



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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**COREY JOHNSON**  
Chair

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

August 1, 2011

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

**Re: Request for a Follow-Up-Corrective-Action (FUCA)  
Special Hudson Yards District  
Midblock and Avenue Commercial Overlays**

Dear Chair Burden:

At the June 8, 2011 meeting of Manhattan Community Board 4's (CB4) Clinton/Hell's Kitchen Land Use Committee, issues came to light surrounding the zoning in the Special Hudson Yards District now that development is proceeding in the area. Specifically, CB4 was informed of problems with commercial uses which are adjacent to, and incompatible with, residential uses. CB4 would like clarification on these zoning issues from the Department of City Planning (DCP) and, if required, to request a Follow Up Corrective Action (FUCA) be undertaken to ensure commercial overlays are reduced or eliminated, thereby ensuring the neighborhood will retain its residential character.

**Introduction**

During the course of the Hudson Yards Rezoning, CB4 negotiated extensively with DCP in order to protect Community District 4's existing residential character from the high density commercial and office uses for which the area was proposed to be rezoned. The Clinton/Hell's Kitchen neighborhood is typified by its low-rise residential character, economic diversity, and small-scale retail use.

**Midblock Commercial Overlays**

Given the manufacturing history of Hell's Kitchen, there are still commercial uses interspersed throughout the neighborhood. However, the neighborhood's primary character is now firmly residential. As the neighborhood continues to develop, CB4 wants to encourage that residential character. Accordingly, CB4 has consistently fought against midblock commercial overlays, finding them incompatible with residential use (See CB4 Resolutions dated June 14, 2006 and

April 7, 2008). Nevertheless, the City Planning Commission (CPC) decided to map a C2-5 commercial overlay on the midblock between Ninth and Tenth Avenues.

Recently, a tire repair and installation shop, operating 24 hour a day and 7 days a week, has opened on a parking lot at 436 West 36<sup>th</sup> Street. This shop is operating on the midblock of West 36<sup>th</sup> Street, between Ninth and Tenth Avenues, in the middle of a residential block. Immediately adjacent to the tire shop is the St. Clare Friary, two doors down is the Metropolitan Community Church, and on both sides of the street are residential tenement buildings. The pneumatic drills used to replace the tires are extremely loud and taxis line the street at all hours waiting to get their tires fixed or replaced. This type of business is incredibly disruptive to the surrounding residential buildings.

CB4 has researched this tire shop operation and while it is not compliant under the Certificate of Occupancy, which is for a parking lot, it is a compliant use under the C2-5 commercial overlay mapped on these midblocks between Ninth and Tenth Avenues. With the C2-5 overlay, other such incompatible uses as driving schools, bus stations, and car rentals are allowed in the middle of these residential blocks. Further, hotels, which are surely not a compatible use for a residential midblock, are also allowed. For these reasons, CB4 has had the consistent position that midblock commercial overlays are not appropriate.

CB4 requests that the midblock commercial overlay be removed. This is consistent with the midblocks between Ninth and Tenth Avenues, north of West 42<sup>nd</sup> Street. Where midblock commercial overlays are mapped north of West 42<sup>nd</sup> Street, between West 50<sup>th</sup> and West 51<sup>st</sup> Streets, West 48<sup>th</sup> and West 49<sup>th</sup> Streets, and West 44<sup>th</sup> and West 45<sup>th</sup> Streets, it is predominantly for local restaurants. However, a C2-5 overlay on the midblock is simply not compatible with residential use in this neighborhood and it should be removed.

### **Hotels on Ninth Avenue**

Researching the midblock commercial overlays and discovering that the commercial overlay permits hotel use, led CB4 to consider the zoning on Ninth Avenue. CB4 wants to encourage uses that are compatible with residential buildings; however, hotel use is certainly not compatible with a residential neighborhood. Ninth Avenue, from West 35<sup>th</sup> Street to West 41<sup>st</sup> Street, is currently zoned as C1-7A. Already there is a large site at the corner of West 39<sup>th</sup> Street and Ninth Avenue which was slated to be developed a combination of residential use and 90 hotels rooms and is now grandfathered under DOB's halted site initiative. CB4's overarching concern is preserving and reinforcing the residential character of Ninth Avenue. Accordingly, CB4 would like to request that Ninth Avenue be rezoned from C1-7A to R8A with a C1-5 Overlay while also preventing new hotels from opening. CB4 finds this overlay to be more compatible with the neighborhood than a C2 overlay which allows local service establishments such as the tire repair shop referenced above. This is consistent with the uses on Ninth Avenue north of West 42<sup>nd</sup> Street, where the zoning is R8 with a C1-5 overlay, and will prevent new hotels from opening in the neighborhood.

In order to preserve and reinforce the existing residential character of Hell's Kitchen, both on the midblocks and on Ninth Avenue, CB4 requests:

- A Follow Up Corrective Action (FUCA) to remove the C2-5 overlay on the midblocks between Ninth and Tenth Avenues, from West 35<sup>th</sup> Street to West 40<sup>th</sup> Street; and
- The rezoning of Ninth Avenue from C1-7A to R8A with a C1-5 overlay while also prohibiting hotel uses.

CB4 looks forward to determining a way to prevent these incompatible commercial uses from being allowed to proliferate in our residential community. We appreciate your help in enforcing the original intention of the Special Hudson Yards District as applied to the Clinton/Hell's Kitchen Neighborhood.

Sincerely,



Corey Johnson  
Chair



Joe Restuccia, Co-Chair  
Clinton/Hell's Kitchen Land Use Committee



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

cc: Christine Quinn, Speaker, New York City Council  
Scott Stringer, Manhattan Borough President  
Jerrold Nadler, Member of United States Congress  
Tom Duane, New York State Senator  
Richard N. Gottfried, Member, New York State Assembly  
Edith Hsu-Chen, Erika Sellke, Dominick Answini – DCP