



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD 10**

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## **Land Use/Landmarks Committee Meeting Minutes**

Thursday, April 18, 2013 6:30 PM

215 West 125<sup>th</sup> Street, 4<sup>th</sup> Floor Conference Room

**Attendees:** Stanley Gleaton, Joshua Bauchner, Betty Dubuisson, Brian Benjamin, Daniel Land Parcerisas, Randall Richardson, Forrest Taylor, Keith Taylor, Jennifer Jones, Manny Rivera, Donna Gill.

### **Agenda:**

- 1) Welcome/Introductions
- 2) Presentations
  - a. Artimus: 118<sup>th</sup> Street St. Thomas Church update.
  - b. Hans Futterman – FRESH food amendment
- 3) New/Old Business:
  - a. Proposed Community Residence – 1400 5<sup>th</sup> Ave, Apt. 2S
  - b. Project Developer Questionnaire
  - c. Abyssinian Development Corporation
  - d. Historic District
- 4) Questions and Answers
- 5) Announcements
- 6) Adjournment

### **2.a Presentation: Artimus Construction: 118<sup>th</sup> Street St. Thomas Church update.**

The Land Use Committee Chair, Stanley Gleaton, disclosed that he consults for Artimus Construction and asks that his be entered into the record.

Per the Board's request, Ken Haron and Barry Gorvich of Artimus Construction have come to update the Land Use/Landmarks Committee on the status of its project at St. Thomas Church on 118<sup>th</sup> Street and Saint Nicholas Avenue.

The church will be turned into an arts and culture center. Their hope is that a local arts and culture group can become an anchor tenant for the space and draw additional groups there. So far the developers have initiated conversations with a number of cultural groups in Harlem, including Mama Foundation, Millenium Dance Company, Opus 118, Opera Ebony and local

painter Julie Mehretu. They have not finalized any agreements and are open to suggestions about other groups they should meet with. A manager will be in charge of the daily operations of the space and will be responsible for finding the arts and culture groups that will be based there.

Inside the building a wall has been completed towards the rear that will be the new back of the building. Demolition of the rear of the building (behind the new wall) is underway. Restoration of the façade is also ongoing, though this is a slow and laborious process. The next stage of the work will consist of waterproofing the building and replacing the windows. The cultural portion of the project is expected to be finalized in approximately four months.

The zoning for the project site is R7-A. The developers have applied for a rezoning to R8-A with the Department of City Planning, as current height restrictions do not make the project feasible. An R8-A zoning would allow a building height of 120ft or 12 stories, four additional stories than under the current R7-A zoning. If the rezoning is approved, there will be approximately 120 apartments (80 rentals and 40 condominiums). If the rezoning is not approved, there will be only 80-85 rental apartments. Approximately 20% of the units will be affordable to families earning 40% to 60% of AMI (60% of AMI is \$49,800 for a family of four in 2012). The developers do not anticipate making use of Low Income Housing Tax Credits. Construction of the residential portion of the project will last 18-24 months and has not yet begun.

The school next door is part of the same property but the developers intend to keep it as it is for the time being.

**This is a non-voting item.**

## **2.b. Hans Futterman – FRESH Food Zoning Text Amendment**

Hans Futterman of RGS Holdings presented as per his application to City Planning for a FRESH Program Zoning Amendment for construction of a grocery store in a mixed-use development proposal at the corner of St. Nicholas Avenue and West 122<sup>nd</sup> Street. This presentation was in response to notification sent to our office by City Planning the informing the board of the application and the 45 day window to respond. The meeting was also attended by Calvin Brown of City Planning to answer any questions that committee members may have raised. The Food Retail Expansion to Support Health (FRESH) program is an initiative to support the establishment of grocery stores in underserved neighborhoods by providing zoning and financial incentives. Developers who receive FRESH program zoning incentives for a mixed-use development are allowed to develop one additional square foot for every square foot dedicated to a grocery store, up to 20,000 square feet. In order to receive FRESH program zoning incentives, developers must provide a minimum of 6,000 square feet of retail space of which 50% is dedicated to food products intended for home preparation, 30% dedicated to perishable goods and a minimum of 500 square feet are dedicated to fresh produce. In the instant case, the zoning incentives would allow RGS Holdings to build 15ft above what is allowed under the area's zoning in exchange for hosting a fresh food store that meets the above criteria. The FRESH zoning amendment also waives the requirement that ceilings have a minimum height of 8 feet and 6 inches. The total height for the development if the FRESH zoning amendment passes would be 13 stories and it would stand at 135ft. Mr. Futterman explains that there are several nearby buildings of comparable heights or higher.

Committee members and members of the public expressed concerns that this location is only three blocks from the existing Best Yet store on 8th Avenue. Mr. Futterman explains that

the store he hopes to attract will be somewhat different in concept to Best Yet and that he believes there is sufficient demand to support both stores despite their close proximity. In response to concerns over the possible noise and nuisance posed by trucks unloading merchandise, Mr. Futterman explains that there will be a dedicated loading area leading directly to an elevator and that this will allow for the speedy unloading of delivery trucks.

Regarding parking, this Community Board has previously rejected a variance requested by Mr. Futterman to waive 66 required parking spaces for the development. Mr. Futterman was able to obtain a variance at the Board of Standards and Appeals (despite the board vote against it) by dedicating a number of spaces at an existing garage at 2280 8th Avenue to residents of the proposed development (this garage is also owned by Mr. Futterman). Committee members expressed concern that this does not create new parking spaces despite a potential increase in demand. There are concerns that not adding any new spaces will add to an already bad parking environment, particularly in light of the practice of police vehicles from the 28th Precinct parking on the sidewalks and double parking in the immediate surroundings of the proposed development. Mr. Futterman responds that he is sensitive to this issue and that he has reached an agreement with the 28th Precinct that offers 10 spaces for police vehicles in the aforementioned garage, which is currently underutilized.

In response to questions about ceiling heights in the residential units, Mr. Futterman explains they will range from 8ft to 9.5ft and that the FRESH zoning amendment waives the requirement that ceilings have a minimum heights of 8 feet and 6 inches. Mr. Futterman further explains that the community facilities in the building will not host a preschool, as previously proposed, and that an alternative use has not been finalized at this time. The building was initially intended to participate in an 80/20 affordability program, but it has now been decided that it will receive 421-A tax benefits instead, though it has not been determined in which 421-A program it will participate.

**Mr. Futterman explains that there is a 45 day deadline to respond to the Department of City Planning with the Community Board's decision. The Chair of the Land Use Committee will contact the Department to find out whether this is a strict deadline or if there is any flexibility.**

The Committee votes to bring a resolution to the full Community Board approving the FRESH zoning amendment subject to the following conditions:

- Producing official documentation regarding the Agreement to provide 10 dedicated parking spaces to the 28th Precinct.
- Clarifying the intended ceiling heights for the residential units in the proposed development.
- Clarifying the type of community space that will be created in the development.
- Explanation of the 421-A program the development will benefit from and the affordability requirements involved.

**The Committee votes by 7 votes in favor, 2 opposed and 1 abstention.**

**This vote was then taken before The Executive Committee of the board for ratification during its regular monthly session. After review of "draft" resolution with conditions was submitted the Executive Committee voted not to bring this to a full board vote citing that the applicant Mr. Futterman took too long to come back before Land/Use Committee after seeking a parking variance from BSA. The cCommittee asked that a letter be sent to City Planning detailing why there was no full board vote and that there were too many**

**outstanding issues (conditions) that were not addressed at the committee meeting.**

### **3.a. Proposed Community Residence – 1400 5<sup>th</sup> Ave, Apt. 2S.**

Edwingold Services for Children and Families has notified the Community board of its intent to open a residence for 5 adults with developmental disabilities at 1400 5<sup>th</sup> Avenue, Apt. 2S. This notification is required by law and the Community Board has 40 days to address any concerns. In this case the notification is dated February 21, 2013 and the 40 day period has already elapsed. The Committee nonetheless discusses the item and agrees that it does not have sufficient information or data to decide the adequacy or inadequacy of placing a facility for people with special needs in the district. There is a general agreement that these types of facilities are necessary but that they can also impose burdens to nearby residents and that Harlem already has a higher share of facilities for people with special needs than other districts and is therefore exceeding its “fair share”. Although the time frame for expressing concerns over the proposed facility has expired, it is agreed that the Committee will write a letter **TO WHOM?** asking for clarification on the potential socioeconomic impacts of this type of facilities in the community.

**This is a non-voting item.**

### **3.b. Project Development Questionnaire**

At the last meeting, it was agreed that the Committee should have a checklist of questions to ask every developer who makes a presentation in order to help with consistency and accountability. Brian Benjamin has proposed a list of 9 questions (**enclosed**) which are all adopted. The Committee also decides to add to the list the following:

- Will workers on this project be paid living wages?
- What is the general Contractor’s history of safety violations?
- What has been the outcome of any violations? Have there been sanctions?
- Will the project include income-targeted housing?
- Will there be any type of give backs to the community?
- Is any member of Community Board 10 affiliated with the developer?

Brian will compare this list of questions against the current checklist to see if there are any redundancies or if any other changes are necessary.

**This is a non-voting item.**

### **3. c. Abyssinian Development Corporation**

One member of the Committee, Josh Bauchner, expressed concern over information reported in an article published in *The Village Voice* issue of April 17-23, 2013 detailing a series of allegations, such as questioning the financial viability of the Abyssinian Development Corporation (ADC). ADC is one of the largest developers in Harlem and has presented some of its projects before this Committee. In these presentations it has claimed to have the necessary

financing to complete the projects yet some of these are currently stalled, including one on 123<sup>rd</sup> Street.

Manny Rivera, Board Parliamentarian, made a point of order stating that it is not this Committee's mandate to discuss allegations made in a newspaper. In response to a comment that some board members may have voted to support ADC projects due to political pressure, Mr. Rivera makes an additional point of order that no Board member should disparage the motives of any other Board member. Mr. Rivera also wanted to put in the minutes that he objected to community leaders like Rev. Butts and Sheila Wright being disparaged by name in an official public meeting.

After lengthy discussion, the Committee votes to request that ADC representatives update tit regarding the status and financial viability of its unfinished developments.

**The Committee votes by 6 votes in favor, 0 opposed and 2 abstentions. Two people refuse to participate in the vote, Mr. Rivera and Keith Taylor. This issue was also brought before the Executive Committee as a matter of record. After much discussion it was felt that the committee was "out of order" in their vote due to this Village Voice article so it was voted that Abyssinian should not come before the land/Use-Landmarks Committee for any explanations being this article's allegations were unfounded. The Board Parliamentarian was very vocal in his ruling that the LU committee acted against our mandate and mission in this instance.**

### **3.d. Historic District**

The Landmarks Committee has an opportunity to put forth four Study Areas from the Comprehensive Preservation Plan (CPP). The Landmarks Chair has requested that the committee members review the CPP and forward their comments or recommendation to Chairs of Land Use and Landmarks. The recommendations will be compiled and presented to Executive Committee for further consideration prior to being sent to Landmarks Preservation Commission. It was stated that the CPP can be found on the CB10 website.

## **6. Adjournment**

The meeting is adjourned at 9.30pm.