



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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JOHN WEIS
Chair

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District Manager

June 2, 2010

Amanda M. Burden, AICP
Chair
City Planning Commission
22 Reade Street
New York, NY 10007

**Re: 341-363 West 50th Street a/k/a Polyclinic Apartments
ULURP Application # M780342AZSM**

Dear Chair Burden:

Manhattan Community Board 4 (CB4), having held a duly noticed public hearing on ULURP application # M780342AZSM adopted the following resolution by roll call vote (41 in favor, 1 opposed, 0 abstentions and 1 present but not eligible to vote) at its meeting on June 2, 2010. CB4 recommends disapproval of the application, unless the stipulations enumerated below are agreed to by the Applicant.

The Applicant, 341-363 West 50th St. Redevelopment Co. L.P., seeks to modify City Planning Commission Special Permit No. C780342ZSM, granted on January 31, 1979 for the 12 story building located at 341-349 West 50th Street, New York, New York ("Premises"), within the Preservation Area of the Special Clinton District.

Background

Prior to its current use as project-based Section 8 residential units, the Premises were originally constructed and used as a hospital facility, known as the "Polyclinic Hospital." On January 31, 1979, the City Planning Commission (CPC) approved both Special Permit C780342ZSM and the accompanying Text Change (N780341ZRM) of Zoning Resolution §96-254 to facilitate conversion of the Premises from a hospital to 151 units of subsidized housing, affordable for low and moderate income families. The text change permitted the modification of both lot area per room requirements and bulk provisions. To mitigate the smaller room size and loss of light air in the resultant design, CPC, as a condition of the Special Permit, required the developer to provide 7,200 square feet (s.f.) of social/recreational space. The developer agreed to comply by providing the following:

- a community room of 2,536 s.f.;
- an arts and crafts room of 1,139 s.f.; and,

- 5,875 s.f. of at-grade, outdoor recreational space.

It is particularly important to note that the CPC, in its January 31, 1979 resolution, considered the conversion of the premises to 151 units of affordable housing as a determining factor of its approval, stating, “The urgent need for moderate and low income housing in the Clinton community was a prime consideration in the granting of the requested waivers.”

Current Application

In its current application, the Applicant seeks to modify the existing Special Permit to relocate the indoor tenant recreational/social room and the arts and crafts room from the cellar to the sub-cellar level and convert its current space for Community Facility use. Additionally, the arts and crafts room, which ceased to exist years ago and was only reinstated at the time of this application, would be reinvented as a fitness/exercise room in the sub-cellar location.

In its presentation, the Applicant conceded that the most likely end-user of the Community Facility space would be medical/doctors’ offices or day care. Either of these uses would provide a new income stream for the Applicant. In general, the Board agrees the proposed Community Facility use and the Community Room use can be integrated into this building. However, the relocation of the Community Rooms from cellar to sub-cellar must be subject to 2010 design standards, methods of operation and security provisions. Further, given the original purpose of the 1979 Special Permit and accompanying Text Change, the overall building use must be taken into account. The reconciliation of these diverse matters is the subject of the Board’s position.

The Applicant made a presentation to the Clinton/Hell’s Kitchen Land Use Committee (C/HKLU) at its meeting on May 12, 2010. However, as the Applicant failed to properly post notice of the meeting on the Premises, the meeting was attended by only a few tenants who had been individually notified. The Applicant agreed to return before a special meeting of the Committee in two weeks’ time to provide more detailed plans, operational details and fit-out details requested by the Committee relating to security, access to the outdoor public space, use of proposed community room, fitness room and laundry room.

However, the applicant and the Board were unable to find a workable date and time. The application was therefore discussed at the Executive Committee meeting held on May 24, 2010. Finally, a duly noticed public hearing was held immediately before the regular meeting of the Board on June 2, 2010. A dozen tenants attended the public hearing and raised numerous concerns.

Community Concerns

The community voiced concerns on both the Applicant’s failure to comply with the current terms of the Special Permit and the practical use of the facilities under the proposed modification. Specifically, concerns were raised that the outdoor space currently required under the Special Permit is frequently not available to the tenants and

instead used as a parking lot for building employees during the day. At the May 12th presentation, the applicant assured the Board no employees would be parking in the open space. An unscheduled visit to the site by a committee member later that week confirmed that the use of the outdoor space as a parking lot continued. In addition, the existing community room is locked, is rarely available for use by the tenants and has been used as a storage room by building employees. The arts and crafts room, by the Applicant's own admission, ceased to exist years ago and was only reinstated at the time of application.

The applicant now seeks to modify its obligations under the Special Permit by relocating the community room spaces from the cellar to the sub-cellar level, in order to make the more preferable cellar space (which due to sidewalk grade change is less than 5 feet below grade) available for rent as a community facility. At the time of the presentation, specific details about the proposed relocated community room, build-out, ceiling heights and hours of operation had not been developed and were not presented by the Applicant to the Board. Furthermore, the Applicant had not yet developed a security plan to limit access within the building by non-residents visiting the proposed Community Facility space. Lacking sufficient information, the committee requested that the Applicant return with specific detail. As stated above the Applicant was unable to attend the subsequent meeting that the Board could arrange and to date has not provided the requested detailed information.

NOW, therefore, be it resolved that Manhattan Community Board No. 4 recommends denial of application no. M780342AZSM to modify City Planning Commission Special Permit # C780342ZSM, granted on January 31, 1979 for the building located at 341-349 West 50th Street, New York, New York, unless the following conditions are met:

Affordable Housing/Extension of Project-based Section 8 contract

The current Section 8 contract for the premises expires on September 30, 2012; it is unclear if the owner intends to renew this contract at its expiration. As the City Planning Commission approvals of the Special Permit and zoning text amendment dated January 31, 1979 were predicated on the conversion of the building to 151 units of subsidized housing for low and moderate income families, any modification of that Special Permit must include extension of affordability restrictions.

While owners of similar project-based Section 8 buildings in our community have agreed to 20 or even 40 year Section 8 contract extensions, the Applicant has shown considerable reluctance to extend its contract for any length of time. The current 5 year extension was only agreed to at the time of the prior contract expiration and only then after protracted discussions among area elected officials, Housing Conservation Coordinators, the Tenant Association and the Applicant. At the June 2nd public hearing, the tenants repeatedly raised long term affordability as a primary concern and the wish to avoid the anxiety produced at the expiration of each short term extension.

- Any modification of the Special Permit must be conditioned on the extension of the current Section 8 contract for the entire project for a period of not less than 20 years. The 20 year contract extension must be filed within ninety days of CPC's approval of the current application.
- Should the Applicant or its successor(s) elect to leave the Section 8 Program or substantially change the conditions of its Section 8 Contract, it must submit a letter of its intent not to renew its Section 8 Contract on substantially the same terms and conditions, ninety (90) days prior to the effective date of expiration of the current contract to CPC with a copy to CB4.
- Should the Polyclinic Apartments cease to remain in the Section 8 Program or comparable Rent Subsidy Program or otherwise not be affordable to low and moderate income households, the Applicant or its successors shall be required to submit a new application for a revised Special Permit for continued residential use as the grant of the original Special Permit was made to facilitate the conversion of an institutional building for affordable housing use.

Community Room

As a condition of this application, the Applicant must provide detailed plans, schedule of renovations and method of operation to ensure that the community room will be fully and timely available to the tenants and functional in its new sub-cellar location, that includes the following schedule of finishes:

- sheetrock walls and ceilings
- overhead recessed lighting
- separately controlled HVAC system for climate control, controllable by user;
- quality wood or resilient flooring (not VCT);
- a schedule of equipment and outfitting, including but not limited to:
 - fully functioning kitchen with sink, cabinets, refrigerator, stove, microwave and dishwasher
 - 50 commercial grade, padded folding chairs and 6 folding tables
 - a stereo system for music
 - a coat closet with 50 coat hangers
- boxing of all exposed piping;
- minimum ceiling heights that exceed code requirements where possible. No portion of the room, including areas containing boxed piping, should have ceiling heights less than the code-required 8 feet;
- a reasonable and clear policy for using room posted in a prominent location;
- a reasonable timetable by which all renovations will be complete;
- use limited exclusively for tenant activities, at no cost; and,
- total s.f. not less than 2,733.
- Applicant must submit to CPC, with a copy to CB4, plans and detailed letter prior to the CPC hearing reflecting the finishes and information requested above.

Outdoor Space

CD4 is desperate for well planned and tended open space; in fact our community district ranks 56 out of all 59 community districts in open space. The use by the Applicant of this 5,857 s.f. of play space as a parking lot is even more egregious, given that the open space requirement specifically serves as mitigation for the smaller room sizes and loss of light and air permitted in the converted project. As stated in 1979 by CPC in no uncertain terms: “the provision of social or recreational space, as mandated by the related amendment of the Zoning Resolution, is intended to compensate for the reduction in lot area per room and reduction in the yards, courts, and distances between windows and walls.”

In addition, CB4 requests that the outdoor space and play area be made accessible to broader public via key park system, similar to that used throughout our community, e.g. Bob’s Park on 454 West 35th Street.

Therefore, as a condition of this application, CB4 requests that:

- The 5,857 s.f. open space adjacent to the Polyclinic Apartments be made available from dawn to dusk both to the residents of the building and the residents of CD4 via a key park system. The Board requests the Applicant make such commitment in writing prior to the CPC hearing.

Security

As the building is currently configured, non-residents using the Community Facility space will have unfettered access to the residential areas of the premises. The proposed Community Facility space will be accessed using the same elevator as the residential units above; the fire stairs are also currently unlocked and connect the residential units to the proposed Community Facility space. The applicant must implement a security plan that limits access by the users of the proposed Community Facility space that includes, but is not limited to:

- electronic keyed elevator access to residential lobby and floors;
- ADA compliant access to all areas of the building;
- an additional door in fire stair B to prevent access to Residential Lobby;
- locked doors on Fire Stairs A & C (fire stair side) to prevent access to the residential portions of building; and,
- The Applicant make such commitments regarding security in writing prior to the CPC hearing.

Exercise Room

As a condition of this application, the Applicant must provide detailed plans, schedule of renovations and method of operation to ensure that the exercise room will be fully and timely available to the tenants and functional in its new sub-cellar location, including:

- be not less than 1,195 s.f.;
- provide schedule of renovations and finishes;

- provide schedule of equipment and outfitting, including but not limited to, treadmills, exercise bicycles, weight training machines and universal equipment;
- develop and clearly post a schedule of operations;
- provide a maintenance plan for both the physical space and upkeep/replacement of the equipment;
- enclose all piping;
- exceed minimum ceiling heights where possible so not to interfere with the function of the room. No portion of the room, including areas containing boxed piping, should have ceiling heights less than the minimally required 8 feet and the design of the space, including ceiling heights must be functional for the active use of the room;
- be restricted to tenant use only and require no additional fee;
- specify a timetable by which all renovations will be complete; and,
- Applicant must submit to CPC, with a copy to CB4, plans and detailed letter prior to the CPC hearing reflecting the finishes and information requested above.

Laundry Room

The proposed amendment necessitates the relocation of the tenant laundry room to the sub-cellar level. As a condition of this modification, the Applicant agrees to:

- Provide a schedule of renovations and timetable;
- Not eliminate current laundry room until the replacement room is fully functioning; and,
- Replace the eight (8) washing machines (including 3 triple load washers) and five (5) clothes' dryers with new energy efficient equipment.

Public Information & Disclosure

Posting Special Permit Requirements

As a condition of this approval, CPC must require the Applicant to post in a prominent location in the lobby of the building, the conditions of this Special Permit, effective date, application no., and a comprehensive list of all tenant amenities, with square footage, required by the Special Permit.

Annual Reporting

In the past, the Applicant has repeatedly failed to provide the amenities subject to the current Special Permit, including, utilizing the outdoor space as an employee parking lot, eliminating the arts and crafts' room and using the community room as building storage with very limited tenant access. The Applicant's failure to provide adequate details, floor plans and timetables and to respond to the Committee's request for additional information raises serious doubts about its intent to implement the tenant amenities in the current proposal.

Given the Applicant's past non-compliance, CB4 requests that CPC establish an annual reporting requirement to monitor and enforce the terms of the Special Permit. Such

annual reports should be submitted to CPC with a copy to the Board and the local Councilmember.

In closing, the original approval of the Special Permit was predicated on the conversion of the premises to subsidized housing. The conditions of the Special Permit and the accompanying Text Change required Community Room Space and Outdoor Space as mitigating factors for the waivers regarding bulk, light and lot area per room requirements. The proposed relocation of those mitigating factors must be done to the standards for affordable housing in 2010 instead of 1979 standards. The indoor and outdoor spaces must be fully available for use. Security issues must be addressed. Lastly, the intent of the Special Permit, to facilitate conversion to affordable housing, must be met by extending the Section 8 Subsidy Contract.

Thank you for your consideration.

Sincerely,



John Weis, Chair
Manhattan Community Board 4



Elisa Gerontianos, Co-Chair
Clinton/Hell's Kitchen Land Use Committee



Sarah Desmond, Co-Chair
Clinton/Hell's Kitchen Land Use Committee

cc: NYC Council Speaker Christine Quinn
NYC Council Speaker Quinn's Office – Kate Seeley-Kirk, Melanie Larocca
NYC Council Land Use Division – Danielle DeCerbo
NYS Senator Thomas K. Duane
NYS Assemblyman Richard Gottfried
MBPO – Anthony Borelli, Deborah Morris