



BRONX COMMUNITY BOARD #1

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ECONOMIC DEVELOPMENT-LAND USE & HOUSING

October 13, 2021
MINUTES

CEDRIC L. LOFTIN
DISTRICT MANAGER

NEW YORK DEPARTMENT OF CITY PLANNING, AND NEW YORK CITY DEPARTMENT OF TRANSPORTATION

Mr. Justin Lamorella, Senior Planner said that we're going to be presenting tonight on a Permanent Open Restaurant Program. DOT will be presenting on the program at large and then I'll be presenting on the proposed Text Amendment itself.

Mr. Nivardo Lopez, Bronx Borough Commissioner, New York City Department of Transportation said for the next 10 minutes or so I will be taking us through where things stand from a more programmatic standpoint with Permanent Open Restaurants. We will continue to give restaurants the option of sidewalk and roadway seating for outdoor dining. The program will look to better balance the many needs of the street and sidewalk keeping both restaurant and other users in mind. We're going to take a look at, what has worked and what has not worked in the past both pre-COVID and now during the emergency when developing future guidelines.

I want to make clear however that while tonight's presentation will discuss both sidewalk dining and roadway dining. Tonight, DOT and City Planning are asking the Board for your opinion on the specific sidewalk café Text Amendment. As you know the city had street and sidewalk cafés before COVID but had far fewer of them. The majority, of the Cafes were administered by the Department of Consumer and Worker Protection, DOT did run one small pilot of Public Roadway Seating which were called Street Seats only 25 setups one of them here in the Bronx in Community Board 1 on Third Avenue. Our understanding is that the relatively low participation in the Consumer and Worker Protection Café Program was in a large part due to cost and process. During the summer of 2020 New York City suspended existing rules through an Emergency Executive Order by the Mayor. DOT was directed to create the Open Restaurants Program allowing restaurants to conduct their business in the public right of way both in the sidewalk and in the roadway. Since the launch of the program over a year and half ago over 11 thousand restaurants have participated this is up from the thousand that was in the pre-COVID program. This helped save about one hundred thousand jobs by many accounts this program has been a lifesaver not just for the restaurant industry but also to the city streets

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which has seen the incredible vitality that outdoor dining brings to our streets and sidewalks. Over the past year we've learned lessons that highlight the opportunities and challenges that will be critical to forming how we proceed with creating a Permanent Program. We think the robust use of the Emergency Program is helped by three things, first unlike the pre-emergency Sidewalk Café Program no location was off limits any restaurant with ground floor frontage with sidewalk or roadway space met the criteria to participate in the program, second the program was free of cost and easy to access meaning restaurants that were interested would go to a Dot website and apply to the program there. Unlike the pre-COVID Sidewalk Café Program which required months of review by several city agencies and often came with a cost to the restaurant, and third the element of roadway dining, which was new to outdoor seating, it gave a brand new, option to restaurants especially those that didn't have enough room to accommodate sidewalk cafes. It's also worth noting a few challenges that we encountered first from the speed of the rollout and the fact that the program was built literally from scratch under emergency circumstances created some confusion as DOT learned more about operating a program like this, the program was then extended by the Mayor into the winter months. Many of the guidelines have changed along the way to keep everyone who uses sidewalk dining or roadway dining safe, second throughout the program DOT learned more about the challenges specific to the roadway seating, for instance we've heard from other city agencies like the FDNY and the MTA that there were issues with the turning of large vehicles and issues of safety because signs were blocked due to the roadway structures. Safety is of the utmost importance to us here and will remain so as we continue to work with other agency partners in developing a permanent program. Third enforcement has been complicated on multiple fronts on the one hand you have restaurants that are dealing with a lot of issue during this Pandemic, and they felt squeezed and over inspected by too many different agencies, on the other hand you had some communities particularly the mobility impaired who were concerned about under enforcement. That, being said the program has seen tremendous participation and in October of 2020 the City Council voted to establish a Permanent Outdoor Dining Program but, this will require changing a number of different laws that control Outdoor Dining in non-emergency situations including what we're here to discuss tonight a change to the Zoning Text Resolution that will allow more areas of the city to be eligible for roadway and sidewalks seating.

To start our vision for a Permanent Program is that just as in the Emergency DOT will administer a dining option for both sidewalk seating and roadway seating with similar rules as the current sidewalk cafe's but, it would be applicable and available citywide. We want to be sensitive to the traveling public, sensitive to communities around restaurants, we want to make sure that there are clear sidewalk paths, we also want to make sure that there's appropriate regulation around hours of operation, noise and sound levels. When finalized specific design guidelines are going to be very clear and will revolve around these principals that bounds the use of a sidewalk space by a restaurant but maximize experience of openness, activation and safety to the

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general public. For most of the city we're proposing requiring an 8-foot clear path or half of the sidewalk width whichever is greater in some areas higher for traffic very busy commercial corridors the city right now is proposing 12-foot clear path on sidewalk or half the sidewalk distance whichever is greater. In some special cases where it may still make sense despite a narrow sidewalk, we are considering creating a waiver that will allow the clear path to be as low as 6 feet. However, this waiver would be reviewed by both the Department of Transportation and the Mayor's Office of People with Disabilities. We think the introduction of a roadway option permits and opportunity for restaurants especially those that have very narrow sidewalks and would not qualify for sidewalk café dining however, the city is working on how this would be setup permanent. We will allow setups in the parking lanes except for prohibited zones like in front of hydrants, bus stops and other no standing areas. We want to maintain public safety and have clear guidance and enforcement on sound, also comply with ADA requirements.

In the future any roadway setup will have to look more like what's in this slide not the fully enclosed structures that we seen a lot of. The city is proposing that the new program will not operate during the colder months, but with some opportunity for a hardship waiver that could allow restaurants to keep their setups in place. In a future permanent program roadway seating, seating that's in the parking lane would probably only be allowed between let's say the beginning of April to the end of October or maybe early November. You would probably want to keep the roadway especially the parking lane clean during snow season. However, currently under the Emergency Program all restaurants will be able to keep operating uninterrupted during this upcoming winter season. In looking at both the legal authority to run the program at DOT and in creating new processes of roadway setups we're looking to streamline as much as possible while leaving in place essential role for agency, public and Community Board review. To make this a permanent program a reality three steps are needed to advance it the purpose for today is the removal of prohibitions for rezoning it's the key to unlocking full citywide universe of availability and consolidating control and accountability for the program under a single city agency. We're also working with the City Council who strongly support this program to enact appropriate legislation which will update the laws governing sidewalk cafe's and then create a new set of laws and rules that also govern roadway cafes. So, while tonight is the first step in this process, I want to stress the fact that DOT will be coming back to the communities and coming back to the public to discuss our initial proposal for what roadway and sidewalk café dining could look like, that's still under development so, we hope to be back early next year. Following the zoning and legal changes we anticipate rule making, that formalize many of the programs designed and application details, this will entail perhaps several rounds of public review and comment. Once the new rules for the permanent program have been settled we plan on opening up a formal application window for new applicants. Though we're at the very beginning of the process of developing the future program the current Emergency program is expected to be in effect as is for next year and a half. The expectation is that this will give

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restaurants ample time to transition into the new process if they choose to with minimal operational disruption. Changing zoning is the first critical step to making this program permanent, but as you can see on the timeline and as I mentioned before there are multiple steps to develop the program. As I said earlier during each step, we will have the opportunity for the public to comment, and we welcome feedback from all public stakeholders.

So, to conclude COVID 19 really shaped the way New Yorkers think about how streets can be used, and this has been a silver lining to the Pandemic. We welcome the feedback and encourage everyone members of the public, Community Boards, community stakeholders to visit our website and submit comments as we develop all the elements of a permanent program. Once again, the railway portion of the presentation is preliminary, and our primary purpose tonight is to discuss City Planning's proposed Text Amendment changes specifically related to sidewalk cafes.

Mr. Justin Lamorella, Senior Planner New York City Department of City Planning said that I will now present on the Zoning Text Amendment portion of the presentation. As Nivardo was just discussing there are three main legal processes that will create a Permanent Open Restaurants Program. But the focus for the rest of the presentation is on this first one the removal of restrictions on sidewalk café locations by a Zoning Text Amendment. This is necessary because Zoning restrictions stand in the way of thousands of restaurants from participating in outdoor dining past the Emergency. This proposal would also consolidate control and accountability for the program under a single agency the Department of Transportation. The proposed Text Amendment would remove the entity of Article 1, Chapter 4 of the Zoning Resolution and related text in special districts and other areas that relate to sidewalk cafes to fully remove zoning from dictating locations of cafes. This will allow any restaurant to apply to DOT for a sidewalk café if they can meet the required clear path and siting criteria. Before the Pandemic Emergency Program solely dictated where cafes were allowed yellow allows only small cafes, purple is where unenclosed and small cafes were allowed, and green is where all café types were allowed apparently you can see a lot of areas where cafes were not allowed at all in red and blue even if the sidewalks were wide, but conditions otherwise would not have allowed it. Red is typically prohibited from having cafes and blue is all the residential areas in the city.

Amidst the rules and restrictions Emergency rules suspended the zoning restrictions and allowed for sidewalk cafes in all locations. To date a lot of restaurants are participating in the Open Restaurants Program and 59 hundred of those are in the outer boroughs, 10 thousand restaurants use the sidewalk for their outdoor dining setup. During the emergency 2500 hundred restaurants were permitted in areas that would have been prohibited or limited under the existing zoning. But the proposed Text Amendment will allow them in the future when the

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Emergency rules go away. Looking at the map on the right in red are restaurants in specific areas that were prohibited by zoning these include commercial mid-block, certain special districts under elevated rail lines and other congested areas only grandfathered restaurants in residential areas. Zoning doesn't allow restaurants in residential areas but many of these uses predate zoning and so have remained, we estimate that there are about 2900 citywide and a thousand of those are participating in the Open Restaurant Program. Zoning in Community District 1 existing sidewalk café regulations pre-COVID you can see that they're only allowed in a limited area, in areas on this map such as on 149th Street, portions of Third Avenue and in Port Morris. They're not permitted along the elevated 2 and 5 trains, in any special district or any residentially zoned area. So, the result of the current Zoning regulations generated zero cafes in Community District 1 prior to the Pandemic and Open Restaurants Program. Under the Emergency Program there are 48 cafes in Community District 1, and where, prohibited by current zoning you can see them in red and blue. These cafes have an opportunity to apply in a non-emergency setting but only if they meet the siting rules that DOT lays out. Other cleanup actions in the Text Amendment include removing definitions and cross references to cafes, removing text that precludes operable windows outdoor restaurants, and ensuring that no in closure provisions required in restaurants and clarifying sidewalk locations to ensure that it does not conflict with the Open Restaurant Program.

So, to conclude the Open Restaurant Text Amendment was referred out to all 59 Community Boards for 90 days, after the 90-day referral period which includes Community Boards, the Borough Presidents the proposal will return to the CPC and then to the City Council and the Mayor's Office. The City Planning Public Hearing on this was held on Wednesday, October 6th. While this is a considered a non ULURP we are seeking a letter of support.

Questions and Answers

CATHOLIC HOMES NEW YORK

Ms. Susan Albrecht said that I'm with Catholic Homes New York which is the Home Office for the Archdiocese for New York. We're here to present the rezoning of the former to develop the former Our Lady of Pity site to develop 100 percent affordable housing. Because our rezoning plans are not yet certified through the Department of Planning, we will be coming back to present this plan, we hope that we will be able to certify in November. Immaculate Conception as some of you may know merged with our Lady of Pity a couple of years ago, so will look forward to hearing from Fr. Sean McGillicuddy, Pastor, Immaculate Conception Church. So, again this is the rezoning of Our Lady of Pity site with frontages on 150th and 151st Streets. This is our team Catholic Homes New York is the Developer, SGVA are Architects, Goldman Harris Land Use Attorney, working with Forsythe Street on the financial piece of it.

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Just in terms of background Catholic Homes New York's mission is to develop safe affordable housing for families, seniors and people with special needs based on our belief that having a home is a sacred human right. We have developed over the years 14 projects with over 29 hundred units of housing for families, seniors and people with special needs. These are three sites that we've recently completed this one on the left is at West Farms it's 318 units opened earlier this year, the one in the middle is on Fulton and 167th Street that opened in 2018 and the one on the right is senior housing on Longwood and that also opened earlier this year. This is just a little bit of background about who we are.

Ms. Amy Shakespeare, SGVA Architects said that so these are few other Bronx recent and ongoing projects working on, also in Community Board 1 about is the Borinquen Court project some of you may have now seen two new buildings, the project on the right is in Highbridge which is another senior building and scheduled to go into construction next year.

Mr. Drew Kiriazides, Catholic Homes New York said that this proposal is a ULURP on zoning and the zoning is R6A we're proposing to change it to R7A, for the purpose of creating a site that we can develop affordable housing. As you can see from the image there, there are two buildings the one in the fore ground is facing 150th Street and the back is facing 151st Street south of Morris Avenue and they'll have a courtyard in between that's shared with all the tenants. The building fronting 150th Street is the larger of the two this up zoning could create a mass that could create about 112 units and the building fronting 151st Street could create a building with about 90 units. With the up zoning could create just about over 200 units, housing for, up and coming moderate income families. We're looking here at the building fronting 150th Street which is right across from the Alfred Smith playground. The target population like for a lot of projects we develop is for low and moderate income starting at 30 percent going up to 70 percent AMI and including formerly homeless families which is a requirement for a lot of the funding that affordable housing seeks these days. The financing of the project would-be tax-exempt bonds as well as tax credits. Here is an ariel and you're very familiar with the site across from the Alfred Smith playground on 151st Street, we have an existing project Christopher Court that's just across the street to them and as you're aware of Michael Angelo apartments to the south and obviously close to Lincoln Hospital.

Ms. Amy Shakespeare, SGVA Architects said that this is the site plan of the lot which is about 40 thousand just east of Morris Avenue and as Drew said south of the Alfred Smith High School. The buildings will be two separate buildings with an entrance on their respective streets north and south of a shared landscaped garden. The design of the project we're very early on in the preliminary but again they will be two very separate buildings with a range of heights from 5 stories to nine stories which is allowed by the zoning. The buildings are going to be as green as

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we can make them through the guidelines of the Enterprise Green Communities, and we will incorporate a number of energy materials and other features to make the apartments as comfortable and healthy for the residents as possible. The buildings have a plan of a mix of studios and up to three-bedroom apartments. On the next slide you can see the building in a larger context so, it's nine story height which should align in this area which has a large range of heights a block away there's a building of 25 stories.

Mr. Eric Vath, Goldman Harris Land Use Attorney said that just a quick word about the geographic scope for the rezoning. The image on the left is the current zoning map and you'll see indicated in red the scope of the rezoning of the development site that extends to Morris Avenue, and on the right, you see the proposed rezoning R7A, so it's going from an R6 to an R7A, the existing commercial overlay which is a C1-4 will which is 100 feet of Morris Avenue will stay on the site. This is a helpful diagram of what the existing zoning allows is versus what the proposed zoning allows. The existing zoning generally the Architect was able to design a building about a little over 2.3 FAR about 93 thousand sq. ft. 5 stories and 4 stories respectively, the proposed building allows 9 stories and 95 ft. height to accommodate affordable housing, there's additional height that's allowed for affordable housing under Mandatory Inclusionary Housing.

Mr. Richard Espinal, Catholic Charities Community Services said that our Housing Supportive Services works on site in these different developments providing program assistance to the residents as well as the surrounding community. So, our four primary goals one making sure that people are stably housed, making sure that people can stay in their residences, addressing issues like arrears or hoarding, repairs or anything else, we also work to improve their quality life making sure that issues like health, addiction as well as other things like employment and other things that come up. That we're able to assist them as I said by providing services or connecting them with community resources. In addition, we try to work connecting them to the surrounding community and making sure that people have an opportunity to feel more neighborly if you will by connecting them not only with the people in their buildings but with everyone else in the surrounding areas. We've seen this happen very successfully at our different sites down at the Lower Eastside on Grant Street, here in the South Bronx at Betances Houses as well as Second Farms in the West Farms area of the Bronx and our new site which is in Highbridge. So, by having staff on site it allows us to connect with people to provide them with the kinds of support they need to make sure this project can be successful, that they feel at home.

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Ms. Susan Albrecht, Catholic Homes New York said that we're in the process of running the feasibility, but this is the range of what we're looking at.

Mr. Drew Kiriazides, Catholic Homes New York said that the marketing as you well know there's a lottery system. When it's an HPD funded project, in addition to that will do extensive marketing through contacting you, service organizations, churches and do local advertising to get the word out this is pretty far in the future we don't have the financing in place yet. Here's an estimate timeline as Susan mentioned we don't have certification right now it's far in the process and it's looking at November that City Planning will certify, and because of that will come back to you very soon after it could be November or December and so that will start the clock at that point and if everything went through you know each clock that each division has to review it would be close to late spring that it would be approved if it were approved.

Ms. Susan Albrecht, Catholic Homes New York said that again it will take a little which to pull everything together so, late 2022 or early 2023 with occupancy two years later in 2025. So, that concludes our presentation.

Questions and Answers

AKERMAN LLP

Mr. Frank St. Jacques said that I have a very brief presentation that I'd like to share with you. This is an application to the Board of Standards and Appeals regarding a Special Permit that was originally granted back in August of 2011 for a 10-year term to operate a fitness center at 2914 Third Avenue. This application is to extend the term out office filed it back in March 29, 2021 before the term expired on August 16th. So, we're proceeding with BSA and we're here to describe the application and hopefully with your recommendation for approval.

In addition to extending the term for another 10-years this application is also to amend the previous approval to correct an error in the floor area that was listed on the original approved plans and resolution.

Quickly, Planet Fitness is located on Third Avenue between East 152nd Street and Westchester Avenue it's within a commercial C4-4 zone. As you can see on this land use map that shows the land uses represented in colors here, red represents commercial, orange represents commercial and residential. This location is consistent with the commercial character of the area. Here are some photos to the entrance to Planet Fitness, and you'll see on the floor plans

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in a moment there's a small lobby and Planet Fitness takes up the second and third floors. You can see from all these photos the facade of the building. Here you can see the site plan that the building has frontage on Third Avenue and the rear of the building is on Bergen Avenue, Planet Fitness is only accessible from their front lobby entrance on Third Avenue.

Then just to repeat the application of the BSA seeks to extend that term which just expired in August for an additional 10-years the maximum term permitted by the BSA Special Permit. Also, to amend the prior approval of which incorrectly indicated that the gym was 23, 500 square feet. In preparing these plans for the extension of term the Architect realized that there was a mistake and that the square footage was that the gym is about 3,000 square feet smaller than the initial approval so, there's actually no changes to the physical configuration it's just to make that administrative correction downward from that incorrect square footage.

So, again the ground floor is outlined in red it's very small about 766 square feet which includes the lobby and the entrance to the gym, you'll also see the stairs and the elevator located in the lobby. Moving upward to the second floor it's larger it's about 9566 square feet and it contains as you can see on this floor plan various exercise machines and equipment, there's locker rooms and what's called the spa which is tanning rooms and health related machines. Finally, the top floor is slightly larger at 1028 square feet contains additional treadmills and exercise bikes as well as additional equipment and offices for the Planet Fitness staff.

Questions and Answers

The members present voted no letter of support be granted for the Permanent Open Restaurant Text Amendment.

The members present voted to defer a letter of support to Catholic Homes New York on their proposed Our Lady of Pity Development Project located at 276 East 152nd Street until they return with the answers from the questions put to them by the Committee.

The members present voted unanimously to grant Planet Fitness a letter of support on their BSA Application for a permit renewal of another 10-years.

The Chairperson called for a motion to adjourn. Motion duly seconded. Motion called and Passed.

MEETING ADJOURNED