

July 29, 2002

Amanda M. Burden, A.I.C.P.
Director
Department of City Planning
22 Reade Street
New York, NY 10007

Re: Zoning Text Amendment: 81-752

Dear Director Burden:

306 West 44, LLC (aka Harwood Properties) has approached the Clinton Land Use and Zoning Committee of Manhattan Community Board No. 4 regarding the possibility of requesting a zoning text amendment to eliminate Section 81-752(c)(2) from the Zoning Resolution. This would facilitate the redevelopment of the southwest corner of Eighth Avenue and West 44th Street, a project that this Board has been working on with Harwood Properties for some time.

The proposed development includes demolition of the former Globe Hotel at 300 West 44th Street which was, in the past, a major venue for drug dealing and prostitution. The hotel was closed through a nuisance abatement action by the Mayor's Office of Midtown Enforcement, and it has been alleged that tenant harassment took place in the building. In our letter dated November 15, 2001 to the City Planning Commission, we recommended approval of ULURP application no. 010700ZSM for the attended public parking garage that is part of the project, and in our letter dated March 26, 2002 to the Department of Housing Preservation and Development we recommended acceptance of the Clinton Cure Lower Income Housing Plan for the project. In that context, Harwood Properties asked us informally if we would be open to the possibility of the proposed text amendment. In order to prepare our response, a more detailed presentation was made to the Clinton Land Use and Zoning Committee at its meeting on July 10, 2002 and to the full Board at its meeting on July 24, 2002.

The effect of the amendment, as we understand it, would be to eliminate the 25' transition strip between the Special Clinton District's Preservation and Perimeter Areas. As you know, in that transition strip, which extends for 2-1/2 blocks between 45th Street and 100' north of 42nd Street, a new or enlarged building may not exceed a height of 66' unless it abuts an existing building that exceeds a height of 66'. If the proposed text amendment is enacted, all other restrictions of Section 81-752 would remain in effect, including the 85' limit for street walls along narrow street lines.

As it has been presented to us by Harwood Properties, the proposed amendment would allow the proposed development to use additional development rights, south of the site on Eighth Avenue, that would be purchased from Block 1034, Lot 29. (The proposed development is located on Block 1034, Lots 34, 36 and 37; see attached map.) These additional development rights would add 2 or 3 stories to the new building and would create 76 additional residential units, 15 of which would be affordable.

Elements critical to our support of the development proposed by Harwood Properties have been:

- the voluntary submission to the Clinton Cure (creating 3 new low-income housing units)
- the intended use of 80/20 financing (creating 48 new affordable housing units, without the proposed amendment)
- the intended use of the Clinton Bonus to create inclusionary housing under Sections 96-23 and 23-90 of the Zoning Resolution and
- the commitment to retain the a theater façade and marquee on Eighth Avenue.

Section 81-752(c)(2) was added to the Zoning Resolution as part of the Theater Subdistrict/Eighth Avenue Rezoning in 1998. It is the Board's recollection that Section 81-752(c)(2) was added when it was proposed that the western boundary of the Theater Subdistrict would be 150 feet west of Eighth Avenue from 42nd Street all the way up to 56th Street. Section 81-752(c)(2) was added by DCP to buffer the Special Clinton District's Preservation Area, containing predominantly residential uses, from the effects of the higher density development made possible in the Theater Subdistrict by the rezoning. As you know, the extension of the Theater Subdistrict west of Eighth Avenue was ultimately limited to portions of only 2-1/2 blocks – 100 feet north of 42nd Street to 45th Street, including the Martin Beck Theater. The protections of Section 81-752(c)(2) are admittedly less significant in this reduced area of relatively higher-density development.

Manhattan Community Board No. 4 supports the effect that the proposed amendment would have on the block front between 43rd and 44th Streets. Allowing the development rights from Lot 29 to be used in this project would ensure that the balance of the block front remains low rise.

From the analysis presented by Harwood Properties, the effect of the proposed amendment on the other affected sites, the 44th - 45th Street and 42nd - 43rd Street block fronts, would be similarly benign. If that analysis is correct, we would be pleased to support an appropriate text amendment. However, we are specifically concerned about the unanticipated consequences, if any, that the amendment could have in connection with the transfer of unused development rights, bonuses or other mechanisms (relating, for example, to the Martin Beck Theater). Preliminarily, we believe that Section 81-752(c)(2) should remain effective for projects using a theater rehabilitation bonus. We recognize, however, that our capacity to conduct thorough zoning analyses is limited. We would therefore request and welcome DCP's assistance in analyzing the effect of the proposed amendment, and in crafting its text to address our concerns. Given a favorable analysis confirming the information presented by Harwood Properties, and a text that is appropriately limited, the proposed amendment would continue to have our support.

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Harwood Properties is to be commended for its willingness to consult with this Board throughout the development process, and to work within to the overlapping limitations of the Zoning Resolution to bring welcomed improvement to this site. We have received their request for consideration of a zoning text amendment in the same spirit.

If Harwood Properties proceeds with the proposed amendment, we understand that the amendment would be referred to us for information and comment for 30 days before a public hearing before the City Planning Commission, and we reserve the opportunity that that process will afford us for a final consideration. In the meantime, we support Harwood Properties' request that DCP consider the matter.

Sincerely,



Simone Sindin
Chair
Manhattan Community Board No. 4

Anna Hayes Levin
Chair
Clinton Land Use and Zoning Committee

encl.

cc: Manhattan Borough President's Office
Local Electeds
Harwood Properties