



CITY OF NEW YORK

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Chair

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District Manager

November 6, 2008

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

**Re: Application for certification of theater bonus for Signature Theater Plan –
N090156 ZCM**

Dear Chair Burden:

We are pleased to provide our comments on this application.

Introduction

As part of the Hudson Yards rezoning in 2005, a zoning bonus was created for a portion of the 42nd Street Perimeter Area of the Special Clinton District. The bonus allows the floor area ratio of a development to be increased from 12.0 (achieved through the inclusionary housing bonus) to 15.0 if it includes legitimate theater use. The zoning text for the bonus, Section 96-25 of the Zoning Resolution, was initially proposed to be tightened and clarified in an amendment that was part of the first two sets of Hudson Yards Follow-Up Corrective Actions, in December 2005 and September 2008. We provided our comments on each of those FUCAs, but each time the theater bonus text was held back for further consideration.

Related Companies now proposes to take advantage of the theater bonus for its development at 440 W. 42nd Street, between Dyer and Tenth Avenues. To achieve the bonus, the text amendment must now be completed, and the zoning bonus must be certified by the Chairperson of the City Planning Commission. This involves three applications:

- Clinton Dist. Theater Bonus Text Amendments - N 080184(B) ZRM
- Application for certification of theater bonus for Signature Theater Plan – N 090156 ZCM
- Application for certification of theater bonus for Related Back-Up Plan – N 090155 ZCM

The Proposed Development

The proposed development consists of a 58 story residential tower and a 24 story hotel tower, above a 4 story base containing entrances and lobbies for the residential and hotel towers, a health club, retail space and the theater use that is the subject of these applications. We provided comments on the affordable housing program for the residential tower in our letter to HPD dated October 4, 2007.

The theater space is proposed to be a new home for Signature Theater Company, containing a box office and common lobby on the ground floor, an additional common lobby and box office on the second floor, 3 theaters (2 with 199 seats and one with 299 seats), 2 rehearsal studios, and related back of house and administrative space. Signature has been based in Hell's Kitchen for 10 years. It has outgrown its current theater, the Peter Norton Space at 42nd Street and Eleventh Avenue, for which the lease expires in 2011.

The Signature Theater Plan is based on the zoning text as it is proposed to be amended. Related is also proposing a "Back-Up Plan," which, according to information presented by DCP and Related to the Clinton/Hell's Kitchen Land Use Committee, would become effective only if the zoning text amendments are not approved. The theater space in the Back-Up Plan would be essentially the same as the Signature Theater Plan, except that one of the rehearsal studios would become a fourth theater, with 199 seats. The space would be owned and operated by a new not-for-profit corporation to be formed by Related if the Back-Up Plan becomes effective.

Comments on the Application

1. This plan has our strong support. Signature is a long-time resident of our community, with a unique and well-established program as a producing organization, a compelling artistic vision for expansion of its historical focus on established artists and new professional support for emerging playwrights, and a proven ability to manage growth. The Signature Theater Plan seems real to us, and a thoroughly appropriate use of the proposed theater space.

2. We're very concerned about capital and operating costs that will be imposed on Signature. Signature's ambitious plans seem well thought out, but require doubling of the operating budget over 3 years. The parties have negotiated a workable deal for the Signature space, but it must improve, to reduce the risk to Signature.

- As discussed in our comments on the text amendments, Related must provide a complete HVAC system at its expense, including the fans and extra chiller capacity required by the building's unique configuration.
- To ensure financial viability, Signature's costs must be reduced. This could be accomplished through one or more of the following:

- Condo fees. Condo fees apparently haven't yet been negotiated. Signature will be such a small part of the whole, and the theater operations so distinct from the balance of the building that it should not pay any costs attributable to the entire building.
- Financing expense. The condo unit purchase financing could have the same interest rate as the fit-out loan – 3%.
- Condo unit purchase price. The price could be reduced, or treated as a charitable contribution from Related, in a lump sum or over time.
- Loan repayments. Similarly, loan repayments could be treated as charitable contributions by Related.
- Public contribution. The application states “a goal of allocating a full \$25 million [of City funding] to the project by completion of the City’s September plan.” We fully support this goal.
- Commercial income. The previous text amendments allow Related to use as commercial space the 5,768 sf ground floor space subject to MTA’s easement for a subway entrance. Rental income for this space is a windfall for Related, and could be used to defray the cost of the theater space.

3. The Signature Theater Plan must be the basis upon which Related seeks its building permit for a 15.0 FAR building. This was confirmed by DCP and Related in their presentation to us, but is not reflected in the application for certification of the Signature Theater Plan.

4. Plan for the future. Provide in the declaration of restrictions for possible sale or transfer of the theater space by Signature in the future. Because of the substantial public investment in the project, additional restrictions are appropriate:

- Owner must be a not-for-profit organization;
- Owner must be selected in consultation with DCA, the local Council Member and CB4; and
- Any profit on the sale must be shared with the public sector (via contribution to the Theater Subdistrict Fund for use on capital projects?) in proportion to the amount contributed to initial construction.

STC@42, as Signature’s new home will be known, promises to become a hub of theater activity at the western edge of the Theater District, securing Signature’s future, strengthening our community’s reputation as a center for small, off-Broadway theater, and bringing significant value to Related’s project. We are deeply grateful to Related and Signature as well as their partners at the Department of Cultural Affairs, the Department of City Planning and the City Council for their willingness to commit to this complication yet thoroughly worthwhile undertaking.

Sincerely,



Jean-Daniel Noland
Chair



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

Cc: DCP – David Karnovsky, Dominick Answini
Department of Cultural Affairs – Andrew Burmeister
Related Companies – Jay Kriegel, Greg Gushee, Jerry Johnson (Wachtel & Masyr)
Signature Theater Company – Jim Houghton, Erica Mallin
MBPO – Anthony Borelli, Mike Kent
Speaker Quinn's District Office – Kate Seely-Kirk, Danielle Porcaro
City Council Land Use Division – Danielle DeCerbo