



## Community Board 12 - Manhattan Washington Heights & Inwood

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Eleazar Bueno, Chairperson  
Ebenezer Smith, District Manager

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November 29, 2021

Hon. Margery Perlmutter, Chair  
Board of Standards and Appeals  
22 Reade Street  
New York, NY 10007

RE: Resolution Opposing the application submitted to the Board of Standards and Appeals for Zoning Variances to Facilitate the Construction of a New Residential Building at 22-38 Cumming Street.

Dear Chair Perlmutter:

At the General Meeting Tuesday, November 23, 2021, Community Board #12, Manhattan passed a resolution with a vote of 37 in favor, 0 opposed, 0 abstentions opposing the building height zoning waiver and the off-street parking zoning waiver requested in the application submitted to the Board of Standards and Appeals by Akerman LLP on behalf of Inwood HT Equities LLC Community Board #12, Manhattan urges the Developer to apply for 421a benefits under Option B instead of Option C to accommodate people with lower incomes and to permit the Project to receive government funding; and to pursue and obtain financing from a City affordable housing program such as HPD's Mixed income mix and Match Program to enable rents to be genuinely affordable given the average median income of current community residents, and to return to the Land Use committee to present the revised Project when the revised financing approach is finalized so that we can see whether the affordability levels have been improved and neighborhood context has been taken into account in the design and the Developer to ensure that site safety measures required by the Department of Buildings are strictly maintained and to continue to coordinate closely with residents of neighboring buildings as the Project progresses.

**Whereas:** An application (the "Application" or "BSA Calendar No.: 2021-41-BZ") was submitted to the Board of Standards and Appeals ("BSA") in September 2021 by Akerman LLP ("Legal Counsel"), on behalf of Inwood HT Equities LLC (the "Developer" ) requesting two zoning waivers (the "Zoning Waivers") to facilitate the construction of a nine-story, 140-unit residential building (the "Project") on a 26,711 square foot site located at 22-38 Cumming Street, Block 2237 / Lots 16 and 18 (the "Site"). The Zoning Waivers pertain to off-street parking and maximum building height; and

**Whereas:** The site formerly was owned in total by Holy Trinity Church (the "Church") and was improved circa 1928 by a parish house, drill hall, and what was to have been a temporary structure used as a sanctuary. The Church retains ownership of Lot 18, which includes the parish house and drill hall, and transferred development rights to Lot 16, which included the temporary structure

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to the Developer in February 2020. The Church appeared before the Land Use Committee ("Land Use" or the "Committee") of Community Board 12-Manhattan ("CB12M") at its February 2017, June 2018, November 2018, and January 2020 meetings to discuss plans to sell a portion of the site for residential redevelopment due to financial constraints that prevented the Church from addressing critical deferred maintenance and repair work. Through a competitive RFP process, Holy Trinity and the Diocese ultimately selected the Developer to purchase Lot 16 contingent on the Developer completing a full renovation of the parish house. This enabled the Church to remain in Inwood within a modernized multi-purpose sanctuary, meeting and performing arts spaces and an updated rectory. The renovation of the parish house is complete. New mechanical systems and an elevator were installed, the building envelope restored, and an accessible entrance was created at sidewalk level. The Developer is now advancing architectural design and regulatory filings required for the Project; 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 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:** The Developer fails to comply with all of the above five findings. The proposed building would be out of character with the surrounding neighborhood, essentially creating a building approximately five stories higher due to the combination of the height variance and the higher base plan resulting from the parking variance; and

**Whereas:** The Site was formerly zoned R7-2 and was included within the area rezoned R7A in the Inwood Rezoning. The Church declined to request the carve-out of the site from the R7A rezoning. The rezoning reduced the site's development rights and the imposition of maximum building heights. A building constructed according to R7A would have a maximum height of 80 feet and approximately 94 units. The height of the building proposed by the Project is 94.5 feet and would contain 140 units; and

**Whereas:** The Site is elevated 10 to 25 feet above the sidewalk due to bedrock covering the site. New York City construction regulations no longer permit the blasting of rock. It would not be financially feasible for the Developer to have the rock manually excavated and removed from the site. The costs for this work are estimated at over \$4 million. Because of the presence of the bedrock and the cost associated with its removal, the Project cannot have a basement and building functions such as parking, mechanical, storage, and utility rooms typically located in

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the basement must be located above ground, effectively reducing square footage available for residential use. The Developer estimates that an as-of-right building would cost \$52.7 million to construct but only have a value of \$46.4 million and that the proposed building would cost \$55.5 million and have a value of \$55.8 million; and

**Whereas:** The Developer has applied for 421a tax benefits, for which there are three options for the apartments' levels of affordability. Option A requires 25% of the units must be affordable; at least 10% of the units must be affordable at up to 10% of Area Median Income (AMI), 10% at up to 60% AMI and 5% at up to 130% of AMI; and the Project cannot receive any government subsidies other than tax-exempt bond proceeds at 4% tax credits. Option B requires 30% of the units to be affordable: at least 10% must be affordable at up to 70% of AMI, and 20% must be affordable at up to 130% of AMI. Option C requires at least 30% of the units to be affordable at up to 130% of AMI, the Project cannot receive any government subsidies; and the Project cannot be located south of 96<sup>th</sup> Street in Manhattan. The Developer has applied for Option C, the option that offers the least affordability. This choice prevents the Project from using any City affordable housing finance programs to enhance affordability levels. Additionally, monthly rent for the "affordable units" would range from \$2,155 for a studio to \$3,235 for a two-bedroom unit. These "affordable" units are not affordable to a majority of current community residents; and

**Whereas:** The Application was considered at the November 3, 2021 meeting of Community Board 12-Manhattan's Land Use Committee ("Land Use" or the "Committee"). The Developer, its Legal Counsel, architectural, engineering, and environmental consultant team, and a representative of the Church presented the Project. At the meeting, the Committee and residents of neighboring buildings expressed support for the Project, but the Committee also raised questions about the affordability of the units and urged the Developer to pursue financing from City affordable housing programs, and residents of neighboring buildings inquired about safety measures that will be employed during construction to avoid hazards that would be caused by falling rock; and

**Whereas:** After the November 2021 Land Use meeting, the Developer provided additional information requested on the Project's affordability levels. With the 421a tax benefit, 42 of the 140 units (30%) would be "affordable," and 98 would be market-rate. The "affordable" units would include 18 studios, nine one-bedroom, and 15 two-bedroom units. Monthly rent for the "affordable" units would range from \$2,155 for a studio to \$3,235 for a two-bedroom. These "affordable" units are not affordable to a majority of current community residents; and

**Whereas:** The Developer submitted a required Parking Analysis that is outdated and flawed, with the largest data being from 2008 – almost 14 years ago, the Inwood Rezoning FEIS reported a parking deficit of 1049 on-street off-street parking spaces midday and a 291 deficit overnight. Since the rezoning, the parking crisis has deepened with the loss of parking due to Citibike installation, outdoor dining sheds, creating of bike lanes, and the closing of Dyckman Street between Broadway and Seaman for the Open Streets initiative; and

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**Whereas:** The application has met intense community opposition, especially from the neighboring buildings and tenant associations. This includes 112 handwritten petitions, 30 letters submitted to CB12, and an online Change.org petition garnering over 500 signatures; and

**Whereas:** In 2017, CB12 passed The Right to Sunlight Resolution to support solar power production on building roofs in our district; this development will shade the existing building to the north, eliminating potential power generation on its roof. Solar-generated electricity is an essential tool at NYC's disposal to help realize the 80 x 50 goals advanced by Local Laws 92, 94, and 97; address deficiencies in the distribution grid and implement wise public policy about renewal energy; now, therefore, be it

**Resolved:** Community Board 12-Manhattan opposes the building height zoning waiver and the off-street parking zoning waiver requested in the application submitted to the Board of Standards and Appeals by Akerman LLP on behalf of Inwood HT Equities LLC, and be it further

**Resolved:** Community Board 12-Manhattan urges the Developer to apply for 421a benefits under Option B instead of Option C to accommodate people with lower incomes and to permit the Project to receive government funding and to pursue and obtain financing from a City affordable housing program such as HPD's Mixed-income mix and Match Program to enable rents to be genuinely affordable given the average median income of current community residents, and to return to the Land Use committee to present the revised Project when the revised financing approach is finalized so that we can see whether the affordability levels have been improved and neighborhood context has been taken into account in the design, and be it further

**Resolved:** Community Board 12-Manhattan urges the Developer to ensure that site safety measures required by the Department of Buildings are strictly maintained and continue to coordinate closely with residents of neighboring buildings as the Project progresses.

Sincerely,



Eleazar Bueno  
Chairperson

cc: Hon. Bill de Blasio, Mayor  
Hon. Jumaane Williams, Public Advocate  
Hon. Scott M. Stringer, Comptroller  
Hon. Robert Jackson, State Senator  
Hon. Gale Brewer, Manhattan Borough President

Hon. Al Taylor, Assembly Member  
Hon. Carmen De La Rosa, Assembly Member  
Hon. Ydanis Rodriguez, Council Member  
Hon. Mark Levine, Council Member