



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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JOHN WEIS
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

December 1, 2010

Amanda M. Burden, AICP
Chair
City Planning Commission
22 Reade Street
New York, NY 10007

**Re: ULURP Applications No. 110125 ZMM and 110126 HAM
Clinton Commons, 533-543 West 52nd Street**

Dear Chair Burden:

Manhattan Community Board 4 (CB4), having held a duly noticed public hearing on ULURP applications nos. 110125 ZMM and 110126 HAM (the "Applications"), adopted the following resolution by roll call vote 39 in favor, 0 opposed, 0 abstentions and 0 present but not eligible to vote at its meeting on December 1, 2010. The resolutions recommend approval of each of the Applications with conditions.

The Applications, submitted by the New York City Department of Housing Preservation and Development ("Applicant"), propose a new residential development of one eleven (11) story building of approximately 111 feet in height, fronting 150 feet along West 52nd Street, between Tenth and Eleventh Avenues (the "Project Site") on the Clinton Urban Renewal Area (CURA). The proposed project will create 103 condominium units permanently affordable to those of moderate and middle income.

The proposal has been presented to CB4's Clinton/Hell's Kitchen Land Use (C/HKLU) Committee on a number of occasions, most recently on November 15, 2010, and has been subject of prior resolutions in support dated April 11, 2006 and March 9, 2007.

THE DEVELOPERS

The proposed project will be a joint development by Clinton Housing Association (CHA) and Monadnock Construction (Monadnock) (collectively referred to as "Developer"). CHA is the oldest affordable housing developer in the Clinton neighborhood. Both CHA and Monadnock have constructed a number of properties in this district, have developed good working relationships with the Board, and have demonstrated a commitment to

working with the community in developing their plans. We are pleased to work with them on this project.

THE PROPOSED PROJECT

The Developer proposes to construct 102 permanently affordable condominium units (plus one superintendent unit) providing a mix of studios, one, and two-bedroom units for individuals and families earning between 80% and 165% of Area Median Income (AMI) as follows:

	80% AMI			130% AMI			165% AMI		
	HH Income	Price	Units	HH Income	Price	Units	HH Income	Price	Units
Studio	\$39,936	\$120,081	2	\$66,924	\$236,730	6	\$ 84,942	\$319,399	0
1 BR	\$46,080	\$126,772	9	\$77,220	\$259,986	16	\$ 98,010	\$355,515	20
2 BR	\$55,296	\$134,157	9	\$92,664	\$302,984	11	\$117,612	\$417,551	29
Total			20			33			49

These bands of income constitute a population that is underserved by both public and private development in Manhattan Community District #4.

This project provides much-needed permanently affordable ownership units in an area where development pressures have made and continue to make it increasingly difficult for middle-income families to remain, even as renters. As you are well aware, CB4 is committed to creating permanently affordable housing for low- and middle-income families who live in our community, including the public service workers who serve our community as policemen, firefighters, teachers, librarians, nurses and other similar professions.

The proposed project included extending the C2-5 commercial overlay across the entire rezoning area to accommodate the permanent relocation of the existing vested commercial tenant, McKinney Welding. Under the project as originally presented, McKinney Welding had the option to remain as a permanent commercial tenant with temporary relocation in the CURA during construction, or in the alternative, to accept a cash settlement and relocate at its own expense. Subsequent to the C/HKLU committee meeting, principals of McKinney Welding signed a Letter of Intent dated December 1, 2010 (Attachment 3) which expressed their intent to move off the Project Site permanently. As the Letter of Intent has been signed, the Board therefore asks that Developer remove the C2-5 commercial overlay from the project. Without the need for commercial space on the ground floor, the project will create 103 units, as opposed to 101 units plus the commercial space.

The Project Site has been designated for residential use in the Third Amended Urban Renewal Plan for the Clinton Urban Renewal Area, and the proposal to create affordable housing is consistent with both the Plan and the community’s vision for the CURA.

Additionally, the proposed project will meet or exceed the “Green Building Standards” required by Section 224.1 of the New York City Charter.

ZONING ACTIONS

The applicant seeks approval for three separate zoning actions:

- 1) Zoning Map amendment to rezone the entire Rezoning Area (including the Project Site and the adjacent area to the west) from M1-5 to R8A including a C2-5 commercial overlay;
- 2) Disposition of the Project Site; and
- 3) Designation of the Project Site as an Urban Development Action Area Project (UDAAP).

The Project Site is currently zoned M1-5, and is proposed to be rezoned to R8A with a C2-5 commercial overlay. The R8A/C2-5 rezoning is achieved by extending the existing R8A/C2-5 from Eleventh Avenue easterly along West 52nd Street to the eastern boundary of the Project Site. It should be noted that the area to be rezoned includes the adjacent properties at 545 and 549 West 52nd Street, where there is currently a one-story garage and a 10-story building respectively, in addition to the Project Site. The disposition and use of 545-549 West 52nd Street as a community facility was approved in 1994 (ULURP Nos. C 940648 HUM, C 940649 ZSM and C 940650 HDM), that project did not proceed. The proposed rezoning permits the continuing community facility use at 545-549 West 52nd Street.

The Applicant has confirmed by way of a separate letter (please see Attachment 4) to CB4 that any future disposition of 545-549 West 52nd Street would be subject to the UDAAP process. CB4 reserves its right to comment on future proposals, if any, for 545-549 West 52nd Street and our conditional approval of the Applications should not be misconstrued to imply otherwise.

This proposed rezoning is contextual and consistent with this community’s planning goals. The building would contain eleven stories and be 111.4 feet tall.

At its presentation before the C/HKLU Committee, the Developer represented that the sole reason for the midblock commercial overlay was to accommodate the long-term and CURA vested commercial tenant McKinney Welding. Now that McKinney has signed a Letter of Intent stating their intent to give up their right to return to the Project Site, CB4’s approval is conditioned upon the removal of the C2-5 midblock overlay. CB4 has a long history in opposing midblock commercial uses on our predominantly residential side streets. However, we do support a commercial overlay in the limited instance of protecting a pre-existing and CURA vested commercial tenant.

It is our understanding that the Developer will also be seeking an Article XI Tax Exemption in a separate action before the NYC City Council. CB4 supports the grant of

an Article XI to the Clinton Commons project to ensure permanent affordability for the future moderate and middle income homeowners.

AFFORDABILITY

CB4 was impressed with the diligence and creativity employed by the Developer in responding to our concerns regarding the development of a mechanism to guarantee the permanent affordability of this home-ownership project. After several meetings with CB4, the Developer ultimately rejected the more traditional New York City models that time-limit affordability restrictions in home ownership projects and instead researched and developed in concept a more progressive Community Land Trust agreement (“Land Trust”). A Land Trust is a non-profit entity created to acquire land and lease that land to, in this case, low and moderate-income homeowners on a long-term basis. The Land Trust transfers ownership of the improvements to the homeowners but retains rights to ensure that the housing remains affordable in perpetuity. This Land Trust will be modeled after permanently affordable ownership projects developed throughout the country and will govern the permanent affordability of the proposed project. CB4 is committed to working with the Developer to ensure that the terms of the final Land Trust embodies each of the representations made to CB4.

While the Land Trust is only now being developed and documents have yet to be produced, the Developer represented to the C/HKLU committee that:

- The Land Trust will be a Housing Development Fund Corporation (HDFC)
- Each unit owner will own a percentage of the common elements of the building and be leased a portion of the land
- The lease will run for 99 years with an option for renewal by the current owner for an additional 99 years
- This ownership structure is called a leasehold condominium
- The Land Trust will oversee the project to maintain affordability and financial health
- The Land Trust will be given a first right of refusal on any apartment which comes up for sale or is foreclosed upon
- The creation of the Land Trust is subject to obtaining eligibility for an Article XI tax exemption which allows for an exemption from real estate taxes for 40 years to maintain long-term affordability
- Subsequent to the November 16, 2010 Committee meeting, the Developer determined that minor amendments must be made to NYS Real Property Law (RPL) to permit this site, as a Leasehold Condominium, to be eligible for an Article XI Tax Exemption. NYS Real Property Law § 339-e (12) lists specific locations for Leasehold Condominiums: Battery Park City, Roosevelt Island, Queens West, Brooklyn Bridge Park, and East 57th Street & 3rd Avenue. The Developer will request the Clinton Special Zoning District be added to the list of permitted locations.
- Developer will report back to the Board in January 2011 on the progress of the proposed amendment

CB4 looks forward to reviewing the Community Land Trust Agreement as it is developed and hopes that it will be used as a successful model throughout the community district in guaranteeing affordability in home-ownership projects.

ARCHITECTURE

The architectural rendering for the building was the subject of a lively discussion. The Committee offered several important improvements to maintain the contextual design of the building. Specifically, the Committee requested and the Applicant agreed to the following modifications:

- Upper two cornices shall be one color, cornice at the base shall be one color with metal banding
- Better quality materials are needed for panels at first floor. Those panels shall be of a durable material that will age well, preferably steel or aluminum. Applicant agrees to continue to revise rendering create an industrial, contextual look.
- Canopy over the front entrance must be raised to just below the 2nd floor windows and be of similar material to panels of the base
- The vertical band of glass at center of building, which breaks up the horizontal form of the façade building, is not compatible with the wide and repetitive fenestration and building form commonly seen in nearby warehouses and shall be modified fit into the surrounding neighborhood context
- The vertical band of glass which divides the building into two parts gives the impression of a floating façade, not anchored to the ground and shall be modified along the first floor treatment to better anchor the façade to ground
- Address the concern that off-set mullions are at eye level for a seated person inside the apartment looking out of the apartment and are not an industrial look. The mullions will be centered.
- Air conditioning shall be provided via an architectural louver beneath the windows.

Finally, the Applicant agreed to tree planting pursuant to NYC Zoning Resolution Section 96-51.

NOW, therefore, be it resolved that Manhattan Community Board No. 4 recommends approval of ULURP Applications No. 110125 ZMM and 1101296 HAM, provided the following conditions are met, as agreed to by the Developer (see Attachment 1):

Permanent Affordability

- Community Land Trust Agreement or other mechanism must be used which will guarantee the permanent affordability of the 103 condominium units for those earning between 80% to 165% AMI as set forth above and includes the following:
 - The proposed site would be owned through a Community Land Trust in the form of a not-for-profit Housing Development Fund Corporation (HDFC)
 - Each unit owner will lease a percentage of the land, own their condominium unit, and own a percentage of the common elements of the building
 - The lease will run for 99 years with an option for renewal by the current owner for an additional 99 years
 - Each subsequent unit owner will take over the balance of the remaining lease term
 - Owners will only be able to sell to income-qualified buyers
 - Sales will be conducted by the Condominium to prevent under-the-table payments
 - The Condominium would have first right of refusal to recapture units lost through foreclosure
 - The amount of the sales price will be set annually based on the Department of Housing and Urban Development's (HUD) Income Level growth with not less than 2% appreciation
 - The HDFC would oversee the project to ensure that affordability is maintained.

- The Developer timely provides all documents and continues to engage with CB4 on the underlying Community Land Trust agreement and/or other restrictive declarations as they are developed.

Apartment Distribution

- Units by income band shall be equally distributed throughout the building, with at least one unit of each income band on each floor of the building.

Facade

Per updated rendering (Attachment 2):

- Red brick façade with an industrial look to reinforce the existing context and vernacular of the surrounding blocks
- Inclusion of a two story base with brick piers with seven bays
- Upper two cornices shall be one color, the cornice at the base shall be one color with metal banding

- Fenestration shall be double-hung or sliders with seven wide repetitive main bays. Sliders will be grouped in sets of two and separated by a wide-paneled mullion, with a narrow mullion above the entrance
- Mullions shall be in equal divisions, not set off center
- Lot line windows will be included in the western façade
- Air conditioning shall be provided via an architectural louver beneath the windows
- The awning will be made of a solid metal or metal panel material with an industrial feel, not canvas.

Zoning

- As McKinney Welding has stated their intent to leave the site, the C2-5 commercial overlay must be removed from the current application.
- Applicant will confirm in a separate letter to CB4 its assertion that 545-549 West 52nd Street would be required to complete a UDAAP process for future disposition. CB4's approval of this project in no way waives CB4's right to comment on future proposals for this site.
- Street trees are planted as required in NYC ZR 96-51.

Tenant Relocation

- An agreement between the Developer and the vested commercial tenant, McKinney Welding, on the Project Site, is executed prior to December 31, 2010 providing a settlement for McKinney Welding to relinquish its right to remain.

Miscellaneous

- That the project meets HPD's Green Communities standards and Developer keeps CB4 apprised of initiative it takes
- There shall be a 50% community preference in condominium owner selection
- The Developer shall, throughout the life of the project, maintain sufficient staffing to maintain the property and the Land Trust.

Thank you for this opportunity to provide comments and to submit recommendations on these important applications. We look forward to continued dialogue.

Sincerely,



John Weis, Chair
Manhattan Community Board 4



Elisa Gerontianos, Co-Chair
Clinton/Hell's Kitchen Land Use Committee



Sarah Desmond, Co-Chair
Clinton/Hell's Kitchen Land Use Committee

cc: DCP Calendar Office
DCP – Edith Hsu-Chen, Erika Sellke
HPD – Sara Levenson, Meilan Chiu
MBPO – Deborah Morris
CM Quinn – Amanda Younger, Melanie La Rocca
CC Land Use – Danielle DeCerbo

Attachment 1: West 52nd St. Affordable Developers, LLC Commitment Letter, December 6, 2010

Attachment 2: Updated Project Rendering, November 18, 2010

Attachment 3: McKinney Welding Signed Letter of Intent, December 1, 2010

Attachment 4: Letter from NYC Department of Housing Preservation and Development
re: future UDAAP for 549 West 52nd Street