



Housing, Land Use, and Zoning Minutes

14 May 2024 at 6:30pm

Attendees

Committee members present: Hon. Liz Waytkus (co-chair), Hon. Barry Weinberg, Hon. Annette Robinson, Hon. Ilana Mercado

Committee members absent: Hon. Signe Mortensen (co-chair) Hon. Annette Robinson, Hon. Juan Colmenares,

Other community board members present: Hon. Clayton Sanford, Hon. Shaneeka Wilson, Hon. Heather Jason (virtual), Hon. Laquita Henry (virtual)

Public members present: Olga Salcedo

1 Call to Order

Chair Liz Waytkus (LW) called the meeting to attention at 6:45 pm. There was no quorum initially, with only two members in-person, and Annette Robinson (AR) and Ilana Mercado (IM) had not arrived yet. The call to attention was seconded by Shaneeka Wilson (SW).

2 Adopt Agenda

Liz Waytkus (LW) gave an overview of the agenda. The agenda was not affirmed initially due to a lack of quorum. However, it was later adopted with a quorum of five CB members. The quorum was sufficient to hold a public hearing, but the minutes were deferred due to a lack of quorum for HLUZ.

3 Public Hearing

Liz Waytkus paused the CB9 HLUZ meeting and started the public hearing.

3.1 ULURP 701 W 135th St & 12th Ave: Developer Presentation

Neil Weisbard, a lawyer representing CrossCap, presented the [ULURP proposal](#). A past ULURP proposal for a 14-story building was opposed by CB9, and the developer responded to CB feedback by reducing the plans to seven stories. The lot is 12,000 square feet and currently houses a 2-3 story commercial building, which has a history of failed commercial tenants and has been vacant since 2018.

The site is located within an M1-1 manufacturing district. The ULURP involves rezoning the site to R7-2 residential with a few other changes. Other requested actions include Mandatory Inclusionary Housing (MIH) mapping, a special permit due to adjacency to the railroad right-of-way, inclusion in the Special Manhattanville Mixed-Use District (SMMUD), and a special permit to adjust to bulk requirements.

The proposed building will be 53,548 square feet (4.46 FAR), with seven stories and a height of 71.5 feet. It will be a mixed-use building with 60 units, including 15-18 affordable units, and will cantilever over the railroad track. The maximum FAR for the rezoning is 3.6 for R7-2, increasing to 4.6 if next to a wide street, and 6.5 FAR for community facilities and 2.0 for commercial uses.

The proposed extension of SMMUD will categorize the area as “other area.” The project aims to be consistent with the goals of SMMUD, promoting a mixed-use neighborhood and making good use of the waterfront. A bulk special permit is requested to modify the rear yard requirement, as

it is not feasible for the site. The building height is designed to line up with the retaining wall of Riverside Park.

The ground floor will contain four commercial spaces, small community facilities, a trash room, and a bike room, with all residential units located upstairs. MIH Option 1 includes 15 units with an average income of 60%. MIH Option 2 includes 18 units with an average income of 80%. The Deeply Affordable option includes 12 units with an average income of 40%. The architect was also present at the meeting.

3.2 Discussion and Statements

Liz Waytkus (LW) provided procedural notes, stating that the project is currently under the community board review phase of ULURP, which lasts 60 days. The committee will gather information and submit a response. The CB recommendation will be sent to the Borough President's (BP) office, the City Council Member (CM), and the [NYC Department of City Planning \(DCP\)](#) as an advisory resolution. Questions and testimony will first be taken from CB9 HLUZ members, CB9 members, elected officials, and then members of the public. Everyone will be asked to vote in-person and online. Feedback forms are part of the public record and will be submitted alongside the resolution.

Barry Weinberg (BW) asked if the lot, previously split, would require the acquisition of zoning rights of Lot 60. Neil Weisbard (NW) responded that the development is solely over Lot 58 and does not take any rights from Lot 60.

BW inquired about the previous tenants, noting they were terminated by the property owner. The last tenant was a well-liked Italian restaurant that still operates elsewhere. Shortly after the lease ended, the street collapsed and electricity was shut off. BW questioned if the motivation for rezoning is influenced by this incident. NW stated that the process with DCP was initiated before the collapse, and it seemed appropriate to consider housing for the site.

BW highlighted that the environmental review indicated a hazardous finding due to the site's adjacency to the highway. NW confirmed that any hazardous material would need to be mitigated before construction.

BW asked about Amtrak's approval, as they appeared concerned about the ULURP proceeding without their consultation. NW explained that Amtrak requires a full set of approvals with engineering plans before their consultation. Construction cannot proceed without Amtrak's approval.

LW questioned if, upon approval by the city council, full engineering plans would be submitted to Amtrak. NW confirmed this.

BW raised concerns about the site being in a flood zone and asked how mitigation would occur. NW and the architect clarified that the first floor is raised above the base flood elevation.

BW inquired about preserving historic transit infrastructure and access to transit services. NW confirmed their commitment to ensuring residents have access to bus services and train stations.

Ilana Mercado (IM) questioned Amtrak's approval status and any concerns they might have voiced. NW mentioned no immediate concerns from Amtrak but noted the necessity of returning later for further discussions.

LW asked if similar projects adjacent to railroads had been studied. The architect indicated that this was a question for the environmental review.

IM expressed concerns about the transportation of chemicals on nearby tracks used for freight. BW added that DCP had raised this issue. NW agreed to consult with environmental experts and provide more information.

Clayton Sanford (CS) asked about MIH options and how they function. NW explained that the city council can choose different AMI bars for the MIH options.

CS also inquired about the MetroNorth Penn Access Phase 2. NW was unaware of this project.

Annette Robinson (AR) voiced strong opposition, stating that the project was a disaster before and there was very little CB9 consultation. She claimed that no one in the community wants the development.

A Zoom participant questioned the proximity of trains to the building's walls and whether there would be windows. NW confirmed there would be no windows on that side.

LW asked about the proximity to the highway and concerns about potential accidents. NW did not provide a direct answer. LW also questioned if the permit was specific to this project and if there was any precedent. NW confirmed the permit was specific but stated that special permits for railroads were uncommon.

Cameron Clarke (CC) from [WE ACT for Environmental Justice](#) asked if the developer had considered voluntarily exceeding the minimum MIH options. NW explained that the new 485X tax exemption deepens affordability needed to get the tax rebate, but nothing can exceed 10%. CC asked if 485X was permanently affordable. NW replied that rents are permanently affordable, but the tax exemption lasts for 20-30 years. They currently comply with both options but plan to pursue Option 1.

Another Zoom participant expressed skepticism about the view from Riverside Park being obstructed by the new building. NW noted that the bulkhead above 71.5' is only 20' wide, and extensive shadow studies have been conducted. They offered to remove trees from the roof to increase the view and will provide additional renderings.

Questions from Zoom participants continued, with concerns about the actual view, air quality issues for residents, the height of bulkheads, and impacts on a nearby garden. NW and the architect responded that these aspects had been studied in depth during the two-year environmental review, which included shadow studies and air quality assessments.

3.3 RESO VOTE: RE 701 W 135th St & 12th Ave ULURP Request

The committee moved on to review and discuss the proposal. Attendees were reminded that they have until May 30th to submit their feedback via the online form, which will be attached to the submitted resolution package.

Liz Waytkus (LW) emphasized the importance of replying to the MIH components. Barry Weinberg (BW) noted that the 40% AMI in the Deep Affordability Option 3 for 12 units (20%) reflects the true AMI of the CB9 area.

Annette Robinson (AR) opposed the project, stating that it does not meet the needs of the community. As a long-term resident, she is concerned about the sinkhole and the lack of desirability. She expressed a desire to bring businesses back and questioned whether housing could be placed in more desirable neighborhoods, citing concerns about the obstruction of views.

Neil Weisbard (NW) responded that this proposal was developed after the initial 14-story building was opposed and received informal CB support in 2018-2019. He mentioned that Mark Levine would not have supported the application without CB support.

AR countered, stating that the CB has never fully supported the project. Ilana Mercado (IM) cited consistent CB9 opposition with the same concerns throughout. She supports affordable housing but not the cantilever, citing concerns about accidents and expressing a preference for small businesses to use the site, perhaps as an incubator. The architect confirmed that there would be commercial space on the first floor.

Clayton Sanford (CS) shared his perspective, highlighting that affordable housing is a top priority and that CB9 builds far less housing than other districts. He emphasized that having 12 deeply affordable units is better than having none.

Shaneeeka Wilson (SW) stated that 12 out of 60 units is insufficient and expressed a desire to see more affordable units beyond the minimum required. She also wants to add something desirable to the land.

LW acknowledged that concerns often arise about sites not being affordable enough and mentioned efforts to change zoning to encourage more affordable units. She highlighted major concerns about the lack of approvals from Amtrak, the significant cost on engineers, and uncertainty about whether Amtrak will approve the project, citing safety concerns.

BW pointed out that the cost would be the loss of the manufacturing district. NW responded that the recommendation should be based on whether the application is appropriate, not on safety concerns.

LW expressed a reluctance to review the proposal until Amtrak certifies it. LE noted that while the committee members are not professionals, they can still comment on safety issues.

Yuien Chin (YC), attending virtually, criticized the project for its design, potential impact on economic development, and the disservice to the community. She emphasized the need for economic development and affordable housing but not on this site.

LW concluded the public session and initiated the voting on the resolution. An unofficial vote was conducted without a quorum, with the official vote scheduled for Thursday.

The voting results were:

- **HLUZ members:** Yes 0, No 4, Abstain 0
- **Public members:** Yes 0, No 3, Abstain 0
- **CB members:** Yes 1, No 2, Abstain 0
- **Others:** Yes 0, No 11, Abstain 0

LW thanked everyone for joining, closed the hearing, and returned to regular business. A draft resolution was displayed on the screen.

4 Adopt Minutes

The minutes from the April meeting were circulated, but no action was taken due to the lack of HLUZ quorum.

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5 Introductions/Presentations/Announcements

5.1 City of Yes Zoning for Housing Opportunity brief presentation

Audre Wachs (AW) of [NYC Department of City Planning \(DCP\)](#) presented the City of Yes Zoning for Housing Opportunity initiative. Liz Waytkus (LW) noted that this was a preliminary presentation, with a full presentation and resolution to follow next month.

AW explained that the main goal is to create a bit more housing in every neighborhood. The current vacancy rate is 1.41%, far below the healthy vacancy rate, and 2.33% in Manhattan, resulting in high housing costs and 50% of rentals being rent-burdened. The shortage of housing also contributes to high levels of homelessness.

Most housing was built in the first half of the 20th century, with restrictive zoning post-1961 limiting recent housing production to a few neighborhoods. 10 community boards (CBs) have produced more housing than the other 49 combined. Limited supply results in high rents, displacement pressure, segregation, homelessness, poor housing quality, and tenant harassment.

Zoning, as one tool, regulates density and use and can include income requirements but doesn't fund or build housing. Other tools include subsidies, shelters, and tenant protections. The goal is to address root causes, create jobs, and improve sustainability.

The plan includes low-density (LD), high-density (HD), and citywide actions. CD9 has no low-density districts, but LD proposals were still reviewed. The aim is to develop without impacting the look and feel of neighborhoods.

Low-density actions include the following:

- Town center zoning will re-legalize mixed-use apartments with ground-floor commercial use in commercial overlays in low-density districts.
- Transit-oriented development will allow larger buildings near train stations in low-density districts.
- ADUs (Accessory Dwelling Units) will be allowed everywhere in all low-density districts, adjusting FAR to build old homes into compliance and allowing more 2-family and multi-family buildings.

The primary high-density action is the Uniform Affordability Preference (UAP). The UAP permits roughly 20% extra housing if all marginal units are permanently affordable, including supportive housing. This expands upon the AIRS framework, which applies only to senior housing in HD districts. UAP affordability will average 60% AMI and allow income averaging. It will replace VIH (Voluntary Inclusionary Housing). MIH (Mandatory Inclusionary Housing) will continue to be mapped and is not currently mapped in CB9. If UAP had been in place since 2014, a DCP analysis suggests that there would be 20,000 more income-restricted units.

Changes to MIH include adding MIH Option 3 (20% of units set-aside at 40% AMI) as a stand-alone option. MIH FARs will be equalized for districts where UAP FAR is higher, but MIH requirements will remain. Rules for 100% affordable projects will be streamlined.

A further proposed change is the removal of parking mandates. Ending parking mandates aims to reduce rents and remove obstacles to housing growth, although parking can still be added as needed.

Office-to-residential conversions will be facilitated by extending adaptive reuse regulations, expanding geography from central office districts to the entire city, and moving eligibility dates to 1991. This will allow conversion to all kinds of housing.

Regulations will be clarified to allow buildings with only studios and 1-bedroom apartments in central locations, removing DUF (Dwelling Unit Factor) in central locations and reducing it elsewhere. This relegalizes buildings with only studios and 1-bedrooms.

Rules for shared housing in any multi-family zoning district will be clarified, legalizing existing shared housing, a historically well-used model.

Contextual infill on campuses and irregular sites will be allowed through simpler rules, enabling campuses to use development rights to add height-limited buildings. Flexible contextual envelopes will be expanded, and the sliver rule eliminated.

Changes to special districts will align them with general zoning.

The Landmark TDR (Transfer of Development Rights) program will be expanded, loosening restrictions on landmarks transferring development rights to nearby zoning lots. This will help landmarks fund maintenance.

The timeline: referred on April 29th, CB review starting May 8th for 60 days, public hearing in July 2024, CPC vote in September 2024, and city council vote at the end of 2024.

Ilana Mercado (IM) asked about building more studios and one-bedrooms, noting some communities need family housing. LW and AW clarified that no one will be forced to build studios and expressed interest in ensuring a percentage of UAP units be set aside for family units. AW stated that UAP is separate from dwelling-unit factor (DUF) and was unsure if all-studio buildings would be subject to UAP.

CS appreciated the 60% AMI for UAP and income averaging. He asked if CBs can request specific breakdowns within that range. JT responded that projects would be as-of-right and expressed pride in the 60% AMI, which exceeds MIH requirements.

Tiffany Khan raised concerns about office-to-residential conversions becoming dorms, unless for CUNY or low-income students, and emphasized the need for permanently affordable units. AW assured that units would be rent-regulated through [NYC Department of Housing Preservation & Development \(HPD\)](#) at the city level. She noted that TOD applies specifically to areas within a half-mile of transit stations.

Enforcement will be managed by [NYC Department of Housing Preservation & Development \(HPD\)](#), ensuring the proportion of affordable units as long as the building exists.

A Zoom participant and architect highlighted the building boom and voiced support for eliminating parking mandates, stressing the need for certain developments to be as-of-right to avoid DCP approval delays. They suggested eliminating the CONH approval process.

LW mentioned that a presence at the full CB meeting on Thursday will be confirmed. She noted that UAP is applicable to contextual zoning, relevant because much of West Harlem was rezoned to be contextual, raising FAR on almost everything.

LW expressed concerns about office conversions to market-rate housing, supportive housing, or dorms, stating CB9 has a disproportionate share of supportive housing and dorms. She also raised concerns about waterfront housing, referencing the ULURP presentation, and the implications for the St. Luke's church lot, which is struggling to find a buyer. She emphasized the desire to avoid a tower in a landmark district.

5.2 WE ACT Community Land Trust: CB Question Responses

Cameron Clarke (CC) of WE ACT addressed questions from last month regarding community land trusts (CLTs). He discussed provisions for the Community Option to Purchase Act, which aims to protect against predatory non-profit organizations. Any large non-profit would need to apply to be on the list and adhere to the definition of a CLT, with community members having the right to give feedback on the list to ensure not just any non-profit can claim this status.

To protect against bad actors forming a CLT, Clarke emphasized the need for a strong CLT definition in the administrative code to disincentivize such actors. He expressed interest in community support for this kind of definition.

Regarding the relationship to HDFCs and tax liens, Clarke explained that the goal is to prevent displacement, with seven bills overall addressing this issue. He offered to discuss specifics later.

Clarke expressed a preference for a resolution about concrete legislation rather than something conceptual. He noted that the bills have not been reintroduced yet, but last year, the Public Land for Public Good Act had 33 co-sponsors, the Community Option to Purchase Act (COPA) had 32 co-sponsors, and the Tenant Opportunity to Purchase resolution had 21 co-sponsors. The bar for a two-thirds veto-proof majority is 34 co-sponsors.

Timing is crucial, and Clarke stated that the quicker these bills are passed, the better. He acknowledged that the CB has a lot on its plate and suggested that a resolution could be done in June or September, considering the off months in the summer.

He encouraged members to contact him for further discussion at cameron.clarke@weact.org.

6 New Business Discussions

None.

7 Old Business; Subcommittee/Taskforce Reports

7.1 Legislation We Are Watching

Clayton Sanford (CS) requested an overview at the June meeting of the 485X tax abatement and Good Cause Eviction provisions passed in the recent New York state budget.

7.2 Developments We Are Watching

CS reported that two demolition permits have been issued for 523 and 525 W 125th Street, the site of the vacant "Blue Flame" storefront, adjacent to the Our Children's Foundation building. The zoning is R7A with a C2-4 overlay, and both sites are owned by SM WEST 125TH STREET LLC. Barry Weinberg (BW) noted that demolition has been progressing gradually. CS was asked check ACCRIS for any transfer of air rights from the Our Children's Foundation.

7.3 Public Members Updates

None.

7.4 NYCHA

Construction is ongoing at the 1440 Amsterdam site at Manhattanville Houses.

7.5 RKO Hamilton Theater Taskforce Update

None. The taskforce is still looking for a chair.

7.6 TIL

None.

7.7 HDFC Updates

None.

7.8 MHCC Updates

BW, SM, and LW met on Zoom with the city council, which has been reviewing the Morningside Heights Rezoning. Proposed modest changes to the zoning of two blocks are still moving forward. They are in conversations with the city and hope to see progress in the fall.

7.9 Film and TV Taskforce Updates

None.

8 Action Items

None.

9 Adjourn

Annette Robinson (AR) moved to adjourn the meeting at 9:39 pm.

Minutes respectfully submitted by Clayton Sanford.