



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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**JEAN-DANIEL NOLAND**  
Chair

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

February 8, 2008

Hon. Amanda M. Burden, AICP  
Chair  
City Planning Commission  
22 Reade Street  
New York, New York 10007

**Re: 310-328 West 38<sup>th</sup> Street - Glenwood Management Corp. - ULURP Applications Nos. N 070462 ZRM and 070463 ZSM**

Dear Chair Burden:

At the recommendation of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board 4, having held a duly noticed public hearing on ULURP applications numbers N 070462 ZRM and 070463 ZSM adopted the following resolutions by roll call vote at its meeting on February 6, 2007. The resolutions recommend conditional approval of the zoning text amendment, N 070462 ZRM, and denial of the zoning special permit, 070463 ZSM. The vote on N 070462 ZRM was 30 in favor, 6 opposed, 0 abstaining and 0 present but not eligible to vote and for 070463 ZSM it was 35 in favor, 1 opposed, 0 abstaining and 0 present but not eligible.

**THE PROPOSED DEVELOPMENT AND THE DEVELOPMENT SITE**

The applicant, an affiliate of Glenwood Management Corp., proposes to develop two 24-story residential towers on a site at 310-328 West 38<sup>th</sup> Street and 333-345 W. 37<sup>th</sup> Street, between Eight and Ninth Avenues. The towers would be connected at the ground floor and basement levels and contain approximately 592,499 square feet of floor area. There would be approximately 569 rental units, with 20% of the residential floor area in dwelling units affordable to lower income households in accordance with to the requirements of the Modified Inclusionary Housing Bonus (Zoning Resolution (ZR) Section 93-232). The project is seeking tax exempt financing for from the New York State Housing Finance Agency.<sup>1</sup> The ground floor would contain approximately 10,600

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<sup>1</sup> CB4's Housing, Health and Human Services Committee reviewed the inclusionary housing application at its monthly meeting on November 20<sup>th</sup>, 2007 and made a recommendation that was approved by the Full Board on December 5, 2007

[see: [http://manhattancb4.org/agendas/2007\\_12/26%20HHHS%20Glenwood%20-%20310%20W%2038%20St.pdf](http://manhattancb4.org/agendas/2007_12/26%20HHHS%20Glenwood%20-%20310%20W%2038%20St.pdf)].

square feet of retail space and approximately 8,800 square feet for the through block entry/exit of a proposed public garage that would be located on portions of the cellar and sub-cellar levels and include 400 parking spaces. The applicant intends to seek LEEDS certification for the project, at a level that has yet to be determined.

The large development site has 250 feet of frontage on both 37<sup>th</sup> and 38<sup>th</sup> Streets between Eighth and Ninth Avenues (Block 761, Lots 10, 13 and 43). It was previously occupied by a five-story commercial building, a surface parking lot with about 90 spaces, and a public parking garage with approximately 500 spaces.

The site is located within a C6-4M zoning district in Preservation Area P-2 area of the Special Garment Center District. The P-2 area is the western most portion of the Special District and was rezoned in 2005 from M1-5 and M1-6 districts as part of the Hudson Yards rezoning to allow, among other things, new residential development on the area's underbuilt parcels. This would be the first such new development. The zoning allows a base FAR of 6.5 that may be increased to 12.0 through the Inclusionary Housing and District Improvement Fund Bonuses. The Hudson Yards rezoning added two other elements that are relevant to these applications:

- Envelope controls were established for new development intended to ensure consistency with the Garment Center's distinctive built form of high street wall loft buildings with "wedding cake" silhouettes (ZR Section 121-32), and
- The parking regulations of the Special Hudson Yards District were made applicable in Preservation Area P-2 (ZR Section 121-40).

## **THE ULURP APPLICATIONS**

The applications request:

- (i) A zoning text amendment to the street wall regulations of ZR Section 121-32 in order to permits entry recesses up to a maximum depth of 15 feet and a length of up to 50 feet in developments on zoning lots with at least 200 feet of frontage; and
- (ii) A special permit pursuant to ZR Section 74-52 to modify Sections 93-80 and 121-40 to allow a 400 space public parking garage on the ground floor and in the cellar and in the sub-cellar of a predominately residential mixed-use building.

### **The Zoning Text Amendment – Yes provided there are two modest changes to ensure limited applicability and protect the streetscape**

The special bulk regulations for the P-2 Area under ZR Section 121-32 require that the street wall of a development be located on the street line and extend along the entire street frontage of the zoning lot not occupied by existing buildings that will remain. The applicant claims that this requirement "raises urban design and streetscape issues for developments with extensive frontages."

The applicant is therefore seeking a zoning text amendment that would allow up to 20% (maximum 50 feet) of the street wall of buildings on zoning lots with frontages of at least 200 feet in length in the P-2 area to be recessed up to 15 feet provided at least 60% of such recessed area is landscaped. The applicant has presented a plan which includes landscaped recessed entries with a width of 46 feet and depth of 12 feet for both the West 37<sup>th</sup> and West 38<sup>th</sup> Street towers.

ZR Section 121-32 is intended to do exactly what the applicant complains of: it requires a continuous street wall, as was noted in the Hudson Yards ULURP applications and the CPC Report on those applications, “to ensure consistency with the Garment Center’s distinctive built form of high street wall loft buildings”. The inconsistency, if there is one, is with the hallmark style of landscaped recessed tenant entries featured in many of the applicant’s buildings on the Upper East Side and the Upper West Side. We are not persuaded that the requested text change is necessary, but we are satisfied that it can be of very limited application.

We recommend approval of the requested text amendment, provided it is further restricted in two respects:

- It applies on zoning lots with frontages of at least 240 feet (rather than the 200 foot minimum in the application), and
- Recesses must be at least 50 feet from any adjacent building, so that the unfinished side walls of adjacent buildings are not exposed.

The applicant has advised us that these changes are acceptable to it.

**The Special Permit for the Parking Garage - Yes to Accessory Parking spaces; No to additional Public Parking**

The applicant seeks a special permit to allow a 400 space public parking garage on the ground floor, cellar, and sub-cellar levels of the proposed development. The entry/exit ways will be from both West 37<sup>th</sup> and West 38<sup>th</sup> Streets.

CB4 generally supports accessory parking facilities but opposes public facilities, especially in areas well served by mass transit. We come to this position based on our experience of the daily congestion in our area caused by the Lincoln Tunnel and our location at the edge of Midtown Manhattan. Traffic is frequently at a standstill, especially in the area of this proposed development. All recent traffic studies – including PlaNYC<sup>2</sup> – have shown that traffic due to increases in population, car ownership and inadequate reliance on alternative modes of transportation will only increase in the

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<sup>2</sup> PlaNYC – Transportation Section, page 17

On a given workday, the Manhattan CBD is home to nearly 2 million workers from around the region, hundreds of thousands of and several hundred thousand residents. Cars compete for the road with buses, trucks pedestrians, cyclists and taxis. Vehicles trapped in traffic spew pollution into the air, putting the health of those living near congested roads at risk; and the resulting jams cost the region more than \$13 billion dollars every year. As our population grows by another 900,000 people, we add more than 20 million visitors annually, and 750,000 new jobs —many concentrated in the CBD —the consequences of congestion will become ever more severe.

coming years unless the causes of traffic - one being accessible parking in an area well served by mass transit - are addressed. If we build fewer parking spaces, fewer people will come to Midtown Manhattan by car. This goal is consistent with the goals of PlaNYC, and we are pleased that the elimination of public parking is increasingly finding its way into a discussion of congestion mitigation. We cannot support any application that encourages non-residents to come to this area by car.

The development site is two short blocks from the subway entrance at 35<sup>th</sup> Street and Eighth Avenue and four short blocks from the entrance to Penn Station. Public parking at this location is unnecessary and irrational.

Under the applicable zoning regulations, a parking garage with 232 accessory spaces would be allowed as-of-right (ZR Sections 121-40 and 93-81), and those accessory spaces would also be available for public use (ZR Section 93-82(a)). We believe that this garage should be limited to 232 accessory spaces.<sup>3</sup>

However, the applicant is seeking a special permit for a larger public parking garage under ZR Section 74-52, so we address the findings required for that special permit and the applicant's "Statement of Application/Discussion of Findings":

*a) such use will not be incompatible with, or adversely affect the growth and development of, uses comprising vital and essential functions in the general area within which such use is to be located*

The area of the proposed development is presently so congested, especially at peak commuting hours, that vital and essential functions such as emergency services are often adversely affected by traffic. Indeed traffic in the immediate surroundings of the development site is so bad that the FDNY has just recently requested our support for measures to reduce gridlock affecting the fire station located on 38<sup>th</sup> Street between Ninth and Tenth Avenues. See our letter dated January 16, 2008 to DOT Borough Commissioner Margaret Forgiione supporting FDNY's request (copy attached). During the times of greatest congestion, public parking that encourages any more people to bring cars to the area is incompatible with emergency services needed in the area.

*b) such use will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow*

The area of the proposed development is already heavily congested and this application will make a seriously bad situation worse. The application notes that West 38<sup>th</sup> Street handles 815 vehicles per hour during the AM peak hour and West 37<sup>th</sup> Street has traffic volumes of approximately 960 vehicles per hour during the PM peak hour. Those are huge volumes, but also hard to believe, since traffic on 37<sup>th</sup> and 38<sup>th</sup> Streets is often

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<sup>3</sup> The parking regulations in the Hudson Yards zoning text are subject to pending legal challenge under the Clean Air Act. If the challenge is successful – an outcome that we would celebrate – accessory parking would be limited to 20% of the dwelling units and one space per 4000 square feet of commercial space, or 117 parking spaces for this project.

gridlocked during rush hour. In addition, the traffic analysis in the application does not take into account recent developments in the area, including a large catering venue on 37<sup>th</sup> Street.

One hundred sixty-eight additional cars (the difference between the 232 accessory spaces allowed as-of-right and the 400 spaces the applicant wants) will make a contribution, if minor, to the existing serious traffic congestion, and should not be allowed.

The applicant argues that the proposed 400 spaces will generate less traffic than the 590 spaces that were on the site previously. That is irrelevant. The previous use of the site for parking was an opportunistic use to cover the owner's costs pending development. It cannot be considered a benchmark for desirable use.

*c) such use is so located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas*

The applicant bases his argument on this regulation by stating that the "Proposed Garage will have an entry/exit on both West 37<sup>th</sup> and West 38<sup>th</sup> Streets, neither of which has significant residential use." This is true for the moment but not for the very near future. In the creation of the Special Garment District the P-2 area (unlike the P-1 area) was designed to also increase residential development. With this project, 37<sup>th</sup> Street between Eighth and Ninth Avenues will become primarily residential.

*d) such use has adequate reservoir space . . .*

We agree that this finding can be met.

*e) the streets providing access to such use will be adequate to handle the traffic generated thereby;*

We reiterate here our comments under a) and b) above.

Findings *f) and g)* are not applicable to this project.

We further note that Section 74-31(d) of the Zoning Resolution requires DCP to refer the application to the Department of Traffic for its report with respect to anticipated traffic congestion.

**Now, therefore, be it RESOLVED** that Manhattan Community Board No. 4 recommends approval of ULURP Application N 070462 ZRM only if:

- It applies on zoning lots with frontages of at least 240 feet (rather than the 200 foot minimum in the application), and
- Recesses must be at least 25 feet from any adjacent building, so that the unfinished side walls of adjacent buildings are not exposed; and

**FURTHER RESOLVED** that Manhattan Community Board No. 4 recommends denial of ULURP Application 070463 ZSM.

Sincerely,



Jean-Daniel Noland  
Chair



Anna Hayes Levin, Chair  
Clinton/Hell's Kitchen Land Use

Cc: City Planning Commission, Calendar Information Office, 22 Reade St., Rm. 2E  
DCP – Erik Botsford, Erika Sellke, Frank Ruchala  
NYC Council Speaker Christine Quinn  
Manhattan Borough President Scott Stringer  
NYS Senator Thomas Duane  
NYS Assemblyman Richard Gottfried  
Applicant, c/o Samuel H. Lindenbaum, Esq., Kramer Levin, 1177 Avenue of the Americas, NYNY 10036