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John Raine, R.A.
Borough Commissioner
Manhattan Office
N.Y.C. Department of Buildings
280 Broadway
New York, NY 10007

Zoning Challenge – 497 Hudson Street Manhattan Block 605, Lot 28 – Job No. M01264489

Dear Commissioner:

I am an attorney for the West Village Citizens for Preservation, and submit this letter in opposition to the Department's issuance of a ZD1, posted on February 6, 2026, approving the plans of the Church of St. Luke in the Fields to construct a one-story community facility at the northeast corner of the block. Using even the Church's numbers, the zoning lot fails to provide the minimum open space required by ZR 23-732. Moreover, the land on which the Church plans to build is the only land on the zoning lot that could plausibly be converted to open space, thereby curing the violation. We request that the Department revoke zoning approval of the project, and the approval of any other permits it may have issued in connection with the application.

I have attached a zoning analysis of the project prepared by the planning and land use consultant George M. Janes & Associates, which supports the analysis here.

Facts

The proposed building is on the block bounded by Barrow Street to the south, Christopher Street to the north, Hudson Street to the east, and Greenwich Street to the west.

The block is a single zoning lot with eighteen buildings – the church and its accessory buildings; eight townhouses; the St. Luke's School; and 100 Barrow

Street, a 12-story, multi-family residential building. Mr. Janes’s report includes a 3D model of the block with the proposed building.

The block is in an R6 zoning district and was developed using the R6 height factor regulations in ZR 23-732.¹

It is also in the Greenwich Village Historic District. On October 28, 2025, the Landmarks Preservation Commission approved the project, subject to a final certificate of appropriateness.

Only the townhouses and 100 Barrow have residential floor area.

The *Peyton* Decision and Residential Open Space

The definition of “open space” in the Zoning Resolution could not be clearer: “that part of a zoning lot, including courts or yards, which is open and unobstructed from its lowest level to the sky *and is accessible to and usable by all persons* occupying a dwelling unit or a rooming unit on the zoning lot.” ZR 12-10 (emphasis added).

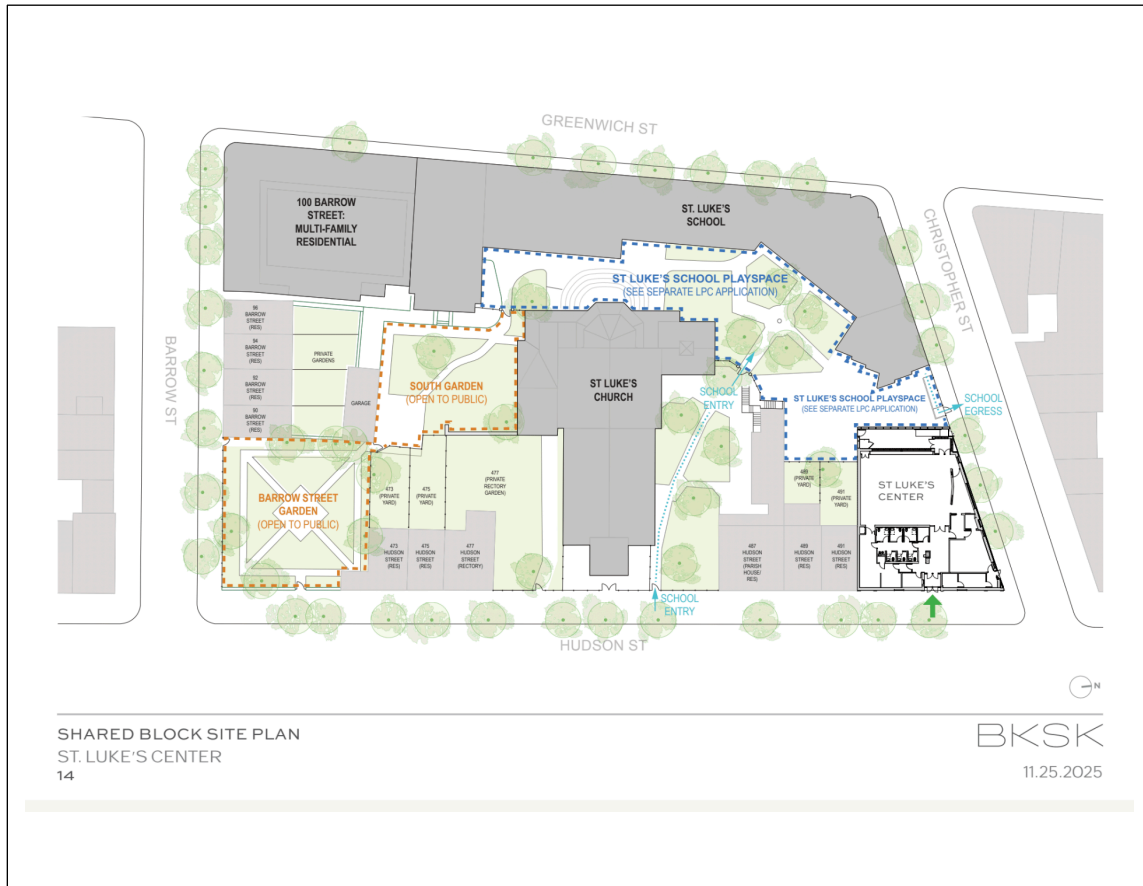
Despite the clarity of this language, the Court of Appeals has held that the owner of one building in a multi-owner zoning lot is free to exclude persons residing in another building from the owner’s open space. *Peyton v. Board of Standards and Appeals*, 36 N.Y.3d 271 (2020). It can do so, the Court wrote, through a proportional allocation of the lot’s open space: “[T]he residents of each building on a multi-owner zoning lot [must] have access to at least the amount of open space that would be required if the building were on a separate zoning lot.” 36 N.Y.3d at 285.

1. Actual Open Space

The ZD1 claims a total of 28,472 SF of open space on the lot. As Mr. Janes explains, though, 10,584 SF of that space does not qualify.

The site plan in the Church’s own Landmarks application acknowledges that nine of the included spaces are private, not open.

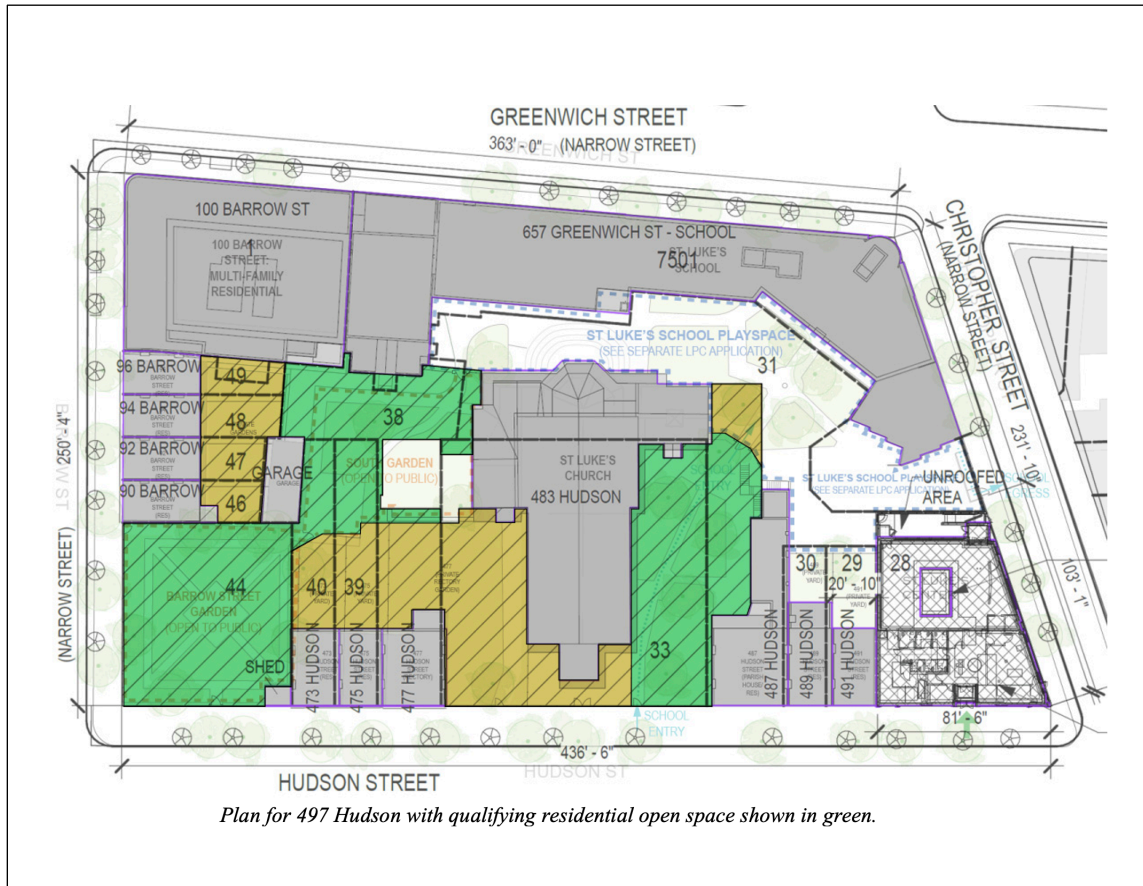
¹ Although the City of Yes amendments modified the R6 height factor regulations, the old regulations continue to apply here, as the Church’s ZD1 acknowledges.



The site plan denotes the area behind the four townhouses on Barrow Street as “Private Gardens” (Tax Lots 46 to 49), and the area behind the four townhouses on Hudson Street as “Private Yards” (Lots 29-30 and 39-40). Immediately north of the Hudson Street “Private Yards” is the “Private Rectory Garden” (Lots 33 and 38), and connecting to it, the entrance to the Church (Lot 33), which is locked except during services.² Finally, although the area in front of the School is denoted as “St. Luke’s School Playspace” (Lot 31), the ZD1 claims a portion of that playspace as open space.

Mr. Janes has colored the ZD1 site plan to distinguish the above private spaces (in yellow) from the spaces that do, in fact, qualify as open (in green):

² The designation of the Hudson Street “Private Yards” and “Private Rectory Garden” also violates the Church’s 2015 Zoning Lot Development Agreement, which states that, except for space on the Barrow townhouse parcels and the 100 Barrow parcel, all claimed open space must be accessible to the public. See Corrected Declaration of Zoning Lot Development and Easement Restrictions (“ZLDA”), dated Feb. 25, 2015, recorded Apr. 30, 2015, ¶ 2(l)(3) (CRFN 2015000144993).



The total area of the private spaces (yellow) is 10,584 SF. When that amount is subtracted from the 28,472 SF that the ZD1 claims as open space, the number drops to 17,888 SF.³

³ Moreover, the Church frequently padlocks the two large spaces – the “Barrow Street Garden” and the “South Garden” (Lots 38 and 44) – that we *have* counted as qualifying open space. The locks exclude not only lot residents but the general public as well, although signs posted in front of the gardens expressly invite them. In addition to violating the Zoning Resolution, the locks violate the ZLDA, which enumerates only the following justifications for closing the gardens to lot residents and the public: to “mitigate hazardous conditions or emergency conditions”; “to abate any public nuisances or violations of public safety”; “to prevent a public dedication of the space”; “for the conduct private events”; and to maintain or repair the open space itself, the buildings, and the pipes and utilities below them. *See* ZLDA, ¶ 2(1)(4). There is no such justification here, nor any comparable one. When these gardens – a total of 9,914 SF – are also deducted, the actual qualifying open space on the lot drops from 17,888 SF to 7,974 SF. That is a far cry from the required 27,378 SF.

2. Proportional Allocation

According to *Peyton*, the residents of each building must have access to at least the amount of open space that would be required if the building were on a separate zoning lot. Applying that rule here, the plan falls short of providing the necessary space for the largest residential building on the site, 100 Barrow.

The building has 72,909 SF of residential floor area, fully 80 percent of the lot's 91,260 SF of residential floor area. Treated as a separate zoning lot, it would have a height factor of eight and an open space ratio of 31. Multiplying the residential floor area for the building (72,909 SF) times the open space ratio (.31), as ZR 23-732 requires, the minimum open space for 100 Barrow residents would be 22,602 SF.

But the total open space on the entire zoning lot is only 17,888 SF. Even if 100 Barrow claimed all of that space, it would still be 4,879 SF short of what is required. Plain and simple, the lot is illegal.

* * *

We are not aware of any post-*Peyton* New York case that has interpreted the proportional allocation rule, but it is fair to ask whether the *Peyton* court really intended to apply the rule across the board – to any multi-owner lot – or only to lots like the one there, where the size of the residential buildings was roughly the same, and therefore none of the residents on the lot would be excluded from too large a percentage of the open space.

The facts here are different, where the residential buildings vary wildly in size. To apply *Peyton* in a case like this would be to obliterate the access of residents in small buildings on multi-owner lots to the bulk of the open space on the lot. We would encourage the Department to honor the language of ZR 12-10: All open space must be “accessible to and usable by all persons occupying a dwelling unit or a rooming unit on the zoning lot.”

The ZD1 claims a total of 91,260 SF of residential floor area on the lot, and a total of 14,670 SF of residential coverage. Based on the table in ZR 23-732, this creates a height factor of 6.22 and an open space ratio of 30 percent. Using these numbers, the amount of required open space is 27,378 SF (91,260 SF x .30).

As we have explained, the actual qualifying open space on the lot is only 17,888 SF. Therefore, if we follow the plain meaning of the statute, there is a shortfall of 9,490 SF, roughly double the shortfall using the *Peyton* rule.

Whether or not one relies on *Peyton*, the result is the same: The lot fails to meet the open space requirement.

Open Space and the Proposed Building

The zoning lot is illegal, period. Unless the Church either (1) creates more open space on the lot or (2) obtains a variance from the Board of Standards and Appeals under ZR 73-60, it cannot proceed with its plan.

Might the Church find more qualifying open space on the lot (without violating the terms of its leases to the townhouses, 100 Barrow, and the School)? Yes – by putting this project to rest and converting the area where it would have been built into accessible open space. That would give the Church another 6,062 SF, which more than makes up for the 4,879 SF shortfall under the *Peyton* rule.

There is no other plausible way for the Church to claim the necessary additional open space. The effect of a decision by the Department to approve this ZD1 would be to ratify and preserve a manifestly illegal condition, one that the Church itself created when it leased the 100 Barrow site and enabled the development of a building with 72,909 SF of residential floor area.

Conclusion

The Department should revoke its zoning approval of the project and any permits it may have issued on the basis of that approval.

Thank you for your consideration. If you have any questions, feel free to contact me at (323) 791-1500 or cweinstock@mac.com.

Sincerely,



Charles Weinstock

cc: Rev. Caroline Stacey, Church of St. Luke in the Fields
Brad Hoylman-Sigal, Borough President
Mark Diller, CB2 District Manager
Valerie De La Rosa, Chair, Community Board 2
Eugene Yoo, Chair, Community Board 2 Land Use Committee
Chenault Spence, Chair, Community Board 2 Landmarks Committee
Andrew Berman, Greenwich Village Society for Historic Preservation
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