

Wednesday 9 September 2009 09:52am EST.

## Property dispute stirs up residents

by [Sam Levin](#)

A four-year land zoning war in the Manhattan Valley region was reignited at the end of August when developer Joseph Chetrit and the New York nursing home Jewish Home Lifecare announced a contentious land swap proposal that has many community organizations and elected officials feeling betrayed.

The basic proposal is a direct property switch by which the Chetrit Group would take over land on 106th Street between Columbus and Amsterdam—where a branch of Jewish Home Lifecare is currently located—and, in exchange, Jewish Home Lifecare would be given the right to construct an entirely new senior home on 100th Street between Columbus and Amsterdam. However, the area designated for the new senior home is currently a parking lot owned by Chetrit and wedged in between the public library and a 17-story Park West Village residential building.

Community preservationist groups, Manhattan Borough President Scott Stringer, Community Board 7, and other elected politicians are saying that the proposed deal appears to be a selfish one that may benefit both parties at the expense of the community. But Jewish Home Lifecare states that it is undertaking a transparent, recession-proof swap that meets the needs of the community and is also the only hope to keep its nonprofit, 150-year-old nursing home alive in a time of financial struggle.

### *The original battle*

The swap proposal is deeply tied to a dispute in 2007 in which Jewish Home Lifecare gained both a “carve-out” from new zoning laws and a lot of angry neighbors.

After two residential tower giants—Ariel East with 37 stories and Ariel West with 31 stories—were erected on Broadway between 100th and 101st streets in 2005, many became frustrated with lost sunlight and space. Community members banded together to downzone the Manhattan Valley neighborhood so that future developers could no longer penetrate the Upper West Side skyline.

In a two-year effort, organizations such as Westsiders for Responsible Development, the Duke Ellington Boulevard Neighborhood Association, and Community Board 7 applied for and gained R8A/8B zoning for the area, which essentially caps all new structures at no more than 12 to 15 stories.

“It was wonderful—it was democracy in action,” local activist Blanca Vasquez said of the successful two-year downzone process.

But Jewish Home Lifecare chimed in for the final month of the process, saying that it could not be restricted by the new downzoning laws, which would stifle its future development of a new, modernized facility.

In response, Vasquez co-chaired a group called the Manhattan Valley Preservation Coalition which, along with CB7 and other local organizations, opposed JHL’s request for an exemption. The activists viewed it as a last minute slap in the face to those who had fought for two years to eliminate tower developments.

Ethan Geto, a Jewish Home Lifecare spokesman, said that, at the time, the facility needed the carve-out because the new zoning would have made it virtually impossible to construct a modern nursing home. And, according to Geto, the construction of an entirely new facility was absolutely necessary due to the inefficient and technologically backward state of the existing nearly 50-year-old building on 106th Street. “We had to find a way to modernize the facility, or else were going to have to shut it down.”

Despite community resistance, elected officials granted JHL a carve-out, or exemption, with minor

limitations from the 2007 zoning so that the organization could deconstruct its facility and rebuild under the neighborhood's original R72 zoning. Simply put, they would be allowed to build a 22-story modern structure despite the downzone.

According to Geto, the plan had been for JHL to sell part of its property on 106th Street to a developer—which would have to abide by the new zoning limitations—and then JHL would use the money from that deal to help finance its new, unrestricted development on the same 106th Street site. "This was about preserving preexisting zoning for the purpose of building a new senior home," he explained.

The nonprofit's Manhattan location annually serves thousands of elderly patients seeking short-term rehab, along with hundreds of permanent residents. Around half of the clients are low-income minorities, and the operation employs many local residents, according to Geto.

Politicians thought it was a worthy exemption, but when they heard the news last month that JHL would be giving up virtually all of its land on 106th Street to a market-rate condominium developer, they were not so pleased.

### *Swap or shut down*

In 2008, Jewish Home Lifecare sent out nearly 2,000 bids to national and international developers to purchase just a portion of their land to help them finance the construction of their bigger and more technologically advanced senior home. At first, 72 responded with serious interest. But after the recession hit, only three remained.

Of those three, one developer—Joseph Chetrit—remained standing in 2009, according to Geto. But the deal Chetrit proposed was a bit different.

Instead of spending money from his pocket, Chetrit offered a deal that would be much more promising than any large credit-dependent transaction: swap 100th Street for 106th Street. With development at a halt, this kind of exchange was much more sound than any direct purchase, Geto stated. Chetrit wanted to work on new Upper West Side developments, and Jewish Home Lifecare wanted a new facility. For JHL, the deal meant staying in the same neighborhood without temporarily dislocating its residents and while also earning some extra cash.

"From our perspective, it is the best possible deal in a very uncertain economy," Bruce Nathanson, senior vice president of marketing for JHL, told a crowd of disgruntled neighborhood residents at a recent CB7 meeting. "We have to look at the big picture of what we bring to the community."

But when the deal was announced, surprised community groups immediately expected the worst: that Chetrit would take advantage of the 2007 carve-out and build a monster tower with an unbeatable view in the otherwise downzoned area.

"We feel thwarted to say the least," Vasquez said. "They are asking us to trust them, and they have not earned that."

Geto said he has continually tried to convince skeptical neighbors that this swap was something they had never planned and was now a necessity. "This is literally the only viable option," he said.

In addition, both Geto and Chetrit spokesperson Kathy Cudahy said in interviews that they had no intentions of betraying the community and taking advantage of the 2007 zoning exemption. But they have not yet proven this by actually applying for R8A/8B zoning to match the rest of the neighborhood. And Geto said they probably wouldn't do so for another four or five years.

"This deal is far from being signed," Geto explained. "If we rezone now and Chetrit walks away, we are stuck at 106th Street." As a result, at the behest of the downzone laws, "We would have to shut down," he said. "That is not a scare tactic." He said that JHL plans to construct the new facility on 100th Street in full. Once it is completely finished, 106th Street will be downzoned, and the land will be transferred officially to

the developer.

"We want to build something that is contextual with the area," Cudahy, the Chetrit spokesperson, said, adding that the firm will not build a large tower.

Legally, anyone can apply for rezoning, and many upset residents have said they want CB7 or another political body to rezone 106th Street now, despite the delay that JHL has sought. "If they did that, that would be a very hostile action and it could mean the end to Jewish Home," Geto said. In that case, he said, "It would be war."

### *Deep distrust*

Locals who fought Jewish Home Lifecare back in 2007 said they are not convinced that the neighborhood is safe.

"This is such a disappointment to the community," State Senator Bill Perkins (D-West Harlem) said recently in interview. "Providing Chetrit with that kind of opportunity to build out of context was clearly not our expectation."

Perkins said that multiple constituents have come to him asking him to urge the New York State Department of Health to drop its funding for JHL, which would be a virtual death sentence for the nonprofit. "That is a dramatic demand—no one wants to do that, but I am hearing the community's outrage."

Vasquez said she would not stand to see the community fooled twice. "What they are really asking is for the community to bear the insecurity," she said. "We are the only ones who can protect this neighborhood, and the only way is through rezoning," she said.

"They cannot use their nonprofit status to give a gift to profit developers," Glory Ann Kerstein, president of the Duke Ellington Boulevard Neighborhood Association, said. "We had no trust in them. And guess what, we turned out to be right," she added.

Kerstein also contested Geto's threat that immediate rezoning could be fatal to the nursing home. "They could simply apply for a zoning variance if they were in fact forced to develop on 106th Street," she argued.

Kerstein stated that the community is putting its foot down. "No more zoning games with us—they had their chance."

### *A shaky compromise*

Jewish Home Lifecare is in the process of drafting what is called a "restrictive declaration." To avoid the potentially destructive scenario that Geto outlined should they rezone immediately, he declared that this new document would legally force them to rezone once the deal is secure and the new facility is built.

This rezoning would effectively be carried out in full by JHL in an application process to the city, through which they would request the downzone on 106th Street.

Jewish Home Lifecare is also paying for an outside attorney to review the document on CB7's behalf.

"It has been a tremendous battle trying to prove to them that what we want is what they want," he said. As a result, JHL is attempting to do so with a legal document.

"We are contemplating moving forward," CB7 Chair Helen Rosenthal said of this new document. "But CB7 is obviously skeptical."

Vasquez and Kerstein both agreed that the only protection that will allow them to be fully invulnerable to out-of-context development is an immediate rezoning as opposed to any ambiguously binding document drafted by JHL and possibly bearing loopholes.

Clare Dockery, a 76-year old resident of 792 Columbus Ave., which would ultimately be in the shadow of the new senior home on 100th Street, said that no compromise is acceptable in her eyes. "For me, this is very, very personal," she explained. Dockery said that she fears the disruptive construction, the influx of traffic on her street, and the lost view from her window. "I can't even talk about it, I get so angry," she said. "I would like to see the land swap stopped."

From the perspective of Alison Currie, a JHL senior social worker who has worked with longtime residents and families for many years, this compromise is in fact essential for her 514 permanent residents. "This building is inadequate," she said. The new structure, Currie added, will feel so much more like a comfortable home and a lot less like a claustrophobic hospital, with windows in every room, more privacy, a superior dining room, and significantly easier internal transportation.

Sheldon Fine, a CB7 member who was chair of the board during the 2007 carve-out, said that, though he understands the community's skepticism, the path of a restrictive declaration is the only realistic way for all parties involved to move forward.

While he agreed that the proposed solution seems less secure than an immediate rezoning, Fine said that, in the end, CB7 would not let either party take advantage of the carve-out.

"Ultimately, we have the power to destroy," he said.

*Sam.levin@columbiaspectator.com*