

CITY PLANNING COMMISSION

November 14, 2012/Calendar No. 8

C 100179 ZSM

IN THE MATTER OF an application submitted by Park 121 Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-921 of the Zoning Resolution to allow a non-profit institution without sleeping accommodations (Use Group 4A), on a portion of the ground floor and on the third and fourth floors of an existing 4-story building on property located at 1741-1751 Park Avenue (Block 1770, Lots 1, 101, 2, 3, 4 and 72) in an M1-4 District, Borough of Manhattan, Community District 11.

This application for a special permit was filed by Park 121 Realty, LLC and Bailey House, Inc on December 11, 2009, to facilitate the development of a non-profit institution without sleeping accommodations (Use Group 4A) in an M1-4 zoning district.

BACKGROUND

Park 121 Realty, LLC and Bailey House Inc. are seeking a special permit pursuant to Section 74-921 to allow a Use Group 4A community facility use (non-profit institution without sleeping accommodations) in an M1-4 zoning district, in East Harlem, Manhattan, Community District 11. Bailey House, a not-for-profit organization, has provided both supportive housing and community services to men, women, and children living with HIV/AIDS in New York City for more than 25 years, providing access to health care, counseling, support groups, and substance abuse treatment, as well as education, job training, and employment assistance. The organization currently operates two supportive housing sites, the Bailey-Holt House at 180 Christopher Street, in the West Village and Schafer House on East 118th Street, in East Harlem.

Bailey House's administrative offices were formerly housed at two locations, at 275 Seventh Avenue in Chelsea and on East 107th Street in East Harlem. Bailey House has consolidated its facilities at 1741-1751 Park Avenue, known as the Rand Harlan Center for Housing, Wellness and Community which will allow the organization to operate more efficiently. Bailey House has also relocated its scatter site supportive housing and community services to this site. The social services offered include a mental health clinic, transitional care coordination, supportive case management, a food pantry, and health and wellness services, including mental health screening, independent living skills program, and ancillary services such as peer support groups.

In 2005, the applicant purchased the site and filed an application with the Department of Buildings for a new two-story commercial building. Two years later, the applicant began negotiations with Bailey House for space in the new building. An amendment was filed with the Department of Buildings to amend the new building application to facilitate a four-story building based on the intended occupancy of Bailey House.

The maximum floor area ratio (FAR) for a commercial building in an M1-4 zoning district is 2.0. However, a mixed used building containing commercial and community facility uses is allowed a higher FAR of 6.5. However, certain community facilities in Use Group 4A, including non-profit institution without sleeping accommodations, are only allowed by a City Planning special permit. When the building was constructed, the applicant was unaware that Bailey House was a community facility that would require a special permit to occupy the space. In 2009, substantial construction was completed and the applicant learned that Bailey House was not permitted as-of-right. Accordingly, the application was filed with the Department of City Planning to permit a UG 4A non-profit organization without sleeping accommodations at the site. The requested special permit would allow occupancy of the 3rd and 4th floors of the building with UG 4A community facility use. In 2010, Bailey House moved into the 3rd and 4th floors with the understanding that the applicant was applying for the special permit.

ENVIRONMENTAL REVIEW

This application (C 100179 ZSM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on June 18, 2012.

UNIFORM LAND USE REVIEW

This application (C 100179 ZSM) was certified as complete by the Department of City Planning on June 18, 2012, and was duly referred to Manhattan Community Board 11 and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-

02(b).

Community Board Hearing

Community Board 11 did not hold a public hearing on this application. However, on August 9, 2012, on behalf of the community board, a letter was submitted waiving the remainder of their comment period and expressing the continued support of Bailey House.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on August 27, 2012.

City Planning Commission Public Hearing

On September 19, 2012 (Calendar No. 1), the City Planning Commission scheduled October 3, 2012 for a public hearing on this application (C 100179 ZSM). The hearing was duly held on October 3, 2012, (Calendar No. 8). There were three speakers in favor of the application and none in opposition.

The applicant's primary representative described the need and benefits of the facility including the social services that are provided at the new location. He mentioned that the services provided at the new location are entirely separate from on-site services provided at Schafer Hall and Christopher Street, in the village. These services are to be used for community residents and clients that live in the Bronx. A representative of the Manhattan Borough President also spoke in support of the application. A representative of Bailey House also appeared in favor.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of this special permit (C 100179 ZSM) is appropriate.

Approval of the special permit application would allow the continued occupancy of the third and fourth floors of an existing building located at 1741-1751 Park Avenue to be used as a community facility (Use Group 4A) by Bailey House.

The property is zoned M1-4 and is located primarily along Park Avenue where two commercial buildings are adjacent to each other. There are no heavy manufacturing uses nearby to generate high noise levels, however, the building is constructed with adequate sound-attenuation exterior walls and windows due to the elevated Metro North rail line.

It is anticipated that most of the community facility users and employees will arrive by foot or via mass transit. The new facility is located in an area that is well served by public transportation and should draw a minimum of vehicular traffic to and through local streets. The area is served by 11 bus lines and 5 subway lines including the 125th Street and East 116th Street Stations on the 4, 5, and 6 subway lines, and the 125th Street and 116th Street Stations on the 2 and 3 subway lines. The bus lines include the M98 running along Park Avenue, Lexington Avenue, and Third Avenue; the M101 and M103 running along Lexington Avenue and Third Avenue; the M1 running along Madison Avenue and Fifth Avenue; the M100, M101, M60, M35, and the Bx15 running along 125th Street; and the M116 and M102 running along 116th Street. The Metro-North Harlem-125th Street Station is also located nearby, at Park Avenue and 125th Street. It is essential that Bailey House's headquarters are located in East Harlem. Two of Bailey House's facilities, including one of the organization's supportive housing sites, are located in East Harlem. Bailey House also provides off-site services for its clients, the majority of whom reside in East Harlem. Accordingly, the organization requires administrative and program space in East Harlem to adequately serve its clients, most of whom do not have the means, financially or physically, to travel long distances to obtain services.

To accommodate the organization's current needs and facilitate growth, Bailey House requires a facility with large floor plates and at least 20,000 square feet. Bailey House searched for such a space for approximately four years within East Harlem and at other locations, and the site was the only space that met its space requirements and the financial constraints of a non-profit institution. No similar size, as-of-right properties within the surrounding area were viable. The building is consistent with the surrounding context and will not impair the neighborhood's essential character.

The surrounding area consists predominantly of residential uses, commercial retail uses and community facilities. Few manufacturing uses are located within the M1-4 district, which spans only a portion of the five blocks along Park Avenue. The M1-4 district is therefore out of context with the neighborhood's current development.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-921 (Use Group 4A community facilities) of the Zoning Resolution:

- a) an adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district is achieved through the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along lot lines of the zoning lot;
- b) such facility is so located as to draw a minimum of vehicular traffic to and through local streets and that such use will not produce traffic congestion or other adverse effects that interfere with the appropriate use of land in the district or in any adjacent district;
- c) where applicable, adequate reservoir space at the vehicular entrance and sufficient vehicular entrances and exits are provided to prevent congestion;
- d) in selecting the site, due consideration has been given to the proximity and adequacy of bus and rapid transit facilities;
- e) for a Use Group 4A use, within the neighborhood primarily to be served by the community facility, there is no practical possibility of obtaining a site of adequate size located in a district where it is permitted as-of-right because appropriate sites in such districts are occupied by substantial improvements; and
- f) such facility will not impair the essential character of the surrounding area.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by Park 121 Realty, LLC and Bailey House, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-921 of the Zoning Resolution to allow a non-profit institution without sleeping accommodations (Use group 4A) on a portion of the ground floor and on the third and fourth floors of an existing 4-story building on property located at 1741-

1751 Park Avenue (Block 1770, Lots 1, 101, 2, 3, 4 and 72) in an M1-4 District, Borough of Manhattan, Community District 11, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 100179 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by ND Architecture & Design, PC, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A-001	Zoning Computations & Building Code Analysis, Site Plan & Zoning Map, Tax & Sanborn Maps, Controlled Inspections	07-15-09
A-002	Site Plan	07-15-09
A101	Ground Floor	07-15-09
A103	3 rd Floor Plan	07-15-09
A104	4 th Floor Plan	07-15-09

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
5. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any

such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

6. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 100179 ZSM), duly adopted by the City Planning Commission on November 14, 2012 (Calendar No. 8), is filed with the Office of the Speaker, City Council, and the Borough President, together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP Chair
KENNETH J. KNUCKLES, Esq., Vice Chairman
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.
ALFRED C. CERULLO, III, BETTY Y. CHEN, MICHELLE DE LA UZ,
MARIA M. DEL TORO, JOSEPH I. DOUEK, RICHARD W. EADDY,
ANNA HAYES LEVIN, Commissioners

JOSEPH I DOUEK abstaining



Matthew S. Washington
Chairman

George Sarkissian
District Manager

COMMUNITY BOARD ELEVEN

BOROUGH OF MANHATTAN
1664 PARK AVENUE
NEW YORK, NEW YORK 10035

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FAX: (212) 369-3571

www.cb11m.org

August 9, 2012

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

RE: *Bailey House ULURP Application # C 100179 ZSM*

Dear Commissioner Burden,

Bailey House has been a wonderful part of the East Harlem Community and a great partner to Community Board 11. The Community Board has been a stalwart supporter of Bailey House and the great programs they run to serve our community.

Community Board 11 goes on recess for the months of July and August each year and the above reference ULURP application was certified after we closed our last full board meeting in June. As a result, Community Board 11 will not have the opportunity to review this application in committee or at our full board meeting before the 60 day community board comment period has expired. Given that, we will waive the rest of our time on this project, so that it can continue to move forward.

Thank you for your attention on this matter and please do not hesitate to have your staff contact with Angel Mescain-Archer (Assistant District Manager) at the Community Board office with any questions.

Sincerely,

Matthew S. Washington
Chairman
Community Board 11

cc: Hon. Melissa Mark-Viverito, New York Council
Hon. Scott M. Stringer, Manhattan Borough President
Lashawn Henry, Manhattan Community Board 11
Hans Desnoyers, Bailey House

Borough President Recommendation

City Planning Commission
22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application #: C 100179 ZSM

Docket Description:

C 100179 ZSM – IN THE MATTER OF an application submitted by Park 121 Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-921 of the Zoning Resolution to allow a non-profit institution without sleeping accommodations (Use Group 4A), on a portion of the ground floor and on the third and fourth floors of an existing four-story building on property located at 1741-1751 Park Avenue (Block 1770, Lots 1, 101, 2,3,4, and 72), in an M1-4 District, Borough of Manhattan, Community District 11.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, NY 10007.

See Attached.

COMMUNITY BOARD NO: 11

BOROUGH: Manhattan

RECOMMENDATION

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE
- DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See Attached


BOROUGH PRESIDENT

8/27/12
DATE



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

August 27, 2012

Recommendation on
ULURP Application No. C 100179 ZSM
Bailey House Headquarters
By Park 121 Realty, LLC

PROPOSED ACTION

Park 121 Realty, LLC¹ ("the applicant") seeks a **special permit pursuant to Section 74-921(a)** of the Zoning Resolution ("ZR") to modify the use regulations of ZR § 42-10 to legalize the occupancy of the third and fourth floors of an existing building located within an M1-4 zoning district located at 1751 Park Avenue in Manhattan Community District 11.

In order for the City Planning Commission ("CPC") to grant a special permit pursuant to ZR §74-921(a) for Use Group 3A or 4A uses², an application must first meet the following findings that:

- a) sound-attenuation exterior wall and window construction is used or adequate open area along lot lines is provided to allow adequate separation from noise, traffic and other adverse effects of the surrounding non-residential districts;
- b) the facility is located to draw minimum vehicular traffic through local streets and the use will not produce traffic congestion or other adverse effects that interfere with appropriate land uses in the district or in any adjacent district;
- c) where applicable, adequate reservoir space at the vehicular entrance and sufficient vehicular entrances/exist are provided to prevent congestion;
- d) due consideration has been given to the proximity and adequacy of bus and rapid transit facilities in site selection;
- e) for a Use Group 4A use, within the neighborhood primarily to be served by the community facility, there is no practical possibility of obtaining a site of adequate size located in a district where it is permitted as-of-right because appropriate sites in such districts are occupied by substantial improvements; and

¹ Simon R. Seaton is the principal of Park 121 Realty, LLC

² The community facility must be located not more than 400 feet from the boundary of a zoning district where such facility is permitted as-of-right.



- f) the facility will not impair the essential character of the surrounding area.

PROJECT DESCRIPTION

The applicant seeks the proposed action to legalize a Use Group 4A community facility use (non-profit institution without sleeping accommodations) on the third and fourth floors of an existing building located within an M1-4 district (Block 1770, Lots 1-4, 72 and 101) located at the northeast corner of Park Avenue and 121st Street. The proposed action will allow Bailey House to legally occupy and expand services at the site, known as the Rand Harlan Center for Housing, Wellness and Community (“Rand Harlan Center”).

The project site is located within an M1-4 zoning district that runs along Park Avenue from East 120th Street to East 123rd Street, partially extending between East 119th and East 120th streets, and East 123rd and East 124th streets. The M1-4 district permits manufacturing, commercial, some community facilities uses, and typically includes light industrials uses (Use Groups 4-14, 16-17). Use Group 4A uses which include health and mental health care facilities licensed by the State of New York and facilities in which patients are diagnosed or treated by health care professionals are not permitted as-of-right.

The 1751 Park Avenue was originally approved as a two-story building by the Department of Buildings (“DOB”) in 2005. In 2007 a post-approval amendment was filed with DOB to amend the building application to a four-story building (based on the intended occupancy of Bailey House’s Rand Harlan Center). In 2009, after substantial construction on the building had been completed, the applicant learned that the Rand Harlan Center was not permitted as-of-right and applied for a special permit with the Department of City Planning. In the interim, the applicant was issued a Temporary Certificate of Occupancy (“TCO”) which allowed Use Group 6 and 17 (bakery) on portions of the first floor and cellar and Use Group 6 offices on second through fourth floors. The TCO was renewed several times while the special permit application was under review.

In 2010 Bailey House moved administrative office uses with accessory social services into the third and fourth floors, with the understanding that the special permit application process was underway. In addition to Bailey House, the cellar and a portion of the first floor are occupied by a commercial bakery. The remaining portion of the first floor and the second floor are vacant. These vacant floors will be occupied by a conforming Use Group 6 or commercial use.

Bailey House is a non-profit organization that provides housing and supportive services to homeless populations living with HIV or AIDS in New York. Services include: access to health care, counseling, support groups, as well as job training and employment assistance. In addition to these services, Bailey House operates two supportive housing sites – Bailey-Holt House in the West Village, and Schafer Hall on East 118th Street in East Harlem – where residents receive a variety of social services on site.

As part of the move to the Rand Harlan Center, Bailey House consolidated its administrative offices previously located in Chelsea and East Harlem, as well as its scatter site supportive services. The services currently provided at the facility include health and wellness services,

transitional care coordination, medical care coordination and a food pantry. If the application is approved, Bailey House anticipates providing additional mental and behavioral health services at the Rand Harlan Center, in conjunction with the New York State Office of Mental Health (“OMH”). These services will not replace the services being provided at other locations aside from the services already consolidated. The facility will have 60 employees on site.

The surrounding zoning districts include R7-2 and R8 zoning districts with C1-2, and C2-4 commercial overlays. R7-2 and R8 zoning districts are medium to higher density residential districts that permit residential and community facility uses (Use Groups 1-4). The commercial overlays permit ground floor local commercial uses.

Surrounding uses in the M1-4 district include an automotive repair shop, a moving company, a bakery, a wholesale food market, a medical office, a multiple dwelling unit, and vacant lots. The surrounding zoning districts are predominantly comprised of residential mid- and high-rise buildings with ground floor commercial uses along East 116th and East 125th streets and the major avenues (Third, Fifth, Madison, Park, and Lexington avenues). There are three New York City Housing Authority (“NYCHA”) housing developments in the surrounding area as well. Commercial uses consist of local retail including convenience stores, grocery stores and restaurants. The site is located across the street from the former North General Hospital building, which is now occupied by the Family Health Center at North General. The area is well served by public transportation, including express and local trains at 116th and 125th streets, several bus lines, and a Metro North Railroad Station at 125th Street.

COMMUNITY BOARD RECOMMENDATION

Community Board 11 did not to submit a recommendation on the application, but on August 9, 2012 submitted a letter waiving the remainder of their comment period and expressing the continued support of Bailey House.

BOROUGH PRESIDENT’S COMMENTS

The special permit pursuant to ZR §74-921(a) allows the City Planning Commission to authorize Use Group 4A community facility uses to be located within manufacturing districts provided that the community facility is located within 400 feet of a zoning district boundary that would permit the use as-of-right. The special permit is intended to preserve the character of the manufacturing district.

Facilities like the Rand Harlan Center serve vulnerable New Yorkers and are essential for the sound operation of our health care network. While Bailey House currently occupies the space with a TCO, it does so contrary to zoning and the special permit is necessary to legalize these services. After becoming aware of the illegal use, the applicant applied for the special permit to remedy the violation. If granted, the special permit will additionally allow Bailey House to expand the services through a partnership with OMH. OMH requires that the facility operates in full compliance with the zoning before funding the additional services.

Generally, the application meets the findings set forth in the use modification pursuant to ZR §74-921(a). The building is approximately 25 feet from an R8 zoning district, which permits Use Group 4A as-of-right and the project was constructed with appropriate noise remediation. In addition, the site will not provide accessory parking, and most clients will access the site via public transportation and therefore should not have a significant impact on traffic.

Further, as most of Bailey House's clients reside in East Harlem, it is important that the Rand Harlan Center be located in the neighborhood. Between 2007 and 2008, Bailey House looked for a location and found two other potential sites in East Harlem. One vacant site required new construction thereby delaying when services would be provided, and had a significantly higher rent. Another site was limited in program flexibility required and did not permit building additions. Therefore, it is not practical to expect the applicant to find another site where the facility could be located as-of-right.

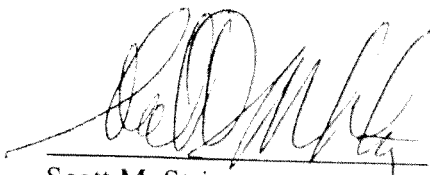
Finally, as required by the special permit, the Rand Harlan Center will not impair the character of the surrounding area. A majority of the surrounding area consists of residential, commercial retail and community facilities. Additionally, the M1-4 district itself is a smaller zoning district and has a variety of uses including a medical office, which will be compatible with the proposed health care facility.

As the applicant meets the findings of the special permit, the application warrants approval.

BOROUGH PRESIDENT RECOMMENDATION

The applicant meets the required findings to legalize the existing community facility use that is in closer proximity to its client base.

The Manhattan Borough President therefore recommends approval of ULURP Application No. C 100179 ZSM.



Scott M. Stringer
Manhattan Borough President