



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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District Manager

July 24, 2008

Amanda M. Burden, AICP, Director
Department of City Planning
22 Reade Street
New York, NY 10007

Re: West 44th Street and Eighth Avenue Hotel – Application for Zoning Authorization Pursuant to Section 81-744(b) to Transfer Development Rights - N080414ZAM

Dear Ms. Burden:

Manhattan Community Board 4 is pleased to provide its comments on this application by 44 West 44th Street Hotel LLC, an affiliate of Tishman Realty LP, for a zoning authorization pursuant to Section 81-744(b) of the Zoning Resolution for the transfer of 48,180 sq. ft. of unused development rights from the Majestic Theater to a receiving site at the southeast corner of 44th Street and Eighth Avenue.

THE PROJECT

The transfer will allow the development of a 34-story hotel with approximately 621 hotel rooms, 8,200 square feet of meeting space, 3,634 square feet of retail space and a 6,000 sq. ft. restaurant with 160 seats. The project also involves the development of a seven story building (the Affordable Housing Building) on the portion of the site that fronts on 43rd Street, at 307 W. 43rd St., with nine residential units that will be permanently affordable to households earning 80% or less of the Area Median Income¹ and, if the

¹ The proposed affordable housing is not part of this application. It is being developed by the applicant and Clinton Housing Development Company pursuant to an exemption by HPD under Section 96-110(b)(2)(ii) from the Clinton Cure for Harassment. A portion of the hotel development site was occupied by the Globe Hotel, which was subject to the Clinton Cure for Harassment. The cure requirement for the site, agreed in 2002 between HPD and a previous owner of the site, was for 2,344 square feet of permanently affordable housing. That requirement has been increased to 10,500 square feet pursuant to the exemption.

Joe Restuccia, Executive Director of CHDC, is also a member of this Board and of its Clinton/Hell's Kitchen Land Use Committee. His interest has been disclosed, and he is not entitled to vote on any matter concerning this application that may come before the board or the committee, including approval of this letter.

authorization is approved, 3,734 square feet of rehearsal space (two studios) for not-for-profit theater companies.

The subway stair now located on the West 44th Street sidewalk will be relocated to a stair within the project site and an ADA-compliant handicap accessible elevator will be provided to access the 42nd Street subway station.

The hotel's main entrance will be located on West 44th Street, west of the subway entrance. The hotel's loading dock will also be on West 44th Street, west of the main entrance.

The site was previously occupied by a 436-space public parking garage. The proposed hotel will not include any parking.

The applicant has indicated in its presentations that the project will be LEEDs certified; we encourage the applicant to pursue certification at the highest possible level. Without the authorization, a 27-story hotel could be developed as-of-right, with approximately 525 hotels rooms, and the same meeting space, retail space, restaurant, entrance and loading facilities as the proposed project.

THE FINDINGS

The requested authorization requires the City Planning Commission to make the findings required for a zoning certification pursuant to Section 81-744(a) of the Zoning Resolution. We have no comments on the applicant's statement concerning those findings. In addition, the Commission must make two additional findings pursuant to Section 81-744(b), with respect to which we have the following comments:

(i) that the new development "relates harmoniously to all structures and open space in its vicinity in terms of scale, location and access to light and air in the area"; and

Design and Scale. The project's architects have taken care to design a hotel building that reflects the differing natures of its surroundings. The Eighth Avenue side of the hotel base, facing Midtown, will have a commercial appearance, with a higher streetwall (75.5 feet) and an etched white glass facade. The 44th Street side of the hotel base will look more residential, with a lower streetwall (66 feet) high, consistent with streetwalls throughout the Special Clinton District's Preservation Area, and a façade of warm yellow-toned granite and regular punched windows. We agree that the scale of the hotel's tower is appropriate at this location; it will be similar to or smaller than many buildings located along Eighth Avenue to the north and south, and Midtown to the east. The design and scale of the Affordable Housing Building is similarly appropriate for its surroundings.

Hotel Entrance. West 44th Street is a very problematic location for the hotel's main entrance and the loading dock. The entrance really should be on Eighth Avenue, where

traffic moves more freely. The applicant has indicated to us in its presentations that it too would prefer having the entrance on Eighth Avenue if allowed by zoning.

West 44th Street is solidly residential in the blocks west of the project site. Residents struggle every morning with inbound traffic on West 44th Street coming across from the West Side Highway and struggle every afternoon and evening with theater/midtown attraction traffic. West 44th Street gridlocks from Broadway all the way back well beyond Tenth Avenue much of the daytime, evenings and now well into the night. As a result the residents wake to the sound of idling traffic and honking horns and come home from work to find the same. This cacophony has continued even after demolition of the 436 space public parking garage that was previously located at this site and will only worsen with the entrance to a hotel on this narrow side street.

Traffic patterns for hotel guests traveling to this site will be primarily from the airports into the city via the Lincoln and Midtown Tunnels. Cars traveling from the south toward this project will inevitably traverse either West 42nd or West 43rd Street all the way over to Tenth Avenue where they will have to head north before they turn onto West 44th Street (eastbound street) to drop passengers with luggage at the front door of West 44th Street near 8th Avenue. Requiring the entrance for this site to be on West 44th (rather than a much less congested 8th Avenue) will cause hundreds of unnecessary trips daily in an area already clogged with traffic. The end result will be compounding gridlock, unnecessary time and travel of arriving hotel guests and burdening an already overloaded cross-town artery.

As commercial redevelopment moves closer to the residential blocks west of the theater district, we must have serious consideration of projects and plans that can solve problems rather than just 'reduce' them. We strongly suggest that consideration of an Eighth Avenue entrance for this project will not only make life more tolerable for the residents, but also help to lessen the traffic gridlock problem that occurs on the cross streets that intersect Ninth Avenue, a main artery to the Lincoln Tunnel.

We recognize that in, the Special Midtown District, Section 81-47 of the Zoning Resolution requires that the major entrance to a building on a corner zoning lot with at least 20,000 square feet of lot area must be on the narrow side street. We have two arguments to challenge application of that provision to this project.

First, the project site is on the western fringe of the Special Midtown District, and it is also in the Special Clinton District; it is within the very small area (150 feet west of Eighth Avenue between 42nd and 45th Streets) where the two special districts overlap. The zoning provision may make sense in the heart of the high-density Midtown area, where both the avenues and the side streets are solidly commercial. But it makes no sense adjoining a residential area, especially on a street that is already choked with traffic. Some means should be found to waive the requirement of Section 81-47 due to the unique circumstances of the site's location.

Second, the lot area of the portion of the zoning lot within the Special Midtown District is 20,000 square feet, but the Affordable Housing Building will occupy 5,000 square feet of that lot area. The lot area within the Special Midtown District that will be occupied by the hotel is only 15,000 square feet, which is less than the 20,000 square foot threshold of Section 81-47. Therefore, we believe an argument can be made that Section 81-47 does not apply to the proposed hotel.

In either case, Section 81-47 should not apply to this project and the hotel's lobby should be reconfigured to locate the hotel's main entrance on Eighth Avenue.

(ii) serves to enhance or reinforce the general purposes of the Theater Subdistrict.

The general purposes of the Theater Subdistrict are "to preserve and protect the character of the Theater Subdistrict as a cultural, theatrical and entertainment showcase" (ZR Section 81-71). Those purposes will be very well served by this project principally because of the rehearsal space for not-for-profit theater companies that will be included in the Affordable Housing Building. This is an unprecedented measure by a developer to satisfy the required finding that should serve as a model for future projects seeking a zoning authorization under ZR Section 81-744(b).

The applicant has permanently reserved 3,734 square feet of space within the Affordable Housing Building for use by not-for-profit theater groups. The space will be located on the cellar and sub-cellar levels, with a dedicated ground level entrance on 43rd Street. The space will be built by the applicant and donated to Clinton Housing Development Company which, through an affiliate, will own and operate the entire Affordable Housing Building.

A portion of the development site was occupied by the Playpen Theater, now demolished, which opened in 1916 as a vaudeville theater called the Ideal. Designed by Eisendrath & Horowitz in the Beaux Arts style, its interior featured a series of identical decorative cameos. To celebrate that history, at the request of this board, two of the cameos have been preserved and will be displayed in the rehearsal space, to be known as the Cameo Studios.

CHDC will operate the rehearsal space at cost as an hourly rental space for area not-for-profit theater companies. The space will be used for theatrical rehearsals, playwriting workshops, dance sessions and other uses as needed by not-for-profit theatrical users. These terms will be embodied in a restrictive declaration that will be recorded against the property, to ensure that the space will be available for not-for-profit theater groups at below-market rents (i.e., at cost) for the life of the hotel building and the Affordable Housing Building. The application includes as Attachment C a draft of the Declaration of Restrictions, but that draft refers to but does not include Schedule B, which is the term sheet identifying the specific conditions relating to the rehearsal space. The applicant has assured us that the term sheet will be developed in consultation with us, and that it will contain the terms described in the application and in the applicant's presentations to this board.

Traffic Management. The applicant has committed to working with this board and the West 44th Street Better Block Association to manage traffic issues associated with the hotel's operation through measures such as establishing a hotel loading zone and a taxi stand, and scheduling of deliveries.

JOBS. The hotel will provide approximately 350 full-time jobs. The applicant has assured the board that these will be union jobs, subject to its contract with Local 6 of the Hotel Employees and Restaurant Employees International Union. In addition, and subject to its obligation to offer jobs to members of Local 6, the applicant has agreed to work with the board to run a job fair with the goal of filling as many of these new jobs as possible with residents of Community District 4.

Now, therefore, it is

RESOLVED, that Manhattan Community Board No. 4 recommends approval of Application N080414ZAM if

- **the hotel's main entrance is located on Eighth Avenue, and**
- **the restrictive declaration accurately reflects the terms relating to the rehearsal space that were presented to this board.**

Sincerely,



Jean-Daniel Noland
Chair



Anna Hayes Levin, Chair
Clinton/Hell's Kitchen Land Use Committee

Cc: DCP Calendar Office
Manhattan Office - Raju Mann, Erika Sellke
Tishman Realty LP - David Rothenberg, Dan Unger
Bryan Cave LLP – Robert S. Davis, Esq.
Clinton Housing Development Company – Joe Restuccia
Manhattan Community Board No. 5
Assembly Member Richard N. Gottfried
State Senator Tom Duane
Council Speaker Christine Quinn
City Council Land Use – Danielle Decerbo
Manhattan Borough President's Office – Anthony Borelli, Dan Golub, Mike Kent