



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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JOHN WEIS
Chair

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District Manager

July 21, 2010

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

**Re: Special Hudson Yards District
Special Garment Center District
Special West Chelsea District
Follow Up Corrective Actions
Text Amendments
Transit Volume Easements and Demolition Restrictions
ULURP No. N100424ZRM**

Dear Chair Burden:

Manhattan Community Board 4 (CB4) welcomes the opportunity to comment on the above referenced proposed Text Amendments to the New York City Zoning Resolution. At its full Board meeting on July 21, 2010, CB4 voted unanimously in favor of the proposed text amendment subject to the conditions listed below.

The proposed text amendments modify the sections of the Special Hudson Yards (SHYD), Special West Chelsea (SWCD), and Special Garment Center (SGCD) District Zoning Resolutions to:

- 1) facilitate construction of above-grade infrastructure related to the #7 Subway Line extension; and
- 2) restrict demolition of sound residential housing in the SHYD, SGCD and SWCD similar to the requirements currently in effect for the Preservation Area of the Special Clinton (SCD).

7 Subway Line Transit Volume Easements

This proposed follow-up text amendment seeks to clarify provisions of the original text amendment and proposes changes, including that the subway easements will now be transit volume easements. As it is currently written, the Zoning Resolution only excludes the floor area of subway entrances and *not the transit facilities themselves*, from overall

floor area. Furthermore, it requires retail continuity along street frontages. The provisions of this text amendment will allow these easements to be fully integrated into the built environment. These modifications will facilitate construction of necessary above-grade transit-related uses by:

- 1) expanding ZR Section 93-65 to permit that floor area used not just for subway entrances, but for all transit facilities be excluded from the overall calculation of development floor area, and;
- 2) eliminating the retail continuity requirement of ZR Section 93-14 as it pertains to these transit-related uses.

The proposed amendment modifies the transit easement text in relation to the easements at:

- West 41st Street and Dyer Avenue
- West 33rd Street and Eleventh Avenue
- West 36th Street and Eleventh Avenue
- West 26th Street and Eleventh Avenue.

At the June 2010 meeting of CB4's Hell's Kitchen/Clinton Land Use (C/HKLU) Committee, a representative of the Department of City Planning (DCP) made a clear and thoughtful presentation illustrating the need to amend the Zoning Resolution to facilitate additional transit-related uses. CB4 supports and agrees with those modifications, but the Board requests that the following specific adjustments be made:

- **Time Limit on Commercial Use of Transit Easement Excluded Floor Area**
ZR Section 93-65(a) permits the owner of the development to utilize the transit easement excluded floor area for commercial use until such time as it is needed for transit-related uses. These transit easements are not subject to inclusion as floor area, since a public benefit, namely an easement for public transit, is being provided. However, if no such easement is ever used by the Metropolitan Transportation Authority (MTA), what happens with that space? Post-completion of the # 7 subway line, CB4 requests that commercial use of excluded floor area be subject to a specific time limit. After that time limit passes and the MTA has certified that it will not make use of the excluded floor area *that floor area should continue to provide a public benefit*. Excluded floor area intended for public benefit, once that specific public benefit is no longer needed, should not benefit a private developer. After that time limited period, CB4 requests that the space be reserved for community facility use, rented to a not for profit, at a below market rental rates.
- **Transit Facilities—Design and Context**
Transit-related uses are often large and unwelcoming in appearance. CB4 understands that transit relates uses such as driveways, ventilation systems, and

substations prohibit full retail continuity and supports clarifications to the easements as they both bring predictability and assure integration with the surrounding environment. While CB4 supports this exemption from retail continuity requirements, sites with above grade transit uses must include:

- **Public Art, Façade and Contextual Design**
 - Without measures in place to regulate appearance, street frontages may be left blank or become hostile spaces. CB4 requests that street level frontages be required to include public art and façade treatments that are subject to review by both DCP and CB4.
 - For the currently proposed blank wall at West 33rd Street/West 34th Street on the west side of the planned Hudson Boulevard, CB4 requests a façade design that will contribute to the future adjacent public park.
- **Street Tree Planting**
 - CB4 requests that the street tree planting requirements of ZR Sections 93-62 be incorporated into the amendment.
 - Past experience has shown that sidewalk vaults can create a significant obstacle to street tree planting. CB4 requests that DCP coordinate with DOB, ConEd, and DOT on vault placement so that street tree planting ability is maximized.
- **#7 Subway Line Stop at 41st Street**

Finally, CB4 continues to support a # 7 line stop at West 42nd Street and 10th Avenue. The easement affecting this location is currently mapped on the NW corner of West 41st Street and Dyer Avenue. CB4 supports eliminating the existing easement at the SE corner of 10th Avenue and West 41st Street as long as it has no impact on the creation of the future #7 41st Street subway stop. We look forward to seeing updated maps from DOB depicting placement of this and each of the easements affected by this amendment.

Demolition Restrictions

The need for the proposed text amendment of ZR Section 93-90 restricting the demolition of sound residential housing in certain areas of the SWCD, SGCD, and SHYD, originated in 2004 during the public review of the Hudson Yards rezoning. The Board raised concerns, given then proposed dramatic upzoning of the Hell's Kitchen/Hudson Yards area, the development pressure on the existing structure, predominately tenements, and long term community residents who occupy them would be severe. The Board sought enhanced protection for those building and their residents. Although agreement was reached in December 2004 with the Mayor and the Council, the implantation of these protections was long delayed.

Now, with language of that text amendment agreed on and certified for public review, CB4 is pleased to offer its full support of this important text amendment. ensure the preservation of approximately 1291 units of housing in 86 buildings in Hudson Yards and approximately 250 units of housing in 22 buildings in West Chelsea.

The proposed text amendment prevents demolition of multiple dwellings, (those residential buildings with 3 or more dwelling units), unless the Commissioner of the NYC Department of Housing Preservation and Development (HPD) certifies that following conditions are met:

- If substantially preserved, an alteration permit is required to allow the removal and replacement of 20% or more of the floor area;
- If demolition is proposed, HPD must determine that rehabilitation is not feasible under existing housing rehabilitation programs; and
- HPD must issue a Certification of No Harassment or certified compliance with the Harassment Cure provisions of Section 93-90(d).

CB4 focus on review of this amendment is twofold:

- accurate identification of eligible multiple dwellings in the SHYD, SGCD and SWCD.
- Implementation of an enforcement mechanism at the Department of Buildings, to accurately identify these buildings as subject to this new zoning provision.

Therefore, CB 4 has compiled a complete list of eligible buildings by block and lot with accompanying maps (see attached). Furthermore, ***the respective block and lots must be flagged in the DOB Building Information System (BIS) to trigger the requirement for certification by the Commissioner of HPD prior to issuance of a demolition permit.***

Therefore, Manhattan Community Board 4 voted unanimously to approve the proposed Text Amendment, ULURP No. N100424 ZRM, subject to the following conditions:

Transit Easements

- Review No. 7 line maps to ensure no disparity in easement locations;
- Impose a time limit on commercial use of transit easement excluded floor area
 - Require that private use of exempt floor area be subject to a specific time limit and then be limited to community facility use;
- Transit facilities – design and context
 - Require public art and façade treatments on street frontages
 - Require street tree planting
 - Coordinate between DCP, DOB, DOT, and ConEd about vault placement
 - Create a design which contributes to the future public park for the currently proposed blank wall at West 33rd Street; and

- Eliminate the transit easement on the SE corner of 10th Avenue and West 41st Street as long as it has no impact on the creation of the future #7 41st Street subway stop

Demolition Restriction

- DCP report eligible properties via Block and Lot designations to HPD and DCP
- DOB flags its BIS system by block and lot to ensure compliance with section 93-90

Thank you for the opportunity to submit comments on these proposed Zoning Text Amendments. We look forward to their successful implementation.

Sincerely,



John Weis, Chair
Manhattan Community Board 4



Elisa Gerontianos, Co-Chair
Clinton/Hell's Kitchen Land Use Committee



Sarah Desmond, Co-Chair
Clinton/Hell's Kitchen Land Use Committee

cc: NYC Council Speaker Christine Quinn
NYS Senator Thomas K. Duane
NYS Assemblyman Richard Gottfried
Congressman Jerrold Nadler
NYC Council Member Gale Brewer
Manhattan Borough President Scott Stringer
Department of City Planning – David Karnovsky, Edith Hsu-Chen, Frank Ruchala