



Community Board 12 - Manhattan Washington Heights & Inwood

530 West 166th St. 6th Floor, New York, NY 10032

Phone: (212) 568-8500, Fax: (212) 740-8197

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George Fernández Jr., Chairman
Ebenezer Smith, District Manager

September 30, 2015

Hon. Margery Perlmutter
Commissioner
Board of Standards & Appeals
22 Read Street
New York, NY 10007

Dear Commissioner Perlmutter:

At the General Meeting on Tuesday, September 29, 2015 Community Board 12 Manhattan, passed the following resolution with a vote of (34) In Favor, (0) Opposed, (0) Abstain, opposing approval of Application number 104-15BZ submitted by the NYC Board of Standards and Appeals (BSA) requesting variances for property 4452 Broadway.

Whereas: In May 2015, application number 104-15-BZ (the "Application") was submitted to the Board of Standards and Appeals ("BSA") by Rosenberg & Estis, PC, Attorneys at Law ("Legal Counsel") on behalf of HAP Investment, LLC ("HAP") requesting variances to multiple sections of the New York City Zoning Resolution to facilitate development of a mixed-use development project at 4452 Broadway (the "Project"). The Project as proposed consists of the development of an irregularly shaped, approximately 24,280 square foot site, 4452 Broadway, (Block 2170 / Lots 62 and 400), located at the southeast corner of the intersection of Broadway and Fairview Avenue (the "Site"), as a 16-story, 235,458 square foot mixed-used building containing 241 units of market-rate rental housing, approximately 14,919 square feet of commercial space on the ground floor and second floors and 18,834 square feet of commercial space on the cellar and two-sub-cellar floors. Total development costs are estimated at \$111 million; and

Whereas: The portion of the Site that is within 100 feet of Broadway is zoned R7-2 with a C2-4 overlay and the remainder is zoned R7-2 without a commercial overlay. The Project does not comply with zoning. The maximum residential density permitted under zoning is approximately 87,407 square feet (an average floor-area-ratio or FAR of 3.6); 221,267 square feet (133,860 square feet larger than-as-of-right) of residential space is proposed. The maximum street-wall height permitted pursuant to zoning is 60 feet; a street-wall height of 105.25 feet (42.25 feet taller than as-of-right) is proposed. The Project exceeds the maximum allowable density / floor area (an average of 3.6 vs. 9.7), and the maximum building height (80 feet vs. 165.25 feet) pursuant to zoning. It also does not comply with the minimum number of required parking spaces, i.e.: 50% of the total number of units (121 required vs. 50 proposed), the location of floors occupied by commercial uses (C2-4 zoning does not permit zoning above the first floor; commercial space on the second floor is proposed) and the required accessory loading berths (no loading berth is required for the first 25,000 square feet of commercial space but a loading berth is required for the next 17,000 square feet of commercial space - a total of 33,034 in commercial space is proposed); and

Whereas: Applications to BSA for zoning variances must show compliance with each of the following five findings (the "Findings"): a) that practical difficulties or unnecessary hardship arise from unique physical conditions; b) because of such physical conditions there is no reasonable possibility that development in strict conformity with zoning will bring a reasonable return; c) the variance, if granted, will not alter the essential character of the



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neighborhood or district in which the zoning lot is located; d) the practical difficulties or unnecessary hardship claimed as the grounds for a variance have not been created by the owner or by a predecessor in title; and e) the variance, if granted, is the minimum variance necessary to afford relief; and

Whereas: On September 2, 2015 the Land Use Committee ("Land Use" or the "Committee") of Community Board 12-Manhattan ("CB12-M) hosted a Public Hearing to consider the Application. Legal Counsel and the project architect presented the Project. The Public Hearing was attended by approximately 30 local residents. Attendees consistently expressed opposition to the Project, noting that at 16 stories it is out of character with and would change the essential character of the neighborhood -- its architectural vocabulary is inconsistent with the neighborhoods existing built fabric, it would dwarf neighboring buildings on Broadway and blocks light, views and air of the rear units of the apartment buildings on Wadsworth Terrace. The Committee and attendees also noted that the Project offers no community benefits (a point conceded by Legal Counsel) and that by developing 241 market rate units, with half of them one-bedroom units smaller than 700 square feet, the Project would also change the demographic character of the neighborhood. Further, the reduction to the number of on-site parking spaces would make it more difficult for local resident to find on-street parking spaces and the elimination of a loading berth for the commercial space would exacerbate existing double-parking and other problems related to current retail space and the existing traffic congestion on Broadway; and

Whereas: The Committee and attendees questioned the claims of financial hardship in the Application. It was noted that HAP previously announced it planned to build an eight-story, 98-unit as-of-right market-rate development ("HAP -7") on the Site that, as of September 2nd, was still posted to HAP's web-site. It was further noted that HAP can profit significantly by selling its interest in the completed project, which is not considered or discussed in the Application; and

Whereas: The Committee noted that at the time HAP purchased the Site, it was familiar with the site conditions that it now claims as a hardship and the basis for zoning variances. The Site was proposed for an even larger development by Quadriad that required a substantial rezoning and did not advance. The discussions among Quadriad, CB12-M and the Department of City Planning took place over at least two years and were covered by local press; and

Whereas: A representative of Council Member Ydanis Rodriguez in attendance at the Public Hearing advised that the Council Member is reviewing the Application and leaning towards opposing it since it does not include any affordable housing; and

Whereas: An as-of right design was not presented, no design alternatives were presented and the proposed design fights rather than works with the Site, no consideration was given to affordable housings and despite claims made in the Application, the Project as designed and presented does not satisfy the Findings; now, therefore,



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Resolved: Community Board 12-Manhattan opposes approval of the Application submitted to the Board of Standards and Appeals on behalf of HAP Investments, LLC requesting multiple zoning variances to facilitate development of a 16-story, 235,458 square foot mixed-used building at 4452 Broadway based first and foremost on its overwhelmingly adverse impacts on the neighborhood's essential character due to its excessive height and density and its insensitive, poorly considered architectural design, but additionally and as importantly based on the absence of any units that are affordable to average local residents and the on-street problems that will be caused by the reduction in the number of parking spaces and the elimination of a loading berth.

We look forward to a favorable response to this request.

Sincerely,

George Fernandez, Jr.
Chair

cc: Hon. Bill de Blasio, Mayor
Hon. Gail Brewer, Manhattan Borough President
Hon. Letitia James, Public Advocate
Hon. Scott Stringer, Comptroller
Hon. Charles B. Rangel, Congressman
Hon. Adriano Espaillat, NY State Senator
Hon. Herman D. Farrell, Jr., Assembly Member
Hon. Guillermo Linares, Assembly Member
Hon. Ydanis Rodriguez, Council Member
Hon. Mark Levine, Council Member