



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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Burt Lazarin

Chair

Jesse R. Bodine

District Manager

May 3, 2019

Eric Enderlin

Commissioner

NYC Department of Housing Preservation & Development

100 Gold Street

New York, NY 10038

Thomas Fariello

Acting Commissioner

NYC Department of Buildings

280 Broadway

New York, NY 10007

**Re: 317-319 West 35th Street
319-321 West 38th Street
Proposed Permanent Affordable Housing
And Hotel Development**

Dear Commissioner Enderlin and Acting-Commissioner Fariello:

At Manhattan Community Board 4's (MCB4) Clinton/Hell's Kitchen Land Use meeting, on April 10th 2019, members again discussed the two proposed permanent affordable housing and hotel development projects on 317-319 West 35th Street and 319-321 West 38th Street. These two sites, which comprised of five residential buildings and contained 44 residential units, were illegally partially demolished.

By a vote of 34 in favor, 0 opposed, 4 abstaining, and 0 present but not eligible, Manhattan Community Board 4 (MCB4/"The Board") voted to reaffirm our long term support for these neighborhood preservation and permanently affordable housing projects.

Background

These two sites are among the 12 sites on which MCB4 has seen the attempt of illegal demolition since December 2015. **The 12 sites encompass 24 buildings and 170 units and span through the Garment Center, West Chelsea, Hudson Yards, and Clinton Special Zoning Districts.** Some of this affordable stock has been lost; the rest has remained in limbo. The Special District Zoning texts prohibit demolition of residential buildings, as a means of preserving affordable housing for the long-term community residents of those buildings. However, the lack or confused enforcement by the Department of Buildings (DOB) has led to the loss of affordable homes for these long term residents.

In the case of certain sites, the loss of this housing has led to a compromised solution which permits both hotel development and the creation of permanently affordable housing at no cost to the City of New York. None of these solutions have been perfect, but they have moved the projects forward.

MCB4 and the respective development teams have continuously worked diligently to develop an innovative solution that both preserves the illegally partially demolished housing and allows development of a hotel use to proceed, while also creating permanent affordability. These extended efforts are recognized through the continuous letters produced by MCB4 as follows.

317-319 West 35th Street Letters

- MCB4 CHKLU March 30th, 2017 Letter
- MCB4 CHKLU August 7th, 2018 Letter
- MCB4 CHKLU August 20th, 2018 Letter
- MCB4 CHKLU February 26th, 2019 Letter

319-321 West 38th Street Letter

- MCB4 CHKLU January 13th, 2016 Letter
- MCB4 CHKLU August 7th, 2018 Letter
- MCB4 CHKLU August 20th, 2018 Letter
- MCB4 CHKLU February 26th, 2019 Letter

Among the many items discussed, MCB4 has met on multiple occasions with DOB, the City Council, the City Council Committee on Land Use, and the Department of Housing Preservation and Development (HPD) to produce the proposed solutions below.

Sandwiching of Residential Use below Commercial Use

The Owners have proposed a solution, in which DOB has reviewed and has now approved, to the “sandwiching” of residential use below commercial use. The solution¹ proposed all of the floor area in the building to be initially converted to commercial use and then convert back to residential use pursuant to Article 1, Chapter 5 of the Zoning Resolution. This path allows the proposed projects to have residential uses located on floors below transient hotel commercial

¹ The solution is subject to a CCD-1 prior consideration by DOB which has already been granted.

uses. Accordingly, a Substantial Preservation Certification from HPD is required to implement this development strategy.

Both projects are currently proceeding ahead with this strategy, with 317-319 West 35th Street having begun foundation work.

Separate Condominium Ownership of Permanently Affordable Housing and Hotel Use

The Owners have proposed to create an ownership structure which would bifurcate the building into two separate condominium units. One condo unit would contain the permanently affordable housing portion. The other condo unit would contain the hotel portion.

Article XI Real Estate Tax Exemption

The residential condo would be owned by an Article XI Housing Development Finance Corporation (HDFC). That Article XI HDFC would then seek an Article XI Real Estate Tax Exemption to support the permanent affordability of that condo unit.

HPD Regulatory Agreement

The Owners will enter into a Regulatory Agreement with HPD to maintain the permanent affordability in perpetuity in consideration to the granting of the Article XI Real Estate Tax Exemption. The Owners will request a full 40 year real estate tax exemption for the affordable housing condo portion in their respective developments.

Proposed Projects

Given the compromises we have now reached, the Owners have presented the projects as follows.

317-319 West 35th Street

Proposed Overall Development

Proposed Development	:	Residential and hotel rooms
Proposed Stories	:	24
Proposed Total Residential Units	:	14
Proposed Permanently Affordable Residential Units	:	14
Proposed Hotel Rooms	:	144

Permanently Affordable Apartments

The permanently affordable apartment size distribution is as follows:

	Studio	1-Bedroom	2-Bedroom	Total
2 nd Floor	2	0	1	3
3 rd Floor	2	0	1	3
4 th Floor	3	1	0	4
5 th Floor	3	1	0	4
Total	10	2	2	14

The permanently affordable apartment AMI distribution is as follows:

	100% AMI	125% AMI	165% AMI	Total
Studio	0	0	10	10
1-Bedroom	0	2	0	2
2-Bedroom	2	0	0	2
Total	2	2	10	14

MCB4 is currently working with the Owner regarding the remaining community concerns, of which the Owner has responded positively to resolve these matters.

- The Board requests that the Owner continue to work and develop a plan to bring the entrance ramp within the building and not on to the exterior street
- The Board will continue to work with the Owner and DOB, given that this development should be considered as an alteration, to not be subject to the higher street wall provisions of Special Garment Center District 121-42 zoning provision, in the case of the preservation of the existing building façade
- The Board will conclude discussions with the Owner regarding the program and administration of the proposed ground floor community gallery space. The provisions of which are to be included in the HPD Regulatory Agreement

319-321 West 38th Street

Proposed Overall Development

Proposed Development	:	Residential and hotel rooms
Proposed Stories	:	26
Proposed Total Residential Units	:	11
Proposed Permanently Affordable Housing Units	:	11
Proposed Hotel Rooms	:	176

Permanently Affordable Apartments

The permanently affordable apartment size distribution is as follows:

	Studio	1-Bedroom	2-Bedroom	Total
2 nd Floor	3	1	0	4
3 rd Floor	3	1	0	4

4 th Floor	2	0	1	3
Total	8	2	1	11

The permanently affordable apartment AMI distribution is as follows:

	100% AMI	125% AMI	165% AMI	Total
Studio	0	0	8	8
1-Bedroom	0	2	0	2
2-Bedroom	1	0	0	1
Total	1	2	8	11

Conclusion

MCB4 has seen demolition applications filed and/or approved for these 12 sites which encompass 24 buildings and 170 residential units in our district. Owners of these locations have sought to evade the zoning requirements of each of our four Special Zoning Districts that are meant to preserve affordable, rent stabilized housing. In some of these cases, owners have sought other methods to demolish this housing. These two developments are among those sites.

However, in these cases, the Owners have worked together to develop an innovative solution that both preserves the housing and allows development of a hotel use to proceed, while also creating permanent affordability. MCB4 requests that the Owners continue working with the Board to ensure that both goals are met.

The next steps in this process are to meet with HPD to develop and secure a Regulatory Agreement for the permanently affordable housing units. The Board looks forward to working with HPD and the City Council to develop and secure a Regulatory Agreement for these permanently affordable housing units.

The Board remains pleased with the efforts that the Mayor’s office, the City Council Speaker, and the City Council Committee on Land Use have dedicated to arrive at a solution to reconcile development of new hotel use to proceed while still preserving and creating the permanently affordable housing units that would continue to meet the needs of the existing community. MCB4 looks forward to meeting with city agencies to implement changes that will allow this and other demolition sites in our district proceed with construction.

Sincerely,



Burt Lazarin
Chair
Manhattan Community Board 4



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

Cc: Hon. Jerry Nadler, U.S. Congress
Hon. Brad Hoylman, New York State Senate
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Richard Gottfried, New York State Assembly
Hon. Linda Rosenthal, New York State Assembly
Hon. Corey Johnson, Speaker, New York City Council
Hon. Helen Rosenthal, City Council
Raju Mann, Director of Committee on Land Use, New York City Council
Owners of 317-319 West 35th Street
Owners of 319-321 West 38th Street