Chair Benjamin noted that CB12M passed a resolution a few years ago asking the Department of City Planning (“DCP”) to rezone several sites in Community District 12 that currently have C8-3 zoning. This zoning encourages automotive, industrial and related uses but prevents used such as housing, schools, libraries, and other facilities that would benefit the community. To date, DCP has not acted on the request, and this is the second project to come before the Committee in the past several months seeking relief from BSA to advance a project on a site a zoned C8-3. . (The other project is the proposed mixed-use building at 2420 Amsterdam Avenue.)
 - b. Christina Reyes, founder and Executive Director of Inwood Academy, introduced the school and the proposed project.
 - i. Inwood Academy for Leadership Charter School (“Inwood Academy” or the “school”) was established in 2010. It is a homegrown school that was developed to serve the needs of the Inwood community, rather than applying a preset idea of what education should be. Most students live in Inwood, with others coming from Kingsbridge, Fordham, and Washington Heights.
 - ii. Twenty percent of the students are special education students, and 17% are learning English as a second language. The school focuses on helping students with learning, behavioral, and emotional issues, with a strong Student Support Services Team, an autism spectrum support program, and a restorative justice program, etc.
 - iii. The school was incubated in a Department of Education (“DOE”) school, after which it moved to the Good Shepherd School. The middle school has since moved to the former St. Jude School on W. 204 St., after completing a \$1,000,000 renovation. That building is now operating at capacity. The high school, currently grades 9 – 11 because the school started with just a 5th grade class and has added a grade every year since 2010, is co-located with Good Shepherd School in the former CUNY annex adjacent to Good Shepherd. The former CUNY annex space is too small for the high school, and has other

disadvantages such as limited access to sports facilities. In addition, the school's lease with Good Shepherd ends in 2017. The school is currently considering how (if at all) it might use the Good Shepherd space in the future.

- iv. The school needs a new location for the high school, preferably in Inwood. An extensive search mainly turned up parking garage structures, and many landlords were not interested in renting to a school. The owner of 3896 10th Avenue was willing to work with the school, and La Raza has agreed to finance the project. For these reasons, the school has undertaken the work necessary to prepare the BSA variance application.
- c. Deirdre Carson of Greenberg Traurig, LLP presented an overview of the BSA application:
 - i. The application is for a special permit to allow a school in the C8-3 zoned property. The C8-3 zoning designation at this site would be eliminated under the proposed Inwood NYC rezoning project, but this will not happen soon enough to meet the school's needs.
 - ii. The required BSA findings and the school's responses to each finding are as follows:
 1. Finding: That there is no practical possibility of obtaining an adequate site in the area to be served. Response: The school investigated 50 sites in the area. Other sites were too expensive, or the landlord wasn't willing to rent to a school. (Inwood real estate prices are climbing, but C8-3 properties are still cheaper because of the use restriction.)
 2. Finding: That the school is not located more than 400 feet from the boundary of a zoning district that would allow the school to be built as-of-right. Response: The site is about 50 feet from adjoining R7-2 districts, where the school would be permitted as-of-right.
 3. Finding: That there is adequate separation from noise, etc. through the use of sound-attenuating exterior wall and window construction. Result: The school is planning to install sound mats in the exterior walls, and to use triple-glazed windows with air insulation between the layers.
 4. Finding: That children are protected from traffic going to and from school. Response: The school will be located in the immediate vicinity of subway and bus stops. (It is likely that the BSA will ask for a safety plan based on observation of modal splits, i.e., actual foot traffic flows going to and from the site, when the school is operational.)
 5. The school also must establish that any disadvantages to the community resulting from the special permit are outweighed by the advantages derived by the community, and that the special permit use will not interfere with any public improvement project approved by or pending before the City Council, City Planning Commission, or the Site Selection Board. Response: The school fulfills an important educational function, and currently has a 1,000-family waiting list. Calls to the City Council, etc. have not revealed any planned public improvement projects.
- d. The Committee and school representatives discussed the details of the proposed renovation as follows:
 - i. The first floor will include classrooms, faculty rooms, a multi-use space for sports, etc., and a woodworking shop (the school currently offers woodworking as part of a trade-skill education program, and is working toward adding vocational training in health science and computers in the future. The woodworking program has been especially successful with special-need students.)
 - ii. The second floor will house classrooms, an art room, a science lab, special education rooms, and furniture-based student lounge areas.
 - iii. Classrooms at the east side of the building will be windowless. A large skylight in the middle of the second-floor ceiling will bring some natural light to these rooms. Although the school is negotiating a triple-net 30-year lease that would allow for renovations at the school's expense, there is no plan to install additional skylights or glass brick walls in these classrooms during the initial phase of this project. (Ms. Carson noted that in 30

years the school may have purchased the building, or the zoning could change, allowing for the construction of additional floors.)

- e. Nathan Epler of Roux Associates explained the environmental testing that has been done as due diligence:
 - i. The first phase of the due diligence process is an on-paper investigation of past uses. This structure was a parking garage in the past, and is still used as a garage on the second floor. The first floor features 2 small shops and a single car-sized auto repair facility.
 - ii. Based on this information, the school voluntarily entered a city cleanup program and followed a rigorous testing protocol dictated by the city (typically by the NYC Office of Environmental Remediation). Three rounds of testing were carried out.
 - iii. Sanborn maps of the site showed that there may have been a gas tank near the door, so soil and soil vapor samples were tested for volatile organic compounds (“VOCs”) and metals. Testers attempted to sample groundwater in that area, but no groundwater was found before reaching bedrock. Test results found that the site was for the most part very clean.
 - iv. Perchloroethylene (PERC cleaning solvent) was found in soil vapor near the auto body shop, but none was detected in the air.
 - v. Testing for contaminant migration was done in the corners of the building, and no sign of migration was found.
 - vi. Asbestos was found in the roof, mastic, and caulking, consistent with buildings of that era.
 - vii. Soil vapor will be vented to the roof with vertical pipes and a blower. If rooftop samples show high levels of contaminants, treatment canisters will be installed.
 - viii. Committee members expressed concern about the fact that ambient air was not tested on the second floor. Mr. Epler explained that he would expect to find evidence of combustion products (i.e., gasoline) at background levels on the second floor because it is currently used as a garage. The first floor, being adjacent to the soil, is the first concern as it would be the most likely route of exposure. If contaminants aren’t detected on 1, there shouldn’t be any on 2, in his experience. There was no visual or olfactory evidence of spills on the second floor, but if there had been a stain, etc., that slab could be steamed or power-washed and barrier coated. In response to the question regarding the possibility of monitoring air quality on the first and second floors with a single system, Mr. Epler stated that the indoor air was tested with high-sensitivity canisters (EPA TO-15) and mass spectrometry systems that can detect VOCs down to fractions of parts per billion (“ppb”). The limits designated by the city are much higher than this at 1,000+ ppb, so he is confident that the air testing performed was sufficient.
 - ix. The science lab will have a fume hood, and all exhaust systems will be situated at an appropriate distance from the fresh air intake vents of the school and surrounding residential buildings. A mechanical, electrical, and plumbing (“MEP”) engineer will be involved in designing these systems. Also, because of tightening regulations, most science experiments are now teacher demonstrations, rather than hands-on experiments.
 - x. Information regarding the means and methods of basic cleaning and floor sealing, etc., is not yet available, as the contractor for the project has not been selected. The school needs the BSA variance in order to progress to the contractor selection stage of the project.
 - xi. The school also investigated the effects of the school on surrounding air handling systems, and the effects of neighborhood air pollutants on the school. No migration of contaminants from the gas station across from the school was observed. The MTA train repair yard across 10th Avenue holds a large source air pollution permit, but the pollutants are emitted at a point that is more than 1,000 yards away from the school, and are deemed to have no potential impact on the school.
 - xii. A community member questioned the ‘surprisingly clean’ test results in the mixed-use area. Mr. Epler explained that the city sets the requirements for test compounds and threshold values. The analytical lab has tight quality control and quality assurance

protocols to calibrate the systems and ensure that they are working properly. Three rounds of testing on three different days produced similar results, so there is a high degree of confidence in the accuracy of the tests. Also, the auto body shop is a relatively recent addition, so there is less risk of hidden contamination.

- xiii. Regarding the question of whether noise abatement measures will be sufficient for students on the autism spectrum who may have sensory issues, Ms. Reyes explained that the school is not a District 75 (severe autism) school, the classrooms for special education students will be at the back of the building (farthest from the elevated train tracks), and that the school will work with each student's noise issues as they arise.

f. Other comments:

- i. The new school will be located 4 blocks from the middle school, which will be convenient for faculty and parents who might have children in both schools. It will also provide easy access to the St. Jude building's gym, to supplement the multi-use room planned for the new school. The school offers 18 sports now, and students often wind up playing in the Good Shepherd cafeteria or traveling to the St. Jude building.
 - ii. There is no library planned for the new school, as there will be small book collections in each classroom. For the most part, the school uses Chromebooks loaded with thousands of electronic books.
 - iii. The second floor will feature small-group and lounge furniture in common spaces.
 - iv. The maximum capacity of the school (grades 9 – 12) is 600, but the current size is about 350. This will increase to about 450 as the first class progresses to the 12th grade.
 - v. Class size is generally less than 25. The AP and College Now classes are the largest, with up to 30 students, and there are 12 in the woodworking shop.
 - vi. The school is funded as a district school, but receives somewhat less per student. The funding moves with the student if he or she transfers schools.
 - vii. This will be the only high school in Inwood. (George Washington H.S. is located in Washington Heights.) The school hopes to begin operation at its new location in February 2018.
 - viii. Chair Benjamin requested that the school provide the Health and Environment Committee with the environmental testing reports and also provide the Youth and Education Committee with an update on this project.
- g. A motion was made by James Berlin and seconded by Jason Compton to support the school's application for a BSA variance. The motion passed with the following votes:
- Land Use Committee: 6 – 1 – 0
 - Other Board Members: n/a
 - Members of the Public: 2 – 0 – 0

3. **Old Business:**

- a. The matter of the landmark designation of the Loew's 175th Street Theater (United Palace) was on the agenda of the City Council Subcommittee on Landmarks, Public Siting and Maritime Uses March 9 meeting.
- b. The BSA will hold a second hearing on the application for a variance at 2420 Amsterdam Avenue on April 4.

The meeting was adjourned at 8:45 PM.

Submitted by Andrea Kornbluth