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The City of New York
Community Board 8 Manhattan
Zoning and Development Committee
Tuesday, February 22, 2022 - 6:30 PM
Conducted remotely on Zoom

Please note: The resolutions contained in the committee minutes are recommendations submitted by the committee co-chairs to the Community Board. At the monthly full board meeting, the resolutions are discussed and voted upon by all members of Community Board 8 Manhattan.

Minutes

Resolutions for Approval

Item 3: Governor’s Proposal to Lift Restriction on Allowable Residential FAR

Item 5: Use Of Restaurant At 220 E 81st Street As A Catering Facility

Board Members Present: Elizabeth Ashby, Gayle Baron, Michele Birnbaum, Lori Bores, Loraine Brown, Alida Camp, Anthony Cohn, Billy Freeland, Craig Lader, Valerie Mason, Sharon Pope-Marshall, Rita Popper, Elizabeth Rose, Barry Schneider, Marco Tamayo, Adam Wald, Elaine Walsh, Sharon Weiner, and Leo Yu (Public Member)

The meeting was called to order at 6:30 PM

Item 1: Cabaret Act – Zoning Proposal:

Ben Jacobs, Representing Council Member Keith Powers, described the new Dancing/Cabaret zoning proposal. During the October Full Board Meeting, the representative of Council Member Keith Powers mentioned his support for a bill that would remove zoning restrictions on Dancing and Music Establishments city-wide. Rather than make a formal presentation, Mr. Jacobs briefly described the proposal as removing existing zoning restrictions on live music and dancing in most areas of the city. The lively discussion that followed raised several questions about the appropriateness of the measure in all parts of the city:

- Removal of restrictions will put enforcement of noise regulations and hours restrictions in whose hands?
- Will all drinking and dining establishments be allowed to have dancing and live music, regardless of zoning district?
- Will this apply to the side streets which are overwhelmingly residential in CD8M?
- Will this apply to areas reserved for roadway dining or sidewalk café’s?
- Will the local Community Boards have any oversight role under this proposal?

The Committee suggested a letter to Councilmember Powers and the City Planning commission outlining the local concerns.

Item 2: Rezoning Proposal for Certain Manufacturing Districts: Adam Wald presented his proposal to rezone C8-4 and M1-4 zoning districts mapped in portions of six (6) blocks in Manhattan Community District 8 identified as Blocks 1540, 1556, 1557, 1569, 1570 & 1571. He is suggesting the following options:

- R9D: Maximum bonused Floor Area Ratio of 10.0
- R10: Maximum bonused Floor Area Ratio of 12.0
- For both zoning options, providing commercial overlays of C1-5

His comprehensive report will soon be sent to all committee members and the issue will be discussed at the next meeting.

Item 3: Governor’s Proposal to Lift Restriction on Allowable Residential FAR

After a brief explanation of Governor Hochul’s proposal, a spirited discussion ensued. Most of the members of the public and Committee disapproved the notion, with a couple of exceptions. Those in favor of the proposal spoke to the need for more affordable housing, while those opposed to the proposal spoke to the absence of any guarantee that more affordable housing would be a result of the enactment of the measure. Some also pointed out the need for additional infrastructure to support even greater density in one of the densest cities in the world. A motion was made and adopted to urge the State Legislature to reject the proposal.

RESOLUTION ON RESIDENTIAL FAR CAP IN NEW YORK CITY

WHEREAS, On January 18, 2022, Governor Kathy Hochul proposed an amendment to the New York State Multiple Dwelling Law with the stated purpose: “to return to New York City authority with respect to the floor-area ratio limit on residential density;” and

WHEREAS, the stated justification for the amendment is that the proposed budget “supports an increase in the supply of housing to combat rising housing costs and homelessness”; and

WHEREAS, the New York State Multiple Dwelling law as amended by chapter 748 of the laws of 1961 established a maximum Floor Area Ratio (FAR) of 12.0 for all Residential Buildings in New York State; and

WHEREAS, the text of the amendment removes the limitation only to cities with populations greater than 1,000,000 persons; and

WHEREAS, New York City is the only city in New York State with a population in excess of 1,000,000; and

WHEREAS, the population density of New York City is over 31,000 persons per square mile per the 2020 Census), making it the most densely populated city in the United States; and

WHEREAS, only five other US cities (with a population of over 500,000) have a population density of even 10,000 persons per square mile; and

WHEREAS, if enacted, the proposed amendment would allow New York City to increase the floor area of residential buildings without limit by removing the current limitations; and

WHEREAS, if enacted, the proposal would become effective in 180 days with no specified end date; and

WHEREAS, if enacted, the proposed amendment would impose no conditions that might encourage the creation of affordable housing; and

WHEREAS, if enacted, the proposed amendment would impose no conditions that might combat rising housing prices; and

WHEREAS, if enacted, the proposed amendment contains no language or provisions that would combat homelessness; and

WHEREAS, the proposal contains no mechanism for augmenting services and city infrastructure to accommodate additional residential density; therefore be it

RESOLVED, That Community Board Eight **opposes** the proposed Budget Bill (S8006-A and A9006-A) PART CC: “AMENDMENT TO THE MULTIPLE DWELLING LAW”; and be it further

RESOLVED, That Community Board Eight urges our State and City legislators to oppose the proposed bill and demands that Governor Hochul withdraw this bill from the State Budget.

No (2): Billy Freeland and Adam Wald

Abstain (3): Lori Bores, Craig Lader, and Sharon-Pope Marshall

Yes (12): Elizabeth Ashby, Gayle Baron, Michele Birnbaum, Loraine Brown, Alida Camp, Anthony Cohn, Valerie Mason, Rita Popper, Marco Tamayo, Elaine Walsh, Sharon Weiner, and Leo Yu (Public Member)

Item 4: Lenox Hill & Yorkville Special Zoning Districts: It was reported that the planner is preparing revised Preliminary Applications – necessary because The Department of City Planning has made some changes to its procedures and has requested that our two Applications be combined into one. He will soon send them to us for review. The threat of the removal of the 12 FAR cap makes the enactment of these districts even more urgent than before.

New Business

Item 5: Use Of Restaurant At 220 E 81st Street As A Catering Facility

The restaurant at 220 East 81st Street came before the Street Life Committee in February for a new beer, wine, and alcohol license, which was approved under the criteria employed by the Committee. A question arose at the time as to whether this was an appropriate application, and that the operators had noted a desire to have a small catering business as well as the restaurant. The location is “grandfathered” into an R8B zone, but only as a restaurant. Some questions concerning accessibility and the discontinuity of operation were also brought up. More than one Committee member suggested that the application ought to have come to the Zoning and Development Committee before Street Life, as there were Zoning issues involved, as well as the protection of the R8B zoning. A motion was made, seconded and the following resolution passed:

RESOLUTION ON USE OF RESTAURANT AT 220 E 81ST STREET AS A CATERING FACILITY

WHEREAS, Portable Provisions LLC, dba Portable Provisions, 220 East 81st Street, applied for a beer, wine and alcohol license and came before the Street Life Committee of CB8 at their meeting on February 1, 2022; and

WHEREAS, the applicant agreed to the Community Board’s standard stipulations and also that they will only occasionally host private events; and

WHEREAS, 220 East 81st Street is in an R8B zone, which does not allow restaurants (Use Group 6) or catering facilities (Use Group 9); and

WHEREAS, a restaurant existed on the site before the adoption of the current Zoning Resolution in 1961 and was therefore “grandfathered” as a permitted non-conforming use (UG6); and

WHEREAS, several questions have arisen as to the legality of this use despite its apparent “grandfathered” status; and

WHEREAS, the permitted non-conforming use (UG6) must be continuous since 1961 (with gaps of no more than two years; and

WHEREAS, the restaurant is not accessible, on account of the steps at the sidewalk entrance and the absence of an elevator to access the second floor; and

WHEREAS, nothing in the LCB approval would ultimately prevent catering (UG9); therefore, be it

RESOLVED, That Community Board Eight **opposes** the use of the restaurant at 220 E 81st street as a catering facility.

No (1): Craig Lader

Abstain (1): Lori Bores

Yes (14): Elizabeth Ashby, Gayle Baron, Michele Birnbaum, Loraine Brown, Alida Camp, Anthony Cohn, Valerie Mason, Sharon Pope-Marshall, Rita Popper, Marco Tamayo, Adam Wald, Elaine Walsh, Sharon Weiner, and Leo Yu (Public Member)

Old Business

Because of the false PR that so badly damaged CB8’s opposition to the Blood Center proposal, concern was raised about such PR against this Application.

As part of New Business, two suggestions were made for improvements to the Community Board’s ability to render decisions on applications and proposals coming before the Full Board:

- All ULURP/Zoning change applications should come before the Zoning and Development Committee before they come before the Land Use Committee. This will allow a more robust discussion in Committee and will also permit the Public an earlier voice in the ULURP process. All too often, matters arrive at the Land Use Committee without prior discussion in appropriate committees, and it is too late for community interests to help shape the proposal.
- While the information is available, the Department of City Planning and the Department of Buildings should provide coordinated information relating to number of affordable housing units demolished on a particular project site. Information should be binding on all City agencies to avoid inconsistent information

- The appropriate city agencies should also provide coordinated information relating to small business lost to new developments. This might include size of business, type of business, and rent paid.

Committee members requested a letter to City Planning and the Department of Buildings requesting these changes in policy.

Elizabeth Ashby and Anthony Cohn, Co-Chairs