



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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**JEAN-DANIEL NOLAND**  
Chair

**ROBERT J. BENFATTO, JR., ESQ.**  
District Manager

December 23, 2008

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

**Re: Application No: N070285ZAM**  
**345 West 35<sup>th</sup> Street, Block 759, Lot 14**

Dear Director Burden:

Manhattan Community Board 4 ("CB4") is pleased to provide its comments on the application by Eos Management & Realty, LLC to waive the floor area preservation requirements within the P-2 Preservation Area of the Special Garment Center District ("Garment District"), pursuant to Z.R. §121-13, at 345 West 35<sup>th</sup> Street in order to convert the building to a hotel use.

While we find it hard to disagree with the statement of findings in the application, CB4 has serious concerns regarding the lengthy and egregious history of landlord/tenant issues associated with this Applicant and concerns about the zoning mechanisms intended to preserve space for the garment industry.

CB4 recommends denial of the application.

**THE APPLICATION**

The Zoning Resolution includes preservation requirements intended to preserve apparel production and showroom space within the Garment Center. Z.R. §121-13(a) ("Regulation"), which was added to the Zoning Resolution as part of the Hudson Yards rezoning in January 2005, allows those preservation requirements to be waived if certain finding can be made, including (i) that the floor area that the applicant wishes to convert to another use has not been occupied by any manufacturing, wholesale or showroom use for a period of not less than three years, and (ii) that the conversion will not harm the commercial and manufacturing character of the surrounding area. This is the first application seeking this specific waiver within the Garment District.

The Applicant did not appear at the presentation of this application to our Clinton/Hell's Kitchen Land Use Committee, and was represented solely by its land use counsel who was unable to answer several of our questions about the proposed operation of the hotel.

The building at 345 West 35<sup>th</sup> Street was purchased by the Applicant on November 28, 2001 from Cardigan Realty Corp. ("Cardigan"). Prior to selling the Premises, Chemicraft International, an entity related to Cardigan and a clothing manufacturer, occupied the first ten floors of this fifteen story building. Apparently, Chemicraft closed its business when this sale was consummated and these ten floors were vacant when Applicant took possession of the building. The remaining floors had tenants, although it appears that none fell under the category of "manufacturing, wholesale or showroom" uses.

According to the Application, the only two tenants on Floor 11 were engaged in photography; their leases were assigned to Applicant at the time of the transfer. Since the tenants moved out in or around June 2002, the 11<sup>th</sup> floor has remained vacant. Floors 12 through 15 were all occupied by tenants that did not have any formal lease agreement; therefore each was a month-to-month tenancy. The 12<sup>th</sup> Floor tenancy in which the tenant was an electrical contractor, ended in or around June 2002 and the floor has since remained vacant. The 14<sup>th</sup> Floor tenancy in which the tenant was an artist, ended in or around October 2002 and the floor has since remained vacant. The 15<sup>th</sup> Floor tenancy in which the tenant was an artist and art teacher, ended in or around "early" 2006 and the floor has since remained vacant.

The building is on a commercial block at the edge of the Garment District, next to a police precinct house, and near the Manhattan Center, the New Yorker Hotel and Penn Station. It is an appropriate location for a hotel.

## **OUR COMMENTS**

### The Applicant

The Applicant's principal, Mr. John Sharma, has a long and notorious negative history with other properties he owns in CD4 including, most notably, the hotel at 302 West 47<sup>th</sup> Street at the southwest corner of 47<sup>th</sup> Street and Eighth Avenue previously known as the Sherman Hotel and now the EconoLodge. The enclosed article from the New York Times on July 20, 1997 "After Killing, Hotel is Called Bad Neighbor" provides just one glimpse of the problem, which continued for years from the mid-'90s until the early part of this decade. Throughout the period, this community met regularly with NYPD and other agencies to encourage a change of operation by the hotel management and instill a sense of responsibility by the owners. Those efforts failed. Ultimately, the Manhattan District Attorney's Office obtained a court order closing the hotel and forcing its conversion to an EconoLodge, operating under the discipline of a national hotel flag. Though there have been no further complaints about the hotel since its reopening under the EconoLodge name, many in our community doubt Mr. Sharma's ability to manage a larger hotel on 35<sup>th</sup> Street.

Mr. Sharma also owns or manages residential properties in CD4. Tenants have complained of improper lease renewal, overcharge of rent, failure to provide heat and hot water, threats regarding immigration status and overall poor building management. The tenants are working with Housing Conservation Coordinators to address these problems.

Given this Applicant's reputation and history, DCP must also give careful consideration to manner and method of termination of each of the tenancies listed in the Application.

### The Garment Center Preservation Mechanisms

The three-year vacancy requirement can easily be manipulated by unscrupulous owners/landlords. We understand anecdotally from representatives of the Garment Industry Development Corporation and savethegarmentcenter.com that landlords are intentionally keeping space off the market and waiting out the three years in order to convert to other uses. In the meantime, small apparel businesses are unable to find space in the district at affordable rents. The waiver findings are flawed because they do not require a bona fide effort to market the space before seeking the waiver.

Moreover, in contrast to the Applicant's assertion that 7,500 square feet, the size of the floor plates available in this building, "holds little appeal for a modern manufacturer," we understand that the average size of a Garment District apparel factory is about 4,000 square feet.

This application is precedent-setting, will encourage similar applications, and is likely to accelerate the loss of manufacturing space.

We understand that a further rezoning of the Garment Center is imminent, and that one of its elements will be the requirement of a ULURP application for a special permit for hotel conversions. While we have no information about the findings that will be required for a hotel conversion, we wonder if any of them should be made applicable to this conversion.

CB 4 recognizes that the garment manufacturing landscape in Manhattan and elsewhere is undergoing a dramatic change due to both economic stresses and global trends. However, to expedite this process through flawed preservation mechanisms is a disservice to an industry well rooted in the very fabric of this city.

### **OUR REQUESTS**

Any approval of the requested authorization must be subject to the following conditions:

- The hotel must be operated under the flag of a national hotel chain, to ensure safe and secure operation.
- The authorization must be limited to a waiver for conversion to the hotel use described in the application. Any conversion to another use must require a separate waiver application.

- The Applicant's lawyer assured us that no nightclub or restaurant will be operated at this facility, that food service will be limited to hotel guests, and that the ground floor streetwall will be transparent. These commitments must be included in the authorization.

Thank you for your consideration.

Sincerely,



Jean-Daniel Noland  
Chair



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

cc:

Scott Stringer, Manhattan Borough President  
Christine Quinn, NYC Council Speaker  
Richard Gottfried, NYS Assembly  
Thomas Duane, NYS Senate  
Peter Geis, Cozen O'Conner

July 20, 1997

## After Killing, Hotel Is Called Bad Neighbor

By ANTHONY RAMIREZ

For many residents of 47th Street between Eighth and Ninth Avenues, the last straw in their relationship with John Sharma was a killing on July 3. Just after 12:30 P.M., the police found a 25-year-old woman, Jennifer Nicole Gaine, strangled and wrapped in a bedsheet in a room at the Sherman Hotel, a cash-only establishment owned by Mr. Sharma.

Neighborhood residents say the three-story, 55-room hotel, at the southwest corner of 47th Street and Eighth Avenue, is a magnet for prostitutes and drug users. The police say Ms. Gaine was both. Adding to the frustration is what some people describe as Mr. Sharma's unwillingness to help remove the last vestiges of drug dealing and prostitution on a block that residents and the police have worked to clean up substantially in the last decade.

Mr. Sharma has so far refused to join a program that would allow officers to patrol the Sherman Hotel, and the police say that Mr. Sharma and his employees did not help in the investigation of Ms. Gaine's killing.

Mr. Sharma, who bought the Sherman in early 1995, denies that he was uncooperative. He said that he does not encourage prostitution or drug use by renting rooms for brief periods, like an hour or two, that hotel workers keep an "unwanted list" of suspected prostitutes and drug dealers and that if a guest seems to be spending too much time on the street, "We will ask him, why do you keep going up and down?"

On Tuesday the commander of Midtown North, Bruce Smolka, answered questions from members of the West 47th/48th Streets Block Association about Ms. Gaine's death, the first killing in the area in 19 months. Paul R. Margulies, who lives in an apartment building on the block, was one of about a dozen residents who expressed frustration about the Sherman Hotel. "How long does this have to go on?" Mr. Margulies asked. "Do we need three murders, five murders?"

Deputy Inspector Smolka said that since the killing, officers have made more than two dozen arrests on the corner and recently placed two uniformed officers in front of the

hotel "just to make life miserable." But Det. Sgt. Victor Ramos said that during the Gaine investigation, which has not yielded any arrests, the Sherman's staff "gave us misinformation, such as how many rooms were occupied, who was in the hotel and wrong descriptions that helped to retard the investigation."

The block association and Community Board 4 have urged Mr. Sharma to join the Manhattan District Attorney's "trespass affidavit" program, in which property owners allow the police to question people in an apartment building or hotel to determine whether they are tenants or guests. "We have tried again and again and again to get Mr. Sharma to sign on," said the block association president, Jean-Daniel Noland.

Mr. Sharma said that until the recent slaying, the program seemed unnecessary because, "we thought we had everything under control." He said on Wednesday that he planned now to join the program, but by Friday he had not contacted the District Attorney's office.  
ANTHONY RAMIREZ