

## LAND USE COMMITTEE – MEETING MINUTES

March 6, 2019

### Committee Members Present

Wayne Benjamin, Chair  
James Berlin  
Osi Kaminer  
Nicholas Martinez  
Christopher Ventura

### Committee Members Absent

Jay Mazur (Excused)  
Steve Simon  
Curtis Young

### Board Members Present

Richard Allman

### Public Members Present

Vivian Ducat  
Andrea Kornbluth

### Public Members Absent

Staff: Chair Lewis, Ely Silvestre

Guests: Paul Hintersteiner, Michael Tod Smith, Stan Kachnowski- HitLab, Jerry Culligan, Franlyz Vasquez, Rich (illegible), Allan Valerio – DA, Diana Florence – DA.

- 1) The meeting of the Land Use Committee (“Land Use” or the “Committee”) was called to order with quorum present at 7:07 PM. Chair Benjamin greeted guests and Committee members introduced themselves.

### 2) **Presentation by New York County District Attorney’s Office Construction Industry Task Force.**

Allan S. Valerio, Community Coordinator at the New York County District Attorney’s Office (“DA”) introduced Assistant District Attorney (“ADA”) Diana Florence, who made a presentation on the Construction Industry Task Force (the “Task Force”<sup>9</sup>). The purpose of the presentation was to explain the types of problems that can occur on construction sites and in the construction industry, and to discuss ways that members of the public and community boards can provide the Task Force with information about situations in their communities.

- a) Anyone who sees or knows of unsafe conditions and practices at construction sites or construction-industry related wage theft or insurance fraud is encouraged to send pictures, videos, and any other information to the Task Force (see attached flyer), which will have Department of Buildings (“DOB”) or the police investigate the issue. Nuisance issues (noise, etc.) should be reported to 311.
- b) Several examples of cases investigated by the Task Force were presented:
  - i) 22-year old Carlos Moncayo, a carpenter for Sky Materials, was killed on April 6, 2015 at a site in the Meatpacking District. The unsupported sides of a 14-foot deep trench that he was working in caved in, killing him instantly. It is common industry knowledge that the sides of any trench or hole that is deeper than 5 feet must be shored up to prevent collapsing or cave-ins, but the construction company failed to do so. Further, the site was at street level, and photos show an unsupported section of sidewalk over the trench, so pedestrians could have been injured as well. The site supervisor was convicted of manslaughter and other charges, and was sent to state prison. A photo of the trench prior to the accident was taken by an engineer who reported that he was told to complete the work as quickly as possible before people in surrounding buildings started taking pictures from their windows and sending them to the DOB.
  - ii) In another incident, unsafe practices at a site where coaxial cable was being installed on the Upper East Side led to the death of a worker who was hit by a construction vehicle that was backing up. There was no flagman at the site, and pedestrians were walking in the area.
  - iii) In September 2017, Juan Chonillo fell 29 stories from a scaffolding platform that was suspended from a crane. The PERI scaffolding system was supposed to be attached to the side of the building under construction, but it was moved by a crane with 8 men on it. Mr. Chonillo unhooked his safety harness when tools started to fall off the moving platform and fell to his death. SSC High Rise Inc. was convicted of manslaughter, but the investigation also revealed that the company had systematically engaged in wage theft and insurance fraud schemes. The company pleaded guilty to owing 50 workers overtime pay totaling \$568,700, and to underreporting payroll amounts to reduce New York State Insurance Fund (“NYSIF”) workers’ compensation insurance premiums by \$325,000.
  - iv) In June 2018, workers at a site on E. 125<sup>th</sup> Street were ordered to operate a mini-crane to install glass curtain wall panels without adequate training. The glass panel was nearly double the weight capacity of the mini-

crane, and when the panel fell, it pulled the crane off the building as well. The operator was catapulted out of the crane and suffered traumatic brain injuries in the fall. Another worker suffered back injuries. The crane fell on a pedestrian walkway, but no pedestrians were injured.

- v) A worker at Parkside Construction, a non-union company building a supertall building on W. 57<sup>th</sup> Street, argued for wages that he believed he was owed. With subsequent investigation, the case expanded to 521 workers claiming \$1,749,765.75 in stolen wages.
- c) The Committee can assist with the Task Force's efforts by asking developers that come before it about their health and safety plans, their track records on safety, etc. Chair Benjamin noted that the Committee is experienced in asking prospective developers about local hiring and job development issues, and it can see the value of expanding the line of questioning to include safety and other issues. The Task Force will supply a checklist of questions for Land Use and other Community Board 12M ("CB12M") committees.
- d) Other questions and comments:
  - i) Improperly installed air conditioners should be reported to 311, but if it looks like a whole building isn't in compliance, the Task Force might be able to help bring it to the attention of the DOB.
  - ii) The Task Force generally checks in with site safety managers, coordinators, and supervisors, depending on the size of the project.
  - iii) Construction unions are partners in the Task Force's efforts, helping to bring issues to light from the bottom up. A previous version of the Task Force took a more top-down approach, focusing on government waste and fraud.
  - iv) Large construction companies are very aware of the Task Force's wage theft and fraud activities. When a bad actor in the industry is prosecuted, the other companies change their behavior.
  - v) Street tree damage from sidewalk bridges should be reported to the Parks Department and DOB through 311.
  - vi) If we see workers on scaffolding without harnesses on higher floors (3 and above), we should take pictures and forward them to the Task Force.
  - vii) Possible illegal or quasi-legal alterations that are being done without permits or in violation of stop work orders should be reported to the DOB.
  - viii) The workers affected by unsafe conditions and practices are often the most vulnerable people (undocumented workers, for example) who can't complain. This is not a new phenomenon: Chair Benjamin noted that subway lines that were built over 100 years ago with cut and filled trenches had higher construction death rates than lines that were built with tunnels, and this work was most often done by Negro workers.

### 3) **Office of Management and Budget ("OMB") Preliminary Budget Fiscal Year 2020.**

The Committee hasn't historically made many budget requests, but the following items have come up consistently in recent years:

- a) Capital Budget: Implement a planning and development initiative for Washington Heights and Inwood whereby vacant city-owned lots and buildings are identified, packaged and released in one or more Requests for Proposals dedicated to scattered-site infill residential development that is affordable to local residents of CD12 with affordability defined by the Area Median Income (AMI) of CD12. (Department of Housing Preservation and Development ("HPD")), or purchased by the City for such development. (Committee ranking: 1; Board ranking: 3).
- b) Expense Budget: Dedicate additional planning staff to work with CB12M and local residents to formulate and implement a community-based contextual zoning plan for Washington Heights and Inwood (Department of City Planning ("DCP")). (Committee ranking: 1; Board ranking: 8).

Both items reflect the need for the district to advocate for professional support for both rezoning and the development of a strategy for dealing with vacant land. Vacant lots can be mapped easily, but it is difficult to get the city to do anything about them. With regard to rezoning, CB12M has been requesting contextual zoning from the DCP for many years, with no response from DCP. DCP had lost staff, so the Expense Budget item is a request for DCP to hire additional staff to work with CD12.

No suggestions for additional items were made.

### 4) **Additional Agenda Item: Notes from Historic Districts Council ("HDC") Preservation Conference**

Chair Benjamin and Committee Member Ducat attended HDC's conference on March 2. Chair Benjamin participated in the panel on rezoning and shared his notes from a panel discussion titled "What to Do When the Landmarks Preservation Commission ("LPC") Says No" (attached).

The panel explored various strategies for dealing with the LPC when a designation is not approved. Speakers stressed that the designation process is more political than merit-based and noted that many designations fail without the support

of local politicians. Further, politicians are in a position to use rezoning and other City Hall actions as leverage to get more designations finalized. Other protections such as National Register listing can also be pursued and used as ammunition in challenging a decision, and the creative approaches taken in other cities that don't have strong preservation laws may also provide new ideas.

#### 5) **New Business.**

HITLAB is a digital health research, teaching and advisory service organization located in Columbia University Medical Center's Lasker Building (3960 Broadway). Dr. Stan Kachnowski, HITLAB's Chair, raised the issue of his organization's pending eviction from that building. About 3 months ago, Columbia's Real Estate Department asked the organization, which is the last non-Columbia tenant in the building, to leave so that they could use the space for grant-funded research, etc. The previous lease expired on February 1, 2019, and the organization continues to pay rent as a holdover. Court proceedings are imminent. HITLAB has the support of Columbia Deans and local officials, but the Real Estate Department does not seem to be willing to reconsider.

Among its various functions, HITLAB trains local high school and college students for careers in the digital health profession. The organization has hired hundreds of local residents for professional positions.

HITLAB has already downsized from a 3,000 sq. ft. space to a 1,000 sq. ft. space in the same building, and it wants to stay in the Lasker building because the building has large subterranean gas tanks that would serve as backup power to its massive servers to prevent data breaches in the event a blackout. The organization also wants to remain close to Washington Heights, where many of its employees live, and to the faculty and resources of Columbia University.

One possible legal wedge available to HITLAB is the fact that the Lasker Building was built as a partnership between New York City and Columbia University, and was intended to be used by private research and development firms such as HITLAB. Columbia became the sole owner of the building about 5 years ago when the city gave the university the building and forgave its related loans (approximately \$20 million). Dr. Kachnowski provided the Committee with a single page from a 1989 zoning amendment application detailing the proposed usage of the building.

Dr. Kachnowski requested a joint resolution by the Land Use, Health and Environment (H&E), and Business Development Committees. CB12M will determine the most effective way to express its support for HITLAB but strongly urged Dr. Kachnowski to attend the H&E committee meeting, noting that the topic and the requested resolution are a better fit with and more appropriately under its purview.

Chair Benjamin pointed out other possible options including brand new advanced science buildings at City College, and speaking with Council Member Rodriguez about creating a new building as part of a long-term STEM initiative, as this was an important component of the Council Member's vision for the Inwood rezoning.

The meeting was adjourned at 8:45 PM following a motion to adjourn made by Nicholas Martinez and seconded by Vivian Ducat.

Submitted by Andrea Kornbluth.