

## LAND USE COMMITTEE – MEETING MINUTES

February 5, 2020

### Committee Members Present

Wayne Benjamin, Chair  
James Berlin  
Osi Kaminer  
Chris Ventura, Asst. Chair  
Steve Simon  
Omar Tejada

### Committee Members Absent

Cindy Matos

### Board Members Present

### Public Members Present

Vivian Ducat

### Public Members Absent

### Staff: Shinelle Paniagua

Guests: Charlie Ortiz, Tom Gluck, Arnold Adlin, Anne Cohen, T. Sosc, D. Criveta, Annie Huynh – WHIN Music Community Charter School, Amber Kartalyan and Kevin Williams - Equity Environmental Engineering, Richard Lobel – Sheldon Lobel PC, Lizette Chaparro – MBPO, Nina Bernstein – NMN4S

- 1) The meeting of the Land Use Committee (“Land Use,” “LU” or the “Committee”) of Community Board 12 Manhattan (“CB12M”) was called to order at 7:10 PM, with quorum established at 7:20 PM. Chair Benjamin greeted guests. Committee members introduced themselves.
- 2) Richard Lobel of Sheldon Lobel PC, representing the WHIN Music Community Charter School (“WHIN”) commenced the presentation concerning the application submitted to the Board of Standards and Appeals (“BSA”) requesting a special permit (the “Special Permit”), not a zoning variance for bulk or height, to allow the use of 506 West 181<sup>st</sup> Street, Block 2152, Lot 72 (the “Site”) as a school. The site is zoned C8 which does not permit schools as-of-right. A special permit is required to locate a school in a M1 or a C8 zoning district. BSA may grant the Special Permit if its A, B C and D findings (the “Findings”) are met. The Findings allow BSA to issue a Special Permit in C8 or M1 Districts for schools which have no residential accommodations except accessory accommodations for a caretaker, provided:
  - a) that within the neighborhood to be served by the proposed school there is no practical possibility of obtaining a site of adequate size located in a district wherein it is permitted as of right, because appropriate sites in such districts are occupied by substantial improvements;
  - b) that such school is located not more than 400 feet from the boundary of a district wherein such school is permitted as-of-right;
  - c) that an adequate separation from noise, traffic and other adverse effects of the surrounding non-Residential Districts is achieved through the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along lot lines of the zoning lot; and
  - d) that the movement of traffic through the street on which the school is located can be controlled so as to protect children going to and from the school. The Board shall refer the application to the Department of Traffic for its report with respect to vehicular hazards to the safety of children within the block and in the immediate vicinity of the proposed site.

Chair Benjamin stated that the Site is one of several included in a resolution passed by CB12-M requesting that the Department of City Planning (“DCP”) rezone all C8 sites in Washington Heights and Inwood to allow for uses consistent with the broad range of community needs such as residential, community facility, educational, commercial and retail. To-date DCP has not acted on the resolution.

Charlie Ortiz, WHIN’s Executive Director, stated that WHIN is a charter school that was granted a charter from the New York State Education Department and Board of Regents in 2016 and is based on a music-focused educational program established in Venezuela to address poverty. Its mission is to provide its diverse student population with rigorous academic instruction, intensive music education and a positive learning environment. WHIN opened for the 2017-18 school year with 74 kindergarten and 1<sup>st</sup> grade students and will continue to grow until it reaches a maximum enrollment of 324 kindergarten through 5<sup>th</sup> grade students by the 2021-22 school year. Students are selected via a public lottery application process that includes local, economic and sibling preference

criteria. Approximately 75% of students who attend WHIN are from Community School District 6. WHIN has an inclusive teaching model that mainstreams all students. It does not have stand-alone special education classes; teachers receive additional in-classroom resources as needed.

WHIN is currently located within the MS 328 building at 401 West 164<sup>th</sup> Street at Edgecombe Avenue. It is in the process of developing a new school (the "Project") within Washington Heights and Inwood to house the school. The Project consists of the renovation of a three-story parking structure on West 181<sup>st</sup> Street west of Amsterdam Avenue. WHIN has a 40-year triple net lease on the building. The building appears to be four stories tall, but the façade at the fourth floor is screening open, rooftop parking. The renovation scope includes enclosing the fourth floor. The existing building has high floor-to-ceiling heights, similar to the ceiling heights required for a school. Acoustics are a critical design and construction consideration, not only to address outside noise but also, and more importantly, to provide for the acoustical isolation required given the school's music program.

The Project's space program includes an auditorium, classrooms, a science room, choral rehearsal space, administrative offices, a teachers' room, a cafeteria that may also double as a gym, and a rooftop recreation area. The renovation scope also includes new building systems and windows. Construction costs for the approximately 38,000 square foot renovation project are estimated at \$11 million while total project costs are estimated at \$16 - 17 million. Financing will be provided through low-interest loans from Community Development Financial Institutions ("CDFI"); a pre-development loan was already secured from one CDFI.

Representatives of Equity Environmental Engineering ("EEE") discussed the Environmental Assessment Statement ("EAS") prepared in connection with the project. The Committee was advised that EEE has worked on many charter school projects and will assist WHIN to adjust its traffic plans once operations begin at the Site. Environmental clean-up, traffic, transportation and parking were among the areas for which the Committee posed questions. The Committee was advised that EEE undertook a traffic analysis survey of WHIN students and families but received a low response rate and therefore undertook a more detailed survey of existing community patterns. Students arrive at off-peak hours with respect to rush hour traffic. Most students arrive "by foot;" approximately 15% are dropped off by car. Students arriving "by foot" is defined as not using a school bus. The breakdown of "by foot" arrivals is approximately one-third walking from home, one-third by MTA bus and one-third by subway.

The current use of the Site generates vehicular traffic from 180 cars, representing the parking garage operating at 70 to 80% occupancy. WHIN is projected to decrease the vehicular traffic generated by the Site. Drop-off zones for WHIN will be established on Audubon Avenue, not on West 181<sup>st</sup> Street. Nearby garages are operating at roughly 60% occupancy and are expected to have enough capacity to absorb the cars that currently park at the Site. The traffic studies are not yet complete. WHIN and EEE were advised to meet with the Traffic and Transportation Committee to have a detailed discussion on these matters and return to Land Use in 60 days or so.

EEE advised that an application was submitted to the Department of Environmental Protection for a Phase 2 remedial investigation. Given the building's use as a garage, environmental clean-up work to be undertaken as part of the renovation will include power washing and potentially sealing the floor slabs. The HVAC system will be designed to accommodate school use, which unlike residential use, requires fresh air intake even if there are operable windows. The environmental studies are not complete. WHIN and EEE were advised to meet with Health and Environment Committee for a detailed discussion on these matters and return to Land Use in 60 days or so.

Land Use also recommended that WHIN meet with the Youth and Education Committee ("Y&E") to brief it on the school and its music-focused program to allow Y&E the opportunity to share its comments with Land Use.

EEE advised that BSA will not act on the application until it has sign-off from DEP and DOT.

- 3) **Old Business.** Committee Member Kaminer asked DCP representative Ryan Cote for a status update on the City Commitments associated with the Inwood Rezoning. Mr. Cote stated that DCP is not directly involved in monitoring these commitments but will coordinate with EDC and others as necessary to facilitate an update for the Committee. Ms. Kaminer also asked Mr. Cote if he was familiar with the Solar Access resolution adopted by CB12M. Mr. Cote stated that he was not and asked to be provided with a copy.

- 4) **New Business.** None

The meeting was adjourned at 8:56 PM.

Submitted by Wayne Benjamin