

CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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BURT LAZARIN

Chair

JESSE R. BODINE

District Manager

October 16, 2019

Martin Rebholz
Manhattan Borough Commissioner
Department of Buildings
Manhattan Borough Office
280 Broadway, 3rd Floor
New York, NY 10007

Jeff Huang
Pinnacle Development
134-33 33rd Avenue
Flushing, NY 11354

Re: Yards Realty LLC at 440 West 36th Street

Dear Borough Commissioner Rebholz,

At the Manhattan Community Board 4 (MBC4) Clinton/Hell's Kitchen Land Use (CHKLU) Committee meeting on September 17th, 2019, Yards Realty LLC, part of Pinnacle Development, presented on the 440 West 36th Street Project. At its October 2nd Full Board meeting, by a vote of 37 in favor, 0 opposed, 0 abstaining, and 0 present but not eligible to vote, MCB4 voted to support the Project as an alteration with an addition, rather than new construction.

Background

440 West 36th Street is an Old Law tenement originally built in the 1880's. The site formerly served as a Franciscan friary that also ran the Solid Ground Ministry for homeless individuals. In July 2019, Yards Realty purchased the former church from the Friars Order of St. Francis. The building was purchased vacant, and the last tenant who had occupied the fifth floor passed away in 2015 and the last known rent payment on the property was in 2011.

With 440 West 36th Street being unoccupied, the developer originally believed they could demolish and construct an addition on the building. However, 440 West 36th Street is in the Special Hudson Yards District (SHYD),¹ Subdistrict D4. Accompanying zoning texts prohibit demolition of residential buildings in D4 and D5 of SHYD,² as a means of preserving existing housing stock and neighborhood fabric amidst area rezonings.

Yards Realty reviewed MCB4 correspondence since December 2015 regarding illegal demolition between the Department of Buildings (DOB) and MCB4. To ensure plans for 440 West 36th Street were in compliance with SHYD zoning regulations and DOB requirements, the developer approached MCB4 leadership on May 9th, 2019. The developer proposed a plan and façade renderings for 440 West 36th Street, which included partial demolition of the building and the replacement of the existing façade with all new materials. This proposal did not comply with zoning requirements.

In response, after further discussion with MCB4 leadership, the developer revised the proposal and presented project revisions on June 26th, 2019, which included an alteration with a substantial addition.

Following further discussions in the Summer of 2019 with MCB4 leadership, Yards Realty came to a final revised proposal for 440 West 36th Street. That proposal was presented at the September 17th, 2019 CHKLU meeting and includes the preservation and restoration of the existing façade, painted dark grey, with a new addition from floor 6 to 11, above the original façade, setback from the original structure.

The Project

The Project will entail a renovation of the existing building and an addition of five floors above the original 6-floor building, totaling 11 floors, but remaining below the 120' foot height requirement.³ There will be one apartment per floor, with 10 market rate residential units and 1 ground floor retail unit, totaling 11 units. The Project will be built as of right, using the underlying R8-A/C2-5 zoning with an allowable FAR of 6.02, within Subdistrict D4 of SHYD.

The developer has also applied for a Certificate of No Harassment (CONH)⁴ with the Department of Housing and Preservation (HPD), as required by SHYD D4 zoning. CONH ensures that a property owner does not take part in tenant harassment as part of plans to alter or demolish their properties.

This Project is an alteration. DOB, however, requires that these types of alterations, given the new building code, be filed as new buildings. New buildings require compliance with streetwall

¹ Special Hudson Yards District, Zoning Resolution, <https://zr.planning.nyc.gov/article-ix/chapter-3>.

² CPC September 29, 2010 Report - ULURP N 100424 ZRM

³ https://www1.nyc.gov/assets/planning/download/pdf/zoning/districts-tools/r8_qh.pdf

⁴ <https://www1.nyc.gov/site/hpd/owners/certification-of-no-harassment.page>

provisions.⁵ However, existing buildings cannot comply with streetwall provisions, putting the preservation zoning provisions and the streetwall requirements in conflict.

To reconcile these requirements, MCB4 recommended Yards Realty submit a Construction Code Determination Form (CCD-1) to DOB, since the new building designation is part of building code, not a zoning resolution. This would ensure that the existing building can be preserved, with an appropriate, zoning compliant addition. MCB4 requests to discuss this matter further with the Department of Buildings to ensure development can proceed while balancing preservation requirements. The intent behind the zoning provisions is to preserve existing structures, while allowing additions in the district.

MCB4 supports Yards Realty to be considered an alteration with an addition, rather than new construction. Given the particular status of the property as a former friary with no tenants displaced, MCB4 finds the Project is not only in compliance with the zoning but serves the intention of the zoning by preserving the building and maintaining neighborhood context. While MCB4 supports this Project, CHKLU members recommends the developer consider the following in moving forward in the Project:

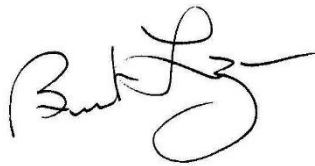
- Adding a cornice that matches cornice on the top of the original façade to the top of the second setback.
- Reconsider the retail use in the ground floor of the building.

Conclusion

The Board would like to thank Yards Realty for ensuring the Project’s compliance with SHYD zoning and other requirements. The Board is grateful that Yards Realty collaborated with the Board in advance and is pleased with the efforts Yards Realty has taken to revise the Project to better fit the neighborhood context.

MCB4 reiterates its support for this Project as an addition with an alteration rather than new construction, notwithstanding the recommendations made by CHKLU. The Board is committed to working with Yards Realty and the DOB further in the future.

Sincerely,



Burt Lazarin
Chair
Manhattan Community Board 4



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

⁵ [Zoning Text Amendment N040500\(A\) ZRM](#) .Page 13, emphasis added on “new development”