



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD No. 4

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J. LEE COMPTON
Chair

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

January 5, 2007

Hon. Patricia J. Lancaster
Commissioner
NYC Department of Buildings
280 Broadway
New York, NY 10007

Dear Commissioner Lancaster:

We have been discouraged to realize over the last few months that the Department of Buildings is simply not enforcing the unique provisions of the Zoning Resolution applicable in the newly-created Special Hudson Yards District or in the Special Clinton District. In the case of the Special Hudson Yards District, these provisions were painstakingly negotiated during the creation of the Hudson Yards rezoning as essential protections of the area's existing housing stock. In the Special Clinton District, the overlooked provisions include limitations that have been applicable in the Preservation Area since its creation in 1974, as well as changes made in 2004 to establish height and setback limitations on Ninth and Tenth Avenues in the Preservations Area. The 2004 changes were an important initiative by the Department of City Planning with enthusiastic support from our community.

The enforcement matters that have recently come to our attention are described below. Our attempts to resolve them with your staff have been unsuccessful. These enforcement matters now appear to Community Board 4 to be the result of systemic failures within the Department of Buildings that must be remedied immediately. We therefore urgently request a meeting with you and senior representatives of the other agencies involved, including the Mayor's Office, the Department of City Planning and the Department of Housing Preservation and Development, to review DOB procedures and ensure that the important protective provisions of the Zoning Resolution applicable in the Special Hudson Yards District and the Special Clinton District are correctly and consistently enforced.

The Board's Chair, Lee Compton, recently testified before Councilmember Oddo's Task Force on these and other matters. We will continue to do everything we can to support work towards long term solutions.

SPECIAL HUDSON YARDS DISTRICT ENFORCEMENT MATTERS

356 Tenth Avenue, at West 31st Street (block 728, lot 4, BIN 1012832)

Permits for the demolition of this 5 story residential building were issued by DoB on October 30, 2006 without the certification of no harassment required by Section 93-90(b)(1)(i) of the Special Hudson Yards District text of the Zoning Resolution. We understand that the building has a notorious history

of tenant harassment. To “cure” that harassment, low income housing must be provided in accordance with ZR Section 93-90(d). No permits should have been issued until the harassment inquiry had been completed and the required restrictive declaration had been recorded. We called this to your staff’s attention [Bob: do you know exactly when?], but have yet to receive a response beyond “We’re looking in to it.” In the meantime, the building has been demolished.

This site is in a C6-4 zoning district in the Special Hudson Yards District, yet work permit data in BIS says the zoning is M1-5 and “Special District: N/A.”

522 Ninth Avenue, at West 39th Street (block 762, lot 70, BIN 1013655)

This residential building is in a C1-7A zoning district in the Special Hudson Yards District, yet work permit data in BIS says the zoning is C1-7 and “Special District: N/A.”

A certification of no harassment is required by Section 93-90(b)(1)(i) of the Special Hudson Yards District text of the Zoning Resolution for any material alteration of this building, which includes, according to the definition, an increase in floor area. However, according to BIS, permits have been issued “in order to enlarge the property by horizontal enlargement on the 1-4th floors, adding a 5th floor and a Penthouse to the subject premises.” (Job No. 104134697.) No such permits should have been issued until the required harassment inquiry had been completed. We called this to your staff’s attention, but have yet to receive a response beyond “We’re looking in to it.”

SPECIAL CLINTON DISTRICT ENFORCEMENT MATTERS

610 Tenth Avenue, at West 44th Street (block 1053, lot 61, BIN 1812266)

The building now under construction at this corner location has significant setbacks on both street walls, in violation of the height and setback limitations established in 2004. Section 96-104 of the Special Clinton District text of the Zoning Resolution now requires the street walls to be located on the street line and to rise without setback to a minimum height of 50 feet. We called this to your staff’s attention and provided photos in early November, but have yet to receive a response beyond “We’re looking in to it.”

This site is in an R8 zoning district in the Preservation Area of the Special Clinton District, yet work permit data in BIS says the zoning is C5-2 and “Special District: N/A.”

406 West 45th Street (block 1054, lot 37, BIN 1026421)

Permits have been issued for “the conversion of the existing building to residential use and for the transfer of floor area from existing floors to create a new 6th floor,” (Job No. 104247218), and construction is underway. The building is in the Preservation Area of the Special Clinton District and beyond 100 feet of a wide street, so that floor area may not exceed 4.2 FAR (ZR Section 96-101) and building height may not exceed 66 feet (ZR Section 96-104). From the street the new construction on top of the existing building certainly appears to be adding floor area and at a height that exceeds 66 feet. We called this to your staff’s attention in late November, but have yet to receive a response beyond “We’re looking in to it.”

Work permit data in BIS shows the correct zoning, but says, incorrectly, “Special District: N/A.”

IDENTIFICATION OF SPECIAL DISTRICT SITES

It is critical to enforcement of the Zoning Resolution that sites in a special district be easily identifiable by DOB staff as well as the general public. Yet in researching the individual sites discussed above and in preparing this letter we were unable to find any site correctly identified in BIS as being within the Special Hudson Yards District or the Special Clinton District.

One alarming example are the buildings now occupied by St. Vincent's Midtown Hospital between 51st and 52nd Streets west of Ninth Avenue (block 1061, lot 23, BIN 1080946). The hospital is slated for closure (to the dismay of this community) and we understand that the hospital's administration is considering the site's development potential. The site is in the heart of the Special Clinton District's Preservation Area, with floor area limited to 4.2 FAR, yet BIS says the site has no special status.

This is profoundly discouraging. In 2001 this Board's staff, with the assistance of Housing Conservation Coordinators, laboriously compiled and provided to DOB a list of all Preservation Area building addresses. We were assured that this information was added to DOB's computer system. We wrote to you about this again in our letter dated April 10, 2003 concerning certificates of no harassment for building alterations. We fail to understand why this important information is apparently still missing or not properly understood by your staff.

We therefore request a meeting with you at your earliest convenience. The meeting can be arranged through our District Manager Bob Benfatto. We look forward to hearing from you.

Sincerely,



J. Lee Compton
Chair
Manhattan Community Board 4



Anna Hayes Levin
Chair
Clinton/Hell's Kitchen Land Use

cc: Mayor's Office – Mark Ricks
DCP – Amanda Burden, Ray Gastil, Erik Botsford, Dominic Answini
HPD – Matthew Shaffit, General Counsel
MBPO – Anthony Borelli
City Council Land Use Div. – Danielle Decerbo
Other electeds