

CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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**Lowell D. Kern**  
Chair

**Jesse Bodine**  
District Manager

March 25, 2021

Marisa Lago, Chair  
City Planning Commission  
120 Broadway, 31st Floor  
New York, NY 10271

**Re: Special Permit for 314 West 43<sup>rd</sup> Street (8/9)**

Dear Chair Lago,

At its regularly scheduled Full Board meeting on March 3, 2021, Manhattan Community Board 4 (MCB4), voted 40 in favor, 1 opposed, 0 abstaining and 0 present but not eligible to vote to recommend the approval of an application, with conditions, for a Special Permit to increase height in the Preservation Area of the Clinton Special Zoning District.

311 West 42<sup>nd</sup> Street Associates LLC (the "Applicant") has applied for a Special Permit under Section 96-104 (Height and Setback Regulations) of the Special Clinton District to allow a portion of a building along West 43<sup>rd</sup> Street, where building height is capped at 66 feet, to rise an additional 23 feet, to a maximum height of 89 feet. This project was presented to the Clinton / Hell's Kitchen Land Use Committee at its February 10<sup>th</sup> meeting.

**Background**

The current site is comprised of a surface parking lot and office building owned by 1199 SEIU since 1970 and has been ground leased to the Applicant, to provide an ongoing source of income for the labor union and its work. The zoning lot also contains the development rights from a tenement at 319 West 42<sup>nd</sup> Street, owned and operated by Kaufman Army & Navy. That building will be preserved and not demolished.

The existing 1199 office building will be demolished, and on that site and parking lot to the west, the applicant proposes to build a new 31-story residential building with ground floor commercial space. With a main residential entrance on West 43<sup>rd</sup> Street and commercial space on West 42<sup>nd</sup>, the development would produce 330 new apartments, including 83 affordable apartments under

the Voluntary Inclusionary Housing (VIH) and 421-a programs. The current affordability regime ranges between 40-120% of the Area Median Income (AMI). Under VIH, the applicant will return to MCB4 with a proposed plan for apartment distribution, AMI bands, apartment finishes and amenities. That plan is expected to be submitted to HPD and referred to MCB4 for review within 60 days.

### **Site & Zoning (Appendix A)**

- Development Site is Comprised of tax lots 41 & 25
- Zoning Lot is comprised of tax lots 41, 25, & 22
- Zoning Lot is located within multiple Zoning Districts:
  - Lot Portion A: C6-2 Special Clinton District, Area A - Preservation Area
  - Lot Portion B: C6-4 Special Clinton District, Area B - Perimeter Area, 42<sup>nd</sup> Street Perimeter Area - Subarea 1
  - Lot Portion C: C6-4 Special Clinton District, Area B - Perimeter Area & With a Zoning Overlay of the Special Midtown District - Theater Subdistrict, Eighth Avenue Corridor

The Southern (West 42<sup>nd</sup> Street) portion is in compliance with the Perimeter Area, Subarea 1 Area requirements of the Special Clinton District. The Eastern (Eighth Avenue) portion is in compliance with the Perimeter Area B of the Special Clinton District and Special Midtown District requirements. The Northern Building portion (West 43<sup>rd</sup> Street) has a full frontage of 175-foot along West 43<sup>rd</sup> Street. That frontage is split between 149.66 feet in the Preservation Area A, Special Clinton District and 25 feet in the Perimeter Area B with a zoning overlay of the Special Midtown District - Theater Subdistrict, Eighth Avenue Corridor. The request is to increase the height from the 66 feet to the approximately 89 feet height, with seven stories in the Preservation Area.<sup>1</sup>

The Special Permit would allow:

- All floor area available on Lot Portion A to be fully utilized
- Allow for an additional floor of residential use
- Allow for residential floor-to-floor heights of approximately 10.67 feet, for the residential floors of West 43<sup>rd</sup> Street.
- Additional height for a retail base for the Proposed Development with an approximately 17-foot floor-to-ceiling height

The existing building to be demolished on the site on West 43<sup>rd</sup> Street is approximately 193 feet. The applicant presented renderings of streetscapes on both sides of West 43<sup>rd</sup> Street to demonstrate the impact of the proposed increase in height, in context with the existing streetscape and building heights, currently between 44 feet to 99 feet. Only one building is taller, 311 West 43<sup>rd</sup> Street, a large loft building directly across the development site, a 14-story building with a height of approximately 208 feet.

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<sup>1</sup> Actual building height, with mechanical space is a permitted obstruction located above that height.

The façade design also seeks to manage the transition to the adjacent tenement to the west, with a setback of approximately the depth of a sill, so the building’s masonry façade aligns with the tenement’s masonry façade to the west.

When the Applicant initially briefed the Board on November 4<sup>th</sup>, 2020, the façade was primarily glass. Now, the West 43<sup>rd</sup> Street portion of the façade is now predominantly masonry in response to Board’s request to better fit into the context of the block.

**CHKLU Committee Deliberation**

- *Development Process*
  - *Development Rights, 319 West 42<sup>nd</sup> Street* – The Committee discussed the need to clarify that only the development rights will be purchased from the tenement building 319 West 42<sup>nd</sup> Street, as opposed to the building itself.
  - *Affordable Housing Plan – VIH and 421-a Affordable Apartments*  
The full complex, known by the address 314 West 42<sup>nd</sup>, will contain two types of affordable apartments. The first produced under New York City’s Voluntary Inclusionary Housing<sup>2</sup> program will be permanently affordable governed under a regulatory agreement recorded against the land. The other, produced under New York State’s 421-a program, will be affordable for 40 years, governed through a real estate tax abatement. However, even after expiration of the abatement, they will remain regulated through Rent Stabilization to any affordable tenant residing in the building at the expiration of this 40-year period until they vacate the unit.

The Committee requested the Applicant clarify unit mix, distribution, and AMI levels to be presented to the Housing, Health, and Human Services (HHHS) Committee. The Applicant responded that there will be a total of 83 units affordable with proposed AMI levels between 40-120%:

**2020 Area Median Income (AMI) Band Distribution**

<b>AMI Tier</b>	<b>Family of one</b>	<b>Family of Two</b>	<b>Family of Three</b>	<b>Family of Four</b>
40% AMI	\$31,840	\$36,400	\$40,960	\$45,480
60% AMI	\$47,760	\$54,600	\$61,440	\$68,220
120% AMI	\$95,520	\$109,200	\$122,880	\$136,440

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<sup>2</sup> Under the Special Clinton District, VIH is the as-of-right only zoning bonus available, unless otherwise specifically mapped for the Mandatory Inclusionary Housing Program

### Apartment AMI Distribution

AMI Tier	VIH	421a	Number of Units
40% AMI	14	19	33
60% AMI		33	33
120% AMI		17	17
		<b>Total</b>	<b>83</b>

### VIH Affordable Apartment Calculation

The majority of the site, not subject to this Special Permit, is located in the Perimeter Area of the Clinton Special District, with a zoning bonus through Voluntary Inclusionary Housing. New developments in the Perimeter Area, with underlying zoning of C6-4<sup>3</sup>, can receive a floor area bonus of up to 20%, increasing the maximum floor area ratio (FAR) of 10.0 to 12.0. For each square foot of floor area dedicated to affordable housing, the development receives 3.5 square feet of bonus floor area. In this case, the 20% increase is 40,166 SF, as calculated below:

	FAR	Area
C6-4 Lot Area		20,083 SF
Basic FAR	10.0 FAR	200,831 SF
Inclusionary Increase	+2.0 FAR	+40,166 SF
<b>Residential with Inclusionary Housing</b>	<b>12.0 FAR</b>	<b>240,997 SF</b>

To receive that 40,166 SF, that number is divided by 3.5 bonus ratio, requiring 11,476 sf of Inclusionary Housing (IH) floor area. That square footage yields, in accordance with HPD apartment design requirements, 14 permanently affordable VIH residential units.

The VIH plan will be presented to the HHHS Committee within 60 days.

- *Height Increase* – The Committee discussed the Applicant’s request for a 23-foot increase in height for the seven-story building within the Preservation Area of the Special Clinton District. The buildings across the street on West 43<sup>rd</sup> Street, such as 311 West 43<sup>rd</sup> Street has a height of approximately 192 feet, while tenements such as 325 West 43<sup>rd</sup> Street has a height of approximately 66 feet. Buildings to the west of the Development Site, including the Holy Cross School have heights from 78 to 99 feet. As part of a prior Special Permit, 360 West 43<sup>rd</sup> Street was allowed a height increase to 99-feet, as a

<sup>3</sup> C6-4 zoning is an R10 residential equivalent, therefore it is able to receive a bonus under VIH

mechanism to preserve existing tenements on Ninth Avenue between 42<sup>nd</sup> and 43<sup>rd</sup> Streets.

- *Building Design*

- *Ground Floor Recess* – The Applicant presented the recess as a requirement of the zoning overlay of the Special Midtown District - Theater Subdistrict, Eighth Avenue Corridor. The Committee asked questions on the location of the recess, as there is an ongoing issue of drug activity on this location. There was concern that the recess will provide a location for that activity. Committee members noted that West 43<sup>rd</sup> Street is the boundary between Midtown North and Midtown South Precincts, and there has been difficulty in managing enforcement of street drug activity. Committee members raised concerns about phonebooths, and planters used to store drugs, and are concerned this recess would offer another opportunity for that activity. The Applicant responded that the recess would be transparent and well-lit and viewed from the lobby front desk. They also agreed however, that they would prefer it not be part of the project and would work with MCB4 and the Department of City Planning to determine if it could be eliminated.
- *1199 Labor Mural Mosaic* – The Committee discussed the potential for preserving the mosaic, which is an important piece of history for the union. Debra Pucci, Chief of Staff of 1199 SEIU United Healthcare Workers East, stated that the union had done due diligence to determine if the mosaic could be removed and re-installed. After receiving detailed reports, it was determined that the mosaic could not be moved. Therefore, the union decided to recreate the mosaic at its new location at 498 Seventh Avenue. 1199 engaged mosaic artisan Stephen Miotto to recreate the mural, which can be seen from the street.<sup>4</sup> Miotto’s godfather created the original mural with two partners.

There followed, an extensive and robust discussion regarding the importance of the 1199 labor mosaic mural as an important part of the history of Hell’s Kitchen. The Committee recommended for there to be an installation of art or commemoration outside the building or in the building lobby to recognize both the long-term location of the union building and the mural’s importance. The Applicant agreed to work with the Board to come to an agreement on an appropriate commemoration or art installation prior to the grant of the Special Permit by the City Council.

- *Street Tree Planting* – Questions around street trees and conflicts with ConEdison vaults were raised by the Committee. It was confirmed that there is no conflict with the ConEd vaults. The Applicant responded that pursuant to Special Clinton District ZR Section 96-51, street trees would be planted. Current planning anticipates 10 trees planted on site and 4 trees to be located offsite. The Board requests for the applicant to return to the MCB4 Transportation Committee to recommend alternate locations for those street trees, in proximity to the Development Site.

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<sup>4</sup> [James S Russell. The Union Moved. The Beloved Mosaic Mural Couldn’t, New York Times, Feb. 25, 2021.](#)

- *Construction Effects on Adjacent Buildings, West 42<sup>nd</sup> and West 43<sup>rd</sup> Streets* – The Committee requested the Applicant to work with the District Manager when demolition and construction begins, to provide two-week construction lookahead reports so adjacent residents can be informed.
- *Building Operations* – The Committee discussed the difficulty of trash removal and management in large residential buildings without off street garbage storage. The Applicant agreed to develop a garbage management plan to be shared with the MCB4 Transportation Committee.

### **Approval Conditions**

MCB4 requested and the Applicant agreed to provide to the Board, a commitment in writing<sup>5</sup>, regarding the conditions listed below:

#### *Development Process*

- Clarify that only developments rights will be purchased from the site over Kaufman’s Army & Navy surplus store at 319 W 42<sup>nd</sup> Street, and that the building will not be demolished.
- Review its affordable housing plan and to return to the Housing, Health, and Human Services Committee to present the proposal within 60 days, and to come to an agreement before the City Council action on the Special Permit request.

#### *Building Design*

- Work with the Board and the Department of City Planning to determine if it is possible to remove the recess in the Eastern portion of the building, to prevent the area becoming a location for drug activity.
- Work with the Board to come to an agreement on an appropriate commemoration or art installation prior to the grant of the Special Permit by the City Council.
- Return to MCB4 Transportation Committee to recommend alternate locations for four street trees that will be located offsite, in proximity to the Development Site.

#### *Construction*

- Prior to demolition and construction, the Applicant will produce a two-week construction look ahead to be distributed to the MCB4 District Manager and all other owners and neighbors on the block.

#### *Building Operations*

- Develop a garbage management plan for storage and management of trash on-site, to avoid over-burdening the sidewalk.

MCB4 recommends that the application for a Special Permit under Section 96-104 of the Special Clinton District be approved with conditions, as numerated above. The Board looks forward to working with the Applicant to bring this proposal to final approval.

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<sup>5</sup> Letter dated March 3, 2021, copy attached.

Sincerely,



Lowell D. Kern  
Chair  
Manhattan Community Board 4



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

Enclosure

cc: Hon. Brad Hoylman, NYS Senate  
Hon. Robert Jackson, NYS Senate  
Hon. Richard Gottfried, NYS Assembly  
Hon. Linda Rosenthal, NYS Assembly  
Hon. Corey Johnson, NYC Council Speaker  
Hon. Gale Brewer, Manhattan Borough President  
Hon. Scott Stringer, NYC Comptroller  
Hon. Jumaane Williams, NYC Public Advocate  
Andrew Lassiter, Project Manager, Land Use Division, NYC Council

# Appendix A. Site & Zoning

Proposed Project Area



### ZONING MAP

THE NEW YORK CITY PLANNING COMMISSION

**Major Zoning Classifications:**  
 The number(s) and/or letter(s) that follows on R, C or M District designation indicates use, bulk and other controls as described in the text of the Zoning Resolution.

- R – RESIDENTIAL DISTRICT
- C – COMMERCIAL DISTRICT
- M – MANUFACTURING DISTRICT
- SPECIAL PURPOSE DISTRICT  
 The letter(s) within the shaded area designates the special purpose district as described in the text of the Zoning Resolution.
- AREA(S) REZONED

**Effective Date(s) of Rezoning:**  
 04-09-2019 C 180481 ZMM

**Special Requirements:**  
 For a list of lots subject to CEQR environmental requirements, see APPENDIX C.  
 For a list of lots subject to "D" restrictive declarations, see APPENDIX D.  
 For Inclusionary Housing designated areas and Mandatory Inclusionary Housing areas on this map, see APPENDIX F.

8a	8c	9a
8b	<b>8d</b>	9b
12a	12c	13a

MAP KEY

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600 0 600 1200 1800 FEET

NOTE: STREETS FOR THE STREET MAP CHANNEL C 34509 ZMM ARE SHOWN ON THIS MAP PRIOR TO BECOMING EFFECTIVE IN ORDER TO LOCATE ZONING DISTRICT BOUNDARIES.

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.

NOTE: Zoning information as shown on this map is subject to change. For the most up-to-date zoning information for this map, visit the Zoning section of the Department of City Planning website: [www.nyc.gov/dcp/zoning](http://www.nyc.gov/dcp/zoning) or contact the Zoning Information Desk at (212) 312-3291.

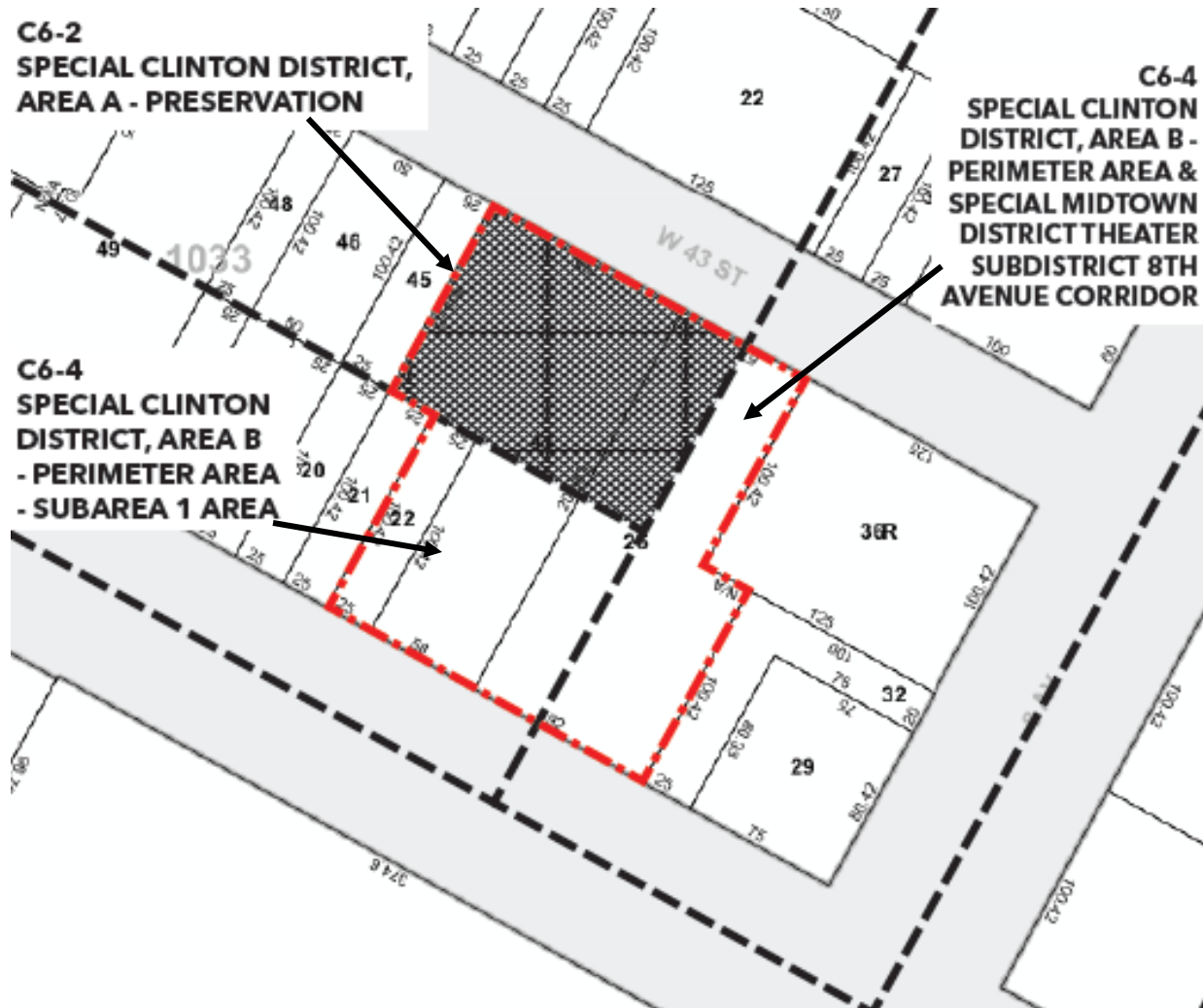
ZONING MAP p8



**C6-2  
SPECIAL CLINTON DISTRICT,  
AREA A - PRESERVATION**

**C6-4  
SPECIAL CLINTON  
DISTRICT, AREA B -  
PERIMETER AREA &  
SPECIAL MIDTOWN  
DISTRICT THEATER  
SUBDISTRICT 8TH  
AVENUE CORRIDOR**

**C6-4  
SPECIAL CLINTON  
DISTRICT, AREA B  
- PERIMETER AREA  
- SUBAREA 1 AREA**



**MAP LEGEND**

AREA OF REQUESTED SPECIAL PERMIT	
ZONING LOT BOUNDARY	
ZONING SUB-DISTRICT BOUNDARY	

March 3, 2021

Jean Daniel Noland, Chair  
Clinton Hell's Kitchen Land Use Committee  
Manhattan Community Board 4  
P.O. Box 2622  
New York, NY 10108

**Re: Special Permit Application for 314 W. 43rd Street a/k/a 311 West 42nd Street**

Dear Chair Noland:

Thank you and the members of the Clinton Hell's Kitchen Land Use Committee for taking the time to consider the special permit application by 311 West 42nd Street Associates LLC pursuant to Section 96-104 of the Zoning Resolution to allow a portion of a building along West 43rd Street to rise to a maximum height of approximately 89 feet. As discussed at the Committee meeting, the proposal will replace an existing approximately 193-foot tall building with a lower, predominantly residential building on a site located partly in the Special Clinton and Special Clinton/Midtown Perimeter Areas and partly within the Special Clinton Preservation Area. We appreciate the Committee's thoughtful response to the proposal, and appreciate this opportunity to respond to the conditions set forth in the draft resolution. In response to comments from the Clinton/Hell's Kitchen Land Use Committee, we have taken several steps to address the concerns of the Committee Members, as follows:

1. Development Process.
  1. Development Rights. We can confirm that the only development rights that have been purchased for the development are from the property located at 319 West 42nd Street, and that the building will not be demolished as part of the project. The development rights will be incorporated into the as of right tower portion of the project located along West 42nd Street.
  2. Affordable Housing Plan. We will return to your Housing, Health, and Human Services Committee to present the proposed affordable housing plan at the appropriate point in the future. At that time we will include additional details regarding the proposed affordable housing at the site. We anticipate that we will be returning to the Community Board on this item within the next 60 days.

2. Building Design.

- a. Building Recess. We have explored the possibility of eliminating the building recess along West 43rd Street. As we discussed, this recess is considered “pedestrian circulation space” and is required by zoning. As suggested, we have reached out to the Department of City Planning (DCP) to discuss whether there is a mechanism for eliminating the requirement at this point in the land use process, and they have advised that there is not.

The community’s desire to keep this area safe and secure aligns with our desires to do the same, as our residential entrance will be located through and immediately adjacent to the recess. We believe the activation of this portion of the block will in itself help improve security in the area, but we are also actively exploring additional design and operational solutions to further address the Board’s concern. As initial steps, we will (i) remove the planters shown in the project renderings to keep the recess area as open as possible, (ii) commit to installing security cameras and ensure the area is brightly lit, (iii) maintain a transparent façade between the recess and the building’s lobby area to ensure visibility from inside the building, and (iv) look to incorporate the commemoration element discussed below within the recess area. We believe these measures will go a long way to addressing the Board’s concerns regarding the safety of the space, and we will continue to work with the Board and the elected officials on addressing security concerns in the area.

- b. Commemoration of History of Site. We appreciate the Committee’s interest in the history of the site. We have reached out to 1199 and they have agreed to collaborate on an appropriate commemoration or art installation reflecting this past. We will provide the Community Board with updates as the design concept progresses and look forward to working with the Board to refine this concept as the land use process proceeds.
- c. Trees. We are refining the tree count, and at present we will be providing 10 trees on site. We look forward to working with your Transportation Committee to determine an appropriate location for any required trees which cannot be provided on site.

3. Construction Updates. In response to the Committee’s comments, we have already developed a website where construction updates will be posted on a bi-weekly basis and available to members of the public, including the MCB4 District Manager and all other owners and neighbors on the block. This website can be found at: [www.312W43.com](http://www.312W43.com).

4. Refuse. We share the Committee's goal of keeping West 43rd Street clean and unobstructed to the maximum extent possible as it is our front door too. To address this concern, we have allocated significant space within the proposed building to the organization and storage of trash and to avoid refuse being on the street for an extended period of time. We are also developing a garbage management plan for storage and management of trash and will share these plans with the Community Board as the project moves forward.

Thank you again for your consideration and we look forward to continuing to work with the Board as we move forward.

Sincerely,

*Colleen Wenke*

Colleen Wenke  
Chief Development Officer

cc: Corey Johnson, Speaker of the New York City Council  
Gale Brewer, Manhattan Borough President