



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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District Manager

September 7, 2012

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

**Re: Mercedes House Text Amendment No. N 120305 ZRM
770 Eleventh Avenue between W. 53rd and W. 54th Streets**

Dear Chair Burden:

At the July 24, 2012 meeting of Manhattan Community Board 4's (CB4) Clinton/Hell's Kitchen Land Use (C/HKLU) committee, C/HKLU discussed ULURP No. 120305 ZRM, an application to amend Section 96-80(b) of the New York City Zoning Resolution. The Applicant, Clinton Park Holdings, is the developer of the approximate 900 unit building known as Mercedes House, located at 770 Eleventh Avenue between 53rd and 54th Streets, located within the Special Clinton District and the subject of ULURP application nos. N 080008ZMM, C 08001 ZSM and C080011ZSM, which were approved by the NYC Council in May 2009.

At its full Board meeting on September 5, 2012, CB4 voted to deny approval of the text amendment unless the conditions listed below are incorporated.

Background

Mercedes House is located on a very large site, 94,463 square feet, on Eleventh Avenue between W. 53rd and W. 54th Streets, opposite DeWitt Clinton Park. The building itself is an "S" or "Z" shaped tower rising in steps from 7 stories (95 feet) at Eleventh Avenue and W. 54th Street to 32 stories (337 feet), including enclosed mechanicals, at the eastern edge of the site. It is a mixed-use building of approximately 1.3 million square feet which contains approximately 900 residential units (of which 180 are permanently affordable pursuant to the Inclusionary Housing Program); a Mercedes dealership with showroom, vehicle preparation and vehicle repair facilities on the ground floor and three floors below grade; a stable and other facilities originally planned for the NYPD Mounted Unit; a retail food market; a health club; and accessory parking for up to 225 cars.

In 2009, a series of Uniform Land Use Review Procedure (ULURP) actions relating to development of the Mercedes House, including map and text amendments, went through the

public review process. Those ULURP actions were approved by the City Council. Amongst those actions was a text amendment allowing for the NYPD Mounted Unit to be accommodated at this site.

NYPD Mounted Unit

The NYPD Mounted Unit stable has been at a variety of locations in CD4 for many years, providing a reassuring police presence, sidewalk entertainment for residents and visitors alike, and fertilizer for neighborhood gardens. The stable is currently temporarily located on Pier 76 at West 36th Street, in facilities it must vacate pursuant to a Memorandum of Understanding between the City of New York and the Hudson River Park Trust. As such, permanent relocation of the NYPD Mounted Unit stable to the Mercedes House development was facilitated at the suggestion of CB4. CB4 was very pleased that Two Trees was willing to take on the challenge of incorporating such an important public facility in this project.

Given the heights necessary to functionally accommodate the stables and related offices, it was necessary to amend the zoning text to build out the space. As the current application states:

The text amendment adopted in 2009 (N 080009 ZRM) recognized the unique physical requirements of the planned stable, including the need for significant structural transfers to accommodate a column-free riding and training ring, high floor to ceiling heights in areas with horse traffic, mezzanine office space, and provided for an exemption of floor area occupied by accessory parking located above the stable, which would normally have been exempted (up to 23') except for the height required by the stable (28.5'). The text adopted in 2009 required that the stable be occupied by the Police Department for the floor area exemption to be available.”

Unfortunately, for economic and other reasons not disclosed to CB4, the City opted to not relocate the NYPD Mounted Unit stable to Mercedes House, even though the developer had already built out the stables and related facilities to the NYPD's specifications. While the Applicant reports that NYPD may reconsider its decision not to relocate, the current stalemate also places CB4 in a difficult position, as the relocation of the mounted unit resolved a longstanding community problem and was considered a significant community benefit when CB4 originally commented on the proposed development. Now as a result of the NYPD decision, the applicant is unable to obtain a Certificate of Occupancy and the community has lost a significant benefit.

The Application

With the City no longer willing to occupy the stable, the Applicant cannot get the necessary floor area exemption and thus they will not be able to obtain a Certificate of Occupancy. The present Text Amendment seeks to correct this problem by allowing the exemption upon construction of the stable, not upon occupancy by the NYPD Mounted Unit.

Concerned about this unfortunate outcome, CB4 wrote in its original December 2008 resolution relating to this project:

"In the unlikely (and disappointing) event that the NYPD negotiations fall through, we have requested and Two Trees has agreed that the space on the 53rd Street side of the project that is now designated for the NYPD stable should also be used for a community facility use by a user to be selected by Two Trees in consultation with CB4. We recognize that the financial terms for any such alternate user must generally be revenue-neutral to Two Trees."

CB4 continues to stand behind this condition and is concerned that while the proposed language solves the applicant's immediate dilemma, it fails to address the loss of the community benefit that was originally negotiated. At its C/HKLU meeting, committee members sought a solution that both addressed the community's request for replacement community facility space and resolved the Applicant's predicament.

NOW, therefore, be it resolved that Manhattan Community Board No. 4 recommends Text Amendment No. N 120305 ZRM provided that the text is amended to allow the Applicant to obtain a Temporary Certificate of Occupancy upon certification by the Applicant to the Chair of the City Planning Commission (CPC) that the NYPD stable was constructed as planned. The Applicant then agrees to work with CB4 in good faith to identify a mutually acceptable user to utilize the former NYPD Mounted Unit space as a community facility. In the event that a community facility user cannot be identified by May 30, 2013, a Permanent Certificate of Occupancy may be issued, after that date, upon certification by the Applicant to the Chair of CPC, with a reasonable opportunity for CB4 to respond that certifies:

- 1) that a user has been found that meets certain criteria established by the applicant that is willing to lease the premises; and
- 2) that the applicant has worked in good faith with CB4 to find a user that meets certain criteria established by the applicant for the space as a community facility or failing that, that an acceptable user for the space for a use that is not an adult establishment, bank, banquet hall, catering establishment, or eating/drinking establishment, except restaurants with a capacity of 200 persons or less, has been found by the applicant but that no final agreement has been reached.

Sincerely,



Corey Johnson, Chair
Manhattan Community Board 4



Jean-Daniel Noland, Chair
Clinton/Hell's Kitchen Land Use Committee

cc: DCP - Calendar Office, Edith Hsu-Chen
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