



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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CHRISTINE BERTHET
Chair

Jesse Bodine
District Manager

December 19, 2014

Carl Weisbrod
Chair
NYC Department of City Planning
22 Reade Street
New York, NY 10007

**Re: 505-513 West 43rd Street
Block 1072, Lot 24
ULURP #s: N140407ZRM, 140408ZSM, 140409ZSM**

Dear Chair Weisbrod,

Manhattan Community Board 4 (MCB4) is pleased to provide its recommendation on an application by 1818 Nadlan LLC (the Applicant) for the above referenced applications for a Zoning Text Amendment and Special Permit to facilitate construction of a residential building at 505-513 West 43rd Street. The applicant seeks:

1. a Zoning Text Amendment to Special Clinton Zoning District Resolution Section 96-32 (A) (1), (Special Regulations in R9 Districts) 96-21 (B) (1) (Special Regulations for 42nd Street Perimeter Area) and 23-90 (Inclusionary Housing) (Special Regulations in R9 Districts) to allow modification of the applicable height and setback, planting and permitted obstruction within rear yard regulations;
2. a Special Permit pursuant to the amended Section 96-32;
3. a Special Permit pursuant to Section 74-681 (Development Within or Over a Right-of-Way or Yards).

A public presentation on the proposed development and the required zoning actions was heard by Manhattan Community Board 4's (MCB4) Clinton/Hell's Kitchen Land Use and Zoning Committee on November 12, 2014. Manhattan Community Board 4 at its Full Board Meeting on December 3, 2014, by a vote of 35 for, 3 against, and 0 present but not eligible to vote, recommended **approval** of the application **with** the following **conditions**:

Building Heights

The proposed heights of the building will be reduced from 164 feet on West 43rd and West 44th

Streets to 154 feet on West 44th Street and 154 feet and 144 feet on West 43rd Street. The reduced height of the buildings will reduce the bulk; therefore, the proposed development will not reach the maximum 8.0 FAR under the R9 with the Inclusionary Housing Bonus.

Affordable Housing

Two-thirds of the inclusionary housing requirement (12 apartments) will be off-site, within the Special Clinton District, in accordance with the Special Clinton District Regulations, and one-third of the permanent affordable housing requirement will be on-site and consist of a minimum of six apartments. However, without the full Inclusionary Bonus on-site the Applicant will voluntarily forgo 421-a real estate tax exemption. On-site units will be affordable condominiums at 80% of area median income; off-site units will be affordable rentals between 50% to 80% of area median income.¹

Equal Distribution

The on-site permanently affordable apartments will be distributed equally between the West 43rd and West 44th Streets building segments on upper and lower floors with no more than one affordable unit per floor;

Maximize Two-Bedroom Apartments

The applicant will work with MCB4 to maximize the number of two-bedroom units and agrees to at least a minimum of 50% two bedroom units;

Accessible Amenities

All building amenities (other than parking) will be accessible to Inclusionary unit owners at no cost;

Finishes and Fixtures

The on-site Inclusionary units will have the same fixtures, finishes, and appliances as the market rate units;

Parking

Parking will be reduced from 35 to 23 spaces;

Façade

The applicant will continue to work with MCB4 to make the façade more contextual with the neighborhood and adjacent building, These changes will be made through consultation with the Board and agreed to prior to the City Planning Commission hearing;

Inclusionary Application

As part of the standard Inclusionary Housing review process, the Applicant will refer its application to MCB4 for both on-site and off-site Inclusionary units. The off-site application will provide MCB4 with the building location and related apartment finishes, building amenities

¹ To further this compromise plan, MCB4 has consulted with HPD Inclusionary Housing to secure its assistance in reviewing an on-site Inclusionary Housing Plan of less than 10 units.

and apartment distribution of the potential sites.

Revised Application

The applicant will revise its ULURP application to reflect the reduced height and agreed upon commitments.

It should be noted that the original application filed by the applicant with the Department of City Planning included a Zoning Text Amendment which amended the text as follows:

96-32

Special Regulations in R9 Districts

(c) Height and setback modifications

(1)(i) not result in #building# that exceeds a height of 165 feet;

With agreed upon height reduction of the buildings to 155 and 144 feet on West 44th and West 43rd Streets, respectively, the applicant has agreed to change the above text proposed as follows:

96-32

Special Regulations in R9 Districts

(c) Height and setback modifications

(1)(i) not result in #building# that exceeds a height of 155 feet;

The Applicant plans to revise its application to reflect the reduced height and its agreement to the above commitments. MCB4 requests the City Planning Commission make that modification to the proposed Zoning Text.

MCB4 further requests the City Planning Commission allow Applicant to make changes in information in the Special Permit application under the further modified proposed Zoning Text under ZR 96-32(c) relating to height, setback and parking to meet the agreement reached with MCB4.

BACKGROUND & CONTEXT

The Development site, with exception to the Tenth Avenue frontage, is within the 2009 Eleventh Avenue Rezoning (the “Rezoning”). The Rezoning was a joint application between Department of City Planning (DCP) and MCB4 which resulted from part of the Western Railyards Points of Agreement. The Rezoning took a year and a half investigation and extensive study undertaken by DCP and MCB4. The Action:

- Extended the Preservation Area district from Tenth Avenue to the east of Eleventh Avenue;

- Increased density on the East side of Eleventh Avenue and permitted residential use;
- Increased density west of Eleventh Avenue, while prohibiting hotel use;
- Increased density on the block between West 43rd and West 44th Street and permitted residential use providing a transitional zone from the high density high rise corridor along West 42nd Street;
- The Rezoning also established street wall requirements and height limits throughout the rezoned areas.

The Development Site previously had a previous Special Permit approval for a hotel use. That permit lapsed and was not renewed; therefore, the Development Site became subject to the provisions of the 2009 Eleventh Avenue Rezoning.

MCB4 commends the Applicant for repositioning the Development Site for residential development with the Inclusionary Housing Zoning requirement for affordable housing and understands a number of zoning waivers for the Development are justified given the constraints of the site over the rail of way, including:

- Department of Transportation's required setback for viaduct structure inspections; and,
- Increased ventilation requirements by Amtrak over the usual standard requirements and base parameters mandated by Amtrak taking up floor area.

MCB4 also notes the Development application for affordable housing exceeds the requirements of inclusionary housing with the following being provided:

- Full distribution of all inclusionary housing apartments across all floors and to all exposures; and,
- The same finishes used for both market rate and inclusionary housing apartments.

Therefore, MCB4 needed to reconcile its overarching priority for the production of affordable housing within the Clinton Special District (CSD), while supporting developments which reflect the carefully negotiated and calibrated Eleventh Avenue rezoning.

Following the presentation of the Development Site to MCB4 negotiations were undertaken between MCB4 and the Applicant regarding height and setbacks of the development. During these negotiations, the Applicant referred to Gotham West development (West 44th to 45th Streets, Tenth to Eleventh Avenues) as a benchmark precedent for the Application's height and setbacks. MCB4 noted the Gotham West development was part of a large scale plan which provided 650 affordable apartments while allowing additional height and reduced setbacks and therefore not a precedent for this Application.

To reconcile these central community needs, MCB4 and the Applicant both agreed to reduce the height of the proposed development and to locate the Inclusionary Housing both on-site (as affordable home ownership) and off-site within the Clinton Special District (as affordable rentals) consistent with long existing regulations of the CSD.

MCB4 commends the Applicant for their continued approach to work with MCB4 in this Special

Permit application and will continue to work with Applicant to support the appropriate zoning waiver for this Development Site.

DESCRIPTION OF PROPOSED DEVELOPMENT

The proposed actions would allow the Applicant to construct a residential building with a 23-space accessory parking garage on Block 1072, Lot 24, also known as 505-513 West 43rd Street. The actions are necessary to construct a platform and the building, over the railroad right-of-way, to accommodate the access and ventilation requirement of the Department of Transportation and Amtrak.

The proposed building would be constructed on a platform stretching across the entire width of the property and covering the entire cut in which the railroad easement is located. The proposed development would consist of a residential building consisting of two segments connected by a one-story ground floor. One segment would front on West 43rd Street and one would front of West 44th Street.

The structures would be setback 8 feet from the West 43rd and West 44th Street lines. These setbacks are provided to allow access by DOT to its road bridges on West 43rd and West 44th Streets. According to DOT, at least 8 feet of horizontal clearance is required to allow for personnel and equipment to access the bridge structure.

The platform over the Amtrak rail line would incorporate ventilation shafts for Amtrak and an exit stair from track level to grade at West 44th Street as required by the NYC Fire Department.

Ground Floor Parking

The ground floor of the proposed building would contain lobby, accessory recreation space, bike rooms, mechanical space and an accessory parking area containing 23 spaces. A driveway, accessed by a 12-foot wide curb cut, would be located on the western edge of the West 43rd Street frontage to provide access to the accessory parking area from West 43rd Street. Residential units would be located on and above the second floor.

The proposed building would have no cellar and, since they would be located on the second floor and above, residential units would be buffered from the train traffic below.

Façade and Landscaping

The façade would be composed primarily of a window wall system from the second floor up. The pedestrian level would be composed primarily of stone with a granite water table, but would also have storefront glass at the residential lobbies and recreation space, and would have metal panel systems in front of those mechanical areas fronting the street.

The Board appreciates the architect's study of the forms, colors, and construction materials used in buildings throughout the Clinton/Hell's Kitchen neighborhood in an attempt to design a building compatible with the larger neighborhood context. And we are grateful for the architect's incorporating some of our concerns into a new design. Nevertheless, we feel the further

discussion will result in a building design no less desirable for the architect and more acceptable to the community.

In light of DOT's access requirements, the area between the street line and the building cannot be landscaped in accordance with ZR section 23-892, which requires that the entire area of the zoning lot between the street line and the street walls of the building be planted at ground level, or in raised planting beds that are permanently affixed to the ground. In lieu of such planting, removable planter boxes would be provided. The West 43rd Street frontage would have nine three-foot by three-foot planter boxes and the West 44th Street frontage would have eleven three-foot by three-foot planter boxes over the remainder of the frontage.

MCB4 would like to thank — and commend — the Applicant for his engaged consultation with the Board to agree on a development acceptable to the community.

Sincerely,



Christine Berthet
Chair



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

cc : Manhattan Borough President Gale A. Brewer
NYC Council Member Corey Johnson
NYS Assembly Member Linda Rosenthal
NYS Senator Brad Hoylman
U.S. Congressman Jerry Nadler
Louise Carroll, Asst Commissioner Inclusionary Housing, HPD
James Power, Kramer, Levin, Naftalis, and Frankel LLP
Michelle DeMilly