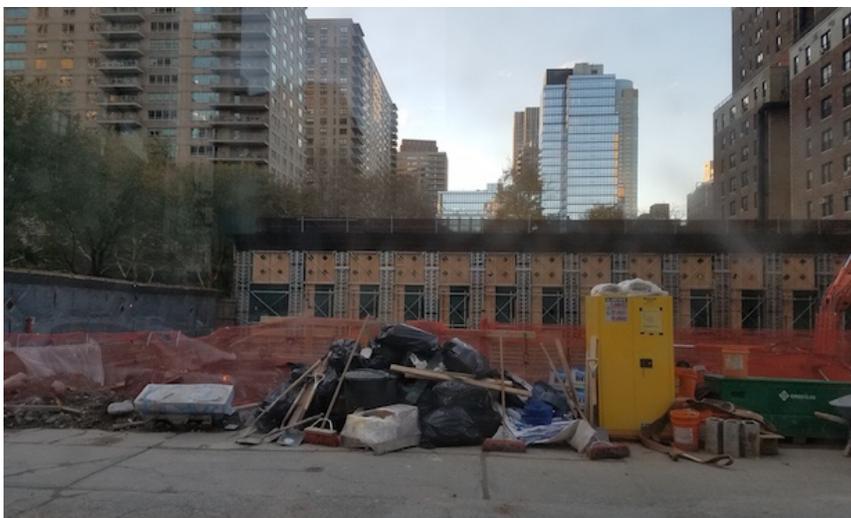


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Proposed Tallest Building In UWS Now Faces BSA Review

By Betsy Kim

The Committee for Environmentally Sound Development is appealing the permit authorizing construction of the 200 Amsterdam mega-apartment tower

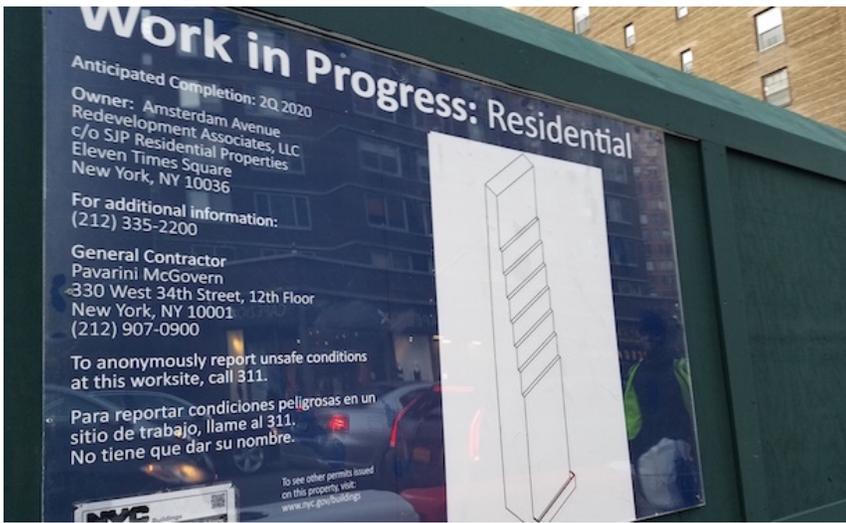


Behind the hoarding, the 200 Amsterdam construction site on Sunday

NEW YORK CITY— With its on-again, off-again status, the proposed 670-foot, 52-story condominium at 200 Amsterdam Ave., a joint venture of SJP Properties and Mitsui Fudosan America, is on again. But the Upper West Side's tallest tower faces another challenge with an appeal to the City's Board of Standards and Appeals.

The Committee for Environmentally Sound Development's initial challenge opposing the project resulted in the New York City Department of Building's halting construction on July 11, 2017.

The DOB agreed with the public zoning challenge claim that the open space presented in the original plans did not satisfy the requirements in the Zoning Resolution because residents of the existing building on the zoning lot did not have access to the space. (The Zoning Resolution consists of 13 articles that establish the City's zoning districts and regulations governing land use and development.)



Construction sign at 200 Amsterdam on Sunday

However, the DOB tells GlobeSt.com that following these objections, SJP Properties supplied the necessary, additional information and zoning calculations and satisfied the objections raised in the DOB audit and the public challenge.

The DOB then lifted the hold on the project on September 26, 2017 and closed audits on the applications. SJP Properties refiled the permit applications for the building project and was issued a new building permit on September 27, 2017.

However, on October 26, 2017, Frank Chaney, an attorney at Rosenberg & Estis, filed an appeal with the New York City BSA on behalf of the Committee, challenging the super tall building's permit.

The appeal asserts the zoning for 200 Amsterdam does not comply with city regulations because it does not conform to the definition of a zoning lot.

The Zoning Resolution requires that a zoning lot consist of "lots of record." According to the appeal, the combined zoning lots and air rights necessary to build the development were not correctly "lots of record." Instead of using complete adjacent lots, the proposed transfer of development rights were based on "isolated bits and pieces of lots strung together with narrow threads made up of other bits and pieces of lots."

The Zoning Resolution also allows for zoning lots to be defined by tax lots as shown on the city tax map. This means whole tax lots, each in their entirety. Chaney asserts that the proposed lot for the 200 Amsterdam condo is made up of bits and pieces of four different tax lots that are not "of record" because they are not now, and never were, tax lots as shown on the tax map.

The appeal also reasserts the development does not comply with the Zoning Resolution's open spaces requirements. The Committee asserts the parking lot of the adjacent Lincoln Towers residence would not have enough additional capacity for the residents of the 112-luxury units planned for the new development. No

accessory parking was provided for the new building, and parking spaces would not be permitted as space obstructions on the proposed lot.

The appeal asserts the “open space” was created for solely one purpose: to achieve higher bulk and density. “It is open space in name only, meeting the merest letter of the law but none of its purpose and intent.”

Chaney had requested an expedited review in anticipation that the construction, which the DOB had authorized, would rapidly proceed.

The BSA rules provide that the BSA give an applicant 30-day notice of the BSA public hearing, “after the examiners have determined that the application is substantially complete.” The applicant must then give 20-day notice to the property owner. But Chaney tells GlobeSt.com that there is no time limit for how long the BSA staff may take to determine that the application is substantially complete.

On Monday, SJP Properties confirmed with GlobeSt.com that construction is proceeding. The company provided a statement saying its application went through an exhaustive review and subsequent audit by the Department of Buildings which reaffirmed that the zoning and design are in compliance.

The statement further points out that the same zoning was employed by three other completed buildings on the same block: 170 Amsterdam, 200 West End Ave., and the Lincoln Square Synagogue. It states that upon receiving all necessary building permits on September 27, they have begun construction for 200 Amsterdam.

The statement concludes: “We look forward to continuing to efficiently and safely complete a building that will be a great addition to the neighborhood. We remain committed to working closely with neighborhood and community officials throughout this process.”

Community members and the Committee reached out to Chaney to file the appeal to stop the construction. Chaney tells GlobeSt.com that normally he does not do “opposition” work because as a zoning and land use attorney he has almost exclusively represented property owners and developers, assisting them in obtaining land use approvals to construct new buildings.

Noting an extensive career, in which he has helped clients develop some of the city’s most significant new buildings, Chaney says the interpretation of the Zoning Resolution as to what constitutes a “zoning lot” for 200 Amsterdam is neither within the parameters of well-established practice nor legally defensible.

Chaney anticipates some people will want to characterize the Committee’s appeal as “anti-development nimbyism” to distract attention from what he says is far more profound than whether a building is too tall for a location.

“What’s at issue here is nothing less than the rule of law—whether the words of the Zoning Resolution have any objective meaning or whether as in *Through the Looking Glass*, words can mean whatever someone wants them to,” says Chaney.



With the current administration, initial review by BSA staff typically takes a minimum of approximately four months or longer, according to Chaney. At the time of the filing of this article neither he nor the Committee had heard from the BSA.

The Committee has not filed a lawsuit and for now hopes the BSA will grant their request and schedule a public hearing.

