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May23, 2023

Sarah Carroll, Chair
Landmarks Preservation Commission
David N. Dinkins Municipal Building, 9th Floor North
1 Centre Street
New York, NY 10007

Re: Proposal Amendments to the Landmarks Preservation Rules

Dear Chair Carroll:

Manhattan Community Board 4 (MCB4), at its Executive Committee on May 22, 2022, voted, by a vote of 15 in favor, 0 opposed, 1 abstaining, and 00 present but not eligible to vote, to recommend to the Landmarks Preservation Commission (LPC) denial of the Proposed Amendments to the Landmarks Preservation Commission Rules, and further asks the Commission to delay this action until the Community Board and members of the public are provided sufficient notice to understand and be heard on the potential effect some of these rule changes will have on the community.¹ MCB4 would most likely be in favor of rule-changes to Chapters 5, 7, 12 and the new rule Chapter 14 were it not for lack of community involvement in the process, and the need for more information about, and changes to, staff level approval in Chapter 2.

Background

At the April 18, 2023, meeting of LPC, after viewing a presentation on a proposal to initiate rule-making changes under the City Administrative Procedures Act, the Commission voted to calendar a vote on the rule changes on May 23, 2023. If approved, they will be effective 30 days after publication. These include proposed amendments to Chapters 2, 5, 7 and 12 of title 63 of the Rules of the City of New York consisting of

¹ Due to LPC's deadline for comment this letter is being sent immediately and will be ratified at the next regularly schedule Full Board meeting on Wednesday, June 7th.

amendments to existing rules concerning storefronts, signage, sidewalks, HVAC, and solar panels, expedited Certificates of No Effect, master plans and district master plans, the Historic Preservation Grant Program, and a new proposed Chapter 14 concerning public petition for rule-making.

The LPC vote to calendar these rule-making changes occurred one day after the Chelsea Land Use Committee (CLU) met on April 17, 2023. MCB4 and members of the two land use committees in our district were given an hour's notice to attend a presentation on the proposal, where no public comment was allowed. Clinton/ Hell's Kitchen Land Use and Chelsea Land Use then held a joint Land Use committee meeting on May 15th, 2023, to attempt to give the public and the committee members an opportunity to discuss the multitude of changes to the LPC rules being proposed, some of which we cannot have an informed debate about without more information. The May 23rd vote will occur before MCB4 holds its June Full Board meeting, and the public will have no opportunity to comment. This is simply not the good or fair practice we expect from LPC. We cannot cut the public out of the process.

Recommendations

First and foremost, many of the rule changes call for a change from Commissioner approval to staff level approval. Staff level approval does not require Community Board recommendations nor allow for public comment. In its statement of basis and purpose of the proposed rule changes, LPC says that "the proposed changes will make the work of the Commission more transparent and efficient." But the hasty process with which the Commission calendared a vote on this matter and the elimination of public participation on highly critical components of our district stand in direct contrast to LPC's own stated purpose of transparency. We are particularly concerned about this as it relates to various rule changes in Chapter 2: Approval of Proposed Work on Designated Buildings and Structures. These include changes from Commissioner approval to staff level approval of various types of signage, painted wall signs, work on sidewalks with historic paving, enlarging tree pits, bioswales, and the installation of various types of non-visible and minimally visible HVAC and mechanical equipment including solar panels and Energy Storage Systems (ESS). Eliminating public input should not be sold as a measure to increase transparency and we therefore recommend denial of these changes.

We also urge the Commission to defer any action on voting on the proposed rule-making changes until the Commission can address the following questions and concerns:

- Regarding 2-13(d)(9): Given the absence of historic precedent for dimensional letters applied to glazing of any kind, this provision seems inappropriate.

- Regarding 2-13(g)(1): Signs painted directly on brick should never be allowed, despite historic precedent.
- Regarding 2-19: Work on sidewalks, bioswales and expanded tree pits are potentially transformative of public thoroughfares and thus warrant public and Commissioner-level input. Bioswales that run across the front of several properties at one time should begin and end where the facades begin and end. Also, street trees should be integrated with building facades to produce a coherent composition. Such sensitive and visible interventions call for public and Commissioner input.
- Regarding 2-21 §11 (e)(1)(i): Given the latitude this rule allows, the Commission should never allow the alternative of newly installed through-wall air conditioners on primary façades, as it recently did in the case of 458 West 20th Street.
- Regarding 2-21 §12 (g): The phrase “minimally visible” occurs repeatedly in this section. We ask that the installation of any HVAC or other mechanical equipment including solar panels or Energy Storage Systems should be based on clearly defined criteria. Without such a definition, approvals for “minimally visible” mechanical equipment on rooftops and terraces should require Commissioner-level input. We also ask that the rules specifically state that mockups will still be required for even minimally visible changes, and for the Commission to provide clarity on how we should interpret these rule changes in the Chelsea Historic District which does not have an abundance of pitched roofs.
- 2-21 §12 (g): Approval of equipment that is more than minimally visible if seen through a gap view between buildings should not be left to staff. Not all gap views are equal. Some are quite prominent or include views of architecturally sensitive secondary façades. This set of rule changes was likely prompted by a desire to accommodate solar panels, which is laudable. There is a risk that other HVAC or mechanical equipment will become more prominent as an unintended consequence. The rules should make distinctions to avoid this.

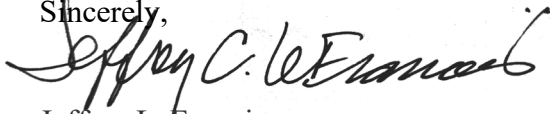
As to Chapters 5, 7, and 12 in which rule-making changes are being proposed, we are generally in support. We are particularly enthusiastic about the new rule Chapter 14, that sets forth the process for a member of the public to request the Commission to consider a specific new rule or an amendment to an existing rule.

Conclusion

We appreciate the longstanding partnership LPC has had with MCB4, which is why we are somewhat dismayed by the lack of notice and time for review of this action. In the Commission’s rush for efficiency, the community is being denied a voice in landmark and preservation decisions that would warrant Commission approval and therefore public input. Without a better understanding of some of the proposed rules, we must

recommend denial of what, with more time and clearer definition, might be acceptable to MCB4. We ask the Commission to defer voting on any rule changes until the questions outlined above are answered and the public is able to review and comment on them at an MCB4 Full Board meeting.

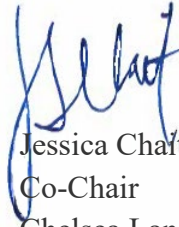
Sincerely,



Jeffrey LeFranois
Chair
Manhattan Community Board 4



Kerry Keenan
Co-Chair
Chelsea Land Use Committee



Jessica Chait
Co-Chair
Chelsea Land Use Committee



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



Paul Devlin
Co-Chair
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cc: Hon. Erik Bottcher, City Council