



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 Tower 37 LLC – 350 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 350 W. 37th Street unless it is resubmitted with changes. The vote was unanimous.

THE PROJECT

The applicant is planning a 208-unit 27-story residential building with ground floor retail and attended accessory parking on a site in Area P-2 of the Special Garment Center District. The basic maximum FAR for the site is 6.5, which the applicant seeks to increase with the District Improvement Fund Bonus and the Inclusionary Housing Bonus, per Section 121-31 of the Special Garment Center text of the Zoning Resolution.

According to the application, 42 of the units will be permanently reserved for families earning no more than 80% of Area Median Income. The mix of the affordable units will consist of 2 studios, 23 one-bedrooms and 17 two-bedrooms. The applicant intends to seek tax exempt financing from the New York State Housing Finance Agency or the New York City Housing Development Corporation.

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 apartment distribution chart shows that the affordable units will represent 20.5% of the project's floor area. To achieve the maximum bonus, the affordable units must represent 25% of

the project's floor area (3 FAR out of 12 FAR). The allocation of a portion of the common areas to low income housing per HFA's guidelines may provide a partial explanation of the difference, 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 between front and rear apartments.

The project site is a mid-block site on the south side of 37th Street east of Ninth Avenue. To the south of the site, across its rear yard, are two large loft buildings. It is therefore likely that the units in the rear of the new building will be dark and less desirable. The applicant proposes to locate 31 of the 42 low-income units in the rear of the building. This does not appear to be an equitable distribution of the units, and we urge HPD to review the plans carefully with the applicant and require a more even distribution.

3. An impressive 41% of the low-income units are two-bedroom units.

A healthy neighborhood needs families and families need bigger apartments, so we consistently advocate for a unit mix that favors larger apartments. We are pleased to note that this project will include 17 two-bedroom units and only 2 studios.

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

The application indicates that the project will include a landscaped roof deck and a fitness center. These amenities should be available to all tenants without charge, or to low-income tenants at a discounted and 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 (which ZR 121-31 makes applicable in the Special Garment Center) 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.

7. A 90 foot streetwall is required by ZR 121-31.

The plans submitted with the application show a 15-foot setback at the 3rd floor of the new building, and an additional 4-1/2-foot setback at the 11th floor. This does not comply with the street wall requirement in ZR 121-31, which requires a 90-foot streetwall, without setbacks. This requirement, which was negotiated during the recent Hudson Yards rezoning, is intended to ensure consistency with the industrial loft building shape that characterizes the area. We know that architecture is not HPD's responsibility, but we mention it here to eliminate any surprises when plans are submitted to the Department of Buildings.

Many thanks for your attention.

Sincerely,



Jean-Daniel Noland
Chair



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

Cc: Tower 37 LLC
Kenneth K. Lowenstein, Bryan Cave
electeds