

LAND USE COMMITTEE – MEETING MINUTES

February 6, 2019

Committee Members Present

Wayne Benjamin, Chair
James Berlin
Osi Kaminer
Nicholas Martinez
Jay Mazur
Steve Simon
Curtis Young

Committee Members Absent

Christopher Ventura

Board Members Present

Public Members Present

Vivian Ducat
Andrea Kornbluth, Asst. Chair

Public Members Absent

Staff: Chair Lewis, Ely Silvestre

Guests: Paul Hintersteiner, Adam Fran, Michael Tod Smith, Ousmane Sam, Orlando Rodriguez (MBPO).

1. The meeting of the Land Use Committee (“Land Use” or the “Committee”) was called to order with quorum present at 7:10 PM. Chair Benjamin greeted guests and Committee members introduced themselves.
2. **Consideration of Resolution Supporting the Waterfront Alliance’s WEDG Initiative.**
At the January 2019 Committee meeting, Sarah Dougherty of the Waterfront Alliance (“WA”) made a presentation on the organization and its Waterfront Edge Design Guidelines (“WEDG”) pledge initiative, and requested that the Committee and Community Board 12 Manhattan (the “Board” or “CB12M”) adopt a resolution drafted by WA. The Committee reviewed the draft, and Chair Benjamin subsequently discussed several questions with Ms. Dougherty, as follows:
 - a. Regarding the benefits of obtaining WEDG certification for a project, WA anticipates that developers and property managers will benefit from expedited permitting, potential tax breaks, and return on investment (“ROI”) for resilience investments in the form of reduced flood insurance premiums – WA worked with the insurance industry to develop its risk reduction strategies, but does not yet, however, have data to establish the correlation between WEDG certification and reduced premiums.
 - b. Regarding the cost of certification, it is currently free, but WA expects to start charging for project review in 2020. This will make it comparable to the Leadership in Energy and Environmental Design (“LEED”) model, which charges for certification, but WA states that WEDG will be more affordable than LEED. Chair Benjamin noted that projects are sometimes designed to LEED standards without obtaining certification, as the costs are significant.
 - c. Regarding the question of how WEDG certification affects the design and construction process with respect to existing zoning and Building Code standards, the short answer is that WEDG guidelines encourage projects to exceed existing code.
 - i. 1) Article VI Chapter 4 of the Zoning Resolution (“Special Regulations Applicable to Certain Areas: Flood Resilience Zoning Text”) provides voluntary guidelines for flood resilient construction in designated floodplains.
 - ii. 2) The Zoning Text guidelines provide designers with some flexibility in their approach to the mandatory flood-resistant construction provisions of the New York City Building Code.
 - iii. 3) WEDG guidelines encourage designers and builders to exceed these requirements, e.g., by anticipating higher flood levels, etc.

Committee members expressed general support for the concept of encouraging waterfront and other floodplain projects to exceed zoning guidelines code requirements, and discussed modifications to the draft resolution that would best reflect the Board’s position.

- a. As proposed by WA, prospective designers, builders and project owners would be required by the Board to refer to WEDG standards for all new construction and renovation projects. This is problematic in several respects.

1. WA is a private organization that plans to eventually earn income from WEDG certification. As a body of the city government, it may not be appropriate for the Board to mandate the use of a particular private sector organization's services.
 2. The Board only reviews projects for which a discretionary action (i.e., a zoning change or variance) is required, and not projects that are undertaken as of right.
 3. The broad language of the resolution suggests that it would apply to inland projects as well as waterfront projects.
 4. Rather than having community boards require reference to WEDG standards, it would make more sense to have the Department of City Planning ("DEP") incorporate these standards into mandatory regulations and guidelines.
- b. The idea of referring to other sustainability-related Board resolutions such as building owners' right to rooftop sunlight was discussed, but the WEDG guidelines, the draft resolution, and the zoning text and Building Code sections in question focus specifically on flooding.
 - c. The resolution cites various forecasts and reports without providing source information.
 - d. Some of the proposed 'Whereas' clauses read like advertising for WA. WA and its role in the WEDG initiative should be described in the resolution, possibly after clauses describing the issue of waterfront resiliency.

A motion to support the encouragement of exceeding existing flood resiliency code requirements without stipulating that WA guidelines must be used was made by Curtis Young and seconded by Vivian Ducat. The motion was passed with the following votes:

| | <u>Yes</u> | <u>No</u> | <u>Abstain</u> |
|-----------|------------|-----------|----------------|
| Committee | 9 | -- | -- |
| Board | -- | -- | -- |
| Public | 3 | -- | -- |

2. **Discussion of Substantial Amendments to the 2018 Consolidation Plan.**

The DCP issued a notice regarding the City's sale of its interest in a property located within a Federal Urban Renewal Area. The notice details how the \$235 million in proceeds from the sale will be allocated in Calendar Years 2018 and 2019, but does not provide information about the property in question. Orlando Rodriguez of the Manhattan Borough President's Office ("MBPO") informed the Committee that the DCP would be publishing an amended report the day after the Committee meeting (February 7, 2019), and that the comment period would start on that day and end on March 8, 2019. Mr. Rodriguez had no additional information about the sale, but speculated that the large amount of money involved could mean that it involves a New York City Housing Authority ("NYCHA") infill project (i.e., the construction of additional buildings on NYCHA lots), or perhaps a long-term lease of a NYCHA development's operation and management.

- Committee members will check the amended report on February 7. If Board comments are warranted, the matter will be taken up at the next Executive Committee meeting in order to ensure that any resolution can be voted on by the entire Board before the March 8 deadline.
- CB12M has not considered any resolutions about whether City sales of NYCHA properties should be subject to the Uniform Land Use Review Procedure ("ULURP"). The concentration of NYCHA projects is relatively low in District 12, and NYCHA is generally not subject to ULURP, so the issue hasn't come up.

3. **Additional Agenda Item: Consideration of Resolution on Moratorium on 'Too Tall' Buildings**

Orlando Rodriguez of MBPO explained that a citywide zoning text amendment addressing the use of excessively large mechanical voids to increase the height of supertall buildings. Unlike a ULURP action, in which the Community Board review period is followed by the MBPO review period, the Community Board and MBPO review periods run concurrently for this type of amendment and is limited to 30 days.

- a) Mechanical voids, i.e., the space that contains a building's mechanical equipment, do not count as floor area for zoning purposes. By inserting a large (or larger than necessary) void on an above-ground floor, the units on higher floors can be raised that much higher (and command higher rent or sales prices) without violating zoning requirements. This issue has received particular attention at a development on W. 66th Street and other developments on the Upper West Side and in Midtown. Developers are upset about the potential change of rules for projects that are in progress and are rushing to construct their void floors so that they can be grandfathered in if the text amendment is adopted, while the city is hurrying to adopt the changes before the voids are constructed.
- b) Although the Committee received the draft of a resolution created by another Community Board, it has not seen the proposed zoning text amendment. Mr. Rodriguez stated that the draft resolution that the Committee received does not represent DCP's zoning text amendment and that DCP is making presentations on the amendment at various Community Boards, so CB12M can request a presentation as well.

- c) The date for comments to be received from community boards and borough presidents on the Mechanical Voids zoning text amendment is March 8th therefore DCP's presentation must be made to the Executive Committee at its February 19th meeting.
- d) Mr. Rodriguez and Chair Benjamin will reach out to the DCP to schedule a presentation.

4. **Consideration of Resolution Concerning the Site of the Former Rite-Aid at W. 163rd Street and Saint Nicholas Avenue.**

At the January Committee meeting, Committee member Steve Simon requested that the Committee consider a resolution on this issue at the next meeting. In the interim, Mr. Simon and Committee member Vivian Ducat researched the history of the site further, and Mr. Simon drafted a resolution calling for the lot to be redeveloped.

- a) The approx. 10,000 sq.ft. lot is possibly the largest undeveloped site in Washington Heights. A 2-story building was destroyed by fire in the 1980s and replaced with a 1-story Rite-Aid store. The roof of that building collapsed, and the building was demolished. The lot has been vacant for at least 10-15 years, and is used by homeless people who cross the chain-link fence that surrounds it.
- b) The lot is owned by John Catsimatidis, billionaire owner of the Red Apple Group (Gristedes Supermarket) and 2013 mayoral candidate.
- c) The draft resolution calls for Mr. Catsimatidis to donate the property to the City if he is unable or unwilling to develop it. On one hand, Mr. Catsimatidis is an active philanthropist, but on the other, if he is offended by the suggestion it could shut down further discussion. In revising the draft resolution, the Committee will consider language that will resonate with a developer.

A motion supporting a resolution with modifications calling for the redevelopment of the site was made by Steve Simon and seconded by Nicholas Martinez. The motion was passed with the following votes:

| | <u>Yes</u> | <u>No</u> | <u>Abstain</u> |
|-----------|------------|-----------|----------------|
| Committee | 9 | -- | -- |
| Board | -- | -- | -- |
| Public | 3 | -- | -- |

The meeting was adjourned at 8:37 PM.

Submitted by Andrea Kornbluth.