

Memorandum

From: Dr. Richard Lipsky

To: City Council Members

Subject: BJ's Department of City Planning and CEQR: The Inadequacy of the Review Process

Date: 11/30/04

The planned 130,000 sq. ft. BJ's Warehouse Club is currently going through the ULURP process. The review process egregiously deficient and the non-decisions of the Department of City Planning raise questions about possible favoritism shown to the developer. Put simply, even though the project would have a significant impact on food retailing in the Bronx no economic impact analysis was required of the developer. In addition, in spite of the fact that BJ's would affect scores of neighborhood supermarkets and thousands of unionized supermarket workers, efforts to arrange for a fair and comprehensive rebuttal of the project's merits have been thwarted at every level of review.

Necessity of Economic Impact Analysis

The CEQR manual goes into great detail about when an applicant should be subject to a socioeconomic impact analysis. In a public statement, a spokeswoman for

City Planning has insisted that the project “does not meet the thresholds to trigger a socioeconomic study of its impact on the neighborhoods.”

This statement demonstrates a significant ignorance of BJ’s, both its method of operation and its potential effect on the Bronx economy. In addition, because of this ignorance, and owing to what appears to be the absence of even a cursory preliminary assessment, the statement also does violence to the clear intent of CEQR. In the process the Department also seems to willfully ignore its own review precedents establish over the past two decades.

Taking the last point first, it is important to point out that regional supermarkets with considerably less potential volume and impact have been subject to a comprehensive socioeconomic analysis. In February of 1995, a 68,000 sq. ft. Pathmark was required to do socioeconomic analysis as part of its Environmental Assessment Statement (EAS) even though a full Environmental Impact Statement was not conducted. A 45,000 sq. ft. Pathmark built in East Harlem also underwent a comprehensive economic review even though the store never went through ULURP (“Retail Impact of a Proposed Pathmark Supermarket on East 125th Street,” Abels Phillips Preiss and Shapiro).

Economic impacts were also conducted for Pathmark stores in Astoria and the Lower East Side as well as for one proposed in the early eighties for Zarega Avenue in the Bronx. In addition, a Walbaums supermarket proposed for Bronxdale Avenue in the Bronx in the 1980s was also asked to provide an economic impact analysis. The reason for all of these ? in the original rationale for restricting food stores of over 10,00 sq. ft. from locating in manufacturing zones. There is a generic concern in the zoning text for the preservation of neighborhood supermarkets and local shopping patterns.

BJ's as a New Economic Activity

The CEQR manual clearly states that a land use change must be analyzed if, “It introduces enough of a new economic activity to alter existing economic patterns...” (p3B-1). In the socioeconomic impact analysis done for Pathmark in Springfield Gardens the Environmental Project Data Statements Company states, “The following economic assessment analysis has been prepared in accordance with Section 3B of the CEQR Technical Manual” (“Springfield Gardens Pathmark Supermarket Environmental Statement,” p. 8).

The rationale for that analysis also inheres to the CEQR text since the Manual underscores the fact that an example of this kind of altering economic activity would be “the addition of a regional supermarket to a shopping area that could alter regional shopping patterns as well as economic conditions in the surrounding area” (P3B-6). The assessment of the Springfield Gardens Pathmark projected that the store would gross around \$685,000 per week in food sales. It is important to point out that the industry estimates for BJ's and more than double this projection for the Queens Pathmark.

Impact on Neighborhood Character

In understanding the compelling need for a comprehensive economic impact study the issue of neighborhood character assumes primary importance. Starting with the original rationale limiting food market sizes in manufacturing zones, there is a salient concern in the CEQR Technical Manual for business displacement and neighborhood character. The Manual refers to the need to consider the following circumstance in order

to determine the potential for significant displacement: “If a business or institution contributes substantially to a defining element of neighborhood character” (p3B-4).

A cursory due diligence in this regard would have demonstrated that local supermarkets have played a major role in the economic revival of Bronx neighborhoods. These predominately Hispanic-owned markets have also brought a unique cultural quality to this renaissance catering to the specific ethnic product demand of its Hispanic clientele. On top of this, the neighborhood supermarket generates, on average, around 4,000 weekly walk-to-shop customers to the local commercial strip. These customers have been the major impetus behind an entire wave of immigrant entrepreneurial activity in the Bronx.

Knowing this history, and understanding that previous regional supermarkets have had an impact on the viability of neighborhood food markets (for such stores closed on the Lower East Side after a Pathmark opened), the Department of City Planning, once again informed by CEQR, should have been concerned that the BJ’s store, given its size and revenue volume, would have enough of an impact to require an economic impact analysis.

Preliminary Assessment Minimally Required

What should be indisputable is that the Department of City Planning should have conducted a preliminary assessment of BJ’s potential for significant impact. If such preliminary assessment was done we are certainly not aware of it and, moreover, any preliminary type of evaluation that lead to a negative declaration for this application would, given what we have already outlined, been ? to purposefully minimize the developments impacts.

As the Technical Manual points out to the Lead Agency (DCP), “It may not be possible to make the determination set forth in Section 200 [Determining Whether Socioeconomic Assessment is Appropriate] without gathering some data and making at least a preliminary assessment. This task addresses those socioeconomic conditions that could be affected by the proposed action” (p3B-3). The Manual further points out that this kind of due diligence is needed in order to “either rule out the possibility of significant impact or to determine that more detailed analysis will be required to resolve the question” (3B-4).

BJ’s as a “New Economic Activity”

As we have already pointed out, the CEQR Manual is concerned with the evaluation of new types of economic activity (p3B-1). The current proposed BJ’s application is for the first big box retailer in Bronx County. That alone should have triggered an awareness at the Department that, minimally, an assessment of its impact should have been conducted. Further buttressing this assertion is the fact that no big box retailer has gone through ULURP without a thorough economic impact analysis, i.e. there is no precedent for not conducting such a review.

As a new economic activity the BJ’s application should have prompted the Department to request information on the nature of the applicant’s business. In our own analysis, contained in a separate 30 page report submitted to the City Planning Commission, we have determined through industry sources that BJ’s will have twice the sales volume of the largest regional supermarket. In addition, as BJ’s own 10K filing with the Security and Exchange Commission points out, the company’s business model is built on the ability to reduce costs through the elimination of local distribution channels.

This will potentially have a multilayer effect: As business is siphoned off from neighborhood retailers a concomitant sales loss will be experienced throughout the distribution chain. The extent of this loss would have been gleaned from a thorough economic impact analysis.

Accelerating a Trend

The introduction of a new economic activity can have an even greater impact if “It adds to the concentration of a particular sector of the local economy enough to alter or accelerate an ongoing trend to alter existing economic patterns” (p3B-1). In large swaths of the East Bronx the disappearance of neighborhood supermarkets has been pointed out as an alarming trend. The increased number of chain supermarkets in the borough has started this trend. BJ’s, with twice the volume of the largest of these chains, will undoubtedly exacerbate and accelerate the loss of local stores.

The evidence for this trend and its acceleration would have been discovered in even a preliminary analysis of the application’s potential impact. In our own report we clearly demonstrated that the trade area targeted by BJ’s is currently saturated with chain stores and neighborhood supermarkets. This “over-stored” market area means that the introduction of a large competitor, one that is estimated to capture 28% of all the food sales in a two mile radius, is bound to have a great impact and is likely to accelerate the trend of the loss of neighborhood supermarkets.

200,000 Sq. Ft. Threshold

In a published report a spokeswoman for the Planning Commission stated that the BJ’s project “does not meet the thresholds to trigger a socioeconomic study of its impact

on the neighborhoods” (The Crains Insider, 11/24/04). Here is what the Technical Manual says:

Typically, projects that are small to moderate in size would not have significant socioeconomic effects unless they are likely to generate socioeconomic conditions that are very different from existing conditions in the area...commercial developments of 200,000 square feet or less would typically not result in significant socioeconomic impacts” (3B-2).

What this means is that typically projects under 200,000 square feet would not require review “unless they are likely to generate socioeconomic conditions that are very different...” (Ibid). What we have demonstrated so far is that: 1) There is a great likelihood that BJ’s, as a new economic activity, would have the potential to generate different socioeconomic conditions; 2) That regional supermarkets are a recognized trigger for assessment both in the Manual as well as in historical practice of the DCP; and 3) That the Manual recognizes that these general rules of thumb may not be sufficient to make a judgment and therefore, minimally, a preliminary assessment of the potential impact may be necessary before rendering a negative declaration.

It should be clear by now that no such rigorous analysis or thorough consideration was done in the case of this BJ’s application. Out of ignorance or willfulness the DCP decided that this project would not need a full economic impact analysis, an inaction that even a preliminary analysis would have cautioned against. As a result, however, the current application is deficient and fails to offer the necessary information that would allow planners and elected officials to render intelligent judgment.