



CITY OF NEW YORK

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March 2, 2016

Delores Rubin
Jean Daniel Noland
Manhattan Community Board 4
330 West 42nd Street – 26th Fl.
New York, NY 10036

**RE: Street Wall Requirements, Non-Compliant Hotel Developments in Garment Center
Special District – Subarea P-2**

Dear Ms. Rubin and Mr. Noland,

Thank you for your letter dated January 12, 2016 concerning street wall requirements in the Special Garment Center and Special Hudson Yards districts, and we apologize for the delay in response. We appreciate the careful attention the community board pays to development in Manhattan Community District 4, ensuring construction is consistent with zoning and building regulations, and promoting built form that complements the qualities of the district's neighborhoods.

Your letter accurately recounts the consideration that was given to establishing street wall controls in the noted special districts, and that the pertinent regulations were refined through a text amendment in 2010 (N 100217 ZRM) to clarify the location and height of street walls, and to reinforce the streetscape.

We understand and share your concern regarding the use of screens to meet street wall requirements. It is not in the spirit of the zoning text that semi-transparent, two-dimensional structures replace building walls, nor do these attachments meet the urban design objectives of a street wall. However, in some instances, these building elements have been interpreted to technically meet zoning rules.

Re: Street Wall Requirements, Non-Compliant Hotel Developments
in Garment Center Special District – Subarea P-2

A closer examination of policy has resulted in the determination that such screen structures will no longer be permitted in place of building walls to meet street wall requirements in Zoning Resolution §§ 93-53, 93-55 and 121-32.

With regard to the hotel projects cited in your letter, the properties; 326 West 37th Street, 310 West 40th Street and 350 West 40th Street were provided with Zoning Resolution Determinations to permit screen structures in place of building street walls. Those determinations will be revoked.

The remaining properties cited in your letter; 338 West 39th Street and 351 West 38th Street were not issued determinations. Those projects will be reviewed for compliance with the zoning resolution regarding this issue. Permits will not be issued for those projects unless the department confirms the plans do not contain non-complying screen walls.

As stated, any future applications to construct screen structures as described will not be honored.

We thank you, again, for your attention to this matter.

Best Regards,



Carl Weisbrod
Director
Department of City Planning



Martin Rebholz
Manhattan Borough Commissioner
NYC Department of Buildings

C: Hon. Gale Brewer, Manhattan Borough President
Hon. Corey Johnson, Council Member
File



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January 12, 2016

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New York, New York 10007

**Re: Street Wall Requirements
Non-Compliant Hotel Developments
in Garment Center Special District—Subarea P-2**

Dear Chair Weisbrod and Borough Commissioner Rebholz:

At the Clinton/Hell's Kitchen Land Use Committee meeting on April 9, 2015, members had a discussion regarding the use of screenwalls in 4 mid-block budget hotel developments to avoid meeting street wall zoning requirements in the Hudson Yards/Hell's Kitchen area. The developments are located in the Garment Center Special District (SGCD), Subarea P-2 (between West 40th and West 35th, 8th to 9th Avenues) as well as the Special Hudson Yards District (SHYD) and are in violation of Section 121-32 (in the SGCD) and Section 93-55 (in the SHYD) of the Zoning Resolution. At its June 3, 2015 meeting, by a vote of 38 for, 0 against, 0 abstaining, and 0 present but not eligible to vote, Manhattan Community Board 4 voted to request that these developments be issued a Stop Work Order for non-compliance with the Zoning Resolution. The mailing of the final letter was delayed due the collection of information regarding recent hotel developments in the district.

The areas discussed in this letter were the subject of a Zoning Text Amendment in ULURP No. 100217 ZRM, which was adopted in 2010. The purpose of that Text Amendment was to clarify the text regarding streetwall requirements for P-2 of the GCSD previously adopted in Hudson Yards Rezoning of 2005, which established that zoning text requirement.

ZR 12-10 defines a street wall as "a wall or portion of a wall of a building facing a street". Three hotels in the GCSD (326 West 37th, 338 West 39th Street, and 351 West 38th Street) and two in

the HYSD (Street, 310 West 40th Street and 350 West 40th Street) *have created or propose to create non-structural, non-functioning screenwalls solely to meet minimum street wall heights. These screenwalls are metal mesh, lattice, trusses or other freestanding structures open enough in material construction to allow legal light and air into hotel room windows set in the actual building wall set back 10 to 25 feet from property line fronting the street.* These proposed configurations create a smaller building footprint, which in turn allows for a higher building height.

Background and History Streetwall Requirements Hudson Yards Rezoning 2005 & SGCD, Subarea P-2

As part of the 2005 Hudson Yards rezoning, the Department of City Planning included both height limits and streetwall requirements, which included certain text amendments to P-2 of the SGCD. *The January 2005 City Planning Commission report on the Hudson Yards Rezoning explained that these new streetwall requirements for P-2 of the SGCD were enacted “to ensure consistency with the Garment Center’s distinctive built form of high street wall loft buildings”.*¹

Tower 37—DOB Interpretation of 2005 SGCD, Subarea P-2 Streetwall requirements

In late November 2007, MCB4 reviewed and approved a Lower Income Housing Plan for 350 West 37th Street, also known at that time as Tower 37 (now known as the Townsend). In early 2009, MCB4 identified non-compliance with the street wall requirements of ZR 121-32², specifically the requirement for a 90 foot street wall at the street line.³

However, Tower 37 commenced construction with a 20 foot setback at the 2nd floor, contrasting the 80 to 100 foot-high street walls characterizing the Garment District. The SGCD Zoning Text requires that street walls extend for a minimum height of 80 feet (approximately 8 floors) before having a setback.

This issue was presented twice to the Department of City Planning on June 3, 2008 and on September 30, 2008. MCB4 addressed this issue again on November 19, 2008 at a District Service Cabinet meeting and in a January 16, 2009 letter to the DOB Manhattan Borough Commissioner. On February 19, 2009 a stop work order for construction at the site was issued by DOB for “failure to comply with Zoning Resolution for Setbacks”.

DOB subsequently determined that 350 West 37th Street satisfactorily conformed to the zoning requirement, citing a lack of clarity in the Zoning Text regarding the minimum street wall height requirement in SGCD P-2. The Department of City Planning agreed to clarify the Zoning Text, and along with other Hudson Yards Text Amendments, began the process of a Uniform Land Use Review Procedure.

ULURP—Text Amendment Clarification

On January 14, 2010 the Department of City planning filed a Land Use Review Application to clarify its requirements for minimum street wall height in SGCD Preservation Area P-2 and to

¹ Zoning Text Amendment N040500(A) ZRM <http://www.nyc.gov/html/dcp/pdf/cpc/040500a.pdf> P. 13

² Zoning Resolution 121-32 <http://www.nyc.gov/html/dcp/pdf/zone/art12c01.pdf> Page 13

³ Letter from MCB4 to DOB Commissioner, dated February 26, 2009

extend the same streetwall requirements to Subdistrict E of the Special Hudson Yards District (SHYD)⁴. On June 29, 2010, the amendment to New York City Zoning Resolutions §§93-50, 93-53, 93-55, and 121-32 regarding the Hudson Yards and Garment Center Street Wall Text was adopted. The new street wall height requirements set forth affect the area bound by 40th Street to the North, 100 feet east of 9th Avenue to the West, 35th Street to the south, and 100 feet west of 8th Avenue to the East.

Developments Meeting Street Wall Requirements in the SHYD or SGCD 2008-2015

There are multiple examples of developments in Hudson Yards/Hell's Kitchen that meet the zoning required street wall text. A most recent example would be hotel developer Sam Chang, known for his setback from the street wall hotels, recently proposed a project at the former Christ Church site on West 36th Street that would preserve the historic church façade and the streetwall. Recent developments that have met the streetwall requirements include:

321 West 35th Street (Even Hotels) 2015 (fig. 1)

321 West 35th Street is the site of Even Hotels New York. The streetwall extends through the seventh floor, with the remaining floors being set back. The building is located in Preservation Area P-2.

341 West 36th Street (Double Tree) 2008 (fig. 2)

341 West 36th Street is the location of a Double Tree hotel that maintains a street wall through its first nine floors, with the remaining floors being set back from the street wall. The building is located in Preservation Area P-2.

307 West 37th Street (Courtyard Marriott) 2013 (fig. 3)

307 West 37th Street is the location of a Courtyard Marriott hotel that maintains a street wall through its first nine floors, with the remaining floors being set back from the street wall. The building is located in Preservation Area P-2.

312 West 37th Street (Homewood Suites) 2014 (fig. 4)

312 West 37th Street is the location of a Homewood Suites hotel that maintains a street wall through its first seven floors, with the remaining floors being set back from the street wall. The building is located in Preservation Area P-2.

310-328 West 38th Street (Emerald Green) 2011 (fig. 5)

Located in Preservation Area P-2 of the SGCD, 310-328 West 38th Street is a development comprised of two 24-story residential towers, with 569 units. The towers have a setback at the ninth floor, which conforms to the local built environment and is in keeping with the street wall requirement in P-2.

330 West 39th Street (Crystal Green) 2013 (fig. 6)

330 West 39th Street is also in Preservation Area P-2 of the SGCD. The 25 story residential development contains 200 units and is set back at the tenth floor.

⁴ The Land Use Review Application also included other amendments for Zoning Text within the SGCD and the SHYD.

Recent Trend 2014— Non Zoning Compliant Developments with Screen Walls not Street Walls

In 2014 at least 3 hotel developments had been approved and permitted by DOB inside the area regulated by these newly-clarified street wall requirements. All 3 developments are subject to the street wall requirements⁵ clarified through the Zoning Text amendment enacted on June 29, 2010. They all employ the same tactic of using a neither non-structural nor functional screenwall to meet the minimum street wall heights.

326 West 37th Street (fig. 7)

326 West 37th Street is a 22-story hotel in construction located in the SGCD Preservation Area P-2 and as such is subject to ZR 121-32(a) which states that the street wall must rise to a height between 80 and 90 feet with exceptions made for projects adjacent to certain buildings not complying with the requirements. The enclosed approved zoning diagram for the project makes no claim such exceptions⁶. The axonometric diagram below shows a perforated metal panel being used as the street wall above the first floor. Renderings of the hotel illustrate a vastly different design. It appears that the metal will comprise less than 10% of the area being called the street wall. In no stretch of the imagination could this element be considered a street wall.

310 West 40th Street (fig. 8)

310 West 40th Street is a 44-story hotel in construction located in SHYD Subdistrict E and as such is subject to ZR 93-55(b) which states that the street wall must rise to a height between 80 and 90 feet with exceptions made for projects adjacent to certain buildings not complying with the requirements. The hotel will employ a similar tactic to reach a street wall height of 81 feet through use of a perforated metal panel. The enclosed approved zoning diagram shows a true street wall up to the fourth floor at a height of 51 feet with the additional height being met by a metal panel⁷. Renderings reveal that the metal panel will begin at the second floor, revealing the masonry behind and opening up to a more obvious open space for the remaining 30 feet. This proposed design does not meet the zoning's intention and does not meet the definition of a wall.

350 West 40th Street (fig. 9)

350 West 40th Street is a 20-story hotel that is nearing completion located in SHYD Subdistrict E and as such is subject to ZR 93-55(b) which states that the street wall must rise to a height between 80 and 90 feet with exceptions made for projects adjacent to certain buildings not complying with the requirements. The hotel will employ the same technique to reach a street wall height of 80 feet through use of a "metal mesh screen". The enclosed approved zoning diagram shows that the metal screen will begin at the second floor and extend to the minimum required street wall height⁸. At this time no actual renderings have been released showing the design, but the building is designed by the same architecture firm that is working on 310 West 40th Street.

⁵ Zoning Resolution 121-32 <http://www.nyc.gov/html/dcp/pdf/zone/art12c01.pdf> Page 13

⁶ Appendix A

⁷ Appendix B

⁸ Appendix C

2015—Further Screen Wall Developments

338 West 39th Street (fig. 10)

On April 30, 2015 a rendering was released for 338 West 39th Street, another hotel in SGCD Preservation Area P-2. Though plans have not been filed, the renderings indicate that the same faux street wall will be employed in the design of this building.

351 West 38th Street (fig. 11)

In November 2015, renderings were released for a proposed 21-story hotel at 351 West 38th Street, also within the SGCD Preservation Area P-2. The proposed building would occupy a significant amount of sidewalk frontage along 38th Street. Per the renderings, the proposed development would also include a screenwall that starts at the street level.

Conclusion

The SGCD and SHYD street wall requirements were put in place to preserve the physical character of this portion of the Garment Center, characterized by bulky loft buildings with high street walls. The use of a non-functional screen wall neither meets the intent nor the requirements of the original and subsequently clarified zoning text. Two hotels in the SHYD and two others in the SGCD have proposed designs that are not in compliance with requirements of CIT of the Zoning Text as amended and adopted in 2010. MCB4 requests DOB issue of Stop Work Orders at these construction sites and audit these non-compliant new building applications (121184351, 121237358, 121185216, 121189659, and 121193608). Further, MCB4 requests to meet with DOB to ensure such compliance with the SHYD and the SGCD zoning requirements be enforced.

Sincerely,



Delores Rubin
Board Chair



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

Enclosure

cc: Hon. Gale A. Brewer, Manhattan Borough President
Hon. Corey, Johnson, City Council