



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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COREY JOHNSON
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

June 21, 2013

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

Re: Text Amendment Application No. 130233ZRM

Dear Chair Burden:

Manhattan Community Board 4 voted to deny the application to amend the ZR §32-421 unless the Special Clinton District (SCD), Special Hudson Yards District (SHYD) and Special West Chelsea District (SWCD) are exempt from the change.

Reason for Proposal

The proposed text amendment would allow a first-floor restaurant on the East Side of Manhattan to also operate on the second floor. Under present zoning it cannot. We feel the proposed amendment has the potential to affect Manhattan Community District 4.

Current Zoning

ZR §32-421 permits second floor commercial use in buildings located in C1-8, C1-9, C2-7 or C2-8 districts or in C1 or C2 districts mapped within R9 or R10 districts only if constructed after September 17, 1970. The rationale of this limitation is to protect second floor residential uses in older buildings.

Proposed Text Amendment

§32-421 would be amended to allow second floor commercial use in buildings constructed before September 17, 1970, provided that two conditions are met:

- (1) The second floor was not occupied by residential or community facility use on April 22, 2013 (the date this application was referred for public review); and
- (2) The subject building is located on a block front that includes at least one other building with a commercial second floor.

Potential Sites

The universe of potential sites affected by the proposed text is extremely small. There are approximately 2,100 pre-1970 buildings located at least partially within the affected zoning districts. A field sampling of 120 of these sites was conducted. Based on that sampling, it is estimated that about 12 sites may be in a position to take advantage of the proposed text change.

Board's Rationale

The Board notes that the estimated number of sites which could take advantage of the proposed text change was based only on a field sampling, not on a complete survey. Given our years of experience with how certain owners operate and our awareness of the enforcement capabilities of the Department of Buildings, we are concerned that this change could have an effect in certain areas of Community District 4. The effect we are most concerned about is an extension of a nightlife venue or activity to the second floor of a building, potentially affecting the quality of life of the adjacent residents and residents above the second floor.

The Board believes the best and only way to prevent this possibility is to exclude from the proposed text amendment the special districts within District 4: the Special Hudson Yards District, the Special West Chelsea District, and, particularly, since its rationale was to strengthen and defend a residential neighborhood, the Special Clinton District.

Sincerely,



Corey Johnson
Chair



Jean-Daniel Noland, Co-Chair
Clinton/Hell's Kitchen Land Use Committee

cc: Eugene Travers, Esq., representative for applicant
Dominick Answini, Department of City Planning
Melanie LaRocca, Harriet Sedgwick, Speaker Christine Quinn's Office
Brian Cook, Michael Sandler, Manhattan Borough President's Office