

**Presentation by 4923 TS LLC for the site located at 4923 2nd Ave, Block 781, Lot 1
BSA BZY (Statutory Vesting Rights) Application under ZR 42-11 and 11-332**

Elyse Foladare, Eric Palatnik, PC Legal Counsel
Kenny Guan, 4923 TS LLC

Background

1. The Land Use Committee held a Public Hearing and Meeting on February 23, 2022 via Zoom.
2. The application is for a partially built 9 story mixed use building containing a transient hotel and ambulatory diagnostic treatment health care facility within an M1-2D zoning district located at 4923 2nd Avenue, cross street 50th Street, northeast corner.
3. The applicant is appealing to the BSA to extend the building permit which was issued on April 30, 2018. The BSA is seeking CB7 input on the application per this Public Hearing.
4. The Committee received the following certified documents from BSA for review: Affidavit of Ownership, BZY Application Form, City Planning Commission report, DOB Approved Floor Plans, Site Photos, Zoning/Tax/Land Use Maps, FIRM Map, Statement of Facts and Findings, construction information, financial information and permit information.
5. The developer of the site is 4923 TS LLC. CB7 Board member and Land Use Committee member Kenny Guan is the managing partner of the development team. Due to the conflict of interest, he is deemed ineligible for voting on the matter in Committee.
6. Elyse Foladare stated this is a statutory vesting application which allows the site owner to file for an extension for a lapsed building permit if substantial work has been completed on the building by the date December 20, 2021. This vesting will exempt the site owner from having to comply with the recently passed M1 Hotel Special Permit.
7. The site owner has submitted documents attesting to approximately \$4M of work on the foundation and building supports completed to date. The cost of the construction was originally estimated to be \$14M.
8. BSA asked the applicant to meet with CB7 and seek a letter of support. The application is also sent to the Borough President and City Planning, but meetings with these agencies are not required. City Council members may also review and provide comments.
9. Elyse Foladare said ten similar applications have been filed at BSA this month since the zoning text change required these extensions to be filed as of January 20, 2021.
10. Previously, hotels in the M1 district were allowed as-of-right with only DOB review required for permit. Since passage of the M1 Hotel Special Permit rezoning, DCP now reviews hotel applications per the following findings – the site plan must address conflicts in adjacent uses; the site design must be appropriate to neighborhood streetscape character; and the hotel use will not inhibit loading operations or pedestrian movements adjacent to the site.
11. Elyse Foladare stated that Best Western has made a commitment to operate the hotel and NYU Langone is in discussion to be a tenant for medical office space in the project. She also stated that 61 attendant managed parking spaces will be provided as an accessory use to the hotel.
12. Kenny Guan stated that the construction delay was caused primarily by the pandemic. He also stated they are in conversations with several banks to finance an additional \$15M in funds to complete the project.
13. The Third and Fourth Floors will be medical offices and there is also space for a restaurant in the Cellar that will be open to the public.

Discussion

1. Cesar Zuniga asked how this application was different than other BSA applications. Elyse Foladare noted this is a special application. The owner was originally allowed to build as-of-right and this application will allow the owner to extend their time to complete the construction under the original zoning rather than comply with the new hotel special permit requirements.
2. Nick Azadian believes BSA is seeking community review because of the Board's vocal opposition to hotels located in the industrial zone. Although Nick is concerned about hotels in the Industrial Business Zone as a policy matter, this project was approved as-of-right and we do not want to challenge this. Nick also stated the project's floor plans do not seem to comply with life safety requirements and suggests the owner review them and get them fixed.
3. Cindy Vandenbosch asked what happens if we don't provide a letter of support? John Fontillas stated that as a Board, we can provide a clean letter or we can provide a letter with conditions. Cindy has reservations about hotels in industrial zone, why do we need more? She would like to have a broader discussion in the community about industrial job retention and affordable housing. Kenny Guan responded that although the hotel use occupies 19,000 sf of space, the rest of the building comprises 20,000 sf of medical office, the restaurant and lobby spaces and parking is 15,000 sf. This is not just a hotel, but a mixed use building.
4. John DeLooper appreciated the hotel being near the hospital for visitors and having parking for these visitors. John also felt having a real restaurant in the area would be a benefit. Kenny Guan said the restaurant will be an amenity for the hotel, primarily serving continental breakfasts, however it could be open during the day and evening for public use.
5. Antoinette Martinez wanted Elyse Foladare to confirm her role in the project. Elyse stated she represents the site owner and will file the application at BSA. Antoinette asked for a quorum call which yielded 12 board members present with two members ineligible for voting (Guan and Zuniga). Antoinette asked for the definition of a "diagnostic and treatment facility use." Elyse stated that this is another name for medical offices. Elyse said the building would contain a Lobby on the 1st Floor, Parking on the 2nd Floor, Offices on the 3-4th Floors and Hotel uses on the 5th-9th Floors. The Cellar will contain the Restaurant. The parking spaces will be shared between the offices and hotel uses. Antoinette also asked if the Board has reviewed this previously. John said this is the first time the Board has reviewed this project since it was as-of-right when it was first filed with DOB. Antoinette asked if this is a brownfield site? Kenny Guan stated that a Phase 1 Environmental Assessment has been conducted and no adverse environmental impacts were found. Antoinette stated the Board has started a process to review uses in the waterfront industrial district and this hotel is not compatible with the district and the Board's 197a plan.
6. Zach Jasie stated that NYU Langone is a state-of-the-art hospital that is a benefit to the community. Having additional medical offices and a hotel near the hospital is very important.
7. John Fontillas noted the building plans show an approximate area of 3,000 sf in the Cellar for a spa. Kenny Guan stated that this would be an amenity for the hotel.

Public Comment

1. Silvia Agosto does not want this site to become another shelter. Two additional shelters are preparing to open in the neighborhood. Silvia Agosto asked if we could request the site owner to not allow a shelter use on the site.
2. Cynthia Gonzales said if it were a shelter, it would be one of the few shelters with 61 parking spaces for residents.
3. Antoinette Martinez asked if the site owner would make a commitment against turning the site into a residential use in the future. Kenny Guan stated that it would be significantly difficult to

recast the building's currently permitted use into residential and Elyse said they would have to come back to the Board for a rezoning if they wanted it to be residential.

4. Cindy Vandenbosch said her comment earlier was not specific to the site, but for land use in the industrial business zone in general. She understands this application is an as-of-right use and hopes this development will have a positive impact on families related to the lodging and medical services it provides near the hospital.
5. With no further comments, the Public Hearing portion of the meeting was closed.

Land Use Committee

1. Six Land Use Committee members were present for the meeting. John Fontillas stated the Board does not typically rubber stamp applications, even those narrowly defined as this one. He stated there is value to having a hotel nearby, especially for those requiring long-term lodging while a family member is undergoing treatment. This is one of many land use applications that have come to the Board, which CB7 has been very strict in reviewing. In particular, the Board is concerned with the number of hotels in the district that have been converted into shelters.
2. Antoinette stated that she was not in favor of the application. She feels that planning for the district must be developed comprehensively and it was important to complete this planning work to provide context for other land use decisions in the district. We cannot keep allowing these applications to proceed without enough time to do due diligence.
3. Joan Botti asked how many hotels are currently in the district. There are currently 13 hotels in the district. How many of these hotels are currently being used to house the homeless? The city is phasing out its program of using hotels as shelters. Are all these hotels profitable? Kenny Guan stated that the contract with Best Western is for 10 years. He also stated that the project will not be a shelter as long as he is involved with the project.
4. Cesar Zuniga said our response to BSA should also be a statement of values. The Board wants a much bigger conversation about land use reform because these types of projects are emblematic of the ad hoc and non-comprehensive land use zoning we have in the city.
5. Cynthia Gonzales was concerned about Nick Azadian's comment about life safety violations that should be removed from plan. Kenny Guan stated that they have amended the plans to resolve violation issues. She is also concerned whether this a brownfield site. Kenny said the Phase 1 report showed no brownfield hazards and this was required for DOB to issue the original permit. Cynthia asked what commitment NYU Langone has made to the project? Kenny Guan said NYU will not sign a lease until the building is constructed. However, he believes other medical vendors or office users will be interested in the space due to its proximity to the hospital, and the occupancy of the space must be a medical office. Cynthia said she would like a guarantee that the office space would not be turned into a shelter.
6. Nick Azadian believes there is enough demand that the office space will be occupied when completed. He suggested that a restrictive declaration be placed on the property to prevent a shelter being placed on the site. The site owner is the only one who can request the restrictive declaration.
7. Cindy Vandenbosch would like the city to develop a more systematic look at land use in the industrial zone to avoid conflicting uses, rather than a piecemeal approach. John stated the M1 Hotel Special District was intended to provide guidance regarding these incompatible uses.
8. Maria Roca is concerned that city money provided to shelters may be an enticement. Maria said the project sounds more like a longer stay type of hotel, which is a backdoor to housing. She is concerned that the hotel use is not a good fit to the neighborhood given its distance to transportation and services. This is similar to hotels in Sunset Park which were proposed to meet the demand of Barclays Center, but were turned into places that attracted prostitution and human trafficking. The city took these hotels over and paid outrageous fees to house homeless people per night. Maria believes there a lot of loopholes that would allow the space to be turned into a

shelter. Maria is also concerned about 6025 6th Ave, where NYU Langone was interested in lodging students as well. John stated that Maria could bring this up at the Board meeting for further review.

Committee Determination

The committee conditioned its response as follows:

1. The committee understands that the original hotel proposal was as-of-right when it was first permitted, and that the hotel use is in conflict with the current land use review required by the M1 Hotel Special Permit.
2. BSA has asked CB7 to review this specifically, the Board does not typically review these types of applications.
3. The Board has stated before it has issues with non-industrial uses in the M1 industrial zone.
4. The Board also has issues with hotels in the district that have become places overrun with prostitution and human trafficking, or have been converted into homeless shelters after completion without community review.
5. The Board is in process to develop a more comprehensive land use plan that does not see a place for hotels within the waterfront district.
6. The Board requests the site owner seek a restrictive declaration to limit uses on the property to hotel and medical office use groups.
7. The Board requests a written statement from Kenny Guan, as managing partner for the site owner, to guarantee that a shelter will not be placed on the property.
8. The Board requests the Department of City Planning conduct more comprehensive site planning review for applications like this in the future.

The Committee voted to support the application with the above conditions by a vote of six members in favor. One member voted to not support the application. Kenny Guan was deemed ineligible to vote as a committee member.