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High-Rise Approved in Error Before Crash

By [ANTHONY RAMIREZ](#)

The high-rise building under construction on the East Side where a crane collapse last month killed seven people did not conform with zoning regulations and was approved in error, the city's buildings commissioner said on Thursday at a City Council hearing.

Later, in a clarification, the commissioner, Patricia J. Lancaster, told reporters that the Buildings Department should not have approved the building as proposed. But she left open the possibility that it might have been properly approved in a different configuration.

The commissioner would not say whether the high-rise, set for 43 stories at 303 East 51st Street and Second Avenue, should have been built at a different height or interior square footage.

At any rate, it is unclear whether the building's planned configuration had any connection to the collapse of the 22-story crane, which toppled across a heavily populated swath more than a block long on March 15. Twenty-four people were hurt and hundreds displaced from their homes.

The approval error was discovered before the crane collapse when the developer, James P. Kennelly, asked that his plans be reviewed for compliance, Kate Lindquist, a department spokeswoman, said after the hearing.

"The zoning issues have to do with the configuration of the building and the way the tax lots are combined," Ms. Lindquist said. A tax lot is a tract of land used by the city to determine real estate taxes.

The department did not seek to stop the project as soon as the error was discovered because buildings officials were talking to Mr. Kennelly to resolve the matter, Ms. Lindquist said. Neither she nor Ms. Lancaster would give a specific date for the discovery of the error. Calls to Mr. Kennelly were not returned.

The department's investigation of the crane collapse is under way, the commissioner told council members, saying she could not discuss it. Investigators are focusing on a \$50 piece of nylon webbing that may have been weakened at a critical moment.

Under direct and often withering questioning by council members at the hearing of the Housing and Buildings Committee, called to review crane safety and inspection, Ms. Lancaster said the building under construction had been approved "not in accordance with the zoning regulation."

"Wow," said Councilwoman Jessica S. Lappin, whose district includes the site of the crane collapse. "You're telling me this building should never have been approved in the first place?"

"That is correct," Ms. Lancaster replied.

After her testimony, Ms. Lancaster sought to clarify her remarks with reporters.

In response to a question about what specifically was wrong with the Buildings Department's clearance of the project, Ms. Lancaster replied: "It has to do with the zoning regulations, where setbacks and the height and width and the combination of zoning laws, and when you can combine them and when you can't. It's complex."

Does this mean that the building should never have been approved at all? the reporter continued.

"I think the community doesn't want the building at all," the commissioner replied. "In fact, that property owner has property rights like anybody else who owns property and can build a building there. The question is the configuration. It's a small adjustment in the configuration."

Asked to elaborate on the adjustment, Ms. Lancaster said officials were "still in conversation" with the developer about that.

During the hearing, the buildings commissioner said she could not quantify the pace of building construction in New York City. Several council members said it was “out of control” and “astronomical.”

Ms. Lancaster said her department had conducted 442,000 building inspections last year, up nearly 11 percent from 2006. The department issues about 161,000 building permits annually.

She also said there were about 220 cranes in operation in the city. Twenty-nine tower cranes, similar to the one at 51st Street, were inspected at 26 construction sites. Of these, 21 passed inspection, she said.

The eight that did not pass had two violations that involved paperwork and six that involved safety violations of a technical nature, including inadequately placed bolts.

“The deficiencies were quickly corrected,” Ms. Lancaster said.

Ms. Lappin and other council members said the department was unresponsive to the Council and citizens and organizationally dysfunctional.

“We’re not Chicken Little,” said Councilwoman Rosie Mendez. “We’re saying the sky is falling because the sky is falling.”

Councilman Tony Avella said, “I don’t trust your agency to give me the correct time of day.”

In her defense, Ms. Lancaster, who was appointed by Mayor [Michael R. Bloomberg](#) in April 2002, said she had inherited from Mayor [Rudolph W. Giuliani](#) “a department in disarray.” She said that when she took over, department computers did not work properly and there were 250 vacancies out of 800 staff positions.

In a prepared statement, Ms. Lappin said: “Approving an illegal 43-story tower on a side street led to the approval of a tower crane at this site. It appears that neither approval should have been granted. It is outrageous that it took a major tragedy and a City Council hearing for this information to come to light.”

During the hearing, Ms. Lancaster expressed regret that the mistaken approval of the building had been disclosed at a public hearing.

But, Ms. Lancaster said, referring to Ms. Lappin: “I’m a straightforward person, and she was asking a question that needed an answer. And I can stand up and take the rap.”

William Neuman contributed reporting.