



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD FOUR

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JESSICA CHAIT
Chair

JESSE R. BODINE
District Manager

June 21, 2024

Dan Garodnick
Chair
Department of City Planning
120 Broadway, 31st Floor
New York, NY 10271

**Re: 343 West 47th Street
Proposed Partial Demolition and Restoration
ULURP #240244ZSM**

Dear Chair Garodnick,

At Manhattan Community Board 4's (MCB4) Clinton/Hell's Kitchen Land Use (CHKLU) Committee meeting on May 8th, 2024, the committee received a presentation from Richard Bass, AICP, PP, of Akerman LLP, representing Midtown West 47th LLC regarding its proposal for a special permit for partial demolition, restoration, and enlargement of 343 West 47th Street into a 7-story, 7-unit residential building.

Proposed Demolition, Restoration, and Enlargement

- The proposed partial demolition will remove the deteriorated portions of the 1st and 4th floors caused by the 2021 illegal demolition.
- The existing 4 dwelling units will be restored.
- The building will be enlarged from 4 to 7 stories, with the addition of 3 dwelling units.
- There will be 1 dwelling unit per floor.
- All 7 units will be 2 bedrooms.

The proposed demolition, restoration, and enlargement will result in a 10,296 square foot, 7-story building. The proposed building will have a 4.09 FAR and be 66' high and will be compliant with the Special Clinton District (SCD) zoning regulations.

At its Full Board meeting on June 5th, 2024, MCB4 voted 39 in favor, 0 opposed, 0 abstaining, and 1 present but not eligible, to **recommend support of the Special Permit ([ZR 96-60: Special Permit Procedure](#)) under the following conditions.**

That the applicant:

- Execute an agreement with its neighbor, 341 West 47th Street Apartment Corporation, prior to the City Planning Commission Hearing, to repair damages caused by the construction of 343 West 47th Street
- Schedule and complete pest abatement for rats and insects at 341 West 47th Street immediately

Construction Protection for Neighboring Properties

- Maintain the current construction fence.
- Maintain the recently installed 2 exterior LED lights.
- Deliver a plan for site cleaning and maintenance during and after the ULURP review process and prior to starting construction
- Provide adequate construction protection for 341 West 47th Street for both roof and overall building
- Work with NYC Parks Department to develop a park protection plan for Roman Aponte Park.

Construction

- Negotiate an access agreement for 341 West 47th Street Apartment Corporation
- Identify construction representatives and contacts for MCB4 and 341 West 47th Street Apartment Corporation communications
- Increase the height of the sidewalk shed and provide adequate lighting

Plan Clarification

- Provide updated floor plans with the location of the kitchen and bathroom within each dwelling unit. The floor plans presented on May 8th, 2024, did not note the actual locations of kitchens and bathrooms.
- Provide updated floor plans with the use of the cellar. The floor plan indicated that the first-floor unit was duplexed into the cellar.
- Confirm ADA accessibility for ground floor lobby and elevator. The floor plan indicated that the first-floor unit was duplexed into the cellar.
- Relocate rooftop mechanicals to the east side of the building to mitigate shadows on Ramon Aponte Park.

MCB4 requested a letter from the applicant confirming and agreeing to the conditions set forth in this letter prior to the MCB4 Full Board meeting on June 5th, 2024. The requested letter, dated June 3rd, 2024, from Kelvin Zou, Owner, confirming and agreeing to the conditions is attached here as Appendix A.

Background

343 West 47th Street

Currently, 343 West 47th Street is a 4-unit, 49'-3" high, multiple dwelling in the Preservation Area of the Special Clinton District (SCD) and is subject to both anti-harassment and anti-demolition protections. 343 West 47th Street was a vacant City-owned building that was sold through a Request for Proposals process to four firemen for owner occupancy as a middle-income cooperative in 1984 and restricted to that use through 1999. After that restriction expired in 1999, the co-op continued to own and operate the building through November 1st, 2012. On that date, the co-op sold the building to 343 West 47th LLC.

On February 23rd, 2018, 343 West 47th LLC filed under DOB application [#123363868](#) for both vertical and horizontal enlargements from 4 to 5, then to 7 stories. The LLC also filed for structural and mechanical work to support such an expansion. The structural work was approved by DOB, but not the mechanical work. No renovation work ever started under that DOB application.

Beginning in 2017, the building began to be used as an illegal hotel. The building was subject to enforcement actions for that illegal use by the Midtown Task Force resulting in 3 violations ([#053117AEUHAZ100054](#), [111517AEUHAZ100076](#), and [111517AEUHAZ100077](#)) and Building Department Vacate for illegal hotel use on March 10th, 2017. In 2018, Midtown West 47th St LLC (the applicant) acquired the building.

DOB filings by Midtown West 47th St LLC

Between January 24th, 2019, and July 24th, 2019, the applicant filed under DOB application [#123371779](#) revised structural and mechanical work to support the prior owner's filing for vertical and horizontal enlargement noted above. Permits were granted for that work on July 31st, 2019. Then on May 4th, 2020, the applicant filed under DOB application [#140891809](#) for partial demolition.

This action occurred 2 years after the applicant's building purchase and 16 months after the applicant had filed to renovate the building under application [#123371779](#). That application was professionally certified by the applicant's engineer, Christopher Sanders, of South Bay Engineering of Elmhurst with a permit granted by DOB, in error, on October 21st, 2020. MCB4 notes these actions were taken at the height of the COVID-19 pandemic, when all non-essential construction was stopped in the City of New York. No construction work took place until April 2021.

Illegal Demolition and DOB Stop Work Order

On April 27th, 2021, MCB4 received a complaint from the West 47th/48th Street Block Association about an illegal demolition at 343 West 47th Street and contacted DOB for an inspection. The Block Association reported the fourth-floor façade had been removed. That same day a 311 call ("demolition appears to be unsafe, no barrier or permit") resulted in DOB complaint [#1570031](#).

On, April 28th, 2021, a DOB inspector issued a Stop Work Order (SWO) for lack of site safety, non-compliance with sidewalk shed plans, and no DOB approved plans or permits on site. The SWO ordered only work to secure and clean up the site. DOB inspectors returned on April 29th and April 30th, 2021, and issued violations for construction work continuing despite the posted SWO and for debris falling into Ramon Aponte Park to the west of the building. In all, between April 27th, 2021, and November 8th, 2021, DOB issued 18 violations for lack of site safety and continuing of work contrary to the SWO resulting in \$56,245 in fines.

On August 27th, 2021, the FDNY responded to fire in the building causing further damage to the illegal demolition from that April. Since April 2021, the building, with its fourth-floor façade and roof removed, has not been temporarily sealed and has been open to the weather. The adjacent cooperative building, and its shareholders at 341 West 47th Street have been subject to water infiltration and rodents. MCB4 has met with DOB on this matter, requested and received monthly updates from the agency.

Intent and History of Demolition Protections in the Special Clinton District (SCD)

Original 1973 Rezoning

The first Special District in MCB4 was the SCD, established in 1973 as a response to rapid real estate speculation that emerged from a proposed convention center on the west side, which led to the demolition of existing residential buildings and displacement of their tenants. The SCD includes a core Preservation Area in which residential buildings cannot be demolished.

Preservation Area Demolition Prohibition (SCD 96-108)

From 1973 until the late 1980's, no buildings were demolished in the Preservation Area. In 1987, the Durst Organization, the owner of 427-429-431-433 West 43rd Street, filed a series of Building Notices (BN's) for alterations. Those alterations included removing beams in the rear of the building, removing beams in the middle portion of the building, and removing beams in the front of the building. After the beams were removed, the façade was not properly supported and was also removed. The sum of the building notices constituted a full demolition. However, in the absence of any zoning language that stated a clear policy on the removal of the structural elements in a building for an alteration, even DOB stop work orders could not prevent an illegal demolition.

20% Threshold for Structural Removal Established by DOB

In 1988, in response to the actions of that building owner, DOB issued an internal policy memo stating that an alteration which removed 20% or more of the structure in a residential building in the SCD would constitute a partial demolition and would therefore be subject to Special Permit requirements.

1990 Rezoning

In June 1990, as part of ULURP N 900614 ZRM, zoning text incorporating that language from the DOB internal policy memo was incorporated into 96-108, making clear that for a building being subject to alteration:

96-108 (a) 2

(2) is to be substantially preserved and requires an alteration permit *to allow the removal and replacement of 20 percent or more* of the #floor area#.

The City Planning Commission issued a report on the proposed zoning text amendments to reinforce the anti-demolition language for the SCD. As a result of this ULURP, the twenty percent threshold became codified in the Zoning Resolution, which noted that a special permit is required not only for full demolition of residential buildings in the SCD, ***but also for removal and replacement***, of more than 20% of a building.

In its report, the CPC cited testimony from community residents as well as representatives from local organizations and block associations, who believed that “to allow [residential] demolition would undermine the SCD's goal to maintain rent levels in the area for a mixture of income groups.”

Westside Rezonings in 2005 & 2009

The demolition restriction for residential buildings was extended to the other three Special Zoning Districts in MCD4: Garment Center, Hudson Yards, and West Chelsea. That action in 2009 protected 1,382 units in 122 buildings.

Compliance with SCD Zoning

Under the zoning regulations noted above, specifically **96-108 (a) 2**, alteration for removal and replacement of more than 20% of the existing floor area, can be accomplished only with a Special Permit granted through public action under that section. Filing for any restoration and enlargements must also comply with all other applicable provisions of the Preservation Area of the SCD.

Prior MCB4 Meetings Regarding 343 West 47th Street

On January 12th, 2022, Brad Simmons and Kelvin Zou of Midtown West 47th Street LLC appeared at the MCB4 CHKLU meeting. The two representatives stated they had a Certificate of No Harassment (CONH) from HPD and waited a year prior to starting any demolition of the property. Committee members noted the CONH is another zoning requirement and does not grant the owner the right to demolish a protected building.

Mr. Simmons stated ownership's intention was to increase the building height and bulk. He further stated he had no intention to demolish until, as assessed by the engineer, the finding of mold and structural issues. The Committee members responded that no demolition was permitted by zoning regulations in the SCD. Mr. Simmons noted that he was an experienced real estate developer. With that knowledge, the Committee members noted that it is standard practice for real estate developers to do full due diligence of zoning regulations affecting property prior to purchase. Limitations on demolitions of buildings located in the Special Clinton District are well known within the New York real estate community.

The building was intact and undisturbed during 2018, 2019, and 2020 as evidenced by street view images from Google Maps. The condition of the building deteriorated only after the illegal

demolition began in 2021, followed by the August fire, and then being left open to the elements since that time. Bad conditions, neglect, and the owners lack of action to protect the property are self-created and should not create the basis to seek demolition of a multiple dwelling.

Following that meeting, MCB4 sent a letter on February 2nd, 2022, to the applicant detailing the ongoing issues surrounding the illegal demolition and erroneously administered DOB permits. MCB4 requested to work with the applicant and DOB to develop a plan for preservation and redevelopment of 343 West 47th Street in compliance with all the requirements of the SCD and noted that they would assist the owners in any way possible to achieve that outcome. MCB4 continued to meet with the applicants on multiple occasions from February 4th, 2022, to March 6th, 2023. On March 31st, 2022, DOB ruled that more than 20% of the building had been illegally demolished. The only remedy to cure the illegal demolition was by a special permit.

Building Design

In February 2022, the applicant presented renderings that featured randomly placed large picture windows. The renderings did not match the character of the neighborhood. Following feedback from MCB4, the applicant revised the proposal to feature a stone base, red brick from floors 2-7, roof cornices, and precast stone window lintels and sills. Then, in May 2024, in a pre-meeting with MCB4, the applicant presented the initial renderings which MCB4 noted were not the revised renderings that had been discussed in 2022. The applicant returned to MCB4 at the May 8th CHKLU meeting with the revised renderings. These design choices ensure that the building will match the character of the surrounding residential neighborhood.

Issues with Surrounding Properties

343 West 47th Street sits between 341 West 47th Street and Ramon Aponte Playground. In April 2021, the illegal demolition of 343 West 47th Street resulted in the removal of the fourth-floor façade and roof, which were not temporarily sealed and have been subject to the weather. This has resulted in water infiltration and leaks in 341 West 47th Street. Further, the current conditions of 343 West 47th Street, including a damaged construction fence and long-standing sidewalk bridge have led to a vermin and insect infestation in 341 West 47th Street.

Roman Aponte Playground is a vital community asset. The illegal demolition of 343 West 47th Street led to debris falling in the playground, and the addition of a sidewalk bridge that has degraded the park experience and created a public safety issue.

Conclusion

The applicant has brought a Special Permit Application that will close the long cycle of illegal demolition, serious public safety issues, and damage to adjacent properties. MCB4 will work with the applicant to ensure that this project moves forward to benefit both the owner and the Hell's Kitchen neighborhood. MCB4 thanks the applicant for offering to join members of the Board on a tour of Ramon Aponte Park, and for agreeing to work with the 341 West 47th Street Apartment Corporation Board.

Sincerely,



Jessica Chait
Chair
Manhattan Community Board 4



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



Paul Devlin
Co-Chair
Clinton/Hell's Kitchen Land Use Committee

Enclosures:

Appendix A: Letter of Commitment
Appendix B: Building Renderings

cc: Hon. Erik Bottcher, NYC Council Member
Kelvin Zou, Owner, Midtown West 47th Street LLC
Richard Bass, AICP, PP, Akerman LLP
Elke Fears, President, West 47th/48th Streets Block Association
Blake Gopnik, 341 West 47th Street

Appendix A

Midtown West 47 St LLC
5023 192 Street
Queens, NY 11365
718-898-3088

June 3, 2024

Jesse Bodine
District Manager
Manhattan Community Board 4
424 W. 33rd Street, Suite 580
New York, NY 10001

Re: 343 W 47 Street Demolition Special Permit
ULURP Number: 240244 ZSM

Dear Mr. Bodine:

Thank you for the Clinton/Hell's Kitchen Land Use Committee's time and consideration of this special permit application within the Preservation Area of the Special Clinton District. A special permit under New York City Zoning Resolution ("ZR") § 96-108 is requested to allow a decrease of more than 20 percent of residential floor area in a 4-story building with 4 dwelling units to facilitate an enlargement to a 7-story residential building with 7 dwelling units.

As requested, this letter confirms and agrees to the following conditions:

- Prior to the City Planning Commission hearing, negotiate and execute an agreement with 341 West 47th Street Apartment Corporation for repairs and access.
- Provide construction protection for the building at 341 West 47th Street, including its roof.
- Identify construction representatives and contacts for MCB4 and 341 West 47th Street Apartment Corporation communications. My representative, Richard Bass, has met with representatives of the Roman Aponte Playground and 341 West 47th Street, and has conveyed their concerns to me.
- Schedule and complete pest abatement at 343 West 47th Street, as well as 341 West 47th Street.
- As suggested, construction fence was fixed adjacent to the Roman Aponte Playground; the construction fence will be maintained.
- Deliver a plan for site cleaning and maintenance, including retaining a local superintendent, during and after the ULURP review process and prior to starting construction.
- Work with NYC Parks Department to develop a park protection plan for Roman Aponte Playground.
- Increase the height of the sidewalk shed and provide adequate lighting, including two LED lights. Lighting has been installed in the front of the building as well as on the side of the building with Roman Aponte Playground.

- Provide updated floor plans with the locations of kitchens and bathrooms within each dwelling unit.
- Provide updated floor plans stating the use of the cellar as recreation space.
- Confirm ADA accessibility for ground floor lobby and elevator.

We appreciate the Committee's request to relocate rooftop equipment and structures to the east side of the building to mitigate shadows on Ramon Aponte Playground; however, such work is not feasible because it would require additional removal of residential floor area that is not contemplated in the special permit application.

The Committee's input has been valuable to us and has resulted in improvements to the proposed project. We look forward to continuing to work with the Committee to make this project a success.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kelvin Zou', written over a horizontal line.

Kelvin Zou, Owner

Appendix B

- ① STUCCO FINISH, COLOR AND STYLE BY OWNER
- ② METAL PANEL, COLOR AND STYLE BY OWNER
- ③ 42" PANEL MIN. HEIGHT, MAX. @ 4" SPACING
- ④ SHIMMER CONNECTION
- ⑤ GAS ROOM VENT
- ⑥ METAL PANEL @ 42" MIN. HEIGHT
- ⑦ STUCCO EXPANSION JOINT TYP
- ⑧ FINE METAL LACQUER
- ⑨ LOUVER
- ⑩ METAL STAR



FRONT ELEVATION
SCALE 3/8" = 1'-0"

REAR ELEVATION
SCALE 3/8" = 1'-0"

Initial Building Renderings Dated February 2022



Revised Building Renderings Dated May 2024