



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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**COREY JOHNSON**  
Chair

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District Manager

November 8, 2013

Hon. Robert B. Tierney  
Chair  
Landmarks Preservation Commission  
Municipal Building, 9<sup>th</sup> Floor  
One Center Street  
New York, NY 10007

**Re: 400 West 57<sup>th</sup> Street  
The Windermere**

Dear Chair Tierney:

Manhattan Community Board 4 (MCB4) is writing in response to two applications before the Landmarks Preservation Commission on the proposed restoration and conversion of the Windermere, a landmark building on the corner of Ninth Avenue and West 57<sup>th</sup> Street in Manhattan.

The first application proposes construction of a rooftop addition, rooftop mechanical equipment and rear yard additions; alteration of facades and areaways; replacement of windows and storefronts; reconstruction of historic entry porticos; removal of non-original fire escapes; and introduction of an exterior wheelchair lift.

The second application requests that the Landmarks Preservation Commission issue a report to the City Planning Commission relating to an application for a Modification of Use and Bulk pursuant to Section 74-711 of the Zoning Resolution.

MCB4's Landmarks Committee and Clinton/Hell's Kitchen Land Use Committee reviewed the presentation by the applicant and the Full Board voted on November 6, 2013, to recommend support for both landmark applications — with the exception of the rooftop addition, which it finds to be inappropriate — and for the land use considerations enumerated below to be included in the section 74-711 report to the City Planning Commission.

**PROPERTY AND BUILDING**

The Windermere is an important New York City landmark, noted for its architecture, its history as housing for single women and artists, and its history of violent tenant harassment — harassment which led to the groundbreaking Clinton Cure For Harassment.

Located on the southwest corner of Ninth Avenue and West 57th Street, the property has 100 feet of frontage along West 57th Street, 125.42 feet of frontage along Ninth Avenue and a lot area of 12,542 square feet. Most of the property, comprising approximately 10,000 square feet, is located within a C1-8 zoning district and Subarea C1 of the Special Clinton District. The southernmost portion of the property is located in an R8/C1-5 district and Preservation Area A of the Special Clinton District.

The property is improved with a unified group of eight-story residential structures, which were constructed in the early 1880s and functioned as a single residential building. The building contains a total of 68,546 square feet of floor area, including 64,406 square feet of residential floor area and 4,140 square feet of ground floor retail space. The building has been vacant since 2007.

### **Landmark Designation**

The Landmarks Preservation Commission designated the building a landmark in 2005. In its designation report, the Commission took note of the building's significance as "the oldest-known large apartment complex remaining in an area that was one of Manhattan's first apartment-house districts" and found that the building's "exuberant display of textured, corbelled, and polychromatic brickwork" made it "a visually compelling, imposing, eclectic, and unified" complex.

### **Restoration and Proposed Conversion**

The prior owners of the property had allowed the building to deteriorate to a state of extreme disrepair and had also engaged in a lengthy effort to empty the property through various forms of tenant harassment. The City commenced litigation against the prior owners as a result of conditions in the building and eventually collected over \$1 million in civil penalties. The applicant acquired the vacant building in 2009 and is presently engaged in a meticulous restoration of the building's exterior, which includes cleaning and replacement of bricks and stonework, repointing, the installation of a new metal cornice, the restoration of entry porticos, and the replacement of windows and doors.

The applicant is proposing to extend the building's existing eighth floor, construct a new ninth floor penthouse, perform an interior gut renovation and convert most of the building to a boutique hotel.

### **Architecture**

Queen Anne in style with some Eastlake flavor, the Windermere has been a striking Victorian presence on the corner of Ninth Avenue and West 57th Street since 1881. Andrew Alpern in his history of New York apartment houses<sup>1</sup> records it as the second-oldest surviving apartment house in the city, dating from only a year later than the one older survivor and predating the first wave of well-known apartment houses like the Dakota that were to come a few years later.

Architecturally, the building is a vigorous representative of Victorian style. Its elaborate design

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<sup>1</sup> Andrew Alpern, *Historic Manhattan Apartment Houses* (New York: Dover, 1996)

sought luxury status and respectability as a new type of residential building, the apartment house, in what was an emerging community. The building's red bricks are laid in elaborate patterns including blind windows, angled brickwork, patterned arches over the windows on alternate floors, and corbel tables rising on small arcades rising above the center of each street face. The whole is enlivened with patterns of yellow bricks and an insert of bluish stone. Columned porticos identify the residential entrances. Near the corner of the Ninth Avenue façade, a prominent false gable peak gives the building's roofline a dramatic focus, positioned for maximum exposure to the approach down Ninth Avenue.

Together with the building diagonally across Ninth Avenue, which retains its historic pressed metal front, the Windermere forms a northern gateway into the Clinton District's predominately low-rise nineteenth-century cityscape. The descent of Ninth Avenue's grade as it approaches the Windermere from the north makes the building's roofline especially prominent and sensitive. With its past, its scale, and its design and materials the building reflects the character of this neighborhood, which it is long-standing City policy to preserve.

### **History**

In 1895 the Windermere was converted into a residence for artists and writers, most of them women, and as such, a pioneer in the field of providing respectable housing for unmarried women. It proved also to be a precursor of the Greenwich Village art scene.

In the 1970's, some floors were converted from large apartments to Single Room Occupancy (SRO) units and smaller apartments, but it was still well run. By the 1980s it was in serious disrepair and the subject of violent tenant harassment such as apartment doors being cement blocked with the tenants' belongings inside and managers issuing death threats and moving prostitutes and drug dealers into the building. Eventually the owners and managers of the Windermere were indicted by former District Attorney Robert M. Morgenthau, convicted of felonies for this harassment and jailed.

Toa Construction Corporation ("Toa"), a Japanese company, bought the Windermere in 1986 and owned it until 2009. However, Toa was never able to successfully develop the site and problems with services for the tenants persisted. The building was made a City Landmark in June 2005. In 2008, a judgment was entered against Toa for willful neglect of a landmark for failing to maintain the building. By May of 2009 the Windermere was housing only five tenants. After a second vacate order by the New York City Fire Department, the remaining five tenants came to a legal settlement with Toa and left the building. In 2009, Mark Tress of Windermere Properties LLC ("WP LLC") purchased the Windermere from Toa.

### **LANDMARK RECOMMENDATIONS**

We find the proposed work for the most part praiseworthy and welcome, especially after the building's long history of neglect and decay. We find reconstruction of storefronts based on extant examples from buildings of the same stylistic period appropriate.

However, we ask that more thought be given to the manner in which the wheelchair lift, so sensitively located near the West 57<sup>th</sup> Street entry porticos, could be made less obtrusive. Recent

examples can be found in Manhattan of wheelchair lifts descending from sidewalk level into areaways, the designs of which do not include protective overhead enclosures. These examples have no components rising more than handrail height above sidewalk level, and include the designated landmark Sara Delano Roosevelt House at 47-49 East 65th Street. Such a solution should be designed for this location, in harmony with the historic areaway fencing.

We do not object to creation of a new eighth floor interior space behind the existing façade's story-high parapet. We do, however, object to any rooftop addition creating a new ninth floor. As presented by the applicant, this addition would be visible from all four directions. Such an addition is not justified in making the building code compliant, safe or viable for its original purpose, while it has a negative effect, in our view, on a designated landmark.

We understand that legal modernization of the building requires introduction of elevators which must have penthouses rising above roof level. However, these should be minimized. As currently proposed, the northern elevator would provide redundant access to a roof deck, raising its override structure an additional story near the Ninth Avenue façade's focal parapet peak. The override structure would compete with this architectural focus for prominence, especially as viewed from Ninth Avenue above West 57th Street, the approach from which it was designed to be appreciated. This should by all means be avoided.

## **ZONING MATTERS**

The applicant appeared before MCB4's Clinton / Hell's Kitchen Land Use Committee on October 30th for an informal discussion of these requested zoning waivers and will return to the Land Use Committee for a formal hearing on these waivers after the application for a special permit pursuant to Zoning Resolution § 74-711 has been certified.

The Landmarks Preservation Commission is to report to the City Planning Commission relating to an application for a Modification of Use and Bulk pursuant to § 74-711 of the Zoning Resolution. This report by LPC is to state that:

- (1) a program has been established for continuing maintenance that will result in the preservation of the subject #building# or #buildings#, and that such #use# or #bulk# modifications, or restorative work required under the continuing maintenance program, contributes to a preservation purpose;
- (2) any application pursuant to this Section shall include a Certificate of Appropriateness, other permit, or report from the Landmarks Preservation Commission stating that such #bulk# modifications relate harmoniously to the subject landmark #building# or #buildings# in the Historic District, as applicable; and,
- (3) the maximum number of #dwelling units# shall be as set forth in Section 15-111 (Number of permitted dwelling units).

### **Required Zoning Waivers Pursuant to Zoning Resolution § 74-711**

The existing "old law" building is lawfully non-complying with respect to a number of current

zoning requirements. However, the Department of Buildings has determined that, because the building will undergo a gut renovation which includes the replacement of all its wooden floors with new fireproof construction, the renovated building will not be treated as a lawfully non-complying structure and will therefore be subject to all currently applicable requirements of the Zoning Resolution. Consequently, waivers of the following zoning requirements will be requested from the City Planning Commission pursuant to Zoning Resolution § 74-711:

(i) the 2.0 FAR limit on commercial uses in C1-8 and C1-5 zoning districts to permit the portion of the building not devoted to affordable housing to be developed as a boutique transient hotel;

(ii) the 66 foot limit on street wall height and the 85 foot overall height limit in the Clinton Preservation Area;

(iii) the maximum lot coverage of 70 percent in the Clinton Preservation Area; and

(iv) the minimum window-to-wall distance of 30 feet and the minimum area of 1,200 square feet that are applicable to the building's two inner courts.

### **Zoning and Land Use Concerns**

MCB4 has several concerns and comments about the proposed conversion:

- The height waiver for an additional 3000 square feet, as stated above, is inappropriate for this landmarked building;
- The FAR waiver for commercial use over 2.0 is for a hotel and it creates an additional 40,000 plus square feet of commercial use. The assistance the waiver would provide to allow the owner to maintain the building as a landmarked building, as argued by the applicant, is compelling but is not necessarily sufficient to justify the changes it will bring to the residential area surrounding the building;
- Security and other quality of life issues (mechanicals, noise, light, deliveries, taxis, etc.) that arise with the waiver to allow a hotel are of deep concern to residents of adjacent and nearby buildings and to this Board. These issues have yet to be addressed; and
- Under the regulations of the Special Clinton zoning district, in order to "cure" the tenant harassment carried out by the prior owners, the applicant is required to provide affordable housing in the building equal to 28 percent of its existing residential floor area. A cure plan for the building has been proposed, under which 18,034 square feet of floor area in the westernmost segment of the building will be devoted to rental housing affordable to households earning no more than 80 percent of the NYC area median income. This affordable housing will consist of 20 apartments with tenant recreation and meeting space on the ground floor. It will be owned and operated by the Metropolitan Council on Jewish Poverty, which proposes to provide "senior" housing only, that is, to people 55 and older.

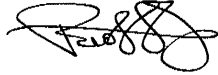
Questions have arisen about targeting the affordable housing to only people above 55-years old. Since people of all ages were harassed and driven out of the Windermere, why

should affordable units be limited to one particular segment of the population? This issue will be taken up by CB4's Housing, Health, and Human Services Committee at its December 19th, 2013 meeting.

Sincerely,



Corey Johnson  
Chair



Pamela Wolff  
Chair, Landmarks Committee



Jean-Daniel Noland  
Chair, C/HKLU