

COMMUNITY BOARD 12 - MANHATTAN
LAND USE COMMITTEE - MEETING MINUTES

Wednesday, November 3, 2021 (Virtual via Zoom)

Committee Members Present

Wayne Benjamin, Chair
Tanya Bonner, Assistant Chair
James Berlin
Steve Simon
Omar Tejada

Committee Member Absent

Joel Abreu

Public Member Absent

Vivian Ducat

Board Member Present

Liz Ritter

Staff: Shinelle Paniagua, Community Associate

Guests: Patricia Ahearn (Holy Trinity Church); Shay Alster (GF55 Architects); Richard Bass (Akerman LLP); Brian Burwell; Pia Catton (Holy Trinity Church); Bobby Chin (Silverstein Properties); the Rev. Dr. Gawain de Leeuw (Holy Trinity Church); Shawn Folz; Frank Fusaro (Handel Architects); Christianne Greiert; Barry Gurvitch (Artimus Construction); Jennifer Hoppa (NYC Parks); Dan Haron (K and R Realty); Ping Hsieh (Handel Architects); Ella Killinger (Handel Architects); Jessica Kooris; Vivian Krieger (Cozen O'Connor); Kelli Lawson (Holy Trinity Church); John McNally; Nancy Preston; Ivan Shcherbakov (GF55 Architects); Annie White (DCP)

1. The meeting of the Land Use Committee ("Land Use" or the "Committee") of Community Board 12 Manhattan ("CB12M" or the "Board") was called to order at 7:05 p.m. Committee Chair Wayne Benjamin announced that he had spoken with Board Member Curtis Young, who was originally thought to have been assigned to the Committee and was told by Mr. Young that his committee assignments are not clear at this time. Benjamin moved forward in calling the meeting to order with the understanding that Mr. Young is not a member of the Committee, and therefore, given a seven-member Committee, quorum was established to conduct Committee business. Benjamin also announced that the Academy of Arts and Letters is looking at other design options for the link between its north and south buildings based on feedback received from residents of neighboring buildings and the Committee and may be back before the Committee in December with updates. The Academy also informed Benjamin that it is postponing its presentation to the Landmarks Preservation Commission (LPC). Lastly, Benjamin said there is also a possibility that the request for alternate construction hours for the Eliza project in Inwood may come back before the Committee in December as well, if the Eliza representatives are able to speak with neighbors surrounding the construction project location.

2. 4650 Broadway Development Project – further discussion of the project and FRESH Application

Benjamin noted this is same site as the proposed Sherman Plaza project, and said a key point is that the supermarket is the smallest component of a much larger project which was described by representatives who came before the Committee in October. That description, however, left Committee members unable to fully comprehend many aspects of the project. . , The purpose of the discussion today is to return to the conversation on the development project and the FRESH application. Benjamin said he specifically wants clarity on how the FRESH program benefits the overall development project, as the project is smaller in density than is allowed as-of-right and it does not seem to need the FRESH program at all. Benjamin also noted that since the Committee last raised an issue about the 421A application associated with the development project and suggested the development team meet with the Board's Housing and Human Services Committee, he has heard from the development team that the 421A program was changed and no longer requires community board review. Benjamin said he was surprised by the response since the proposals for reform of the 421A tax benefit program did not include the elimination of the community boards' role.

Benjamin turned the meeting over to Vivian Krieger of Cozen O'Connor, who responded to some of Benjamin's questions and concerns. Krieger agreed that the proposed project is below the maximum floor area permitted and that use of the FRESH program will allow the residential part of the project to exceed its maximum floor area. Benjamin asked since an increase to the residential floor area can be achieved without the FRESH program by utilizing the Quality Housing zoning, why not do it that way? Frank Fusaro of Handel Architects explained that light and air requirements of the charter school that will also occupy part of the development make the Quality Housing zoning not practical for the project, and so height factor zoning is being used instead. Fusaro said the school has also requested outdoor space.

Benjamin asked for more details about the proposed charter school, and how developers will ensure the noise from the school will not be a burden to residents who face that outdoor space. Bobby Chin of Silverstein Properties said they cannot reveal the name of school yet, but the school already has a presence in Community Board 12 and is looking to expand.

Fusaro showed the Committee images of the ground floor of the building and what the rest of the building will look like once completed. Committee Member Omar Tejada asked if there is a danger of the height of the building casting shadows on Fort Tryon Park across the street from the development. Fusaro said formal shadow studies have not been done and that there will be some shading, but the impact of shading will be minimized by setting the building back about 35 feet and as far away from park as possible, and that the shadows will dissipate as the day moves on. Benjamin noted that there were concerns about how any development at the site would relate to the park and the Cloisters when the Board considered prior development on this site. He noted the site is larger than an acre, and for that reason, he is concerned about how development of the site might compete visually with the park and the Cloisters. Board Member Liz Ritter, who chairs the Board's Parks and Cultural Affairs Committee, said she is concerned about the project's potential impact on Fort Tryon Park, and she strongly requests that the developers lower the height of the building. Ritter was also perplexed about the need for another charter school when the area needs daycares, theaters, spaces for arts groups. Committee Member James Berlin said he finds the development a total affront to the community. He suggested rotating the tall part of the building 90 degrees to expose less of the building to the park. Committee Member Steve Simon disclosed that he is an employee of the NYC Parks Department, said he shares many of reservations about park impact by shadows from the building. Simon was also concerned about the impact on the park if the charter school does not get a full playground and the kids end up using the park instead. He said there was a previous issue with another charter school that ended up taking up much of the space in a nearby playground and limiting its use by the general community. He said he would appreciate it if the building were shortened and hopes the school is given a full-size playground so do not have to rely on the park for recreation. Benjamin suggested the developers utilize the Quality Housing option that would limit the height and consider a chevron-shape design. Krieger said she let the developer know about the chevron idea.

Several Board and Committee members suggested the developers consider different design approaches that would make the project a better fit in the community. Ritter questioned whether the project design limitations caused by trying to build on top of the charter school should be driving the overall project design. Fusaro said the charter school design limitations are not the only driver of the project, as the classrooms also need a design that lets in light and air and that the height as planned allows for the fulfillment of that requirement. Committee Assistant Chair Tanya Bonner said this response sounds like the school is in fact driving the design.

Simon inquired about the criteria for the zoning bonus to determine if this is a proper location for a FRESH supermarket, and whether the decision is made solely by the chair of the City Planning Commission (CPC). Annie White of DCP said the CPC chair looks at several factors in determining this, including concentration of stores that serves fresh produce, area income and access to cars. White also said that the CPC determines if a supermarket meets the criteria of a FRESH store, including having a certain amount of fresh produce.

Benjamin said he feels that the conversation is in the same place as it was a month ago, as he feels that the consideration of the FRESH application is the least important aspect of the conversation. Bonner said that developers need to understand that the Land Use Committee does not look at projects in isolation but rather considers a project within the context of the rest of the community. Bonner said the Committee does not wish to review just the FRESH supermarket portion of the project but rather its entirety in terms of its potential fit and impact on the community. Krieger said they were presenting to the Committee today regarding only the FRESH application but will discuss the Committee's other concerns offline with the rest of her team.

Community resident Jennifer Bristol, who lives around the corner from the proposed project, said that while she is okay with a new building there but finds the planned project an assault and wants a shadow study done because of concerns about the impact on the park. Community resident Christianne Greiert expressed concern about impact on traffic in the area, including traffic caused by the loading and unloading of trucks. Krieger said DOT is not involved in the project. And Fusaro said the project has a large loading bay that can hold big trucks. Benjamin suggested the developer nonetheless analyze potential impacts on traffic and congestion.

Benjamin requested a response from the developer on its review of the Committee's recommendations prior to the Board's upcoming Executive Committee meeting, when Land Use will be making a recommendation on the FRESH application for the Executive Committee's consideration, and Krieger said that will be done.

3. 22-38 Cumming Street – Consideration of BSA Application

Benjamin explained that this is the site of Holy Trinity Church (the "Church"), and that the site is being redeveloped for housing and a sanctuary. Benjamin also stated that during the Board's consideration of the Inwood Rezoning, the Church was asked if it wished to have the site carved out of the area subject to the rezoning, but that the church declined that offer and said it would just go along with the change in zoning to R7A from R7-2. So now a BSA application is necessary to allow the proposed building height, which is not permitted under new zoning but would have been permitted under the old zoning.

Brian Burwell gave a brief PowerPoint presentation on behalf of the developer, Artimus NYC, which he described as a small, family-owned real estate firm in Harlem. Burwell said the bulk of its projects have been residential developments in Upper Manhattan, with an additional track record of working with religious institutions.

Kelli Lawson, a warden with the Church, explained that it was in a dire state before its recent renovation and that the Church's previous board decided to enter into this deal with Artimus, with proceeds of the sale of part of its land financing the renovation of the church building. She also said the new pastor has community investment and interests, and people often see him walking around the neighborhood. Lawson said the Church is comfortable with its partnership with Artimus due to the firm's experience working with religious institutions.

Richard Bass, of Akerman LLP, explained that the project will be a nine-story residential building at the corner of Seaman Avenue and Cumming Street with 140 units. The project (Lot 16) is adjacent to the Holy Trinity Church site (Lot 18). Bass said a variance is necessary from the Board of Standards and Appeals (BSA) due to the unique financial hardship that would stop a project from being done as-of-right. Bass said the bedrock covering the site would need to be removed to build as-of-right and that this removal process, by manual means since blasting is not permitted, would take a year and cost \$68,000 per parking spot. He said the Church partnering with Artimus to redevelop the site and advance the development project will allow the Church to remain in the community.

Benjamin asked if the church building is National Register-eligible. Lawson said it was considered, but the application was rejected. This action predates her, and she would need to research to find out why it was rejected.

Benjamin asked how the project would fit architecturally, noting that the design of the Eliza project currently being constructed nearby does not relate to the neighborhood context, and how they will be handling the rock. Bass said they will be leaving most of the rock in place. Shay Alster, of GFF55 Architects, said that like any other building they have built so far in Harlem, they are looking at surrounding buildings in terms of height and setbacks, and work with shapes and sizes of building entrances and location of entrances in consideration of traffic in the neighborhood. The intent is to keep it contextual. Barry Gurvitch of Artimus Construction showed contextual work with the Trinity Church building. Simon asked if there is a fair amount of space between the residential building and the church. Alster said there is a minimum of 30 feet separating the church and the residential building to the south. Berlin asked what the bedrock is made of, and Lawson said she believes it is mostly schist.

Greiert wants an open dialogue between the developer and the residents directly next to the proposed development. She said many residents' windows face the development property and were affected for many months by construction from the demolition of the previous church building and the renovation of the existing one. She also said residents have concerns about the bedrock wall, saying that some fear that it will fall onto people walking by. Gurvitch said there is a netting to hold the rock together to prevent pieces from falling down. He said he is aware of community concerns regarding the wall and will do what is necessary to keep it safe.

Community resident Nancy Preston said she is concerned about the project going to 140 units and inquired about what portion of that is market-rate housing. Bass said on a variance application, there is no city subsidy and that the BSA's financial analysis only looks at what can be done in the marketplace. He said they will be requesting a 421A tax exemption, which will require that 30% of the units (42) be affordable and 70% of the units (98) can be market-rate. They will be rent stabilized for the 35-year duration of the tax exemption, Bass said. Benjamin asked if options were considered to make the project more affordable, such as HPD or HDC financing, as affordable housing is such a critical need in this community and throughout the city of New York. Bass said that he can promise that after BSA approval, there can be a deeper conversation about levels of affordability. Gurvitch said it is a Catch22 in that the site is expensive to develop and then the non-subsidy adds to the lack of affordability. Simon asked if there is a requirement in the Inwood rezoning that all development must include some element of affordable housing. Bass said that that level of affordability is outside the parameters of the BSA approvals requested. Simon said he is concerned about introducing a large number of market-rate apartments with landlords trying to raise rents and deregulate affordable housing.

Bass said the BSA hearing is in mid-December, and he would like a positive resolution from the Committee and the Board. Simon made a motion for a resolution supporting the project with three conditions: 1) that all the additional apartments made possible by the variance be affordable to people currently living in the community; 2) that the developer and the contractor meet with local residents during the construction period to resolve any problems, and 3) that the developer and the architect come back to the Committee with the design of the building to review whether the neighborhood context has been taken into account. Berlin seconded the motion.

The resolution passed based on the following votes:

	<u>For</u>	<u>Against</u>	<u>Abstaining</u>
LU Committee			
Members	4	0	0
Board Members	0	0	0
Members of the Public	3	0	0

4. Old Business
None

5. New Business:
None

A motion to adjourn was made by Berlin and seconded by Simon. The meeting was adjourned at 9:26 p.m.

Minutes prepared by: Tanya Bonner