

## LAND USE COMMITTEE – MEETING MINUTES

September 2, 2015

### Committee Members Present

Wayne Benjamin, Chair  
Martin Restituyo, Asst. Chair  
Anita Barberis  
Isaiah Bing  
Osi Kaminier  
Andrea Kornbluth  
Steve Simon

### Committee Members Absent

Jonathan Reyes

### Board Members Present

George Fernandez  
Richard Lewis

### Public Member

Vivian Ducat

### Public Member Absent

Staff: Paola Garcia, Community Asst.

**Guests:** Frank Chaney, Michael Villani, Fariba Makooi, David & Ruth Brodheuson, Kenneth Fume, Jeff William, Martin Collins, Manuel Belliard, Julian Kaiser, Andrew Pontecerro, Rita Gorman, Pat Courtney, David FriendMike Saab, Lindsay Armstrong, D. Toser, Jeanne, Camilla Huey, Robert North, George Preston, Mariel DeLa Cruz, Jamie Venise, Joanne Pello, Doug Hartman, Chayanne Whitfield, Annice Alt, Noah Howard, Kiana Diaz, Kimani Cunningham, Steve Salee, A. Davis, Elaine Delgado

1. The meeting was called to order at 7:10 PM. Land Use Committee (“Land Use” or the “Committee”) Chair Wayne Benjamin welcomed committee members and guests, announced that Martin Restituyo is the new Assistant Chair of the Committee and provided an overview of the agenda.
2. Frank Cheney, a land use attorney with the law firm Rosenberg & Estis, PC, which is representing HAP Investments, LLC (“HAP”) in connection with an application (the “Application”) submitted to the Board of Standards and Appeals (“BSA”) requesting zoning variances to facilitate the development of a mixed-use building at 4452 Broadway, presented the Application. Mr. Cheney stated that the site is an irregularly-shaped 24,000 square foot lot located at the corner of Broadway and Fairview Avenue, Block 2170, Lots 62 and 400 (the “Site”) that is improved by a one-story building and is 45 feet higher at the rear of the lot than at the front of the lot and. He also stated that the site is zoned R7-2 with a C2-4 overlay.

An as-of-right building constructed at the Site would be limited to a floor-area-ratio or density of 3.44 to 4.0, for an average of 3.6 or approximately 87,407 square feet, a maximum of 128 residential units, a maximum street-wall height of 60 feet and a maximum building height of 80 feet or approximately eight-stories. Commercial/Retail use would be limited to the first floor. Parking for 50% of the residential units would be required. A loading dock would be required if the building includes more than 25,000 square feet of commercial/retail space.

The proposed building is 16-stories tall and contains 221,267 square feet of residential space that includes 241 studio, one- two- and three-bedroom units and 33,034 square feet of commercial/retail. It has a street-wall height of 105.25 feet and a building height of 162.25 feet. It does not include a loading dock and does not provide parking for 50% of the units (50 spaces are proposed

vs. the 121 spaces required). The zoning variances requested in the Application to facilitate construction of the Project include: increasing the residential FAR; increasing the maximum number of residential dwelling units; reducing the number of required parking spaces; allowing commercial use above the first floor; increasing the maximum street-wall height permitted; increasing the maximum building height permitted; and waiving the requirement for a loading dock.

Mr. Cheney noted that, in his opening comments, Chair Benjamin provided an overview of the five findings (the “Findings”) that a BSA application must satisfy, which are: a) that practical difficulties or unnecessary hardship arise from unique physical conditions ; b) because of such physical conditions there is no reasonable possibility that development in strict conformity with zoning will bring a reasonable return; c) the variance, if granted, will not alter the essential character of the neighborhood or district in which the zoning lot is located; d) the practical difficulties or unnecessary hardship claimed as the grounds for a variance have not been created by the owner or by a predecessor in title; and e) the variance, if granted, is the minimum variance necessary to afford relief. He stated that the proposed project satisfies the Findings, noting that the Project once occupied would increase the neighborhood’s population by less than 1%, that there would be no negative parking or traffic impacts, the sloping site and the adjacent subway tunnel complicate construction and increase costs, and that the greatest impact of shadows cast by the Project on Gorman Park would be for a short duration of the day at the height of limited summer.

Farbika Makooi, a senior architect with Carl Fisher Architect, reviewed the Project’s design proposal and noted that the fits-in with the community because there are other tall buildings and it will not be taller than the buildings on Wadsworth Terrace.

The Committee and attendees unanimously disagreed with Mr. Cheney’s comments concerning the impacts of the Project and the Findings being satisfied and with Ms. Makooi’s comments concerning the appropriateness of the proposed design with respect to the neighborhood context. It was noted that the Project would dwarf neighboring buildings on Broadway and block views, light and air to buildings on Wadsworth Terrace; that the reduction in parking spaces and the absence of a loading dock would exacerbate existing problems with on-street parking and traffic congestion on Broadway; that the 241 units of market rate housing are not affordable to the average local resident and would change the demographic character of the neighborhood; and that the architectural design is inappropriate for the neighborhood and would constitute a change to its essential character.

The Committee and attendees also questioned the Project’s quality-of-life impacts, its impacts on an already crowded subway station, how it would impact pedestrian circulation on Fairview Avenue, and why an as-of-right design and alternative design scenarios are not presented with the Application. When asked about the Project’s community benefits Mr. Cheney conceded that it did not include any. A resident noted that HAP stands to profit significantly by selling its interest in the Project once it is developed, and that the Application does not address this in the context of the alleged financial hardship.

The Committee also noted that the Site was previously proposed for development by Quadriad, Community Board 12-Manhattan (“CB12-M”) and Quadriad discussed that proposal for two years and local media covered the discussions. Therefore, the site conditions were known to HAP when it purchased the Site. It was further noted that that HAP previously announced it planned to build an eight-story, 98-unit as-of-right market-rate development (“HAP -7”) on the Site that, as of September 2<sup>nd</sup>, was still posted to HAP’s web-site.

After further discussion a motion was made (Steve Simon) and seconded (Osi Kaminier) opposing the BSA application for 4452 Broadway 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 and also 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. **The resolution passed based on the following votes:**

	<u>For</u>	<u>Against</u>	<u>Abstaining</u>
Committee Members:	8	0	0
Board Members:	1	0	0
Members of the Public:	22	0	4

3. Scott Cohen and Noah Howard of Dixon Advisory and Robyn Fleming of RMF Bryant Architects presented the design proposal for exterior renovations (the "Exterior Renovations") at 432 West 162<sup>nd</sup> Street (the "Property"), which is located on the south side of West 162<sup>nd</sup> Street, between Jumel Terrace and St. Nicholas Avenue, within the Jumel Terrace Historic District. Alterations to buildings located within historic districts must be reviewed and approved by the Landmarks Preservation Commission ("LPC"). The owner (the "Owner") of the Property is Canberra Raiders, LLC c/o Dixon Advisory. Canberra Raiders is an Australia-based real estate investment trust; Dixon Advisory is a New Jersey-based affiliate. The Dixon Advisory representatives stated that the Owners purchased the Property with the intent to renovate and restore it, change its use to a single-family house and to lease it for an initial five-year period at a monthly rent of approximately \$8,000 to \$10,000. The Exterior Renovations include a roof deck with a penthouse that encloses a stair that provides access to the roof, a half-bath and a pantry; and a metal deck at the rear of the parlor level with a metal stair connecting to the rear yard. The penthouse is proposed to be enclosed in insulated metal panels. The penthouse is not visible from West 162<sup>nd</sup> Street but is visible from Jumel Terrace, the Morris Jumel Mansion and Roger Morris Park. The metal deck at the rear yard is visible from a part of Jumel Terrace.

Chair Benjamin stated the penthouse proposed for the Property presents a similar problem to that presented by a design proposal for 434 West 162<sup>nd</sup> Street that the Committee considered in 2014 that CB12-M opposed based upon its visibility from Jumel Terrace, the Morris Jumel Mansion and Roger Morris Park. He further stated that he advised District Manager Ebenezer Smith to forward the resolution passed by CB12-M concerning 434 West 162<sup>nd</sup> Street to Ms. Fleming for reference and inquired how the design was modified in response to the resolution provided. Mr. Fleming stated that she has worked on several other projects for the Owner, some subject to LPC review, and that she and her client did not want to submit an application to LPC asking for reduced design proposal but rather preferred to wait for LPC to require changes to be made.

The Committee questioned why a half-bath and pantry are needed on the roof. Mr. Cohen stated they want to create a special, luxury property that will be attractive to an ideal tenant. The Committee suggested that a restored single family brownstone in an historic district is already a special, luxury property and that the penthouse is unnecessary. Attendees asked Mr. Cohen and Mr. Howard why they would purchase a property in an historic district, which adds character and value to the Property, and then seek to make changes to the Property that are inconsistent with the character of historic district.

The owner of the building immediately to the east to the Property stated that the deck proposed for the rear yard will block light to areas of his back yard at certain times of the day and that the deck invades his privacy as it will allow the occupants of the Property to over-look his back yard to a greater degree than possible from the rear windows of the Property. The owner of the building immediately to the west of the Property also stated that the deck will invade the privacy of his rear yard.

After further discussion a motion was made (Steve Simon) and Seconded (Obie Bing) opposing the proposal for the penthouse addition and deck extension for 432 West 162<sup>nd</sup> Street as they are currently designed. **The resolution passed based on 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:	9	0	0

4. New Business. The Committee discussed the Landmark Preservation Commission’s (“LPC”) Backlog Initiative whereby LPC will address the backlog of 95 properties (the “Properties”) that were under consideration for designation but were not designated or acted upon, some for 20 years or more. One of the Properties, the Loew’s 175<sup>th</sup> Street Theater aka the United Palace, is located in Community District 12. LPC has scheduled a series of public hearings to obtain comments on the Properties; the Loew’s 175<sup>th</sup> Street Theater is calendared for the November 12<sup>th</sup> public hearing. The Committee will discuss this proposed designation at its October meeting.

The Committee also discussed the proposal for a professional soccer stadium at Columbia University’s Baker Field. Chair Benjamin noted that at the June 2015 Land Use meeting Lucian Reynolds of the Manhattan Borough President’s Office stated that that he would research the zoning considerations associated with the proposal and suggested that Lucian be invited to attend the October Land Use meeting to provide an update.

5. After further discussion the Meeting adjourned at 10:00 PM

Respectfully submitted by Wayne A. Benjamin