

## LAND USE COMMITTEE – MEETING MINUTES

May 4, 2016

### Committee Members Present

Wayne Benjamin, Chair  
Andrea Kornbluth, Asst. Chair  
James Berlin  
Jason Compton  
Osi Kaminer  
Jonathan Reyes  
Steve Simon

### Committee Members Absent

Anita Barberis  
Isaiah Bing  
Karen Taylor

### Board Members Present

### Public Member Present

Vivian Ducat

### Public Member Absent

Staff: Ebenezer Smith

Guests: Maggie Clarke, Pat Courtney, Rita Gorman, Carmen Paulino, Antonella Perez, Ivanelis Ruiz, Valerie Pereyra, Lucian Reynolds - MBPO, Matthew Spady, Jeff Dugan, Graham Ciraulo, Martin Collins

1. The meeting of the Land Use Committee (“Land Use” or the “Committee”) was called to order with quorum present at 7:13 PM. Land Use Chair Wayne Benjamin welcomed guests and new Committee member Jason Compton, and Committee members introduced themselves.
2. Chair Benjamin explained that the presentation by New Yorkers for a Human-Scale City would be rescheduled once again, due to the presenter’s scheduling conflict.
3. **Audubon Park Historic District Expansion:** Matthew Spady made a presentation updating the Committee on the efforts to expand the Audubon Park Historic District (the “District”) to include the West 158<sup>th</sup> Street row houses.
  - a. As stated in the December 2015 Committee meeting, Community Board 12-Manhattan (“CB12M”) supported the expansion of the District to include the row houses on West 158 Street in 2009, and called for ‘expeditious’ review by the Landmarks Preservation Commission (“LPC”). To date, the LPC has not taken action on this matter.
  - b. The proposed expansion of the District was selected to be one of the initiatives that the Historic Districts Council (“HDC”) is supporting in 2016 under its “Six to Celebrate” program. As such, the team working on the Request for Evaluation (“RFE”) for the expansion of the Audubon Park Historic District received support from HDC in preparing the RFE, which was submitted to LPC on April 24<sup>th</sup>. The RFE was submitted with over 100 letters of support, and Mr. Spady asked the Committee to consider providing a letter of support from CB12M as well.
  - c. In the process of preparing the RFE, a number of interesting facts and potential threats to the block and its 12 row houses from the late 1890s were uncovered:
    - i. The landlocked vacant lot behind 8 of the houses was used as a community garden from the 1890s until as recently as the 1970s. If the lot were to be purchased together with one of the bordering houses, giving the lot street access, a building of as much as 45,000 sq. ft. (under the area’s R8 zoning) could be built, and under current zoning no height limit would be imposed. The lot is currently valued at \$6.6 ~ 6.7 million.
    - ii. Several of the homeowners on the block have had offers on their homes. Last November, two properties were in contract for sale within days of being placed on the market.
    - iii. The current owner of 648 West 158<sup>th</sup> Street (which has long been an empty shell), at the westernmost end of the block, is trying to convert it to a 4-family building. While examining the structures for the architectural description he wrote for the RFE, Andrew S. Dolkart, Director of Columbia University’s Historic Preservation Program, determined that the façade on number 648 is newer than that of the other houses – this façade was likely added around 1915, while the side of the building shows the original brickwork from 1896.
    - iv. When August Cordes sold the property in 1897 to John Leo, designer and builder of the row houses, he added a restrictive covenant to the deed stipulating that only single- or double-family homes of brick or stone, set back from the street, could be built there. It is possible (but not confirmed) that this covenant continues to apply (i.e., to “run with the land” to subsequent owners), meaning that it could be enforced by the other owners on the block if someone were to try to build something else on the property.

- d. The RFE consists of over 72 pages of text and images. In addition to Andrew Dolkart’s detailed architectural description, which should go far in helping LPC complete its own research. HDC’s Executive Director Simeon Bankoff and Manager of Preservation and Research Barbara Zay helped with the preparation of the application. A letter of support has also been received from Robert A.M. Stern, Dean of the Yale School of Architecture. The application makes the case that even though the row houses may not be “of a piece” with the Beaux-Arts apartment buildings that characterize the rest of the District, they are a logical extension of it: they are the oldest structures in the area and were built by John Leo in response to the newly developing rapid transit system. In addition, the block was home to such figures as Reginald Pelham Bolton, the noted historian and preservationist, and his son Guy Bolton, a well-known writer of plays and musicals.
  - e. Next steps: the RFE will be evaluated by LPC “in light of Commission priorities and other considerations.” If this evaluation results in a formal review, property owners will be notified. The LPC will then vote on whether to schedule a public hearing on the matter. Stakeholders are now being organized in preparation for that potential public hearing; at the public hearing for the District designation in 2009, speakers unanimously supported the application. Lucian Reynolds stated that the Manhattan Borough President’s Office would submit a letter of support.
  - f. Discussion: Committee and community members discussed the question of whether the vacant lot could be restored to a public garden. Area residents are looking into buying the property for that purpose, but need a nonprofit partner so that donations can be tax-deductible and to operate the garden. The Trust for Public Land, which assisted with the creation of the RING Garden in Inwood, could be a potential partner. Chair Benjamin noted that designation of the block as part of the District would not require the restoration of the garden, and that the vacant lot can be included in the application as a ‘non-contributing element,’ i.e.: an element of the proposed historic district that does not itself contribute towards the proposed designation, but is included to afford the protection of LPC review and approval over any future development that may be proposed to prevent adverse impacts on the historic district. The lot is not accessed directly from a public street but rather from a lane that is an easement on property of the adjacent River Terrace coop. Having River Terrace purchase the lot and extinguish the development rights was discussed as a potential solution, but as it is a Mitchell-Lama building, that is not likely to be feasible.
  - g. After further discussion a motion was made by Jonathan Reyes and seconded by James Berlin to support the RFE to extend Audubon Park. The motion passed with the following votes:  
Land Use Committee: 7 – 0 – 0  
Other Board Members: N/A  
Members of the Public: 6 – 0 – 1
4. **4650 Broadway (Sherman Plaza) ULURP Application:** Lucian Reynolds of the Manhattan Borough President’s Office (“MBPO”) provided an update on the ULURP application for 4650 Broadway aka Sherman Plaza that is now under review at MBPO. This application was the subject of a public hearing at the March 2 Committee meeting, and a resolution opposing the change of zoning (R7-2 to R9) but not opposing the full C2-4 (commercial) overlay was approved by the committee that night and adopted by the Board at the March 22 General Meeting. In accordance with the ULURP process, the Borough President was required to submit a recommendation to the City Planning Commission (“CPC”) by the end of April, but due to the developments described below, had not yet done so at the time of this Committee meeting. (The MBPO is discussing the matter with CPC and will submit its recommendation when satisfied that the height of the building will be limited, as discussed below.)
- a. The Borough President found the idea of the project as proposed by the developers next to Fort Tryon Park to be “unthinkable and awful.” Based on this reaction, the reaction of CB12M and the community at the March Public Hearing, and the MBPO’s indication that it agreed with CB12M’s findings, the developer is rethinking and modifying the project.
  - b. The MBPO looks favorably on the commercial space component of the project, especially as it gives preference to local and small businesses. However, the MBPO finds the following aspects of the project to be unacceptable:
    - i. The potential for unlimited height made possible by R9 higher-density height factor zoning rather than a height-limited contextual designation: if, for example, the developer were to sell the undeveloped property with an R9 zoning designation, the new owner could conceivably build something even taller than the proposed project.
    - ii. The use of an affordability option (30% of residential floor area for residents with income averaging 80% AMI) that doesn’t reflect the community’s needs.
  - c. If no action is taken, the as-of-right scenario, which was previously 17 stories, could be increased somewhat by Zoning for Quality and Affordability (“ZQA”). An as-of-right building would contain no affordable housing.

- d. The MBPO recommendations must balance precedent for the new Mandatory Inclusionary Housing (“MIH”) program, affordable housing goals, height caps, and the prevention of nightmare as-of-right scenarios. Thus, the MBPO is interested in ensuring that the zoning designation locks in all future development scenarios and has indicated that only a height-limited scenario with acceptable affordable housing and retail will be approved. The developer and MBPO are discussing various scenarios, including:
- i. The developer’s recommendation of the partial application of R8X (contextual) zoning limiting the height to 175 feet, with R9 zoning for density on the rest of the lot;
  - ii. Switching to the 20% affordability/average 40% AMI MIH option for deeper affordability, with an additional 30% affordability at other AMI levels;
  - iii. The MBPO’s recommendation of an “A” modification, with a new application for the partial application of both R9A and R8X with a C2-4 commercial overlay. The CPC would hold hearings for the original application and the modified application on the same day, and then the original application would be withdrawn. Though there is some risk that the developer could revert to the original application if both versions are in play, the withdrawal of the original application prior to the CPC hearing would end the ULURP process, costing the developer years of effort and all the money that has so far been invested, and potentially resulting in the loss of any financing that has been arranged. The developer will need to present the modified proposal to CB12M during the CPC phase.
- e. Discussion:
- i. Chair Benjamin noted that it is important to keep in mind that there are very few potential development sites of this size (over 1 acre) in Washington Heights and Inwood, and that this site is bordered by two wide streets that would further enhance its development potential from a zoning perspective. However, these factors must be weighed against the fact that the site is located across the street from a nationally registered park. Mr. Reynolds added that it is the only underbuilt or ‘soft’ site in the area – all the surrounding buildings actually exceed what is allowed by current zoning, and if any were to be demolished, the new building would have to be smaller than the existing one.
  - ii. Regarding the possibility of saving the Packard showroom façade, Mr. Reynolds stated that the base requirements of contextual zoning would make that unlikely, but it could be suggested to the developers now, as they are in the process of reconfiguring the building’s massing.
  - iii. Regarding the need for a full Environmental Impact Statement (“EIS”) rather than the Environmental Assessment Statement (“EAS”) that was submitted with the original proposal, the MBPO will cite in its recommendations a letter written by the Fort Tryon Park Trust that explains why the EAS does not adequately address the impact of the project. The modified project under discussion is 100,000 sq. ft. smaller than the original proposal; only by shrinking the scope of the project can the case be made that the EAS is adequate.
  - iv. Regarding the question of how many new residents would be added to the neighborhood with the modified project, there is no unit count now, but Mr. Reynolds points out that if 50% of the units are affordable, and there is 50% local preference for these affordable units, 25% of the residents would already live in the neighborhood. In response to a comment that traffic on Broadway is already too heavy, Mr. Reynolds noted that the modified proposal will have fewer parking spots than the original proposal, which included 156 spots. Even a full EIS would just disclose effects on infrastructure and transportation, etc. without proposing solutions – the city has made capital investments in other upzoned areas to mitigate some of these effects.
  - v. Graham Ciraulo of Northern Manhattan is Not for Sale stated the group’s position that even affordable housing is not worth the impact on Fort Tryon Park. Mr. Reynolds suggested that groups and individuals continue to testify and write letters during the 60-day review period at CPC, as CPC will be working with the developers to further fine-tune the project during this time.
  - vi. For a variance application to the Board of Standards and Appeals (“BSA”), the applicant must demonstrate hardship under current zoning, among other things. Under ULURP, simply wanting the change is enough. The Sherman Plaza application is a ULURP application, so no hardship finding is required.
  - vii. Maggie Clarke of Inwood Preservation expressed the group’s concern that this project would be the first of many along the Broadway corridor and asked about potential long-term solutions such as contextual zoning. Chair Benjamin explained that the Committee has discussed the possibility of contextual zoning for years. CB 12 commissioned a study in 2006 – 2007,

resulting in a resolution asking the Department of City Planning (“DCP”) to implement contextual zoning within Manhattan Community District 12, starting with the area between 181<sup>st</sup> Street and Dyckman Street. No action has been taken yet, but the Committee continues to advocate for such rezoning, and the public should help to advocate as well.

1. An important consideration of any contextual zoning undertaken is that it not be applied with a broad brush; the appropriate contextual zoning districts must be identified to protect existing neighborhood character and encourage appropriate development.
  2. What is built on a lot is governed by zoning, and our zoning hasn’t changed in decades. Careful contextual zoning can address the challenges presented by hilly terrain, the need for preservation, the need to protect functional neighborhoods from excess density, and other concerns.
  3. Committee members, community members and representatives of elected officials recall that CB12M was supposed to be next in line following the rezoning of CB9M in 2012. DCP staff may still have that understanding, but because nothing has happened yet, we need to push the Mayor’s Office and City Planning leadership. The Committee will review the 2012 resolution at the June Committee meeting, refine it if necessary and send it again.
- viii. Regarding the question of why the Inwood NYC rezoning project does not include the area south of Dyckman Street, the target area was determined by Council Member Rodriguez, the New York City Economic Development Corporation (“NYCEDC”) and DCP. A stakeholder group will meet soon to refine the draft recommendations that resulted from the community outreach process.
5. **Old Business:** The Committee will ask District Manager Smith for an update on the status of the BSA application for the 4452 Broadway (Fairview Avenue) development. Mr. Reynolds added that the developer of the lot at Broadway and Nagle Avenue had not filed any applications yet and was purportedly waiting to see how the Sherman Plaza application works out.
  6. **New Business:** Pat Courtney of Isham Park Volunteers announced that the group would lead a Jane’s Walk with Transportation Alternatives on May 7. James Berlin raised the issue of a potential 12-story building at the intersection of 179<sup>th</sup> Street and Pinehurst Avenue on the site of the former Washington Heights Congregation synagogue.

The meeting was adjourned at 9:00 PM.

Submitted by Andrea Kornbluth.