



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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District Manager

November 13, 2007

Ms. Laura Lazarus
Deputy Commissioner for Development
Department of Housing Preservation and Development
100 Gold Street
New York, NY 10038

Re: Lower Income Housing Plan Application by Midtown West B L.L.C. – 505 West 37th Street

Dear Ms. Lazarus:

At the recommendation of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board No. 4 recommends disapproval of the Lower Income Housing Plan Application by Midtown West B L.L.C. for its project at 505 W. 37th Street unless it is resubmitted with changes. The vote was unanimous.

THE PROJECT

The applicant, an affiliate of Rockrose Development Corp., is planning an 835 unit 80/20 building with two towers on the west side of Tenth Avenue between 37th and 38th Streets, on a site that is in Subarea D1 of the Hell's Kitchen Subdistrict of the Special Hudson Yards District. The basic maximum FAR for the site is 6.5, which the applicant seeks to increase with the District Improvement Fund Bonus (total DIB bonus 3.4 FAR) and the Inclusionary Housing Bonus (3.0 FAR), per Section 93-223(a) of the Special Hudson Yards text of the Zoning Resolution.

The tower on the eastern portion of the project site will be 43 stories, and the tower on the western portion of the site will be 34 stories.

According to the application, 20%, or 169, of the units will be permanently reserved for families earning no more than 50% and 40% of Area Median Income. The mix of the affordable units will consist of 40 studios, 99 one-bedrooms and 30 two-bedrooms. The

project is receiving tax exempt financing from the New York State Housing Finance Agency.

We note that the application was submitted to your agency with a cover letter dated June 22, 2007, but it was not sent to this Board until October 9, 2007.

OUR COMMENTS

1. It is not clear from the application that the project is providing the amount of floor area required for the inclusionary housing bonus.

The calculations for the DIF bonus attached to the application show that 173,136 sq. ft. (3 FAR) of inclusionary housing is being provided. However, the information on the next page with details about the affordable units shows that the East Tower will have 68,354 sq. ft. of affordable units and the West Tower will have 51,747 sq. ft. of affordable units, for a total of only 120,101 sq. ft. or 2.08 FAR. 53,035 sq. ft. of affordable units seem to be missing. The allocation of a portion of the common areas to low income housing per HFA's guidelines may provide a partial explanation, but this information is not available from the application. HPD must confirm that the project is in fact providing the amount of floor area required for the inclusionary housing bonus. In addition, we suggest that the application form be revised so that the necessary information for confirming the bonus calculation is readily available.

2. The low-income units must be more widely distributed throughout both towers.

The distribution requirement for the Hudson Yards Inclusionary Housing Program in the Zoning Resolution requires that “[d]welling units# designated as #lower income housing# shall be distributed throughout the #development# [emphasis added]. No #story shall contain more than two such units unless at least 80 percent of all #stories# contains two such units.” (ZR 23-951(b))

In this project, there are no affordable units on the top 20% of the floors in either tower, and the affordable units are heavily concentrated on floors 3 to 7 of the 43-story East Tower and floors 4 to 6 of the 34-story West Tower. This is a particularly egregious violation of the requirements of ZR 23-951(b), and must not be approved.

3. Some of the low-income units should be combined to create larger units.

A healthy neighborhood needs families and families need bigger apartments. Yet, 82% of the low-income units in this project are planned to be studios and one-bedroom units, attracting a more transient population than this community desires. We urge you to

explore with the developer and with the New York State Housing Finance Agency ways in which some of the proposed studios could be combined to create larger units.

4. Building amenities must be generally available to all tenants.

In the presentation to the Clinton/Hell's Kitchen Land Use Committee, the applicant's representatives indicated that the project would include a club room, gym and rooftop terrace, which would be available to all tenants for an annual charge of \$500. These amenities must be available to low-income tenants at an affordable rate.

5. The Administering Agent must be an independent not-for-profit organization, and this requirement must be included in the restrictive declaration.

The applicant proposes that the applicant itself, the for-profit developer of the building, will be the Administering Agent responsible for ensuring compliance with the lower income housing plan.

Section 93-231 of the Zoning Resolution provides:

“The #administering agent# shall be a not-for-profit organization . . . However, the Commissioner may approve an entity that is responsible for compliance monitoring pursuant to City, State or federal funding sources, to serve as the “administering agent# during such compliance period.”

There is no information in the application about the applicant's ability to serve as Administering Agent or the compliance monitoring that it may be responsible for. The applicant must not be approved as the Administering Agent unless this case is made. This Board believes that only an independent not-for-profit organization unmotivated by the owner's interest in maximizing profitability can adequately ensure compliance with the lower income housing plan, but accepts that the Hudson Yards Inclusionary Program currently reflects a different conclusion.

If the applicant is approved as the Administering Agent, that approval must only last as long as the compliance period. To ensure that this provision is enforced, we suggest including it in the restrictive declaration required by Section 23-95(e) of the Zoning Resolution.

6. Budgets must include reserve funds.

The application provides no information about the operating or replacement reserves required by HPD practice. The application should not be approved without the inclusion of these reserves.

These applications demonstrate once again the aggressive use developers will seek to make of the Inclusionary Housing Program in this still over-heated development environment. While we are pleased that they will produce so many additional units of permanent affordable housing, HPD must be similarly aggressive in insisting that the policies underlying the Inclusionary Housing Program are not compromised, and that quality affordable housing is produced of which we can all be proud.

Many thanks for your attention.

Sincerely,



Jean-Daniel Noland
Chair



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

Cc: K. Thomas Elghanayan, Midtown West B L.L.C.
Kenneth K. Lowenstein, Bryan Cave
electeds