

LAND USE COMMITTEE – MEETING MINUTES

October 12, 2016

Committee Members Present

Wayne Benjamin, Chair  
Andrea Kornbluth, Asst. Chair  
James Berlin  
Isaiah Bing  
Jason Compton  
Osi Kaminer  
Steve Simon  
Karen Taylor

Committee Members Absent

Anita Barberis  
Jonathan Reyes

Board Members Present

Shahabuddeen Ally

Public Member Present

Vivian Ducat

Public Member Absent

Staff: Ebenezer Smith

Guests: Pat Courtney, Chris Houser, Katharine Pichardo, Bryan Woo, Jay Purdy, Stuart Knoop, Steve Oakley, Lesly Almanzar, Michael Curley, Philip Habib, Mick van Gemert, Young Woo, Frans de Witte, Rita Gorman, Jeff Mulligan, Shiming Tam, Rachel Furer

1. The meeting of the Land Use Committee (“Land Use” or the “Committee”) was called to order with quorum present at 7:02 PM. Land Use Chair Wayne Benjamin welcomed guests, and Committee members introduced themselves.
2. **Presentation on Board of Standards and Appeals (“BSA”) Application for 2420 Amsterdam Avenue (Young Woo, Youngwoo and Associates LLC (“Youngwoo” or the “Applicant”); Jeff Mulligan, Kramer Levin Naftalis & Frankel LLP; Frans de Witte, MVRDV).**
  - a. Background: 2420 Amsterdam Avenue, between W. 180<sup>th</sup> and W. 181<sup>st</sup> Streets, is one of 8-10 sites within Manhattan Community District 12 with a C8-3 zoning designation. The southwest corner of the lot is zoned R7-2 for medium-density housing. The C8-3 designation allows for automotive and heavy commercial uses, and does not permit housing or light commercial uses. In some areas, C8-3 zones were mapped over existing buildings that would not be allowed under the C8-3 designation. Some years ago, CB12M and the Manhattan Borough President’s Office (“MBPO”) contacted the Department of City Planning (“DCP”) to suggest that these sites be rezoned to allow development that would be beneficial to the neighborhood, but no action has been taken to date.
  - b. Youngwoo has filed a BSA application requesting variances to allow the construction of a complex that would include a hotel, an office tower, retail space, and event space. The company has been in business for 18 years, and is working on such projects as the redevelopment of the Bronx General Post Office (80% pre-leased) and the redevelopment of Pier 57 in Hudson River Park. Like those projects, the company envisions a financially sustainable community hub at 2420 Amsterdam Avenue that supports local professionals and startup companies, and offers the neighborhood a “place to interact, create, and experience”.
  - c. BSA variances may be granted when each of five findings is established. Among these, a threshold finding is that “there are unique physical conditions . . . inherent in the particular zoning lot . . . [causing] practical difficulties or unnecessary hardship,” such that “there is no reasonable possibility that the development of the zoning lot will bring a reasonable return”. The Applicant claims that contamination and shallow bedrock at the 2420 Amsterdam site constitute the requisite unique physical conditions, as remediation and excavation will result in a \$7.7 million construction premium that would make it impossible to achieve a reasonable return if developed under the existing zoning rules. The Applicant also claims that use restrictions under C8-3 zoning severely limit the viability of the project.
  - d. The floor area ratio (“FAR”) for C8-3 is 2.0, but the designation allows for the construction of community facilities, in which case the FAR can be increased up to 6.5 and sky exposure plane encroachment is permissible. The Applicant has based its proposal on an as-of-right scenario that includes a community facility. Both the as-of-right development and the proposed development have a maximum zoning floor area (“ZFA”) of 6.5, and both have a total buildable area of 214,013 ft. In both cases, building height is lower on 180<sup>th</sup> Street and steps up to a tower on 181<sup>st</sup> Street. The building will be set back on Amsterdam Avenue for a more open feeling, and will feature ground-floor retail. The office entry will be on 181<sup>st</sup> Street, the hotel lobby entrance will be on Amsterdam Avenue, and the loading dock and parking entrances will be located on 180<sup>th</sup> Street. Within the complex, a large outdoor courtyard will align with the alley between the residential buildings to the west to bring light and air into that space.

- e. The waivers requested by the Applicant and related Applicant comments are as follows:
  - i. 6.5 FAR for mixed commercial use, rather than a community facility;
  - ii. Sky exposure plane encroachment permitted for commercial use, rather than community facility (the requested penetration (1,493 sq. ft.) is less than the 1,600 sq. ft. penetration that would be allowed for a community facility);
  - iii. Allowing commercial use in the R7 portion of the site (there have been commercial tenants in this portion of the site for years); and
  - iv. Waiver of the requirement that the loading dock entrance be 30 feet from the residential zoning boundary (this is the only reasonable location for the loading dock, as there is less road and pedestrian traffic on 180<sup>th</sup> Street, and it is the only one-way street bordering the lot).
- f. An initial study of environmental contamination on the site (a former gas station) shows extensive soil and groundwater contamination. The site is now part of New York State's Brownfield Cleanup Program, so the Applicant must fully clean the site and install vapor barriers. The Applicant will pay for the remediation work, but will receive tax breaks in return.
- g. The bedrock is as shallow as 5 feet at the eastern side of the site. The planned cellar will be used for parking and mechanical equipment, necessitating a great deal of excavation in that section.
- h. Architect Frans de Witt discussed the project's design concept, citing several examples of environment- and community-focused projects completed by his firm, MVRDV, in the Netherlands.
  - i. The stacked shapes of the structure refer to the shapes of surrounding structures, and will reflect the vibrant colors seen throughout the neighborhood (i.e., the 191<sup>st</sup> Street subway entrance mural, etc.). The façade will be completed in glazed brick.
  - ii. A blue block in the center of the structure will be an event space.
  - iii. The gross height of the tower will be somewhat taller than Yeshiva University's Belfer Hall to the north, and shorter than the Bridge Towers to the southwest.
- i. Applicant's proposed community benefits:
  - i. Full remediation of contaminated property;
  - ii. Replacement of vacant lot with vibrant retail and commercial uses;
  - iii. Creation of 1,100 long-term jobs;
  - iv. Affordable office space;
  - v. Reasonably-priced hotel rooms; and
  - vi. Local event space.
- j. In response to Committee and community member questions, the following additional information was provided:
  - i. The loading dock will be situated inside the building, and will accommodate only 1 truck at a time. 3 trucks in the morning and 3 in the afternoon are anticipated. There are bus stops on 181<sup>st</sup> St. that can't be blocked, and there is too much potential for illegal turns on the two-way streets – this is the only reasonable option.
  - ii. Regarding the question of why the project includes no housing despite overriding demand in northern Manhattan, a 1930 BSA application for this site requested use as a gas station, not as a residential site – Shell knew at the time that the site was contaminated. A mixed-use development wouldn't generate enough revenue to overcome the cleanup and excavation costs. The applicant was asked to provide documentation of the residential use restriction. Chair Benjamin noted that brownfield cleanup is not necessarily a deterrent to residential construction: at 1800 Southern Boulevard in the Bronx, for example, 100% affordable housing was built on the site of a former gas station and car repair shop where a Level 1 unrestricted use cleanup was successfully completed. Jeff Mulligan happened to be the Executive Director of BSA at that time, and noted that the developer was a nonprofit organization that did not need to do financial feasibility studies, and that the project was heavily subsidized. Chair Benjamin noted that YoungWoo has access to the same HPD and HDC programs used to finance 1800 Southern Boulevard.
  - iii. The total construction costs of the project are about \$800/sq. ft. The applicant was asked to provide a development cost pro forma.
  - iv. Prospective returns are too tight for the project to house a public school.
  - v. Regarding office space demand and prospective rents, the project is now in the schematic design phase, so it would be difficult to provide an accurate rent estimate now. Demand was assessed on the basis of such factors as the 6-month waiting list for office space at 5030 Broadway, the fact that northern Manhattan is a big job-creating community that generates more LLCs than any other part of Manhattan, and the strong response from local businesses and schools looking for office space and co-working space at Youngwoo's Bronx General Post Office project. This project will have small offices, but as many as possible will have windows.

- vi. Regarding the question of who will comprise the market for each component of the project at 2420 Amsterdam, which is in less of a pedestrian area than the Bronx General Post Office: 2 years ago there were no hotels above 145<sup>th</sup> Street, but now there are 2 new hotels near Columbia/New York-Presbyterian, establishing that there is hospital visitor demand. Yeshiva University is also interested in having a hotel nearby, especially if provisions can be made for religious customs (Shabbos elevators, etc.). The hotel will have 212 micro-unit-style rooms of approximately 300 square feet each, priced under \$200/night so as to avoid competition with midtown hotels. The Edge Hotel on W. 168<sup>th</sup> St. will be competition, but the Cliff Hotel on W. 181<sup>st</sup> St. is thought to target a different clientele.  
The Edison Group suggested that the office space feature a WeWork concept to support startup businesses with shared information and programming on business growth and incorporation, etc.
- vii. The hotel will have 4 and 8 stories, and the office and commercial tower will have 18 stories. The schematic shown in the presentation appeared to have 22-23 stories, but this is because missing floors (areas with high ceilings in the hotel, etc.) had to be included in the numbering. The correct building height is 300 ft., with 18 floors.
- viii. Regarding the questions of why there won't be any community facility component and how this project will benefit the broader community, one example is the Bronx General Post Office project, which will include a Town Square concept with art and fashion shows. A cultural curator has not yet been hired for the 2420 Amsterdam project, but Applicant is talking with the 181<sup>st</sup> St. BID about creating something interesting there. Art may be displayed in the large courtyard or the lobby, rather than in a dedicated gallery space. The applicant was asked to further elaborate upon who some portion of the mixed-use project cannot be dedicate to a community facility, perhaps arts and culture, use, noting that the project seeks to take advantage of the zoning density permitted for community facility building without providing any actual community facility uses, as defined by zoning, within the building.
- ix. Regarding the decision to request a variance for sky exposure plane encroachment as opposed to shifting the tower to avoid encroachment, the tower is placed where it is to preserve the open space of the courtyard. It would also be possible to request a variance regarding the size of the courtyard, but because the sky exposure plane encroachment is permitted for community facilities, it was deemed to be the more straightforward request.
- x. The ongoing remediation project is now in its initial phase – it is possible that surrounding buildings are affected, but that information has not yet been gathered. Air monitoring has been done, showing contamination in parts per trillion (“ppt”) concentrations. The Applicant would like to install wells in other parts of the site, such as 180<sup>th</sup> St. and Amsterdam Avenue, but needs to obtain permits from the DOT for a special rig to drill in the shallow bedrock. The full report on sampling has not yet been submitted to the Department of Environmental Protection (“DEP”), but should be submitted within the next month. This report will provide more complete information on the nature and amount of individual contaminants, and will be the basis for the remediation action work plan.
- xi. The courtyard will be open to the public, but people wishing to access the courtyard will unavoidably need to enter through the hotel lobby. This should not be a deterrent, but it will depend on hotel management. The hotel will be operated by the same group that operates the Arlo micro-hotels downtown. Construction costs are the same as they would be in midtown, but rent income in midtown would be at least twice as much, so attractive amenities are critical to the success of the project. The courtyard is one such amenity, but the Applicant is willing to work with the community regarding programing and access (cf. the XYZ Lounge in the Aloft Harlem hotel, which is embraced by the community with management support). The Applicant was asked to elaborate on how it will ensure that the public broadly defined will be able to enjoy the amenities within the development and that operation of the development will be open and welcoming to the general public.
- xii. Regarding the decision to pursue a BSA variance rather than rezoning through ULURP, the Applicant spoke with DCP about the variance, and the DCP was not opposed. Chair Benjamin noted that rock croppings and contamination are not unique in Washington Heights, and that the community wishes to avoid rezoning by default by the BSA.
- xiii. A third-party consultant calculated that the project would generate 1,100 jobs. The Applicant believes that there is enough of an educated workforce in the area to fill many of the hotel jobs. The Bronx General Post Office project did not specifically seek to hire local construction workers, but 80% of its workers are from New York City, and 80% of the NYC workers are from the Bronx. Hotel worker training will be important for creating local jobs. The Applicant was asked to provide documentation to show how it calculated the number of jobs to be created and if its proposed hotel operator has an established program to train new employees in hotel operations and management.

- xiv. The Applicant has not yet spoken with Con Edison and the DEP, etc., about the work that will need to be done to improve the 100+ year old subsurface infrastructure that services the lot.
  - k. Next steps: The Committee will send its questions to the Applicant in the form of a letter, and will hope to receive substantive responses as to how each issue will be handled. [Note: The BSA will be asked to extend CB12M's review and comment time by at least one month because the Committee only learned the details of the project at the present meeting.]
3. **Old Business:**
- a. CB12M has passed two resolutions requesting contextual zoning in the district. These have been referenced by MBPO several times, but there has been no response from DCP to date. Additional follow-up is needed.
  - b. The question of whether the infrastructure task force should be revived and how all the infrastructure-related franchises (Con Edison, etc.) can be coordinated should be taken up by the Health and Environment Committee.
  - c. The Committee has not yet received a response to its questions regarding the revised BSA application for 4452 Broadway. In light of the fact that the revision is very similar to the original application, and the fact that we don't know when the BSA will take action on the revised application, a motion was made by Steve Simon and seconded by Karen Taylor to reaffirm the reservations expressed in the previous resolution. The motion passed with the following votes:
    - Land Use Committee: 7 – 0 – 0
    - Other Board Members: 1 – 0 – 0
    - Members of the Public: 3 – 0 – 0
  - d. The application for a potential project at the site of the 2 private houses at 204<sup>th</sup> St. and Seaman Avenue has not yet been certified, and so has not yet come before the Committee.

The meeting was adjourned at 9:05 PM.

Submitted by Andrea Kornbluth.

## LAND USE COMMITTEE, COMMUNITY BOARD 12-MANHATTAN

October 12, 2016

**RESOLUTION:** REAFFIRMING COMMUNITY BOARD 12-MANHATTAN'S SEPTEMBER 2015 RESOLUTION OPPOSING APPROVAL OF THE APPLICATION SUBMITTED TO THE BOARD OF STANDARDS AND APPEALS REQUESTING MULTIPLE ZONING VARIANCES TO FACILITATE THE DEVELOPMENT OF A PROPOSED 16-STORY MIXED-USE BUILDING AT 4452 BROADWAY

**Whereas:** In May 2015, application number 104-15-BZ (the "Application") was submitted to the Board of Standards and Appeals ("BSA") by Rosenberg & Estis, PC, Attorneys at Law ("Legal Counsel") on behalf of HAP Investment, LLC ("HAP") requesting variances to multiple sections of the New York City Zoning Resolution to facilitate development of a mixed-use development project at 4452 Broadway (the "Project"). The Project as proposed consists of the development of an irregularly shaped, approximately 24,280 square foot site, 4452 Broadway, (Block 2170 / Lots 62 and 400), located at the southeast corner of the intersection of Broadway and Fairview Avenue (the "Site") , as a 16-story, 235,458 square foot mixed-used building containing 241 units of market-rate rental housing, approximately 14,919 square feet of commercial space on the ground floor and second floors and 18,834 square feet of commercial space on the cellar and two-sub-cellar floors. Total development costs are estimated at \$111 million; and

**Whereas:** The portion of the Site that is within 100 feet of Broadway is zoned R7-2 with a C2-4 overlay and the remainder is zoned R7-2 without a commercial overlay. The Project does not comply with zoning. The maximum residential density permitted under zoning is approximately 87,407 square feet (an average floor-area-ratio or FAR of 3.6); 221,267 square feet (133,860 square feet larger than-as-of-right) of residential space is proposed. The maximum street-wall height permitted pursuant to zoning is 60 feet; a street-wall height of 105.25 feet (42.25 feet taller than as-of-right) is proposed. The Project exceeds the maximum allowable density / floor area (an average of 3.6 vs. 9.7), and the maximum building height (80 feet vs. 165.25 feet) pursuant to zoning. It also does not comply with the minimum number of required parking spaces, i.e.: 50% of the total number of units (121 required vs. 50 proposed). Further, the location of floors occupied by commercial uses (C2-4 zoning does not permit zoning above the first floor; commercial space on the second floor is proposed) and the required accessory loading berths (no loading berth is required for the first 25,000 square feet of commercial space but a loading berth is required for the next 17,000 square feet of commercial space - a total of 33,034 in commercial space is proposed) are also non-compliant; and

**Whereas:** In September 2015 Community Board 12-Manhattan ("CB12M") passed a resolution opposing approval of the Application submitted to the Board of Standards and Appeals on behalf of HAP Investments, LLC requesting multiple zoning variances to facilitate development of a 16-story, 235,458 square foot, mixed-used building at 4452 Broadway based first and foremost on its overwhelmingly adverse impacts on the neighborhood's essential character due to its excessive height and density and its insensitive, poorly considered architectural design, but, additionally, and as importantly based on the absence of any units that are affordable to average local residents and the on-street problems that will be caused by the reduction in the number of parking spaces and the elimination of a loading berth; and

Whereas: In August 2016 CB12-M received a copy of the revised Application (the “Revised Application”) for the Project. The revisions include reducing the total floor area by approximately 40,000 square feet; reducing the residential FAR from 9.11 to 7.5 and the total FAR from 9.7 to 8.1; reducing the number of dwelling units from 241 to 206.; shifting the bulk of the building to the east through a series of setbacks totaling nearly 80 feet; and reducing the building height from 165 feet to 160 feet; and

Whereas: Despite these reductions the Project fails to address the core objections raised in CB12-M’s September 2015 resolution. At 160 feet tall its height remains excessive, and at an FAR of 8.1 its density significantly exceeds what is permitted as-of-right. The five-foot reduction in building height is a disingenuous response; the Project continues to be out of context with the existing neighborhood’s urban fabric. The Revised Application does not contain any renderings so it can only be assumed that the insensitive architectural design presented in September 2015 remains substantially unchanged. The Revised Application does not make any provision for the inclusion of any units that are affordable to average local residents. The on-street problems that will be caused by the reduction in the number of parking spaces and the elimination of a loading berth remain unmitigated; now therefore

**Be It**

**Resolved:** Community Board 12-Manhattan opposes approval of the Revised Application submitted to the Board of Standards and Appeals on behalf of HAP Investments, LLC requesting multiple zoning variances to facilitate development of the proposed 16-story mixed-use building at 4452 Broadway, calls upon the HAP Investments to materially revise the Project to fully address the core objections raised in its September 2015 and calls upon the Board of Standards and Appeals to require any revised application submitted for the Project to include design and program changes that reflect genuine consideration of these core objections.

**THE RESOLUTION PASSED WITH THE FOLLOWING VOTES:**

	<u>For</u>	<u>Against</u>	<u>Abstaining</u>
Committee Members:	7	0	0
Board Members:	1	0	0
Members of the Public:	3	0	0