

COMMUNITY BOARD #7 PUBLIC HEARING & REGULAR MEETING
MONDAY, NOVEMBER 25, 2013
UNION PLAZA CARE CENTER
33-23 UNION STREET
FLUSHING, N.Y. 11354

PRESENT

Chuck Apelian	Donald Kirchhofer	Kris Ram
John Byas	Philip Konigsberg	Kevin Shields
Chin-Hsiang Chiang	Esther Lee	Marc Schiffman
Kim Cody	Frank Macchio	Warren Schreiber
Nicholas Corrado	Rev. R. McEachern	Lynda Spielman
Joseph Femenia	Barbara McHugh	Peter Sutich
Rose Forkan	Selma Moses	Joseph Sweeney
Fred Fu	Kim Ohanian	John Tsavalos
Kevin Kang	Millicent O'Meally	Peter Tu
Eugene Kelty	Terence Park	Paul Vallone
Francis Keppel	Vana Partridge	Arnold Wagner

ABSENT

Arthur Barragan	Arlene Fleishman	Nicholas Miglino
Dilip Chauhan	Pablo Hernandez	Jean Ren
Tyler Cassell	Jeff Huang	Andrew Rocco
James Cervino	Peter Kwiath	Joshua Sussman
Timothy Chuang	Myungsuk Lee	Carlos Talisaysay
		Linna Yu

COMMUNITY BOARD #7 STAFF

Marilyn Bitterman, District Manager
Marilyn McAndrews and Mary Zuliani, Community Assistants

GUESTS

Don Capalbi for Congresswoman Meng Colin No for Assemblyman Braunstein

Michael Stinson for Congressman Israel	Munir Avery for Assemblyman Simanowitz
Ivan Acosta for Senator Tony Avella	Matthew Silverstein, NYS Democratic Committee
Courtney Cariello for Assemblywoman Rozic	Susan Tanenbaum & Jeong-ah Choi, QBP's Office

Chairperson Eugene Kelty called the meeting to order at 7:10 p.m. with the Pledge of Allegiance followed by a moment of silence for our armed forces here and abroad and to those who gave their lives for us.

A role call attendance was taken with 33 members present, 8 members absent and 8 members excused. Also, the motion to approve the October 28, 2013 minutes was made and seconded by Warren Schreiber and unanimously approved with no abstentions.

Chairperson Kelty made several public service announcements which will be kept on file at the board office. He gave an update on Board Member **Nick Miglino** who fell off a horse during vacation, and then fell again recently, is now at Berenson's on Parson's Blvd. recuperating in room 509, if anyone wants to call or visit him. Also, **Carlos Talisaysay** is slowly recuperating from his major bypass operation. We wish them both well! **Assemblyman Ed Braunstein** stopped by to say a few words regarding the most important quality of life issue over the FAA's new narrow flight path over Northeast Queens. According to Federal Laws, an environmental assessment study must be done to show no impact on the community will occur with the changes. The FAA came to their own conclusion and self-certified the new flight path without an environmental study, thus ignoring Federal Law. Together with Senator Avella, a Noise bill demanding a study was passed in Albany and now sits on the Governor's desk for his signature. Even if he doesn't sign the Noise bill, in his veto message he demanded the Port Authority do an environmental impact statement on LaGuardia and Kennedy airports. In ending, he mentioned his office, for the 4th year, is doing a veterans drive and holiday toy drive. He thanked the Community Board members for volunteering their time and support on community issues and keeping him abreast of the problems that arise in his District. Chairperson Kelty then thanked him for his support, along with Senator Avella, on passing the Brownfield law.

Chairperson Kelty then gave the floor to **Dan Paleo** of the U. S. Department of Agriculture who spoke on the program to eradicate the Asian Longhorn Beetle in New York. Currently they are working to close out the quarantine in Queens. A final inspection of the infected areas, shown in blue on the map, will be performed with tree removal and destruction where necessary. Areas outside the blue will only require a walk through. The contractor will be Davy Tree Company, who will have proper identification, and with them personnel from the USDA. Trees on private properties will require permission and an appointment from the homeowner. If permission is not granted, a court order will follow since removal is mandatory. Chairperson Kelty asked for a generic copy identification and maps, if possible.

Q. Will parked cars pose problems?

A. No! Work will be done with ropes and special techniques the USDA uses for removal.

Q. What about 3rd Avenue and 149th Street?

A. There was never infestation at that location; however, a walk through will be done. Climbing will be performed only in the blue areas shown on the map.

Q. When will it start (time and dates)?

A. It's already started in this area on Mondays through Friday between the hours 7:30 am to 4:00 pm. and will be completed within the next few weeks.

Q. Will whatever is cut down be carted away?

A. Everything cut down will be chipped on the spot, and anything infested will be incinerated, but as in Manhattan, we do not expect to find any infestation.

Q. Will there be tree replacements?

A. Years ago there was a tree replacement program, but we can't guarantee it will happen again, but as a horticulturist, I'd be happy to offer a Japanese maple to anyone since I grow them on my property

Chairperson Kelty said we can ask Parks Dept. to place their names on the list for replacement trees, if possible.

Q. Are you a Federal Agent?

A. Yes, and we work with Parks Department.

Chairperson Kelty then sadly announced the passing of Marge Ferigno who was in her 90's, a good friend of Board 7, a wonderful, dynamite person and a great tree person. Will let everyone know the funeral plans as soon as we know. Chairperson Kelty introduced **Assemblyman Ron Kim** who wished everyone a Happy Thanksgiving. He announced the launching of "Clean Flushing" (web site cleanflushing.org) and, as an intermediary between volunteers, businesses and homeowners, every Saturday he and volunteers clean the streets and sidewalks of Flushing with two power water machines donated by Home Depot. Chair Kelty then invited the newly elected **Councilman Paul Vallone** to the podium who thanked everyone for their support and good wishes. The years of experience he received while being on the community board has emphasized the need to get involved before events become untenable. In this respect his office will be open and direct with the community at all times. His swearing in will be on Sunday, January 5, 2014 at P.S. 184 at noon. He will let us know where his office will be. He wished all a Happy Thanksgiving and Happy Hanukkah!

Our next speaker, **Danny Zauzner**, USTA BJK-National Tennis Center, provided us with an update. Last year 6000-6500 persons were hired for full and part time jobs for the Open, with 41% hired from Queens. We would like to reach more than 50% this year. Day time Summer Camps run on weekdays and weekends were incredibly successful. Free scholarships were given based on school essay winners. All facilities are used at the Summer Camps; i.e. bike tours, the Zoo, Ice skating rink, Hall of Science, the pool, the museum, a Met Game, as well as the tennis courts. Five thousand free tickets were distributed last year for kids (Arthur Ashe Day). Not all tickets were used but we will give them out again. The informational Kiosk carts worked out well giving visitors the location of hotels, stores and restaurants in the neighborhood. The national anthem tryouts will now be at the Flushing Meadows Queens theatre. Over 700 thousand attended this year with 42% from outside our area and 16% from abroad with an economic impact of over \$800 million. After the Open, the indoor and outdoor events commence again, but we need more participants during winter and spring. Available are free School Tours, graduations for 2800 capacity, smaller areas for family days, birthdays, senior days, wheelchair tournaments, etc. Future projects include replacement of ten (10) courts, the ongoing Arthur Ashe retractable roof with anticipated completion by 2015-2016. After which the Louis Armstrong stadium will commence and be completed by 2018. In conclusion, quarterly newsletters will go out; Queens Day, two weeks before the US Tennis Open, will be resurrected; hosting summer concert series in 2016; and the continued extensive use of local businesses. The USTA will continue maintenance and capital funding for Flushing Meadow Corona

Park together with Sterling and Related. Community Board #7 will receive their Newsletter to send to their members.

AGENDA #6 –

36-18 MAIN STREET, FLUSHING – CALENDAR #280-13-BZ - Application for variance pursuant to ZR Sec. 72-21 to waive ZR Sections 33-122 & 33-123 (commercial floor area) and ZR Sec. 36-21 (parking). Also special permits pursuant to **(1)** ZR Sec. 32-21 & ZR Sec. 73-36 to permit a physical culture establishment within portion of proposed building contrary to ZR Sec. 32-10 and **(2)** ZR Sec.73-66 to waive heights restrictions near airports imposed under ZR Sec. 61-20, as premises located in close proximity to LaGuardia Airport.

Committee Chair **Frank Macchio** introduced Atty. **Richard Lobel** who described the application as a three part issue. The proposed building is “As of Right” totaling 38,000 sq.ft. They wish to waive the height restrictions because of close proximity to LaGuardia and were able to obtain both the FAA and Port Authority permits to do so. The second issue is to permit a (PCE) physical culture establishment which will be a part of a multi-development of 27,000 square feet consisting of primarily licensed Masseuses, health and beauty factors. The rest of the application is a variance to permit a 180,000 sq. ft development, a 14-story and 12-story tower. The 12-story tower will be a hotel with 148 rooms and the 14-story will be changed from medical offices only to professional offices, which would allow more flexibility renting also to accountants, lawyers, architects, etc. for a better return. The PCE Spa will be in the middle. The “As of Right” building requires 345 parking spaces; however, we feel confident we can reduce the parking requirement to 305 spaces, since professional offices will require less parking spaces than medical offices. Comparing this application with the approved RKO Keiths 320,000 sq.ft. with 229 parking spaces to our 180,000 sq. ft. with 305 spaces should not be problematic.

- Q. Does the FAA have issues with the building height in anyway altering their flight pattern?
 A. Absolutely not. In fact, they have capped us out at 216 feet, and we are well under that footage. We have letters of approval from both the FAA and Port Authority already.
- Q. Just where is this building?
 A. It’s the old Pecks Stationers building which has been vacant for some time..
- Q. Do I understand you want to change the medical office space to professional office space?
 A. Under an “As of Right” medical office space option (Use Group 4), the proposed plan is to convert to the professional office space option (Use Group 6) which will provide a wider range of tenants, higher rental income and at the same time reduce the necessity of parking space.
- Q. Why a spa? We have so many spas in the area.
 A. It’s an amenity people are attracted to. We could have 27,000 sq.ft of retail space, but a spa is preferable.
- Q. This meeting is to approve professional offices, but now also a parking waiver and spa?
 A. The Spa and the FAA waiver require special permits. The medical to professional offices and parking require a variance.
- Q. Where is the entrance to the building?
 A. Pedestrian entrance to office space is on Main Street. The hotel entrance is on Prince Street.
- Q. Where is entrance to parking?
 A. Parking entrance is on Prince Street.

Chairperson **Kelty’s** comment is that Prince Street is a main artery, very narrow with much queuing; across the street is a school and a church as well. I assume you are going to have some kind of loading zone?

A. First, to be clear, the hotel space with 148 rooms is “As of Right”.....

Chair Kelty quickly responded “As of Right” I can’t stop you! However, we’ve already had an experience with the Best Western Plus who also built their hotel “As of Right” and after being built they came to us asking for a loading zone.

A. Loading will be done on site using the parking entrance on Prince and exiting onto Main Street. Chair **Kelty** reminded him traffic from Northern Blvd (including the service road that joins Northern Blvd.) to the Prince Street hotel entrance (approximately 50 ft.) will be backed up trying to make a right onto Prince.

Q. Are the buildings going to be interconnected?

A. They will be connected through a three story building in between, which is where the PCE will be.

Q. Do you have a logo for the Hotel?

A. Intercontinental Hotel.

Q. Is the 305 parking spaces for the professional offices and the hotel?

A. The 305 parking spaces are for the hotel, spa and professional offices.

Q. Could you explain the disclosure regarding additional costs associated with subsurface conditions, “ the “As of Right” development option is NOT financially feasible”?

A. Under ZR Section 72-21 you need to make 5 findings, one of which is the ground water factor found to be at 20 ft. This shallow depth prohibited the second sub-cellar plan, which would have required ground water level to be at 48 feet or more. The site also is very long, surrounded by many small building foundations that could be displaced, making it more costly to build there. From a financial standpoint, the “As of Right” option would lead to a negative return. Therefore, the variance to change the medical office Use to professional offices would be the better alternative by lessening the amount of parking spaces required, lessen the impact on traffic, realize a more productive use of the premises and a more reasonable return on the investment.

Q. How can you consider the ground water factor unique when the water depth is the same level at other Main Street facilities? Aren’t you setting precedent for others to change the Use to an office space because it’s more viable and profitable?

A. Considering the area in question, it was felt to be reasonable in this case to make the change in Use. Regarding the water level in the entire area as being shallow, the problem is unique given the size and topography of the site itself and the impact on the surrounding area. We are not asking for a large FAR waiver, as did the RKO Keith’s.

Q. Who is the owner?

A. Mr. Young has owned the property since 2006. If he wanted to sell, he would have done so already, which demonstrates his commitment to the community.

Q. Valet parking and stacked? A. Yes!

Chairperson Kelty commented the property was owned by Peck’s for years. Today people buy, speculate, can’t get what they want and then want to change the blueprint. An example is the buyer of RKO Keith’s who promised to build, got what he wanted in approvals, sold it and two years later it’s been sold again. With no further questions, Chairperson Kelty asked Committee Chair Macchio to read his committee report to be followed by public participation. The overview is 1) a special permit to allow a PCE and Spa of 27,000 ft. 2) a variance to change the Use of 38,000 sq.ft. to Professional offices and 3) a waiver of height restriction being close to an airport. The project has four Components; an office tower on Main Street, a hotel on Prince Street, below and above ground parking between two buildings reduced from 344 to 305 spaces, and 4) the PCE health spa and miscellaneous retail space. Letters of no

objection from FAA and PANYNJ were received. The vote taken on the three issues was five (5) in favor and two (2) against with no abstentions.

The motion now on the floor is approve the special permit for a PCE, the change in Use variance to professional offices and retail and the height waiver, which the FAA and PANYNJ has approved. The motion was seconded by Nicholas Corrado.

Discussion followed:

Board Member Millicent O’Meally said the previous answers as to ownership and whether they were an International group were vague, so she is not comfortable with voting for approval. She also felt the Committee Chairperson looked at it from the developer’s point of view rather than the community’s. Chairperson Kelty said it might be best we If we voted individually on each issue.

The motion on the floor is to proceed with each issue individually for approval, seconded by Arnold Wagner. The vote was unanimous.

The motion on the floor first is to approve the physical culture establishment and spa, seconded by Marc Shiffman.

The vote taken was (22) in Favor (9) Against (0) Abstained

The motion now on the floor is the approval of the height waiver with the acceptance of the FAA and PANYNJ letters of No Objection.

The vote taken was (30) in Favor (1) Against (0) Abstained

The motion on the floor is to approve the variance to change the use of 38,000 sq.ft. to professional office spaces and reduce parking spaces from 344 to 305 spaces, seconded by Barbara McHugh.

Discussion followed:

Board Member Nicholas Corrado’s comment is the need for more investigation on the parking results. First Vice Chair Apelian is disappointed with the traffic study. The C4-2 and C4-3 zones in downtown Flushing are right next to each with C4-2 running along Prince Street. There is no difference between the two except that C 4-2 covers unusual narrow, winding, hilly streets with limited parking. The Board has worked very hard on solutions for the Flushing Downtown area, only to have them overturned by the DOT. Although he thinks the project has merit, it has not been presented properly and the comparison with other projects is not the answer. Some members verbalized Prince Street will always be a problem. Also the “As of Right” will go up and, while it can become the applicant’s problem, it will add more traffic problems to an already congested area. Board member, Phil Konigsberg, sees it might bring a need for more housing which, in turn, will increase the need for medical offices. Chair Kelty reminded everyone this is a variance and if it meets the five criteria, it will go forward, so your concerns must relate to questions outside the criteria. Committee Chair Macchio added that it is an “As of Right” building with some tweaking in parking, the entrance and exit of cars and a change in Use. First Vice Chair Apelian said he cannot support it because of the unsettled traffic flow issues. If the Board votes against it in its present form, and the BSA approves it and traffic becomes worse, our conscience will be clear. However, if the Board approves it without a better traffic solution, then we haven’t done our job. He added it is not unusual at this juncture for an applicant to come back several times to justify the

Boards questions. At this point, the applicant's attorney, Richard Lobel, said he will be happy to re-examine the traffic issue and come back again.

Board member Phil Konigsberg made the motion to table the application to committee.

The vote taken was (20) In Favor (9) Against (0) Abstained

ITEM #7

133-10 39TH Avenue, Flushing – Calendar #163-13-BZ - Special permit application pursuant to Section 73-44 Zoning Resolution, contrary to ZR Section 36-21, to reduce required parking. If approved, it will permit, in a CR-2 zoning district, the alteration of existing two-story and cellar Use Group 6 Professional Office building which was lawfully constructed with no parking spaces.

Committee Chair **Barbara McHugh** gave her committee report based on two committee meetings on 9/17/13 and 11/13/13. In essence the applicant has two attached buildings to combine into one C/O and add a third floor with an increase in floor area from 3,784 to 8,626 square feet. When the building was originally constructed it would have needed 12.6 parking spaces, but any required spaces under 15 can be eliminated. Enlarging the building now requires 28.75 spaces, but the applicant now seeks a special permit to reduce the spaces to 14.38 so they can be eliminated. The vote taken was 5 to 3 to approve. Ms. McHugh introduced attorney Eric Palatnik who confirmed the applicant is adding 4000 square feet to their building, which is on 39th Avenue between Prince and College Point Blvd., which would increase parking spaces required. The special permit would cut the requirement in half to below 15, so it could be eliminated. There is a precedent that was granted by the Board at 40-42 Main Street. However, the real reason for the special permit is his client is an accounting auditing firm in business the past 30 years at this location and does most of their auditing off site.

- Q. Why was the building enlarged with the express purpose of eliminating the parking spaces by the Board?.
- A. The building has been there for 20-30 years in the community and agreeing to a modest 4000 sq.ft to keep good people in the neighborhood was worth it, as is the elimination of parking spaces. A traffic study supported the conclusion there would be sufficient pay-for-parking and on street parking to cover .
- Q. Did your client reach out to the adjacent parking lot owner?
- A. Yes, but they were not responsive.
- Q. Did they just acquire the second building?
- A. No. The two buildings have always been owned and in use by them. They are just changing it to one tax lot and one C/O and adding a 3rd floor.
- Q. How many employees are currently employed and will be employed at the premises?
- A. Presently 50 and approximately 13 more to be employed for a total of 63, but are never all on site.
- Q. Even if 20 people are on site, where do they park?
- A. The majority that work on site don't drive, but take mass transit. Those who drive, pay to park.
- Q. Are you maxing out?
- A. Not at all. We are allowed a total floor area of 3.4 FAR, but even with the third floor enlargement it still is under the allowance with a 2.3 FAR.
- Q. What is your reasoning for why the special permit is applicable?.
- A. The special permit is applicable to anyone who has a property in commercial zoning districts. Office buildings and office Users are not known to utilize all of the parking requirements, as opposed to retail use.

With no further questions, the motion is on the floor to approve the lawfully constructed office building with no parking spaces and seconded by Peter Sutich

The vote was taken with (16) in Favor (12) Against (0) Abstentions

ITEM #8

35-11 Prince Street, Flushing – Calendar #246-01-BZ - Application filed under Sections 73-03 & 73-36 of the New York Zoning Resolution to permit the enlargement of an existing physical culture establishment (PCE) previously approved by the BSA.

Committee Chair Warren Schreiber’s committee meeting was held on Wednesday, November 13, 2013. He said in June of 2002 the Board approved the permit legalizing the physical culture establishment for a ten (10) year period ending in 2008. In 2008 the board again approved it for another 10 years ending in 2018. They are now asking for an amendment to the permit expansion of the PCE by 4136 sq. ft. to include eating and drinking and an increase in parking spaces from 16 to 17 cars. The hours remain the same.

No discussion.

The motion on the floor is to approve the expansion of an existing physical culture establishment previously approved by the BSA

The vote taken was (27) in Favor (0) Against (0) Abstentions

Tree Resolution – Community Board #11 sent us a copy of their resolution to Parks Department regarding tree pruning by contractors, utilities and Parks Chairperson Kelty would like a similar resolution sent out to fortify our concern for the trees. District Manager Bittermann suggested we send it to Verizon, as well as Con Edison, since they too have done pruning,

Motion to send out the resolution was unanimously approved by all present!

PUBLIC PARTICIPATION

Speaker **Robert LoScalzo** an independent media producer following Willets Point. The last meeting he spoke about how developers already violated one agreed upon condition; that is that Joint Venture was to alert CB #7 of all applications made to DEC. Now DEC must keep its 2008 promise of their unconditional efforts to relocate the businesses. The 165 businesses in Phase 1 were to receive property to relocate to and financial assistance but there is no word on this. Instead HPD has already implemented eviction proceedings to many with some to return to court by December 9th. Any business who agrees to vacate by November 30th can receive a payout of one year’s rent, but the City failed to implement any relocation plan. In essence they are being kicked out with nowhere to go, despite the City’s relocation consultant, Cornerstone Group, being paid \$700,000 to provide relocation assistance. In October Councilwoman Ferraras announced an additional \$3 million available for tenant relocations, but the fine print states eligibility for a share of the funds is contingent on four other businesses relocating together. However, there is no group relocation properties offered by the City and no group plan in place, so no one is really eligible to receive these funds. Businesses rallied at City Hall with Senator Avella asking the City to cease and desist until the relocation problem is solved and demand that any financial benefit not be tied to an arbitrary date of November 30th or contingent on relocating together with 4 others. He also asked the U.S. Dept. of Justice to investigate the role of Cornerstone and what exactly they have done for the \$700,000. Senator Avella also sent a letter to the Mayor, HPD and

DEC asking for a six month extension for businesses. Mr. LoScalzo suggests the Board take a position on this issue and send letters to the agencies involved.

Speaker **Brandon Alfred** from Lattimer Gardens at 34-31 137th Street spoke on their FREE programs for the Arts; classes on film editing, directing, shooting live film, etc. which young people in the community can benefit from. Classes are hold every Tuesday from 6 to 8:30 pm for young people age 13 to 21 years as well as an after school program for kids age 5 to 15 years.

The following three minority speakers, **Arturo Oloyo, Martha Gualotuna and Tana Gualtuna**, with businesses in Willets Point, spoke about the terrible area neglect, impassible roads, no sewers, being forced to relocate their businesses with no assistance from the City, being lied to, and feeling like second class citizens. They ask for our help.

Chair Kelty gave an update of what we are up against. We had the Borough Board last Monday and the Willets Point business Plan (3846) came before us and he told the executive board he didn't like the way the City is treating us. He said he would ask the Council to vote against it. However, Councilwoman, Julissa Ferraras spoke about how wonderful the project is, people are going to have jobs and affordable housing and recommended they vote yes. The other seven Councilmen and the Borough President voted against Board #7. He felt if they paid him no mind then, they would never listen to him for the remainder of the current administration. The only thing he can do now is make sure the new Borough President knows what's going on. He also made mention of **Irene Prestigiacomo** from Willets Point who sent us a letter stating emphatically she was never contacted by Joint Venture, EDC or Cornerstone by letter or in person, nor did she receive a copy of the letter just sent to us. We, in turn, wrote to EDC and asked why. Their response to us was that her property is located in Phase 2 and not subject to outreach efforts and correspondence, and could continue her business for at least the next 3 years. When EDC proceeds with Phase 2 she will be contacted in person and in writing regarding potential purchase of her property. In the same letter they said Cornerstone contacted her seven times since 2008 including once in person on March 2011.

The meeting adjourned at 10:30 p.m.

Respectfully submitted,

Mary Zuliani
Community Assistant