



CITY PLANNING COMMISSION

September 5, 2012 / Calendar No. 11

N 120142 ZRM
CORRECTED

IN THE MATTER OF an application submitted by Jamestown Premier Chelsea Market, LP pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to Article IX, Chapter 8 (Special West Chelsea District), Community District 4, Borough of Manhattan.

This application for a zoning text amendment was filed by Jamestown Premier Chelsea Market, LP on December 20, 2011. The zoning text amendment, along with its related action, would facilitate the development of an office and hotel expansion on the existing Chelsea Market complex, located on a full block bounded by West 15th Street, West 16th Street, Ninth Avenue and Tenth Avenue (Block 713, Lot 1). The requested actions would designate this block a High Line Bonus Site, and require the provision of High Line amenities and a contribution to the High Line Improvement Fund to achieve the maximum proposed FAR.

RELATED ACTIONS

In addition to the amendment of the Zoning Text, which is the subject of this report, implementation of the proposal also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

C 120143 ZMM Zoning Map amendment to include the subject block in the Special West Chelsea District (WCh).

BACKGROUND

Chelsea Market is located on a single zoning lot occupying the entire block bounded by West 15th Street, West 16th Street, Ninth Avenue and Tenth Avenue, with a total lot area of 165,200 square feet. The zoning lot is located in an M1-5 district, which allows a maximum floor area ratio of 5.0, thus providing for a total allowable floor area of 826,000 square feet. Chelsea Market is currently built over the permitted floor area, to approximately 5.4 FAR.

Chelsea Market is an amalgamation of 18 buildings originally constructed as factories and office space for the National Biscuit Company (NABISCO). After NABISCO closed its factories in the mid 1940s, the Chelsea Market site floundered economically despite repeated attempts to attract industrial and other light manufacturing uses. In the mid 1990s, Chelsea Market was converted to its current mix of uses, with a popular food production and marketplace the predominant uses on the ground floor, and the upper floors predominantly comprised of office and studio production space for creative and media companies, including The Food Network, New York 1, Google and Major League Baseball.

Proposed Expansion

There are two principal physical elements to the expansion: an approximately 240,000 square foot proposed office enlargement on the western section adjacent to Tenth Avenue and an approximately 90,000 square foot proposed hotel expansion on the northeastern section abutting Ninth Avenue and 16th Street. The expansion of Chelsea Market has been designed to fit into the context of the volumes of the surrounding buildings and to provide architecture that relates and responds to the historical industrial forms of Chelsea Market. The proposed expansion would be compatible in scale and form to other development in the area, both new and old, including (i) the residential development to the north of Chelsea Market spurred by the creation of the Special West Chelsea District, including the Caledonia across 16th Street, (ii) the growth to the south in the Meatpacking District (including such major projects as the Standard Hotel and the expanded High Line Building), and (iii) the bulk of older buildings in the area, including 111 Eighth Avenue, Fulton Houses and 85 Tenth Avenue.

The construction of the office enlargement will allow Chelsea Market to substantially increase space for the arts, technology and entertainment companies that have gravitated to the West Chelsea neighborhood, beginning with the restoration of Chelsea Market in the mid-1990s and spreading to the surrounding industrial buildings to the immediate east and west.

The proposed office enlargement is anticipated to add up to nine floors to the section of Chelsea Market that is located proximate to Tenth Avenue. Its size and scale, which would be capped at 230 feet pursuant to building envelope controls set forth in the proposed zoning text change, is

similar in height to surrounding buildings, such as the Fulton Houses, but shorter than the 24-story Caledonia just to the north, the 19-story Standard Hotel to the south and the allowable developments between 17th and 18th Streets to the west of the High Line. The Tenth Avenue expansion incorporates a primary volume that is proportionate to the existing portions of Chelsea Market while relating to the height of 85 Tenth Avenue across the street. In addition, the design elements, including the use of metals and glazing are intended to differentiate the addition, while keeping with the industrial character of Chelsea Market and representing the continuing evolution of the block and its uses.

As certified, the other proposed expansion would add approximately 90,000 square feet for use as a hotel above the one and three story buildings on the northeast portion of Chelsea Market abutting Ninth Avenue and 16th Street. The expansion is designed to fill in the corner and complete this portion of the block. The setbacks of the proposed hotel expansion are designed to reflect the existing massing of Chelsea Market so as to maintain the variegated pattern of industrial forms that gives the block its unique character. The hotel would have a limited number of rooms and would support the businesses currently operating at Chelsea Market.

High Line Amenities

Similar to the High Line Bonus Sites created in the Special West Chelsea District rezoning in 2005, the expansion of Chelsea Market would allow for the provision of amenities to the High Line. The new park runs through the western portion of Chelsea Market adjacent to 10th Avenue and is one of very few covered areas along the route. As part of the proposed action, the owner would build public restrooms and dedicate approximately 3,000 square feet of support space adjacent to the High Line within Chelsea Market and an additional approximately 1,000 square feet of storage space in the cellar of Chelsea Market. The owner would also construct a dedicated freight elevator to enable the City to transport materials to the High Line from street level. These amenities – along with the High Line contribution associated with use of the bonus floor area – will allow the City to support events, concessions and other social activities within the Chelsea Market passageway and adjoining portions of the High Line.

In addition, the owner would have the option to offer additional space within Chelsea Market in proximity to the High Line to the City for use by the City for concessions or other uses supporting the High Line.

In order to assure that the High Line contribution is made and the High Line amenities constructed, prior to the issuance of a building permit for any enlargement, the owner will be required to submit an application, together with plans for the proposed High Line amenities, requesting certification from the Chairperson of the City Planning Commission (i) documenting that the contribution to the High Line Improvement Fund has been made, and (ii) that the design and layout of required High Line amenities meet certain standards for location and use. The owner would also grant easements to the City over the areas that will house the High Line support areas. In addition, if the owner elects to offer additional space to the City for High Line concessions and the City accepts, the owner would grant the City a permanent easement over the additional space as well.

As a condition of receiving a certificate of occupancy, the owner would be required to fit-out the public restrooms and construct a new, dedicated freight elevator with access through a shared loading berth at street level to allow for the transport of materials to the High Line support areas and the High Line itself and deliver the core and shell of the storage and support areas. In the event that the owner proceeds with bonused development of the Ninth Avenue enlargement prior to that for the Tenth Avenue enlargement, the text includes provisions which would ensure performance and completion of the High Line support areas as a condition of issuance of a building permit for the Ninth Avenue enlargement. Together, the required High Line amenities will enhance the City's ability to utilize the High Line, including the covered passageway within Chelsea Market, for events, concessions and other social programming.

Requested Actions

1. *Proposed Zoning Map Amendment*

The Chelsea Market block is currently located within an M1-5 zoning district with a maximum FAR of 5.0. In order to allow for the proposed expansions, the proposed action would rezone the entire Chelsea Market block to include it within the Special West

Chelsea District. Although the underlying M1-5 zoning will not change, inclusion within the Special West Chelsea District, together with the proposed zoning text changes discussed below, will allow for an increase in the development potential of the Chelsea Market block to 7.5 FAR through a contribution to the High Line Improvement Fund and the construction of the freight connection to the High Line, storage space and public restrooms described above.

Together with the accompanying zoning text change, which prescribes a specific building envelope for Chelsea Market, the zoning map amendment would reflect the neighboring land uses by allowing for development similar in height and massing as the surrounding buildings. In addition, the zoning map amendment would not change the permitted uses of the site (except to allow for certain arts uses) and be consistent with the adaptive reuse of Chelsea Market as a mixed-use facility (with predominantly food-oriented production and retail on the first floors and television, arts and high-tech commercial spaces on the upper floors).

2. *Proposed Zoning Text Change*

In coordination with the proposed zoning map amendment, the proposed action would also amend certain sections of the Special West Chelsea District text so as to allow for the specific development concepts described in this application. Generally, the proposed zoning text change would create a new “Subarea J” in the Special West Chelsea District that would govern the Chelsea Market block. Like the other subareas, Subarea J would contain special height, setback and other building envelope controls that would limit the form of development on the block. These controls would generally prescribe the building envelopes within which the proposed enlargements may be constructed as well as establish controls for the midblock to limit additional development in this area. In addition, as noted above, adding a new Subarea J would allow the Chelsea Market block to qualify for an increase in FAR up to a maximum of 7.5 by making a contribution to the High Line Improvement Fund and constructing the amenities for the High Line described above.

The proposed zoning text would provide that prior to requesting a building permit for the use of the increased FAR, the Chairperson of the City Planning Commission would be required to certify that the proposed layout and design of the High Line amenities and support spaces to be dedicated to the City comply with certain standards for location and use. The applicant would also be required to grant to the City certain easements for the use of High Line support areas, the location of which would be finalized as part of the certification.

In addition, the owner would have the option to offer to the City up to an additional 7,500 square feet of space adjacent to the High Line. If the option is exercised, the owner would be required to provide an appraisal for the value of such space, and if the City accepts, this additional space would be dedicated to the City for its use.

Finally, the proposed zoning text would provide that as a condition of receiving a certificate of occupancy for the use of the increased FAR, the property owner would be required to complete the construction of the High Line amenities. In the event that the owner proceeds with bonused development of the Ninth Avenue enlargement prior to that for the Tenth Avenue enlargement, the text includes provisions which would ensure performance and completion of the High Line support areas as a condition of issuance of a building permit for the Ninth Avenue enlargement.

ENVIRONMENTAL REVIEW

The application (N 120142 ZRM), in conjunction with the application for the related action, was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 11DCP120M. The lead agency is the City Planning Commission.

After a study of the potential impacts of the proposed actions, a negative declaration was issued on April 9, 2012. On August 31, 2012, a Technical Memorandum was issued which describes

and analyzes the modifications to the proposed actions made by the City Planning Commission, adopted herein, and finds that the previous Negative Declaration is still valid.

PUBLIC REVIEW

This application (N 120142 ZRM) was referred to Manhattan Community Board 4 and the Manhattan Borough President on April 9, 2012, in accordance with the procedures for non-ULURP matters, along with the related action for a zoning map amendment (C 120143 ZMM) which was certified as complete by the Department of City Planning on April 9, 2012, and was duly referred to Community Board 4 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 4 held a public hearing on this application (N 120142 ZRM), along with the related action, on May 2, 2012. At its Full Board Meeting on June 6, 2012, by a vote of 26 to 14 with no abstentions, Community Board 4 adopted a resolution recommending disapproval, with conditions, of the application. The conditions are as follows:

1. Manhattan Community Board 4 recommends denial of ULURP Applications No. N 120142 ZRM and 120143 ZMM unless the Proposed Project is accompanied by the creation of affordable housing with a floor area equal to 27% of the increase in floor area of any enlargement of the Chelsea Market building.
2. **If and only if** the first condition is met, Manhattan Community Board 4 recommends denial of ULURP Applications No. N 120142 ZRM and 120143 ZMM unless the following conditions are met:
 - a) The proposed text change is amended in the Ninth Avenue Zone to reflect that the maximum building height is 123 feet before setback and that the maximum building height is 135 feet with a setback of 5 feet from Ninth Avenue and 15 feet from West 15th and West 16th Streets;
 - b) The proposed text change is amended in the Tenth Avenue Zone to reflect that the maximum building height before setback is 170 feet and the maximum building height is 184 feet with a 35 foot setback;
 - c) The proposed text change is amended in the Tenth Avenue Zone to reflect that obstructions other than those in ZR section 33-42 are allowed to mitigate the effect of “the float”. For example, a series of panels would be allowed throughout and at each corner (some setback) to connect the new building with the old building and have dimensions equal to the piers below;
 - d) The Applicant provides a written commitment that discussions continue for a more contextual façade and a less observable gap between the addition and the

- existing Tenth Avenue building;
- e) The proposed text change is amended in the Midblock Zone to reflect that the maximum building height before the setback is 110 feet and that the maximum height of building at midblock is 130 feet with a setback of 20 feet;
 - f) The Applicant agrees to a restrictive declaration that 60% of the ground floor space, excluding the four corners, be for food-related uses;
 - g) The Applicant agrees to a restrictive declaration that there will be no hotel use allowed and no outdoor eating and drinking establishment, excluding approved unenclosed sidewalk cafes, on the Chelsea Market block, Block 713;
 - h) The Applicant agrees to not oppose efforts to landmark the building, provided their qualifications are met;
 - i) The Applicant agrees to use best efforts to conform to, at minimum, LEED Silver standards when constructing the proposed expansions;
 - j) The Applicant agrees to comply with the DEP Draft Rule to detain storm water and to use best efforts to retain storm water for at least one inch of rainfall over the entire site.
 - k) The Applicant agrees to form a Construction Task Force prior to the commencement of construction that will meet with the community regularly during construction;
 - l) The Applicant agrees to fund a Technology Jobs Training Center for neighborhood residents located within the Chelsea Market complex as a free service to the community. The preferred location for this lab would be the 7,500 square feet of optional High Line space within Chelsea Market. The Applicant agrees to utilize a non-profit organization for this effort, and to work with local public schools to provide aid and at least ten internships each year with technology firms located in Chelsea Market; and
 - m) The Applicant agrees to support a Jobs Program for Chelsea Market and to work with CB4 in its implementation. Specifically, The Applicant agrees to place a link to its job openings on the CB4 website, to hold periodic job fairs in coordination with CB4, and to work with its current and future tenants on a best efforts basis to identify and hire employees from within Community District 4.

AND FURTHER RESOLVED that CB4's recommendation of this proposal arises out of the unique circumstances of this project and this site, and must not be interpreted as precedent-setting for, or a change in any of our stated positions concerning, the rezoning of other areas in the SWCD including, in particular, the south side of West 15th Street. If anything, this recommendation renews CB4's determination to complete the rezoning of the SWCD and implement our previously-articulated planning priorities.

Borough President Recommendation

This application (N 120142 ZRM), in conjunction with the related action, was considered by the President of the Borough of Manhattan, who recommended disapproval, with conditions, of the application on July 18, 2012. The conditions are as follows:

1. the applicant explores shifting the proposed addition from 10th Avenue to the 9th Avenue section of the Chelsea Market complex;
2. any addition, whether constructed on 9th or 10th avenue, reflects a building envelope with a streetwall no higher than 170 feet and a building height no higher than 184 feet to better reflect the intent of the SWCD and the existing built character;
3. the Mid-Block Zone zoning envelope is lowered to reflect the existing buildings;
4. the proposed density of the project is reduced to better reflect the SWCD;
5. the text is modified to allow hotel uses on the site only by special permit;
6. the existing Chelsea Market buildings are preserved in a restrictive declaration;
7. the restrictive declaration includes specific requirements regarding the materiality, fenestration and architectural features of any proposed extension and the applicant is required to consult the Community Board prior to the issuance of construction permits;
8. the text is modified to require the applicant to provide funding to the West Chelsea Affordable Housing Fund, provided a receiving site is located in advance of granting any density;
9. the Chelsea Market concourse is preserved by requiring a minimum of 50% of the ground floor is dedicated to retail and 60% of the ground floor retail, excluding the avenue stores, is limited to food-related uses, and no less than 10% of the ground floor internal concourse wall area, excluding areas of doors and windows, is used to display art;
10. chain retailers are restricted on the site, or the amount of stand-alone restaurant space is restricted to provide continued opportunities for small, independent food retailers, wholesalers and manufactures;
11. the applicant creates a technology lab to host training and incubator space;
12. the applicant works with local schools to provide training programs and internships;
13. the applicant creates a jobs program, which includes posting job openings, periodic job fairs and continued work with current and future tenants to identify ways to hire employees residing in CB4;
14. the applicant creates a construction mitigation plan, which includes measures for public outreach, and minimizes any potential closure of or impact to public spaces like the High Line; and
15. the applicant pursues LEED Silver certification and makes best efforts to manage storm water.

City Planning Commission Public Hearing

On July 11, 2012 (Calendar No. 4), the City Planning Commission scheduled July 25, 2012 for a public hearing on this application (N 120142 ZRM). The hearing was duly held on July 25, 2012

(Calendar No. 23) in conjunction with the public hearing on the application for the related action.

There were twenty-one speakers in favor of the application, and twenty-three speakers in opposition.

A land use attorney representing the applicant spoke in favor of the project and described the proposal. She also listed the commitments the applicant made to the community board, including reducing the height permitted over the midblock from 150 feet to 130 feet; not including a hotel use on the block, or a roof-top eating or drinking establish on Ninth Avenue; reducing the height permitted at the Ninth Avenue side of the building from 160 feet to 135 feet; an ongoing commitment to promote food uses on the ground floor; and protecting decorative exterior elements of the buildings. The speaker stated that commitments had not been made in two areas: the dedication of bonus contributions to affordable housing, which the speaker described as a matter for resolution by the City; and reducing reduction in the height permitted at the Tenth Avenue end of the block. The speaker also explained that, prior to certification, the Tenth Avenue addition was lowered in height from 250 feet to 236 feet, and the envelope was simplified.

The architect for the project spoke in favor of the application.

The Chief Operating Officer of Jamestown, the applicant, spoke in favor of the application. He explained that Jamestown has been an owner of the Chelsea Market for the past decade, and that during this time the building has thrived. He stated that there are currently 3,500 jobs in the media, creative and technology industries in the office portion of the building, and that the proposal would allow these tenants to expand, and add approximately 1,000 new technology jobs to the building. He believes the proposal allows for the growth of technology and media companies, which would strengthen the city's economy. Regarding the building form, the speaker stated that the Tenth Avenue addition could not move further east towards the middle of the block, as the addition would then block sunlight to the concourse, which has skylights in the interior courtyard of the block, as well as sunlight to offices facing onto the interior courtyard. In addition, there are soundstages for the Food Network in the midblock that would need to be

relocated should the Tenth Avenue building move east. He also stated that midblock buildings could not support the addition from a structural standpoint.

Three building services union members spoke in favor of the application, and stated that the enlargement of Chelsea Market would create union jobs that provide good wages and benefits.

Representatives from the Real Estate Board of New York, the Greenwich Village – Chelsea Chamber of Commerce, the Association for a Better New York, and General Assembly spoke in favor of the application. Each speaker stressed the importance of supporting technology companies and their growth in New York City. They stated that the proposal would create new jobs in the technology sector.

A representative speaking on behalf of the Chair of the Friends of the High Line Board of Directors explained that Friends of the High Line is responsible for providing 90% of the funds needed to operate and maintain the High Line. He also stated that the City is obligated to maintain the structure of the High Line, that the City currently has no funds to do that and that the required contribution to the High Line Improvement Fund is needed to make capital repairs to the High Line in the coming years.

A co-founder of the Friends of the High Line explained the needs of the organization, including the need for more rest rooms, a freight elevator and space for education and public programs, which the proposed project would provide as a condition of use of bonus floor area. He also discussed the need to have funds available for long-term capital improvements to the High Line structure that are not currently in place. Regarding the Tenth Avenue addition, the speaker stated that the addition would not negatively impact the High Line, as the focus of the adjacent Tenth Avenue Square feature is to the north, not south towards the building. He also stated that people look for shade when on the High Line.

Six people who own businesses in Chelsea Market each spoke in support of the project. Each spoke of Jamestown providing opportunities for small businesses to get started and expand.

Most business owners explained that a majority of their business was from the building's office tenants during the week, and from tourists on the weekend.

A representative from the Carpenter's Union spoke in favor of the application stating that it would create construction jobs, and new permanent jobs in the expanded office space.

The Asset Manager for Jamestown spoke in support of the project. He explained that Jamestown works closely with the ground floor tenants of Chelsea Market and understands the challenges of small businesses. They also work closely with the building's office tenants and understand the importance of food uses in the concourse to the overall brand of the building.

A second land use attorney for the applicant spoke in favor, and was available for questions.

Speakers who stated opposition to the application included the Executive Director of the Greenwich Village Society for Historic Preservation who stated that the addition of office space to the Chelsea Market will cause additional traffic and congestion to an area that is already very congested. He also stated that the building is included within a State and National Register of Historic Places Historic District, and that any addition to the Chelsea Market structure would destroy the building.

Representatives of Senator Tom Duane from the 29th State Senate District, Assembly Member Richard N. Gottfried representing the 75th Assembly District, Assembly Member Deborah Glick representing the 66th Assembly District, and Congressman Jerrold Nadler, U.S. Representative for New York's 28th District spoke on behalf of the elected officials in opposition to the plan. They generally shared the community board concerns and stated that neighborhood is already overburdened with traffic, and that the Tenth Avenue building would have a negative effect on light and air to the High Line, affecting park users. Other concerns included the height of the proposed building on Tenth Avenue, and the fact that the additions would diminish the historic character of the building and the surrounding area. They also stressed the need for the project to create affordable housing.

Several long-time residents of the Chelsea neighborhood, some of whom represented Chelsea block associations, spoke in opposition to the application. Their concerns included the impact the additions would have on traffic in an already congested neighborhood, and the impact the new construction would have on the historic character of the Chelsea Market complex, which is a series of contributing buildings within a State and National Register of Historic Places Historic District. Many stressed that the growing technology industry has sufficient office space in other buildings in the area, in Hudson Yards and in lower Manhattan, and that the proposed expansion of Chelsea Market is not necessary for the economic growth of the City, and would actually harm the community. Some speakers also expressed concern that the Tenth Avenue building would negatively impact the High Line by reducing light and air to the park.

The District Manager of Community Board 4 spoke in opposition to the application, and listed the public forums and meetings the community board has held since a form of the project was first introduced in 2007.

Four members of Community Board 4 spoke in opposition to the application. They reiterated each condition listed in their recommendation, including the request that the Department of City Planning study additional blocks for inclusion in the Special West Chelsea District, that the Tenth Avenue building be reduced in height to 185 feet, that more compatible materials, such as brick and terra cotta, be used on the façade of the addition, that the Chelsea Market be included in an extended New York City historic district, and that affordable housing be required of the project.

The Director of Land Use for the Manhattan Borough President's Office reiterated the Borough President's conditional denial of the application.

Two representatives of Save Chelsea spoke in opposition to the application. They stated that the proposed additions will compromise the historic character of the Chelsea Market complex and create more congestion in a neighborhood that is already overwhelmed by traffic. One speaker stated that the Tenth Avenue addition conflicts with the goals of the Special West Chelsea District in that it does not move density away from the High Line.

There were no other speakers on the application and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a zoning text amendment (N 120142 ZRM), as modified herein, in conjunction with the related application for a zoning map amendment (C 120143 ZMM), is appropriate.

The Commission recognizes the importance and value of the Chelsea Market building to the growing technology, arts and media companies in the neighborhood. The Commission also recognizes the unique condition of the Chelsea Market and its relationship to the High Line. The fact that the High Line runs through the western-most portion of the Chelsea Market complex provides an opportunity for the provision of needed High Line amenities that cannot be accommodated elsewhere on the narrow park. The Commission believes the inclusion of the Chelsea Market block in the Special West Chelsea District as a High Line Bonus Site can provide Chelsea Market with the ability to expand, as well as provide much needed High Line amenities and funding, while keeping the proposed development in character with the surrounding neighborhood.

The Commission understands that, as referred, there are two principal physical elements to the expansion allowed under the proposed text: an approximately 240,000 square foot proposed office enlargement on the western section adjacent to Tenth Avenue and an approximately 90,000 square foot proposed hotel expansion on the northeastern section abutting Ninth Avenue and 16th Street.

The Commission notes that both the community board and the Borough President recommended that hotel use be prohibited in the Ninth Avenue enlargement. Hotels are a permitted use in the M1-5 district and appropriate in West Chelsea. However, the Commission recognizes that the uniqueness of Chelsea Market lies in its combination of office use and ground floor retail. In that regard, the applicant itself has stated that there is a need for its office tenants to expand, and has

acknowledged that a hotel does not further that need. Accordingly, the Commission modifies the zoning text herein to provide that any bonus floor area utilized on the site cannot be used for a hotel use.

The Commission understands that, as certified, the proposed expansion at Ninth Avenue would add approximately 90,000 square feet above the one and three story buildings on the northeast portion of Chelsea Market abutting Ninth Avenue and 16th Street at a maximum permitted height of 160 feet.

Given the Commission's modification to restrict the bonus to non-hotel use, the proposed building form on Ninth Avenue can be reconfigured to serve an office use of similar height to the existing Chelsea Market structures currently fronting on Ninth Avenue. The Commission therefore modifies the text herein to provide that the maximum height permitted in the Ninth Avenue Zone with any use of bonus floor area is reduced from 160 feet as certified, to 135 feet. The setbacks would remain the same, at a height of 130 feet above the base.

The Commission understands that the proposed office enlargement at Tenth Avenue is anticipated to add up to nine floors, and would be capped at 230 feet pursuant to building envelope controls set forth in the proposed zoning text change. This maximum height is similar to the heights of surrounding buildings, such as the Fulton Houses at 220 feet, the Caledonia just to the north at 250 feet, the Standard Hotel to the south at 250 feet, and the allowable developments between 17th and 18th Streets to the west of the High Line, at 290 feet and 390 feet.

While the Commission believes a maximum height of 230 feet is appropriate for the Tenth Avenue addition, the Commission agrees with the community board and the Borough President that the Tenth Avenue addition is located too closely to the High Line, with the potential to reduce light and air to the High Line. The Commission therefore modifies the text herein to require that the Tenth Avenue building set back 15 feet from Tenth Avenue above the existing building to a height of 185 feet, with another 10 foot setback at a height of 185 feet to a height of 200 feet, a third 10 setback required at a height of 200 feet to a height of 215 feet, and an

additional 40 foot setback at a height of 215 feet, with a maximum height of 230 feet.¹

Also in response to the community board and the Borough President's recommendation regarding the maximum height of the Mid-block Zone, the Commission agrees that while the applicant is not proposing any construction in this area, the text should nonetheless provide that the height of the midblock area reflect the current condition. Accordingly, the Commission² modifies the text herein to provide that, if any bonus floor area is used on the site, then the maximum height of the Mid-block Zone shall be 130 feet, with a 20 foot setback at 110 feet.

Regarding the ground floor uses of the Chelsea Market, the Commission agrees with the community board and the Borough President that the concourse through the ground floor of the Chelsea Market complex between Ninth Avenue and Tenth Avenue is a unique, vibrant and well-liked component of the building, that functions well in combination with the complex's office uses and provides services to building tenants, community members and tourists alike. The Commission, therefore, modifies the zoning text herein to provide that, as a condition to obtaining a certification for a building permit using the bonus floor area, the owner shall provide a ground-floor pedestrian passageway within Chelsea Market connecting the Ninth Avenue sidewalk with the Tenth Avenue sidewalk, which must be open to the public during business hours. The Commission further requires that not less than 60% of the length of the frontages of the passageway shall be occupied primarily by retail uses, and these uses must have access to the passageway.

The Commission, however, does not believe the community board's and Borough President's recommendation to further limit the uses in the concourse to food-related uses is appropriate. While food related uses have been successful to date, future market conditions may change and narrowly restricting retail to food related uses could become problematic.

¹ The setback dimensions and heights described above reflect corrections made on September 27, 2012, to the original report. These corrections are consistent with the required setbacks described in Section 98-423 of the approved text amendment, found on p. 24 below.

² The words "the Commission" were omitted in the original report and have been added in this corrected version.

The Commission notes that 'Food related use' is not a zoning-based use classification and such a narrow restriction is virtually unprecedented. The Commission is pleased the applicant has submitted a letter stating that they intend to continue the food uses along the concourse for the foreseeable future.

The Commission understands that, as with the three existing High Line Bonus Sites, the Chelsea Market text was constructed with a bonus mechanism that would permit additional floor area to be added to the Chelsea Market block, if High Line amenities are provided, and a contribution is made to the High Line Improvement Fund per square foot of bonus floor area used. The only existing High Line Bonus Site to utilize the bonus to date is the Caledonia building at 450 West 17th Street. All of the contribution for the bonus floor area on that site was used in the construction of the High Line.

The Commission recognizes that the community board and the Borough President feel strongly that the future contribution to be made by Chelsea Market should not only benefit the High Line, but also that it should be used to provide affordable housing in the area.

The Commission understands that the general approach towards affordable housing under the Inclusionary Housing Program has been to allow residential buildings that provide affordable units on-site or off-site to generate bonus floor area, but not commercial developments such as Chelsea Market. Nevertheless, the Commission notes that during the 2005 West Chelsea Rezoning process, the City Council created an Affordable Housing Fund to be administered by the Department of Housing Preservation and Development (HPD)). As described in ZR Section 98-262(c), sites in the Special West Chelsea District can make contributions to the Affordable Housing Fund to reach the maximum floor area in lieu of purchasing floor area from the High Line Transfer Corridor, at the point at which 90% of the development rights in the High Line transfer corridor are depleted. Significantly, this use of the Affordable Housing Fund mechanism is not restricted to residential developments, and may therefore be utilized by commercial developments as well. Accordingly, the Special West Chelsea District zoning regulations already contemplate that commercial developments may utilize bonus floor area in exchange for affordable housing commitments. Given this unusual feature of the Special West

Chelsea District regulations, allowing for a portion of the contributions made by Chelsea Market to be used for affordable housing, via the Affordable Housing Fund, does not raise the broader policy concerns that would be present in other areas of the City.

The Commission notes that HPD has submitted a letter to the Commission outlining their funding priorities for use of the Affordable Housing Fund in Community District 4. The Commission believes the contribution to the Affordable Housing Fund could be successfully deployed to close funding gaps in anticipated affordable housing developments in Community District 4. Accordingly, the Commission modifies the zoning text herein to provide that the contribution for the first 80,000 square feet of bonus floor area, calculated at the same per square foot rate as contributions to the High Line Improvement Fund, be deposited to the Affordable Housing Fund. The 80,000 square foot figure corresponds to the amount of bonus floor area associated with the Ninth Avenue building. Recognizing, however, that the Ninth Avenue building may not proceed first, the Commission believes it appropriate to require that the contribution associated with the first 80,000 square feet of bonus floor area on the block be dedicated to affordable housing, regardless of location. Contributions for all bonus floor area above 80,000 square feet would be deposited to the High Line Improvement Fund. This would result in approximately a 30/70 split (30% to affordable housing and 70% to the High Line) in the contributions. The Commission believes, that the amount used for affordable housing (\$ 4.73 million at the present contribution rate of \$59.07 psf) would provide meaningful support to affordable housing projects in CD4.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;
Matter in ~~strikeout~~ is old, to be deleted;
Matter within # # is defined in Section 12-10;
* * * indicate where unchanged text appears in the Zoning Resolution

Article IX – Special Purpose Districts

Chapter 8 Special West Chelsea District

* * *

98-03 District Plans and Maps

The regulations of this Chapter are designed to implement the #Special West Chelsea# Plan.

The District Plan includes the following maps and illustrative diagrams in Appendices A, B and C and the special regulations in Appendices D, ~~and E~~ and F:

* * *

Appendix E – Special Regulations for Zoning Lots Utilizing the High Line Improvement Bonus and Located Partially Within Subareas D, E and G, or within Subarea I

Appendix F - Special Regulations for Zoning Lots Utilizing the High Line Improvement Bonus Within Subarea J

* * *

98-04 Subareas and High Line Transfer Corridor

In order to carry out the provisions of this Chapter, ~~nine~~ ten Subareas (A through ~~I~~ J), and a #High Line Transfer Corridor# are established within the #Special West Chelsea District#.

Within each of the Subareas and the #High Line Transfer Corridor#, certain special regulations apply within the remainder of the #Special West Chelsea District#. The locations of the ~~nine~~ ten Subareas are shown in Appendix A of this Chapter.

* * *

98-14 Ground Floor Use and Transparency Requirements on Tenth Avenue

Except in Subarea J, the ~~The~~ special ground floor #use# and glazing regulations of this Section apply to that portion of a #building# or other #structure# fronting on Tenth Avenue in the #Special West Chelsea District.# Ground floor #uses# in Subarea J shall be governed by the underlying #use# regulations as modified by Section 98-13 (Modification of Use Regulations in M1 Districts).

* * *

98-142
High Line Level Wall Requirements Within Subarea J

Any additions to the windows or other glazing located on the wall separating the #High Line# from any #building# located on a #zoning lot# within Subarea J at the #High Line# level shall be designed to provide for a minimum of 30 dBA noise attenuation, and any general illumination fixtures in the adjoining interior portion of the #building# shall not exceed 50 foot-candles of illumination within four feet of such window or glazing and shall not be pointed directly at the #High Line#.

* * *

98-21
Maximum Floor Area Ratio outside of Subareas

For all #zoning lots#, or portions thereof, located outside of Subareas A through I J, the maximum #floor area ratios# of the applicable underlying districts shall apply.

* * *

98-22
Maximum Floor Area Ratio and Lot Coverage in Subareas

For all #zoning lots#, or portions thereof, located in Subareas A through I J, the maximum #floor area ratios#, #open space ratios# and #lot coverages# of the applicable underlying zoning districts shall not apply.

* * *

Maximum Floor Area Ratio by Subarea

Sub-area	Basic	Increase in	Increase in	Inclusionary Housing	Permitted
----------	-------	-------------	-------------	----------------------	-----------

	#floor area ratio# (max)	FAR from #High Line Transfer Corridor# (98-30)	FAR with #High Line# Improvement Bonuses (98-25)	FAR required to be transferred (minimum)	Increase in FAR for Inclusionary Housing Program (98-26)	#floor area ratio# (max)
* * *						
I ⁴	5.0	NA	2.5	NA	NA	7.5
J ⁶	<u>5.0</u>	<u>NA</u>	<u>2.5</u>	<u>NA</u>	<u>NA</u>	<u>7.5</u>

6- Bonus contribution subject to provisions of 98-25 governing first contribution to Affordable Housing Fund

* * *

**98-23
Special Floor Area and Lot Coverage Rules for Zoning Lots Over Which the High Line Passes**

* * *

However, at or above the level of the #High Line bed#, #lot coverage# requirements shall apply to the entire #zoning lot#.

Within Subarea J, any easement volumes and improvements located within such volumes dedicated or granted to the City in accordance with the provisions of Appendix F of this Chapter in connection with an increase in the basic maximum #floor area ratio# of a #zoning lot#, pursuant to Section 98-25 (High Line Improvement Bonus), shall not be considered #floor area#.

**98-25
High Line Improvement Bonus**

For #zoning lots# located between West 16th 15th and West 19th Streets over which the #High Line# passes, the applicable maximum #floor area ratio# of the #zoning lot# may be increased up to the amount specified in Section 98-22 (Maximum Floor Area Ratio and Lot Coverage in Subareas), provided that:

(a) Prior to issuing a building permit for any #development# or #enlargement# on such #zoning lot# that anticipates using #floor area# that would increase the applicable basic maximum #floor area ratio# by up to an amount specified in Section 98-22, or within Subarea J would cause the #floor area ratio# of a #zoning lot# to exceed the #floor area ratio# of such #zoning lot# on [INSERT EFFECTIVE DATE OF THE TEXT AMENDMENT], the Department of Buildings shall be furnished with a certification by the Chairperson of the City Planning Commission that:

- (1) a contribution has been deposited into an escrow account or similar fund established by the City (the High Line Improvement Fund), or such contribution is secured by letter of credit or other cash equivalent

instrument in a form acceptable to the City. For subareas other than Subarea J, such contribution shall be used at the direction of the Chairperson solely for improvements to the #High Line# within the #High Line# improvement area applicable to such #zoning lot#, with such contribution being first used for improvements within that portion of the #High Line# improvement area on such #zoning lot#. For #developments# or #enlargements# within Subarea J, such contribution shall be used for any use with respect to the improvement, maintenance and operation of the #High Line# or the #High Line# Support Easement Volumes provided for under Appendix F, at the Chairperson's direction, provided that, in lieu of deposit to the High Line Improvement Fund, the contribution for the first 80,000 square feet of #floor area#, shall be deposited to the Affordable Housing Fund established under Section 98-262, paragraph (c), for use in accordance with the provisions of that section. Such contribution shall be made in accordance with the provisions of Appendix D, E or F of this Chapter, as applicable;

* * *

- (3) all additional requirements of Appendix D, E or F, as applicable with respect to issuance of a building permit, have been met.

* * *

(d) Prior to issuing a certificate of occupancy for any portion of a #development# or #enlargement# on a #zoning lot# located within Subarea J over which the #High Line# passes that incorporates #floor area# that would cause the #floor area ratio# of a #zoning lot# to exceed the #floor area ratio# of such #zoning lot# on [INSERT EFFECTIVE DATE OF THE TEXT AMENDMENT], the Department of Buildings shall be furnished a certification by the Chairperson, that

- (1) #High Line# Support Work has been performed on such #zoning lot#, in accordance with and to the extent required by Appendix F; and
- (2) all other applicable requirements of Appendix F have been met.

For temporary certificates of occupancy, certification with respect to performance of work shall be of substantial completion of the work as determined by the Chairperson. For permanent certificates of occupancy, certification with respect to performance of work shall be final completion of the work, as determined by the Chairperson.

* * *

In the #Special West Chelsea District#, a “granting site” shall mean a #zoning lot#, or portion thereof, in the #High Line Transfer Corridor#. A “receiving site” shall mean a #zoning lot#, or portion thereof, in any subarea other than Subareas F, ~~and H,~~ and J. #Floor area# from a granting site may be transferred to a receiving site in accordance with the provisions of this Section.

* * *

**98-421
Obstruction over the High Line**

Within the #Special West Chelsea District#, the #High Line# shall remain open and unobstructed from the #High Line bed# to the sky, except for improvements constructed on the #High Line# in connection with the use of the #High Line# as a public open space, and except where the #High Line# passes through and is covered by a #building# existing on [INSERT EFFECTIVE DATE OF THE ZONING TEXT AMENDMENT].

* * *

**98-423
Street wall location, minimum and maximum base heights and maximum building heights**

The provisions set forth in paragraph (a) of this Section shall apply to all #developments# and #enlargements#. Such provisions are modified for certain subareas as set forth in paragraphs (b) through (f) (g) of this Section.

* * *

(g) Subarea J

The provisions set forth in paragraph (a) of this Section shall not apply to any #development# or #enlargement# developed pursuant to the provisions of Section 98-25. In lieu thereof, the provisions of this paragraph, (g), shall apply.

(i) Midblock Zone.

The Midblock Zone shall be that portion of Subarea J located more than 150 feet west of the Ninth Avenue #street line# and more than 200 feet east of the Tenth Avenue #street line#. Within the Midblock Zone, a #building# shall have a maximum #street wall# height before setback of 110 feet, and shall have a maximum #building# height of 130 feet.

(ii) Ninth Avenue Zone.

The Ninth Avenue Zone shall be that portion of Subarea J within 150 feet of the Ninth Avenue #street line#. Within the Ninth Avenue Zone, any portion of a

length and contains no transparent element between the level of the High Line bed# and an elevation of 12 feet above the level of the #High Line bed#, shall be planted with vines or other plantings or contain artwork.

* * *

**98-61
High Line Access Or Support Easement Volumes Requirement**

For all #developments# or #enlargements# within the #Special West Chelsea District#, an easement volume to facilitate public pedestrian access to the #High Line# via stairway and elevator (hereinafter referred to as “primary access”), shall be provided on any #zoning lot# over which the #High Line# December 20, 2004, square feet of #lot #developments# or Subareas H, I and J pursuant to Section 98- not apply.

* * *

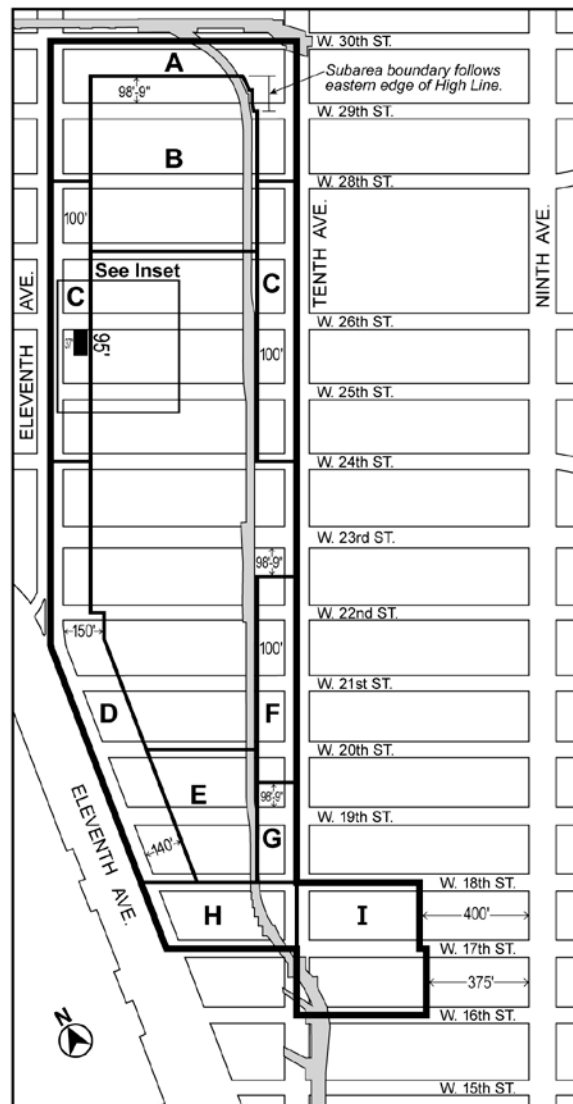
**98-62
High Line Access**

The provisions of this any #zoning lot# easement volume other developed pursuant to follows:

* * *

**Appendix A
Special West Chelsea**

EXISTING
(TO BE DELETED)



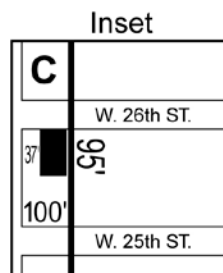
passes that, on or after has more than 5,000 area#. For all #enlargements# within that are developed 25, this provision does

Easement Regulations

Section shall apply to providing an access than a #zoning lot# Section 98-25, as

District and Subareas

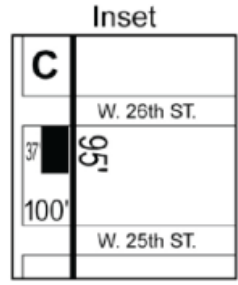
- Special West Chelsea District boundary
- Subarea boundary
- High Line
- Transit Facility



PROPOSED
(TO REPLACE EXISTING)






- Special West Chelsea District boundary
- Subarea boundary
- ▨** High Line
- Transit Facility



Appendix B
High Line Transfer Corridor Location




EXISTING
(TO BE DELETED)



-  Special West Chelsea District
-  High Line Transfer Corridor
-  High Line

PROPOSED
(TO REPLACE EXISTING)



-  Special West Chelsea District
-  High Line Transfer Corridor
-  High Line

* * *

APPENDIX F
Special Regulations for Zoning Lots Utilizing the High Line Improvement Bonus and Located Within Subarea J

This Appendix sets forth additional requirements governing #zoning lots# located within Subarea J over which the #High Line# passes for any #development# or #enlargement# which involves an increase in the applicable basic maximum #floor area ratio# of the #zoning lot# up to the amount specified in Section 98-22 (Maximum Floor Area Ratio and Lot Coverage in Subareas): The additional requirements are set forth in this Appendix, F, in paragraphs (a), the issuance of a building permit for such #development# or #enlargement# pursuant to paragraph (a) of Section 98-25 (High Line Improvement Bonus); (b), the performance of improvements as a condition of issuance of temporary or permanent certificates of occupancy pursuant to paragraph (d) of Section 98-25; and paragraph (c), the option of the Owner to offer to the City an additional #High Line# Support Easement Volume. The term “parties in interest” as used herein shall mean “parties-in-interest,” as defined in paragraph (f)(4) of the definition of #zoning lot# in Section 12-10.

(a) Requirements for issuance of building permit pursuant to paragraph (a) of Section 98-25

(1) As a condition of certification:

(i) For each square foot of #floor area# which causes the #floor area ratio# of a #zoning lot# to exceed the #floor area ratio# of such #zoning lot# on [EFFECTIVE DATE OF THE AMENDMENT], up to the amount specified in Section 98-22 (Maximum Floor Area Ratio and Lot Coverage in Subareas), the Owner shall:

- a. for the first 80,000 square feet of such #floor area#, deposit such contribution to the Affordable Housing Fund established under Section 98-262, paragraph (c), for use in accordance with the provisions of that section; and
- b. for all such #floor area# which exceeds 80,000 square feet, subject to a deduction pursuant to other provisions of this Appendix, deposit such contribution to the #High Line# Improvement Fund, or secure such contribution by letter of credit or other cash equivalent instrument in a form acceptable to the City.

Such contribution, in each case, shall be \$59.07 per square foot of #floor area# as of [EFFECTIVE DATE OF THE AMENDMENT], which contribution rate shall be adjusted July 1 of the following year and each year thereafter by the percentage change in the Consumer Price Index for all urban consumers as defined by the U.S. Bureau of Labor Statistics;

(ii) All parties-in-interest shall execute that restrictive declaration, dated September 5, 2012, and on file at the Office of the Counsel, Department of City Planning, required in connection with environmental assessment (CEQR #11DCP120M) for the purpose of addressing historic resources

and containing other provisions regarding the preservation of certain features of existing buildings and structures and related matters;

- (iii) All parties-in-interest shall execute a restrictive declaration in a form acceptable to the city addressing the terms described in this paragraph, (a)(1)(iii):

(a) Hotel Use

No #development# or #enlargement# developed pursuant to Section 98-25 shall include a #transient hotel#;

(b) Retail Concourse

As a condition of any #development# or #enlargement# pursuant to Section 98-25, owner shall provide a pedestrian passageway within any #building# located on the #zoning lot# connecting the Ninth Avenue sidewalk with the Tenth Avenue sidewalk, which passageway shall be open to the public during business hours. Not less than 60 percent of the length of the frontages of such passageway shall be occupied primarily by retail uses, and in addition may be occupied by service, wholesale, production and event space identified in Use Groups 6A, 6C, 7B, 7C, 8A, 9A, 9B, 10B, 11A, 12A, 12B, 16A, 17A and such spaces shall have access to the passageway;

(c) Locations and Dimensions of the #High Line# Support Easement Volumes

The #High Line# Support Easement Volumes shall be sized and located to accommodate the following amenities, all of which shall be located within the #buildings# located within the Tenth Avenue Zone as described in Section 98-423, paragraph (g)(iii):

- (1) Exclusive easements for public restrooms for each gender with an aggregate area of no less than 560 square feet (and which need not be more than 700 square feet) located adjacent to the #High Line# with direct access to the #High Line# for each of the public restrooms;
- (2) Exclusive easements for #High Line# support space with an aggregate area of no less than 2,400 square feet (and which need not be more than 3,000 square feet) of which up to 800 square feet may be located on a mezzanine level, such space to be located adjacent and accessible to the #High Line#;

- (3) Exclusive easements for #High Line# support space located in the cellar level in an aggregate area no less than 800 square feet (but need not be more than 1,000 square feet);
- (4) Exclusive use of a dedicated freight elevator that shall provide access to the cellar level, to a shared loading facility at street level, to the level of the #High Line bed# and to the level of the #High Line# support space described in paragraph (a)(1)(ii)(a)(2) of this Appendix, F; and
- (5) Non-exclusive easements for:
 - (i) access between the dedicated freight elevator and the shared loading facility at grade level and the #High Line# support space located in the cellar level; and
 - (ii) use of the shared loading facility as more particularly set forth in paragraph (a)(1)(ii)(b) of this Appendix, F;

(d) #Use# of the #High Line# Support Easement Volumes

The #High Line# Support Easement Volumes shall not be dedicated for use by the general public but rather for use by the City or its designee for storage, delivery of materials and support of #uses# within the #High Line# (and in connection therewith, the fitting-out, operating, maintaining, repairing, restoring and replacement of the #High Line# Support Easement Volumes), except that:

1. the public may use the public restrooms;
2. up to 650 square feet of space adjacent to the #High Line# may be used exclusively for educational and related programming that is at no cost to the public; and
3. if dedicated to the City in accordance with paragraph (d) of this Appendix F, the optional additional #High Line# Support Easement Volume may be accessible to the public as part of concessions or other uses that relate to the #High Line#. The City or its designee shall at all times use, operate and maintain the #High Line# Support Easement Volumes so as not to interfere with the use and enjoyment of the #buildings# located within Subarea J. The #High Line# support spaces described in paragraphs (a)(1)(ii)(a)(2) and (3) of this Appendix, F, shall be

accessible by a dedicated freight elevator that connects to non-exclusive portions of the #building#, including a loading facility at #curb level#, through which the City or its designee shall be provided with a non-exclusive easement to enable reasonable and customary access;

(e) Effective Date of the #High Line# Support Easement Volumes

The City's or its designee's rights to utilize the #High Line# Support Easement Volumes shall commence on the date that the #High Line# Support Work has been completed in accordance with paragraph (b)(1) of this Appendix, F, or in the event of default of the Owner in accordance with paragraph (c) of this Appendix, F, the date that the City has notified the Owner that it intends to perform such #High Line# Support Work in accordance with paragraph (c); and

(f) Notice by the Department of City Planning of its receipt of certified copies of the recorded restrictive declarations required pursuant to paragraph (a) (1) (ii) and (iii) of this Appendix, F, shall be a precondition to issuance by the Commissioner of Buildings of any building permits including any foundation or alteration permit for any #development# or #enlargement# which causes the #floor area ratio# of a #zoning lot# to exceed the #floor area ratio# of such #zoning lot# on [EFFECTIVE DATE OF THE AMENDMENT];

(iv) The Owner shall submit plans for the #High Line# Support Work described in paragraph (b)(1) of this Appendix, F, that demonstrate compliance with the provisions of this Appendix and are consistent with New York City Department of Parks and Recreation standards and best practices governing material life cycle and maintenance, for review and approval by the Chairperson of the City Planning Commission;

(v) Solely in the event the initial certification made pursuant to Section 98-25, paragraph (a), is with respect to additional #floor area# to be added to a #building# or portion of a #building# located outside of the Tenth Avenue Zone as described in Section 98-423, paragraph (g)(iii), then the Owner shall enter into agreements with the City or its designee, in a form reasonably acceptable to the City, to provide interim access, in accordance with such agreements, to the #High Line# through a non-exclusive loading facility and an existing freight elevator. Such agreements shall provide that any space within the existing #building# may be used by the City or its designee at no cost, except that the City or its designee shall be obligated to pay for the proportionate costs of utilities, maintenance and other building expenses associated with the use of such loading facility and elevator, and for any improvements or modifications to such space

that may be requested by the City or its designee. Such interim access shall cease upon the date that the City or its designee commences utilization of the #High Line# Support Easement Volumes in accordance with paragraph (a)(1)(ii)(c) of this Appendix, F;

(2) The location of #floor area# which would cause the #floor area ratio# of a zoning lot to exceed the #floor area ratio# of such #zoning lot# on [EFFECTIVE DATE OF THE AMENDMENT] and be subject to the provisions of Section 98-25, shall be considered to be the topmost portion of the #development# or #enlargement# unless, at the time of certification pursuant to Section 98-25, paragraph (a), the Owner designates on plans submitted to the Chairperson of the City Planning Commission, subject to the concurrence of the Chairperson of the City Planning Commission, an alternate location.

(b) Requirements for issuance of certificates of occupancy pursuant to paragraph (d) of Section 98-25:

(1) #High Line# Support Work Pursuant to Paragraph (d) of Section 98-25

(i) The Owner shall perform #High Line# Support Work subject to the provisions of this paragraph, (b)(1), inclusive. For temporary certificates of occupancy, certification pursuant to Section 98-25, paragraph (d), shall be the substantial completion of the work. For permanent certificates of occupancy, certification shall be of final completion of the work.

(ii) The #High Line# Support Work shall consist of the following:

(a) the construction, fit-out and delivery in an operative condition of public restrooms described in paragraph (a)(1)(ii)(a)(1) of this Appendix, F, furnished with restroom fixtures, including six toilet stalls for women, an aggregate of six toilet stalls and/or urinals for men and three sinks in each restroom, and provided with utility connections.

(b) the construction of the core and shell of the #High Line# support space described in paragraphs (a)(1)(ii)(a)(2) and (3) of this Appendix, F, including the provision of and access to separately metered gas, ventilation, water, sewers, electricity and telecommunications utilities systems commonly available in the #building# sufficient to support the anticipated uses of the support space. Within the portion of the #High Line# support space in the vicinity of the level of the #High Line bed#, the Owner will install a kitchen exhaust duct from such support space to a suitable point of discharge and will provide access to the #building# sprinkler standpipe and fire alarm system. Such support space shall also include access to a storage mezzanine pursuant to a dedicated lift,

and there shall be a clear path at least five feet wide from the lift to the dedicated freight elevator described in paragraph (b)(1)(ii)(c) of this Appendix, F. The Owner will not be responsible for distributing any utility services within the #High Line# support space or for providing any ancillary equipment for the kitchen exhaust duct; and

- (c) the construction of the dedicated freight elevator described in paragraph (a)(1)(ii)(a)(2) of this Appendix, F, with a minimum capacity of 3,000 pounds;
- (iii) Following the completion of the #High Line# Support Work described in paragraph (b)(1)(ii) of this Appendix, F, all subsequent costs of operating, maintaining, repairing, replacing and additional fit-out of the #High Line# support space shall be exclusively the responsibility of the City and not the Owner; provided that the Owner shall be responsible for the repair and replacement of any defective #High Line# Support Work for a period of one year after completion thereof;
- (iv) The cost to the Owner of the #High Line# Support Work pursuant to the plans approved pursuant to paragraph (a)(1) (iv) shall be estimated at the time of such approval by a licensed engineer selected by Owner, such estimate to be in a form reasonably acceptable to the City, at an amount not to exceed \$2,544,000, as adjusted at the time of such approval by changes in the construction cost index published by ENR for New York City commencing as of [FIRST DAY OF FIRST MONTH FOLLOWING EFFECTIVE DATE OF ENACTMENT]. In the event that the City requests the Owner to perform any additional work in conjunction with the #High Line# Support Work and the Owner agrees to perform such additional work, then the cost of such additional work shall be the responsibility of the City and may be deducted in whole or in part from the #High Line# Improvement Fund contribution required pursuant to paragraph (a)(1) of this Appendix, F;
- (v) Except as set forth in paragraph (b)(1)(v) of this Appendix, F, no temporary or permanent certificates of occupancy may be issued pursuant to Section 98-25, paragraph (d), for #floor area# in a #development# or #enlargement# which causes the #floor area ratio# on a #zoning lot# to exceed the #floor area ratio# of such #zoning lot# on [EFFECTIVE DATE OF THE AMENDMENT] until the #High Line# Support Work described in paragraph (b)(1) of this Appendix F shall have been substantially completed or finally completed, as applicable;
- (vi) Notwithstanding anything to the contrary in this paragraph (b)(1), inclusive, if certification is initially made pursuant to Section 98-25, paragraph (a), with respect to additional #floor area# to be added to a

#building# or portion of a #building# located outside of the Tenth Avenue Zone as described in Section 98-423, paragraph (g)(iii), then the conditions for certification pursuant to Section 98-25, paragraph (d) for a permanent or temporary certificate of occupancy shall not apply to such #building# or portion of a #building# and the following conditions shall apply:

(a) The Owner shall deliver a letter of credit or other security reasonably satisfactory to the City in an amount reasonably determined by the City as sufficient for the City to perform the #High Line# Support Work described in paragraph (b)(1) of this Appendix F, which letter of credit or other security may be drawn or exercised by the City in the event of a default by the Owner in accordance with paragraph (c)(ii) of this Appendix F; and

(b) The Owner shall enter into an agreement with the City in a form reasonably acceptable to the City requiring the Owner to commence the #High Line# Support Work described in paragraph (b)(1) of this Appendix, F, no later than September 1, 2017, subject to force majeure as determined by the Chairperson, and shall thereafter diligently prosecute the same to completion, pursuant to an agreed-upon schedule, subject to force majeure as determined by the Chairperson.

(c) In the event the Owner is in default of its obligations pursuant to the agreements required by paragraph (b)(1)(vi) of this Appendix, F:

(1) The City shall be entitled to draw the letter of credit or exercise the other security described in paragraph (b)(1)(i)(a) of this Appendix, F, and to take possession of the #High Line# Support Easement Volumes following delivery of notice to the Owner that the City intends to perform the #High Line# Support Work in accordance with provisions to be set forth in the restrictive declaration described in paragraph (a)(1)(ii) of this Appendix, F;

(2) The City shall return to the Owner any contribution made to the #High Line# Improvement Fund with respect to additional #floor area# to be added to a #building# or portion of a #building# located within the Tenth Avenue Zone as described in Section 98-423, paragraph (g)(iii);

(3) No additional building permit may be issued pursuant to Section 98-25, paragraph (a) with respect to a #development# or #enlargement# to be located within the Tenth Avenue Zone as described in Section 98-423, paragraph (g)(iii), nor may any temporary or permanent certificates of occupancy be issued pursuant to Section 98-25, paragraph (d), for #floor area# in such a #development# or #enlargement# which causes the #floor area ratio# on a #zoning lot# to exceed the

#floor area ratio# of such #zoning lot# on [EFFECTIVE DATE OF THE AMENDMENT].

(d) Option to offer an additional #High Line# Support Easement Volume:

- (1) The Owner, at its sole option, may elect to offer to the City an easement comprising up to 7,500 square feet of #floor area# within the #building# adjacent to the #High Line# and at the vicinity of the level of the #High Line bed# as an additional #High Line# Support Easement Volume by written notice to the Chairperson of the City Planning Commission, with a copy to the Commissioner of the Department of Parks and Recreation. Such written notice shall be delivered contemporaneously with the Owner's first request for certification by the Chairperson described in paragraph (a) of Section 98-25 that relates to a #building# or portion of a #building# within the Tenth Avenue Zone as described in Section 98-423, paragraph (g)(iii);
- (2) If the Owner elects to exercise such option, the Owner shall provide an appraisal from an appraiser reasonably acceptable to the City who is a member of the American Institute of Real Estate Appraisers (or its successor organization) establishing the fair market value of the additional #High Line# Support Easement Volume to be so dedicated. The term "fair market value" shall mean the price at which such additional #High Line# Support Easement Volume would change hands between a willing buyer and a willing seller, both acting rationally, at arm's length, in an open and unrestricted market. The appraisal shall determine such fair market value of the additional #High Line# Support Easement Volume based on its highest and best as-of-right #uses#, valued in an unimproved core and shell physical condition (including any existing structural elements, such as the wall separating the #High Line# from the additional easement volume) and considered unencumbered by any leases, mortgages or other matters that will be released or otherwise subordinate to the grant of such additional #High Line# Support Easement Volume to the City. The appraisal shall not assume that as-of-right #uses# of the additional #High Line# Support Easement Volume may enjoy any access to and from the #High Line#. Any other appraisal assumptions or instructions not set forth herein shall be subject to approval by the City.
- (3) If such option is exercised by the Owner, the City shall have up to 60 days from the delivery of the written notice described in paragraph (d)(1) of this Appendix, F, to irrevocably accept or decline the exercise of the option by written notice to the Owner. If the City does not so accept or decline the option within said 60 day period, then the option shall be deemed declined and neither the City nor Owner shall have any further rights or obligations under this paragraph, (d), inclusive;
- (4) If such option is exercised by the Owner and accepted by the City, the restrictive declaration described in paragraph (a)(1)(ii) of this Appendix F shall provide or shall be amended to include the additional #High Line# Support Easement Volume within the grant to the City, and the value of the additional #High Line#

Support Easement Volume as set forth in the appraisal shall be the responsibility of the City and may be deducted in whole or in part from the #High Line# Improvement Fund contribution required pursuant to paragraph (a)(1) of this Appendix F;

- (5) In the event that the City requests the Owner to perform any work in conjunction with the dedication of the additional #High Line# Support Easement Volume and the Owner agrees to perform such work, then the cost of such additional work shall be the responsibility of the City and may be deducted in whole or in part from the #High Line# Improvement Fund contribution required pursuant to paragraph (a)(1) of this Appendix F. All costs of fitting-out, operating, maintaining, repairing and replacing the additional #High Line# Support Easement Volume shall be exclusively the responsibility of the City and not the Owner.

* * *

The above resolution (N 120142 ZRM), duly adopted by the City Planning Commission on September 5, 2012 (Calendar No. 11), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair
KENNETH J. KNUCKLES, Esq., Vice Chair
RAYANN BESSER, IRWIN G. CANTOR, P.E.
ALFRED C. CERULLO, III, BETTY Y. CHEN, MICHELLE DE LA UZ,
MARIA M. DEL TORO, RICHARD W. EADDY, ANNA HAYES LEVIN,
ORLANDO MARÍN, SHIRLEY A. MCRAE, Commissioners



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.nyc.gov/mcb4

COREY JOHNSON
Chair

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

June 18, 2012

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

**Re: ULURP Applications Nos. N 120142 ZRM and C 120143 ZMM
75 Ninth Avenue
Chelsea Market Expansion**

Dear Chair Burden:

On April 16, 2012 and May 31, 2012, Manhattan Community Board 4's ("CB4") Chelsea Preservation and Planning Committee ("CP&P") reviewed Uniform Land Use Review Procedure ("ULURP") applications N 120142 ZRM and C 120143 ZMM for zoning map and text amendments (the "Applications"). The Applications relate to a proposal by Jamestown Premier Chelsea Market, LP, owner of Chelsea Market, (the "Applicant") to construct office and hotel space on top of the existing Chelsea Market building (the "Proposed Project"). On May 2, 2012, CB4 held a public hearing on the Applications.

At its regularly scheduled Full Board Meeting on June 6, 2012, Manhattan Community Board 4, on the recommendation of its Chelsea Preservation and Planning Committee and following a duly noticed public hearing, voted by roll call 26 for, 14 against, 0 abstaining and 0 present not eligible:

- **If, and only if, the affordable housing mitigation is produced, CB4 recommends denial of the Applications unless the further conditions enumerated below in Sections VI, VII and VIII are met.**
- **If the affordable housing mitigation is not produced, then CB4 cannot support these Applications and recommends denial.**

I. Background

Chelsea Market is located on the block bounded by West 15th and West 16th Streets and Ninth and Tenth Avenues. It is an amalgamation of 17 or 18 individual buildings, depending on definition, and is located on a single zoning lot comprising the entirety of Manhattan Block 713. The lot is zoned M1-5 with a maximum Floor Area Ratio (FAR) of 5.0; the built FAR is slightly greater than currently permitted.

Use

The Chelsea Market building was originally constructed as factories and office space for the National Biscuit Company (“Nabisco”). However, the building struggled financially after Nabisco closed its factories in the mid-1940s and was never again able to attract major industrial or manufacturing users.

In the 1990s, a plan was conceived to redevelop the ground floor concourse of Chelsea Market as an alternative location for the City's flower district. However, that idea never took hold and the concourse was instead redeveloped as a home for a series of food-related businesses such as Manhattan Fruit Exchange and The Lobster Place. The businesses moved into the ground floor of Chelsea Market and were set up with their wholesale operations facing outward to the streets and their retail operations facing inward toward the concourse. The retail food operations proved immensely popular and have gradually expanded, overtaking wholesale operations. Some tenants, including Amy’s Bread and The Lobster Place, have been so successful in Chelsea Market that they have relocated their production and wholesale components to larger locations in the outer boroughs. The upper floors of Chelsea Market have been occupied by a variety of businesses, with media, arts and high-tech commercial operations currently predominating.

Rezoning

During the public process that culminated in the June 2005 West Chelsea rezoning, CB4 requested that the Chelsea Market block be included in the Special West Chelsea District (“SWCD”) that was being created by the rezoning. However, the prior owner of Chelsea Market did not support that request and the Department of City Planning (“DCP”) declined to include the Chelsea Market block in the SWCD.

Over the years, several informal proposals for the enlargement of Chelsea Market have been presented to CB4, including six presentations to CB4’s CP&P Committee between 2007 and 2012. In addition to the proposed changes to the building itself, the discussions have focused on the impact of the changes on the community and potential community benefits to mitigate the impact of any addition.

II. The Current Proposal: Community Response and Controversy

The Proposed Project was first presented informally to the Board at the March 2011 CP&P meeting. This version included both an extremely large, non-contextual addition to the Tenth

Avenue building and a hotel on Ninth Avenue. The community vigorously condemned the scale and design of the Tenth Avenue addition and the proposed hotel use, and organized a broad campaign to oppose the Proposed Project. The Save Chelsea organization mobilized block associations and community stakeholders to attend meetings and forums; multiple community organizations took written positions against the project; and Chelsea Now covered the issue extensively.

During the course of the community debate, several themes emerged, including:

- The rate of change in the Chelsea community is overwhelming;
- New development in the SWCD has changed the physical look and feel of the community;
- The production of primarily luxury housing is a threat to the community's diversity; and
- The High Line is no longer a community park, but a crowded, international tourist destination.

The proposed Chelsea Market expansion is more of the same and exacerbates these trends.

Community Benefits: For the Chelsea Community?

The Proposed Project will create benefits for the city in the form of additional tax revenue and the creation of temporary and permanent jobs, and for the Applicant in the form of an increase in Chelsea Market's property value.

For the surrounding community, however, the Proposed Project will increase foot and vehicle congestion and demand on public space; it will accelerate gentrification with its accompanying effects on socioeconomic conditions, community character and indirect residential displacement. The Proposed Project also will create shadows on, and limit the views from, the High Line.

Despite the serious impacts of the Proposed Project on the surrounding community, the only community benefits from the project accrue to the High Line. This is in stark contrast to the original SWCD plan where, in addition to High Line benefits, affordable housing was provided for through both zoning mechanisms and agreements for development of public land and the preservation of existing housing.

While CB4 is pleased that discussions with the Applicant have led to revisions of the Proposed Project's uses and design, it is unacceptable that there have been no proposed changes to the community benefits. CB4 has been an enthusiastic supporter of the High Line from its first emergence as an idea, but the High Line should not and cannot be the sole beneficiary of the Proposed Project.

An Unprecedented Position for CB4

CB4 has a long and successful record of maximizing its influence during charter-mandated ULURP reviews. The Board's thoughtful and comprehensive positions, letters and resolutions have led to major beneficial changes to past proposals.

The Proposed Project has been particularly divisive, threatening the community-wide consensus building that has long characterized CB4's approach to negotiated agreements and settlements with both the private and the public sectors. As a result, CB4 must take the unprecedented step of creating a threshold condition; if, and only if, this threshold condition is met will the Board consider its normal recommendation of a denial unless fundamental conditions are met.

- **If, and only if, the affordable housing mitigation is produced, CB4 recommends denial of the Applications unless the further conditions enumerated below are met.**
- **If the affordable housing mitigation is not produced, then CB4 cannot support these Applications and recommends denial.**

Reasons for this position are detailed in Sections V, VI and VII of this resolution.

III. Requested Actions

Proposed Zoning Map Change

The proposed zoning map change would rezone Block 713 to include it as a newly created Subarea J in the SWCD, with the maximum permitted FAR increased from 5.0 to 7.5 while retaining the M1-5 zoning (the "Proposed Zoning Map Change").

Proposed Zoning Text Amendment

In coordination with the Proposed Zoning Map Change, the proposed zoning text amendment would amend certain sections of the SWCD text, including the designating of a new Subarea J with height, setback and other building envelope controls. This new Subarea J would also include text specifying required High Line amenities to be provided by the Applicant such as restrooms, a freight elevator and support space and make the block subject to a required contribution to the existing High Line Improvement Fund (the "Proposed Zoning Text Amendment").

IV. Overview of the Proposed Project

On April 9, 2012, the Applications to permit the expansion of Chelsea Market were certified by DCP. The Proposed Project, as originally certified, proposed the construction of approximately 240,000 square feet of office space in a new structure along Tenth Avenue (the "Proposed Tenth Avenue Addition") and approximately 90,000 square feet of hotel space in a new structure at the corner of Ninth Avenue and West 16th Street (the "Proposed Ninth Avenue Addition"). The Applicant proposed to retain the M1-5 zoning on the Chelsea Market block but to include the entire block within the SWCD. Inclusion of the block in the SWCD requires both a contribution

to the High Line Improvement Fund and provision of certain High Line amenities. The Applicant further proposed to increase the permitted FAR from 5.0 to 7.5.

Tenth Avenue Office Addition

The Applicant's Proposed Tenth Avenue Addition, on the westernmost part of the Chelsea Market block facing Tenth Avenue above the High Line, is a nine story, approximately 240,000 square foot, office building with a maximum height of 230 feet, as set by the Proposed Zoning Text Amendment. The design of the proposed addition as originally presented by the Applicant is strikingly modern and distinctly out of character with the surrounding buildings. The Proposed Tenth Avenue Addition is differentiated from the existing building on which it sits by a one-story separation gap.

Ninth Avenue Hotel Addition

The Applicant's Proposed Ninth Avenue Addition includes the addition of an eleven story, approximately 90,000 square foot, hotel at the corner of Ninth Avenue and West 16th Street. The Proposed Ninth Avenue Addition is designed to infill the northeast corner of the Chelsea Market block over the existing one- and three-story buildings. The Proposed Ninth Avenue Addition would have a maximum height of 160 feet, as set by the Proposed Zoning Text Amendment. The Applicant's design for the Proposed Ninth Avenue Addition is considerably less modern than the Proposed Tenth Avenue Addition and is more in keeping with the industrial look of the surrounding neighborhood.

High Line Improvement Fund and Amenities

By including the Chelsea Market block in the SWCD, the Applicant will be required to make a contribution to the High Line Improvement Fund. SWCD zoning currently sets the contribution at \$58.08 per square foot of additional floor area, which for the Applications would be approximately \$17.2 million. Additionally, the proposed changes to the SWCD zoning text would require the Applicant to provide High Line amenities including a public restroom, 3,000 square feet of support space adjacent to the High Line and within Chelsea Market, 1,000 square feet of storage space in the cellar of Chelsea Market, and a dedicated freight elevator to enable the City to transport materials to the High Line from the street level.

In addition, the Applicant, at its sole option, may elect to dedicate to the City up to 7,500 additional square feet of space adjacent to the High Line for High Line support. If this option is exercised, the Applicant may decrease the required contribution to the High Line Improvement fund by the appraised value of that space, subject to the City's agreement.

V. Primary Community Concern: Affordable Housing Mitigation

It is widely recognized that one of the overwhelming problems facing New York City is a long-term housing shortage, particularly permanently affordable housing for low, moderate and middle income families. The preservation and expansion of affordable housing has long been a

major CB4 priority. Affordable housing helps to ensure the continued economic and ethnic diversity within Manhattan Community District 4 (“CD4”) as development proceeds along the west side of Manhattan.

Chelsea has traditionally been distinguished by its diversity: families with a wide range of incomes live side by side; fifty-year residents and newcomers co-exist; and buildings old and new, large and small line its streets. It is this very diversity that gives the area its essential character. Diversity is the character of Chelsea, defining its heart and soul.

The Board's request for the provision of affordable housing, irrespective of what mechanism is employed, is central to the community's desire to maintain its identity even as its physical environment has become increasingly unrecognizable. In an area with low-income, rent-stabilized apartments, New York City Housing Authority complexes and the large, middle income-restricted co-op of Penn South, the West Chelsea rezoning has produced not only the High Line Park, but also a new luxury housing district with condominiums selling at over \$2,000 per square foot and studio apartments with rents starting at \$2,900 per month.

Any further rezoning, residential or commercial, must take into account that such action will only exacerbate the trends toward a luxury community and thus must mitigate the effect by creating affordable housing in Chelsea. ***In keeping with CB4's original 2005 response to the rezoning that created the SWCD, the Board's fundamental position on the Applications is that they cannot be approved unless accompanied by the creation of affordable housing with a floor area equal to 27% of the increase in floor area of any additions to the Chelsea Market buildings.***

Any affordable housing created by the Proposed Project must be permanently affordable. It should be located in Chelsea, but it must be located within CD4. Consistent with New York City Department of Housing Preservation and Development marketing regulations, Chelsea and CD4 residents should be given 50% preference for the affordable housing.

Without limiting the possible approaches to be considered to ensure that this affordable housing provision is implemented, CB4 suggests that the following options be explored thoroughly:

- Include text to map Inclusionary Housing provisions to cover the proposed Subarea J of the SWCD;
- Include text to expand the Special West Chelsea Affordable Housing Fund (ZR section 98-262(c)) to cover the proposed Subarea J of the SWCD (see Appendix I);
- Identify a privately-owned site for development and assist in its development as affordable housing;
- Identify a publicly-owned site for development and assist in its development as affordable housing;
- Identify a publicly- or privately-owned site for development and assist in its development as affordable housing by partnering with state or city government; or
- Preserve privately-owned buildings for continued use as affordable housing.

VI. Other Community Concerns and Project Revisions Agreed to by the Applicant

Extensive and on-going discussions with the Applicant have led to an agreement on several modifications to elements of the Applications. At both the April 16, 2012 and May 31, 2012 CP&P Committee meetings, the Applicant presented revised proposals for the Proposed Project. The Board will require the following future amendments to the Applications, some of which the Applicant has already agreed to in writing (see Appendix II), as conditions of its recommendation.

Proposed Tenth Avenue Addition: Height, Setback, Bulk and Façade

No aspect of the Proposed Project has generated more community opposition than the height, bulk and façade of the Proposed Tenth Avenue Addition.

Height and Bulk

The Proposed Tenth Avenue Addition is a 240,000 square foot building expansion that would add nine stories to the existing Chelsea Market building, resulting in a building that is 226 feet in height. This height and bulk has raised two primary issues:

Shadows, Light and Views

As indicated in the Applicant's Environmental Assessment Statement (see Appendix III, Figure 1), the existing Chelsea Market building and other surrounding buildings currently cast shadows on the High Line. The Proposed Tenth Avenue Addition would cast additional shadows on the High Line in both May and December, detracting from users' enjoyment of the park. The Proposed Tenth Avenue Addition would also block the open view of the sky above the existing Chelsea Market building so that the park users walking both north and south would experience a less expansive view.

Compatibility with Nearby Buildings

The buildings near the Proposed Tenth Avenue Addition vary widely in height:

- 85 Tenth Avenue, directly across Tenth Avenue and a part of the original Nabisco complex, is 180 feet high, 46 feet lower than the proposed addition;
- 99 Tenth Avenue, the Merchants Refrigeration Company Warehouse, is 160 feet high, 66 feet lower than the proposed addition;
- The Caledonia, 450 West 17th, directly north of the proposed addition, is 250 feet high, 24 feet taller than the proposed addition;
- The tallest buildings at the Fulton Houses, an 11-building New York City Housing Authority complex between West 16th and West 19th Streets, are 220 feet high, six feet lower than the proposed addition; and
- The many smaller, older buildings on the block just south of Chelsea Market, between Ninth and Tenth Avenues and West 14th and 15th Streets, are 5 to 9 stories high.

Recommendation for Tenth Avenue Addition - Height, Setback, and Bulk

CB4 recommends that the Proposed Tenth Avenue Addition:

- Be limited to a maximum height of 184 feet with a 35 foot setback at 170 feet.

This building limitation would result in:

- A five story addition to the existing Chelsea Market building;
- Lesser shadows being cast on the High Line;
- Better light and views from the High Line; and
- Increased compatibility with the heights of the adjacent 85 and 99 Tenth Avenue buildings.

[See Appendix III, Figure 2]

In order to implement this revision, the proposed text change for New York City Zoning Resolution (ZR) Section 98-421(g)(i) would have to be revised to state in part:

The Tenth Avenue Zone shall be that portion of a #zoning lot# within 200 feet of the Tenth Avenue #street line#. Within the Tenth Avenue Zone, any portion of a #building# shall have a maximum #street wall# height of ~~185~~ 170 feet before setback and a maximum #building# height of 184 feet. Any portion of a #building# located above a height of ~~185~~ 170 feet shall be setback at least ~~40~~ 35 feet from the #street line#.

Originally Proposed Façade

The community has widely derided the façade of the Proposed Tenth Avenue Addition, likening it to both a spaceship and the Port Authority Bus Terminal. The originally proposed facade is completely at odds with the existing Chelsea Market building and the neighboring older brick buildings, particularly 85 and 99 Tenth Avenue (see Appendix III, Figure 3).

While CB4 understands that the Proposed Tenth Avenue Addition must take into account the structural limitations of the existing Chelsea Market building and that the Landmarks Preservation Commission has requested that the Applicant distinguish the addition from the older structure below, the proposed metal diagonal supports and grid in front of the windows create a look incompatible with nearby buildings. Furthermore, the connection between the existing building and the proposed addition results in the addition appearing to hover over the existing building. The radical difference between the Proposed Tenth Avenue Addition and both the existing Chelsea Market structure and the surrounding buildings is jarring and arrogant.

Design Changes to the Façade

CB4 recommends the façade of the Proposed Tenth Avenue Addition include masonry or terra-cotta and smaller scale design elements that are more compatible with the neighborhood context.

Two recent examples of new buildings constructed in Chelsea with this type of façade treatment are Chelsea Enclave at 177 Ninth Avenue and 456 West 19th Street (see Appendix III, Figure 4).

At the May 31, 2012 CP&P Committee meeting, the Applicant presented a major revision to the façade treatment of the Proposed Tenth Avenue Addition. The revised design:

- Moves the diagonal structural elements inward to make them less visible;
- Moves the window openings to the exterior of the diagonal structural supports, making the supports less visible;
- Makes the window openings spaced at regular intervals to relate to the surrounding buildings; and
- Uses brick-colored terra-cotta louvers to create the window openings and to tie the addition visually to the existing building.

[See Appendix III, Figure 5]

Recommendation for Façade

The Applicant should rework the building design to lessen the effect of the float between the existing Chelsea Market building and the Proposed Tenth Avenue Addition. The most recent design does begin to address this condition by placing panels in the gap, some of which are in line with the façade and some with the setback, thereby creating a connection between the two portions of the building, but more must be done. Specifically:

- CB4 requests additional panels at the north and south corners to better ground the Proposed Tenth Avenue Addition to the existing Chelsea Market building.

These changes will require further changes to the Proposed Zoning Text Amendment which only allows those obstructions in the gap that are permitted pursuant to ZR Section 33-42. In order to implement this revision the proposed text change for that would have to be revised to state in part:

In Subarea J of the SWCD the proposed text amendment would have to include language allowing such proposed obstructions (e.g., panels) connecting the two buildings and being of dimensions equal to the piers below.

CB4 believes that the changes already made by the Applicant to the façade of the Proposed Tenth Avenue Addition are significant improvements to the original design and recommends that the Applicant continue working in this direction, consulting with CB4 prior to City Planning Commission review.

Proposed Ninth Avenue Addition

Height and Setback

The Proposed Zoning Text Amendment would allow the Proposed Ninth Avenue Addition to have a street wall of 130 feet before setback and a maximum building height of 160 feet, with proposed setbacks of at least 5 feet from Ninth Avenue and 15 feet from West 15th and West 16th Streets. The Proposed Ninth Avenue Addition would be approximately eleven stories tall and 90,930 gross square feet.

Recommendation for Height and Setback

CB4 has requested, and the Applicant has agreed to, the following:

- The Proposed Ninth Avenue Addition will have a maximum height of 135 feet with a maximum street wall of 123 feet, and will be setback at least 5 feet from Ninth Avenue and 15 feet from West 15th and West 16th Streets;
- The Proposed Ninth Avenue Addition will be reduced from an eleven story building to a seven story building with approximately 77,240 gross square feet;
- The new window openings will align with the existing openings in the Ninth Avenue façade; and
- The window mullions will be of a smaller scale.

[See Appendix III, Figure 6]

In order to implement this revision, the Proposed Zoning Text Change for ZR Section 98-421(g)(ii) would have to be revised to state in part:

The Ninth Avenue Zone shall be that portion of Subarea J located within 150 feet of the Ninth Avenue #street line#. Within the Ninth Avenue Zone, any portion of a #building# shall have a maximum #street wall# height of 123 feet before setback and a maximum #building# height of ~~160~~ 135 feet. Any portion of a #building# located above a height of 123 feet shall be setback at least 5 feet from a #wide street# and at least 15 feet from a #narrow street#.

Recommendation for Hotel Use and Outdoor Eating and Drinking Establishments

CB4 has requested, and the Applicant has agreed to the following:

- The use of the Proposed Ninth Avenue Addition will be office use, not hotel use; and
- There will be no outdoor eating or drinking establishments on the rooftop, setback or any other locations on Block 713 except for approved unenclosed sidewalk cafes.

Midblock Zone

The midblock zone of the Chelsea Market block is that area more than 150 feet west of Ninth Avenue and more than 200 feet east of Tenth Avenue. For the midblock zone, the Applications include a proposed maximum street wall height of 130 feet and a maximum building height of 150 feet with a 20 foot setback.

Recommendation for Midblock Zone

CB4 has requested, and the Applicant has agreed to, the following:

- Midblock street wall height limited to 110 feet with a 20 foot setback and a maximum building height of 130 feet.

In order to implement this revision, the Proposed Zoning Text Change for ZR Section 98-421(g)(i) would have to be revised to state in part:

The Midblock Zone shall be that portion of Subarea J located more than 150 feet west of the Ninth Avenue #street line# and more than 200 feet east of the Tenth Avenue #street line#. Within the Midblock Zone a #building# shall have a maximum #street wall# height before setback of ~~130~~ 110 feet, and shall have a maximum #building# height of ~~150~~ 130 feet.

The two proposed changes to ZR Section 98-423(g) also require appropriate modification of the proposed chart in ZR Section 98-421(g).

SWCD Receiving Sites

Since the proposed SWCD Subarea J will not be a receiving site as defined in ZR Section 98-33, this section should be amended to add Subarea J to the list of excluded subareas, reading in part:

A "receiving site" shall mean a #zoning lot#, or portion thereof, in any subarea other than Subareas F, H and J.

Continuance of Food Related Uses

In the mid-1990s Chelsea Market was converted to its current mix of uses, including the successful and popular food production and marketplace on the ground floor concourse. These food-related uses are an important resource for the community, making fresh fruit, seafood and baked goods conveniently accessible. CB4 desires to ensure such uses continue to exist after the Chelsea Market expansion.

The Applicant has agreed to a restrictive declaration requiring:

- 50% of the area of the ground floor along the interior concourse (excluding the four street corners) be restricted to food related uses; and

- 50% of the retail frontage along the interior concourse be reserved for food related uses.

CB4 Recommendation for Food Related Uses

Because restaurants are included in the definition of food related uses, CB4 requests:

- The restrictive declaration require 60% of the ground floor, both by square footage and by frontage on the interior concourse, but excluding the four street corners, be restricted to food related uses in order to encourage a diversity of food related uses; and
- Food-related regional or national chain stores and restaurants be prohibited.

Technology Job Training for Chelsea Residents and Job Training

The Applicant estimates that the Proposed Project will bring more than 1,000 permanent jobs to the neighborhood. Many of Chelsea Market's existing commercial tenants are technology-oriented businesses such as Google, MLB.com and Yelp, and the Applicant anticipates that the Proposed Project will primarily house similar businesses.

It is expected that most of the employment opportunities will be in three growing industries: media, technology, and dining and culinary arts. According to a 2011 Applesseed report entitled "The Economic Impact of the Proposed Chelsea Market Expansion," the new space would be occupied in part by internet publishing and broadcasting businesses (30%) and by Internet Service Providers, search and other data services (30%).

CB4 Recommendation for Technology Job Training for Chelsea Residents

Given the specific education and training required for employment with the anticipated new tenants in the expanded Chelsea Market, CB4 requests:

- The Applicant fund a technology training lab for neighborhood residents located within the Chelsea Market complex as a free service to the community to prepare neighborhood residents for newly created jobs. The preferred location for this lab would be the 7,500 square foot optional High Line space within Chelsea Market. The Applicant should utilize a non-profit organization for this effort; and
- The Applicant works with local public schools to explore what other aid they might provide to them and provides at least ten internships each year with technology firms located in Chelsea Market.

CB4 believes that this support will help prepare neighborhood youth for the new technology jobs that will become available in the expanded Chelsea Market development and that the technology businesses in Chelsea Market would benefit from this type of focused community service. Consultation with CB4 and other community groups in the development and monitoring of this effort is essential to the success of this effort.

In addition, we ask that Chelsea Market agree to support a Jobs Program for Chelsea Market and to work with CB4 in its implementation. Specifically, that Chelsea Market agree to place a link

to job openings on the CB4 website, to hold periodic job fairs in coordination with CB4 and to work with its current and future tenants on a best efforts basis to identify and hire employees from within Community District 4.

Environmental Issues

The Board is concerned about the potential environmental impacts the construction of the Proposed Project may create.

CB4 Recommendation on LEED Certification

The Board has requested, and the Applicant has agreed, that:

- Both the Proposed Ninth Avenue Addition and the Proposed Tenth Avenue Addition will be constructed so as to achieve, at minimum, LEED Silver certification, with best efforts to achieve Gold or Platinum certification.

Additionally, CB4 requests that:

- When the existing structure is retrofitted, that construction also achieve a minimum of LEED Silver certification.

CB4 Recommendation on Storm Water Management

The Applicant should:

- At minimum, comply with the City's Department of Environmental Protection (DEP) Draft Rule to detain storm water, releasing it at a rate of 0.25 cubic feet per second per acre on the entire site.

However, the Board requests that:

- The Proposed Project go significantly further and retain storm water for at least 1 inch of rainfall over the entire site. Retention allows storm water to be used as a resource rather than being simply a waste product that places additional burden on the combined storm water sewage system.

VII. Further Considerations Not Yet Agreed to by Applicant

Landmark Status

CB4 is concerned that there are no protections in place to preserve the Chelsea Market building's exterior and the related unique pedestrian bridges. These are important remnants of the area's industrial past, illustrating the Nabisco bakery complex and its relationship with rail distribution and the West Side Improvement Project. The Chelsea Market site is part of the

State/National Gansevoort Historic District. It also was determined to be landmark-eligible in the Special West Chelsea District Rezoning and High Line Open Space Final Environmental Impact Statement (2005).

CB4's Recommendation on Landmarking

CB4 requests the Applicant not oppose efforts to have the Chelsea Market building's exterior and related bridges landmarked. The Applicant has listed the following qualifications, including:

- The Proposed Ninth Avenue Addition and the Proposed Tenth Avenue Addition will be approved by the Department of Buildings prior to Landmarks Preservation Commission (LPC) review;
- A master plan for window replacement be approved by LPC;
- A master plan for conversion of the loading bays along the perimeter of the complex to retail storefronts be approved by LPC;
- A master plan for mechanical equipment to service the technology and television industries be approved by LPC; and
- Restoration of the Ninth Avenue façade via continued removal of the copper basket weaves be allowed by LPC.

VIII. Further Considerations For Action by the City of New York

CB4 believes that the extension of the Gansevoort Historic District and the expansion of the SWCD are important, complementary actions to the Applications. Implementation of these, however, rests with the City, not the Applicant. Thus, CB4 requests that the City consider:

Extension of the Gansevoort Historic District

There are historically significant buildings affected by the Proposed Project that are not currently protected from demolition or alteration.

CB4 Recommendation on Landmarking

CB4 recommends that the City expand the Gansevoort District to include:

- The Chelsea Market block and the related bridges;
- 85 Tenth Avenue, part of the original Nabisco Complex; and
- 99 Tenth Avenue, the Merchants Refrigeration Company Warehouse, which is listed on the State/National Register.

[See Appendix III, Figure 7]

Expansion of the Special West Chelsea District

Seven years after its creation, the general purposes for which the SWCD was created are being fulfilled. West Chelsea is a dynamic, mixed-use neighborhood. Residential development is vibrant, the arts community is flourishing and the second section of the High Line has opened to enthusiastic reviews and large crowds. It now is time for the City to follow through with promises made during the creation of the SWCD, and to examine unforeseen problems that have arisen.

Since 2007, CB4 has included a request in our annual Statement of District Needs for a study by DCP of the areas west and south of the SWCD with an eye toward future actions appropriate for the neighborhood. CB4 has proposed that the study examine:

- The areas between Eleventh and Twelfth Avenues between West 27th and 30th Streets;
- The Chelsea Market block;
- 85 and 99 Tenth Avenue; and
- The south side of West 15th Street between Ninth and Tenth Avenues.

The study would explore the options for inclusion of those areas in an expanded SWCD and to make other appropriate changes designed to preserve neighborhood character in this portion of West Chelsea. The inclusion of these areas would provide specific height, setback, street wall and use controls. The Board believes it is unfortunate that the Chelsea Market building proposal is proceeding through ULURP without consideration of the nearby areas.

CB4 Recommendation on Expansion of the SWCD

CB4 requests a commitment from the City to complete the promised study and initiate the rezoning of the area.

NOW, THEREFORE, BE IT RESOLVED that:

1. Manhattan Community Board 4 recommends denial of ULURP Applications No. N 120142 ZRM and 120143 ZMM unless the Proposed Project is accompanied by the creation of affordable housing with a floor area equal to 27% of the increase in floor area of any enlargement of the Chelsea Market building.

2. If and only if the first condition is met, Manhattan Community Board 4 recommends denial of ULURP Applications No. N 120142 ZRM and 120143 ZMM unless the following conditions are met:

a) The proposed text change is amended in the Ninth Avenue Zone to reflect that the maximum building height is 123 feet before setback and that the maximum building height is 135 feet with a setback of 5 feet from Ninth Avenue and 15 feet from West 15th and West 16th Streets;

b) The proposed text change is amended in the Tenth Avenue Zone to reflect that the maximum building height before setback is 170 feet and the maximum building height is 184 feet with a 35 foot setback;

c) The proposed text change is amended in the Tenth Avenue Zone to reflect that obstructions other than those in ZR section 33-42 are allowed to mitigate the effect of “the float”. For example, a series of panels would be allowed throughout and at each corner (some setback) to connect the new building with the old building and have dimensions equal to the piers below;

d) The Applicant provides a written commitment that discussions continue for a more contextual façade and a less observable gap between the addition and the existing Tenth Avenue building;

e) The proposed text change is amended in the Midblock Zone to reflect that the maximum building height before the setback is 110 feet and that the maximum height of building at midblock is 130 feet with a setback of 20 feet;

f) The Applicant agrees to a restrictive declaration that 60% of the ground floor space, excluding the four corners, be for food-related uses;

g) The Applicant agrees to a restrictive declaration that there will be no hotel use allowed and no outdoor eating and drinking establishment, excluding approved unenclosed sidewalk cafes, on the Chelsea Market block, Block 713;

h) The Applicant agrees to not oppose efforts to landmark the building, provided their qualifications are met;

i) The Applicant agrees to use best efforts to conform to, at minimum, LEED Silver standards when constructing the proposed expansions;

j) The Applicant agrees to comply with the DEP Draft Rule to detain storm water and to use best efforts to retain storm water for at least one inch of rainfall over the entire site.

k) The Applicant agrees to form a Construction Task Force prior to the commencement of construction that will meet with the community regularly during construction;

l) The Applicant agrees to fund a Technology Jobs Training Center for neighborhood residents located within the Chelsea Market complex as a free service to the community. The preferred location for this lab would be the 7,500 square feet of optional High Line space within Chelsea Market. The Applicant agrees to utilize a non-profit organization for this effort, and to work with local public schools to provide aid and at least ten internships each year with technology firms located in Chelsea Market; and

m) The Applicant agrees to support a Jobs Program for Chelsea Market and to work with CB4 in its implementation. Specifically, The Applicant agrees to place a link to its job openings on the CB4 website, to hold periodic job fairs in coordination with CB4, and to work with its

current and future tenants on a best efforts basis to identify and hire employees from within Community District 4.

AND FURTHER RESOLVED that CB4's recommendation of this proposal arises out of the unique circumstances of this project and this site, and must not be interpreted as precedent-setting for, or a change in any of our stated positions concerning, the rezoning of other areas in the SWCD including, in particular, the south side of West 15th Street. If anything, this recommendation renews CB4's determination to complete the rezoning of the SWCD and implement our previously-articulated planning priorities.

Sincerely,



Corey Johnson, Chair
Manhattan Community Board 4



J. Lee Compton, Co-Chair
Chelsea Preservation & Planning



Brett Firfer, Co-Chair
Chelsea Preservation and Planning

cc: DCP Calendar Office
DCP – Edith Hsu-Chen, Erika Sellke
Jamestown Properties – Michael Phillips, Ben Gainey
Fried Frank – Melanie Meyers, Esq., Tal Golomb, Esq.
MBPO – Brian Cook, Karolina Grebowiec-Hall
Speaker Quinn's Office –Melanie La Rocca, Michaela Miller
City Council Land Use Division –Danielle DeCerbo
Congressman Jerrold Nadler
NYS Senator Thomas Duane
NYS Assemblyman Richard Gottfried

Appendix I

Affordable Housing through the SWCD Affordable Housing Fund

Section 98-262 (c) of the Zoning Resolution establishes an Affordable Housing Fund as part of the SWCD. This provides one potential mechanism for meeting CB4's affordable housing requirement. Contributions by the applicant into this fund would require the following modifications to the SWCD text:

**98-22
Maximum Floor Area Ratio and Lot Coverage in Subareas**

Sub-area	Basic #floor area ratio# (max)	Increase in FAR from #High Line Transfer Corridor# (98-30)	Increase in FAR with #High Line# Improvement Bonuses (98-25)	<u>Increase in FAR with Contribution to West Chelsea Affordable Housing Fund</u>	Inclusionary Housing		Permitted #floor area ratio# (max)
					FAR required to be transferred (minimum)	Increase in FAR for Inclusionary Housing Program (98-26)	
J	5.0	NA	1.5	1.0	1.0	1.0	7.5

**98-25
High Line Improvement Bonus**

(a) Prior to issuing a building permit for any #development# ...

(2) a contribution has been deposited into the West Chelsea Affordable Housing Fund...

**98-26
Modifications of Inclusionary Housing Program**

Within the #Special West Chelsea District#, C6-3 and C6-4 Districts within Subareas A through D, and I, and MI-5 Districts within Subarea J, shall be #Inclusionary Housing designated areas# ...

**98-262
Floor area increase**

For #developments# or #enlargements# that have increased their permitted #floor area# through the transfer of development rights from the #High Line Transfer Corridor# by the minimum amount specified in the table in Section 98-22 (Maximum Floor Area Ratio and Lot Coverage in Subareas), and for #conversions# of non-#residential floor area# to #dwelling units# where the total #residential floor area# on the #zoning lot# will exceed the applicable basic maximum #floor area ratio# specified in the table in Section 98-22, and for #enlargements# in Subarea J, such maximum permitted #floor area# may be increased through the provision of #affordable

housing# pursuant to the Inclusionary Housing Program Section 98-26, inclusive, to the maximum amount specified in the table in Section 98-22, provided that:

(a) In C6-4 Districts:

(b) In C6-3 Districts:

(c) In MI-5 Districts

(d) #Affordable Housing# Fund

Where the Chairperson of the City Planning Commission determines that more than 90 percent of the #floor area# eligible for transfer through the provisions of Section 98- 30 have been transferred in accordance with such provisions, or, in Subarea J, the Chairperson shall allow, by certification, an increase in #floor area# on any receiving site as specified in Section 98-33 (Transfer of Development Rights From the High Line Transfer Corridor), up to the amount that otherwise would have been permitted for such receiving site pursuant to Section 98-30, provided that instruments in a form acceptable to the City are executed ensuring that a contribution be deposited in the West Chelsea Affordable Housing Fund.

Appendix F
Special Regulations for Zoning Lots Utilizing the High Line Improvement Bonus and Located Within Subarea J

(a) Requirements for Issuance of Building Permit Pursuant To Paragraph (a) of Section 98-25

- (1) As a condition of certification:
 - (i) Owner shall, subject to a deduction pursuant to the other provisions of this Appendix F, deposit into the #High Line# Improvement Fund...
 - (ii) All parties-in-interest shall execute a restrictive declaration including easements to the City in a form acceptable to the City providing for the #High Line# Support Easement Volumes...

(iii) Owner shall deposit into the West Chelsea Affordable Housing Fund...

Appendix II

One New York Plaza
New York, New York 10004-1980
Tel: +1.212.859.8000
Fax: +1.212.859.4000
www.friedfrank.com



Direct Line: 212-859-8785
Fax: 859-4000
Melanie.Meyers@friedfrank.com

June 6, 2012

Corey Johnson, Chair, Manhattan Community Board #4
J. Lee Compton, Co-Chair, Chelsea Preservation and Planning Committee
Brett Firfer, Co-Chair, Chelsea Preservation and Planning Committee
Members, Community Board #4

**Re: Chelsea Market Expansion
CPC# C120143ZMM; N120142ZRM**

Dear Chairs and Members of Community Board #4

Thank you for your consideration of the Chelsea Market project. In addition to our correspondence of May 30 2012 outlining the goals and land use justifications for the project, we wanted to take this opportunity to reiterate the applicant Jamestown Premier Chelsea Market, L.P.'s (Jamestown's) amenability to a number of modifications and refinements to the Chelsea Market expansion project as part of the ULURP process. In particular, Jamestown has agreed that it would accept, if included as conditions to the Community Board's recommendation, modifications to the project that would:

- Lower the maximum permitted building height of Ninth Avenue
- Impose a binding prohibition on hotels and on open air eating and drinking establishments within the meaning of the Zoning Resolution, other than sidewalk cafes
- Lower the maximum permitted street wall height and maximum building height in the midblock
- Impose a binding requirement that as part of the project, at least 50% of the retail establishments fronting only on the concourse be dedicated to food-related uses, with the 50% measured both in terms of rentable square feet and linear frontage of retail along the concourse.

In addition, Jamestown will agree to pursue a design for both the Ninth Avenue and Tenth Avenue enlargements in the direction of the images presented by Studios Architects at the May 31st Committee meeting.

Jamestown also intends to include environmentally sustainable measures in the project so that the enlargements will meet LEEDs silver standards including storm water control measures.

With regards to the Chelsea Preservation and Planning Committee's recommendation that Chelsea Market be landmarked and/or included in an historic district, we have indicated that if a designation can be devised to protect the right to proceed with the proposed project and that would allow for the types of changes that have been made to Chelsea Market in the recent past, including rooftop equipment and studio space, ground floor storefronts, and window replacement, Jamestown would not object to designation. Jamestown has also indicated that it is willing to consider other mechanisms for protecting building elements that are important to the built fabric of Chelsea Market.

Jamestown appreciates and supports the goals expressed in the resolution adopted by the Chelsea Preservation and Planning Committee to make affordable housing a principal land use policy for all zoning actions within Community Board #4, and understands that this is a fundamental, threshold requirement for the Community Board. We agree to continue to work with the Community Board, City Planning, and the local elected officials to develop an appropriate mechanism for achieving this goal in the context of the Chelsea Market proposal.

Finally, Jamestown supports the idea of developing a technology laboratory or training program as part of the project, and would look to develop the parameters of the program through the ULURP process.

Thank you for your consideration.

Sincerely,



Melanie Meyers

Cc: Honorable Christine C. Quinn
Honorable Scott M. Stringer
Honorable Amanda M. Burden
Michael Phillips, Jamestown Properties
J. Ben Gainey, Jamestown Properties

Benfatto, Robert

From: Meyers, Melanie [Melanie.Meyers@friedfrank.com] **Sent:** Thu 6/7/2012 4:22 PM
To: Benfatto, Robert
Cc:
Subject: Chelsea Market Expansion: CPC #C120143ZMM; N120142ZRM
Attachments:

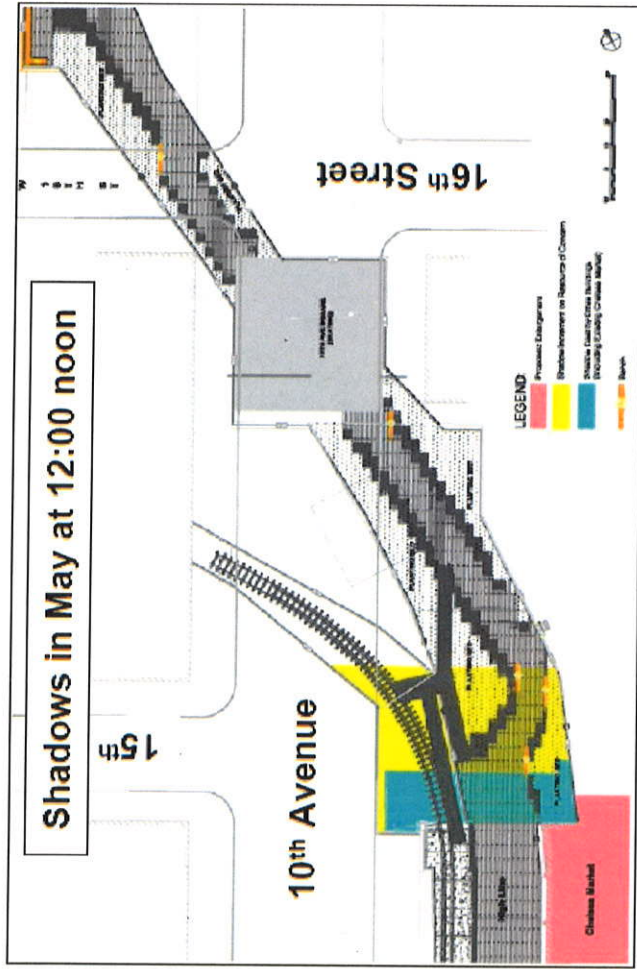
In follow up to my letter of June 6, 2012, I wanted to confirm that the applicant for the above referenced project has agreed to accept modifications to the Chelsea Market expansion project to (i) reduce the maximum permitted building height along Ninth Avenue to 140 feet, and (ii) reduce the maximum streetwall and building height of the midblock to 110 feet and 130 feet respectively.

Thank you for your attention to this matter.

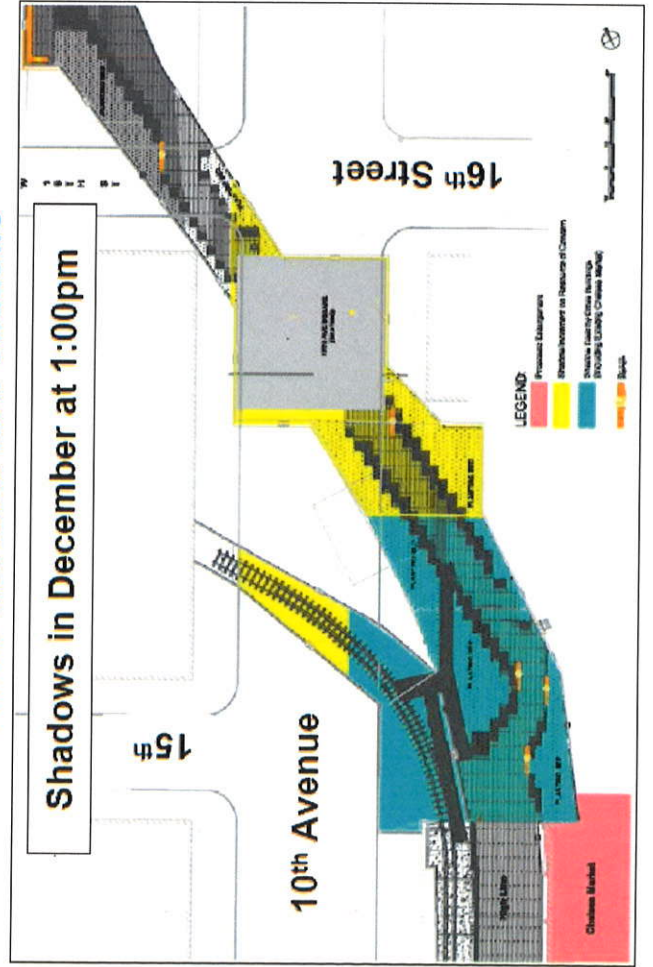
Confidentiality Notice: The information contained in this e-mail and any attachments may be legally privileged and confidential. If you are not an intended recipient, you are hereby notified that any dissemination, distribution or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please notify the sender and permanently delete the e-mail and any attachments immediately. You should not retain, copy or use this e-mail or any attachment for any purpose, nor disclose all or any part of the contents to any other person. Thank you.

Appendix III

Figure 1



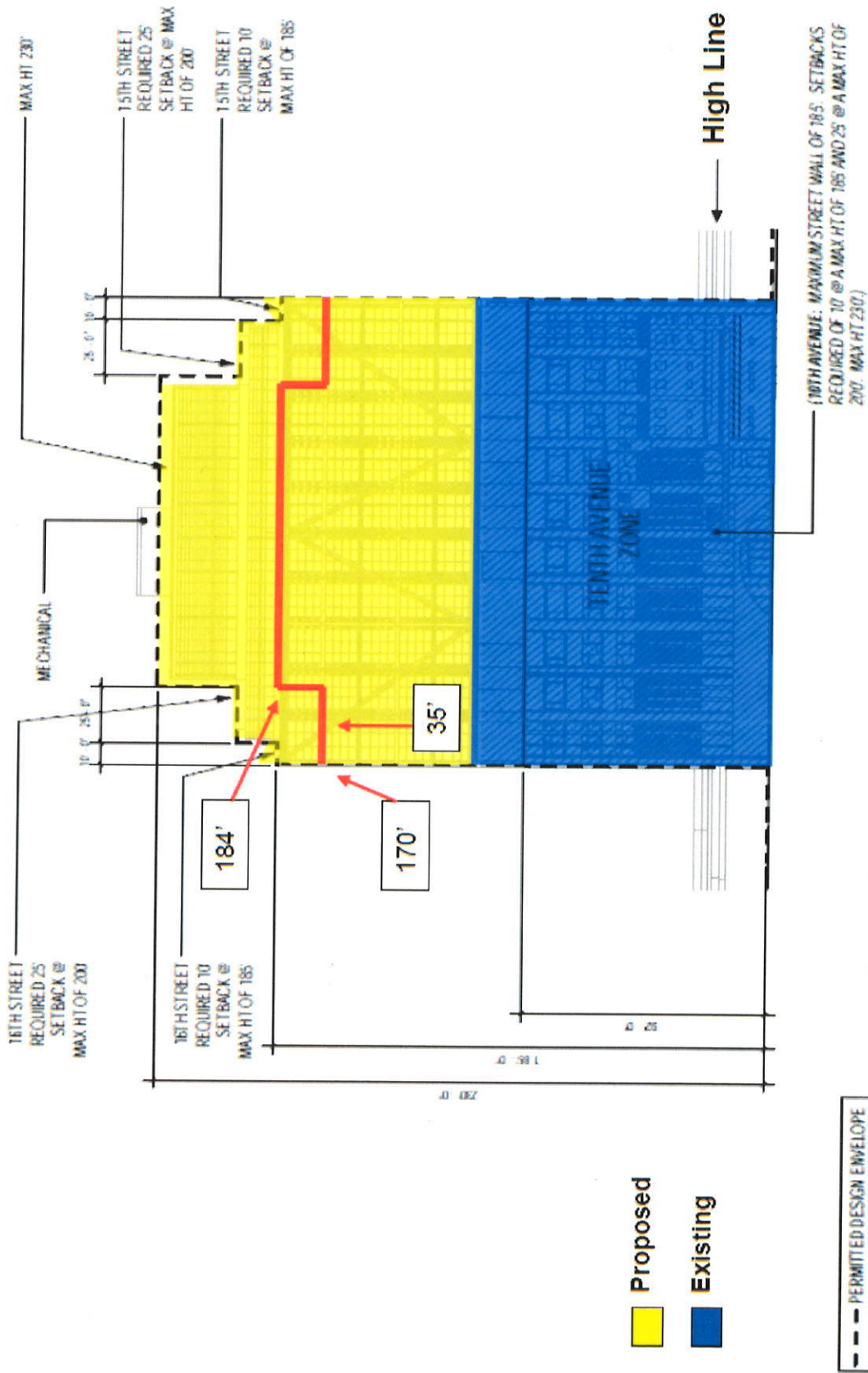
Yellow Indicates New Shadows



Shadows Cast by Proposed 10th Avenue Building

Figure 2

35' Setback at 170', 184' Height Limit



10TH AVENUE: MAXIMUM STREET WALL OF 185'. SETBACKS REQUIRED OF 10' @ A MAX HT OF 185 AND 25' @ A MAX HT OF 200'. MAX HT 200.'

Source: Jamestown Chelsea Market Proposal w/CB4 edits

- Proposed
- Existing

---	PERMITTED DESIGN ENVELOPE
///	EXISTING BUILDING AREA
□	PROPOSED BUILDING AREA

Figure 3



Proposed 10th Avenue Building above Chelsea Market

Source: Jamestown Chelsea Market Slideshow (December 2011)

Figure 4

Examples of New Buildings that are Compatible with the Neighborhood Context



Chelsea Enclave at 177 9th Avenue



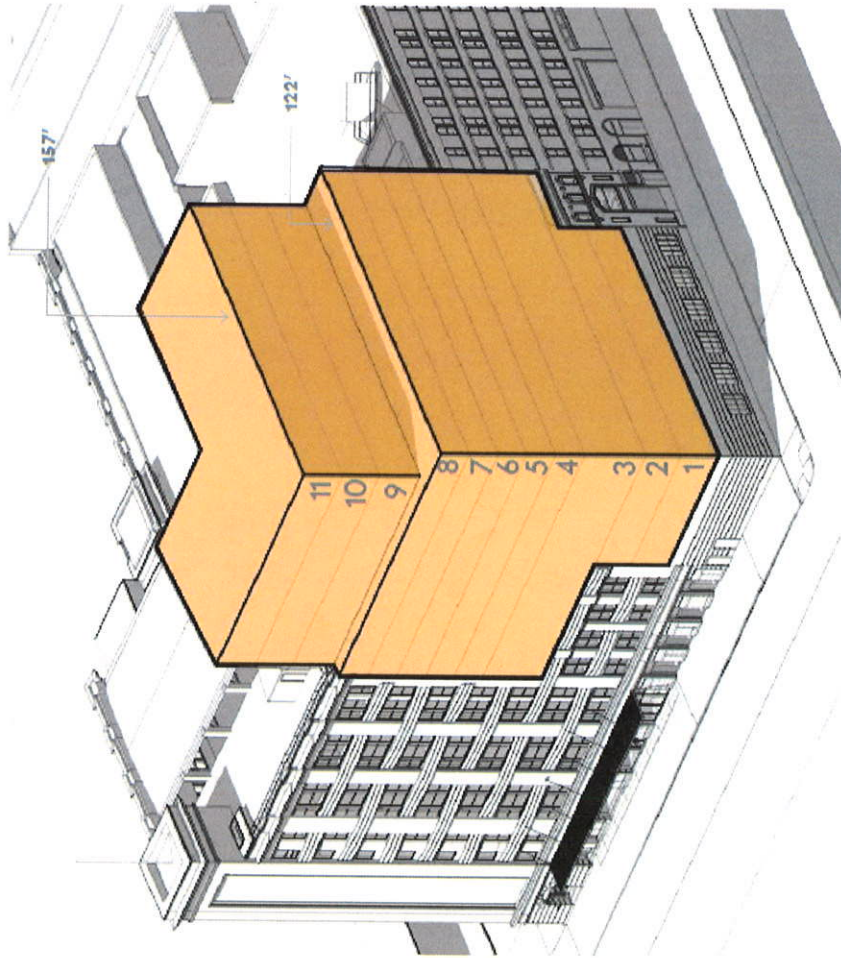
456 West 19th Street

Figure 5



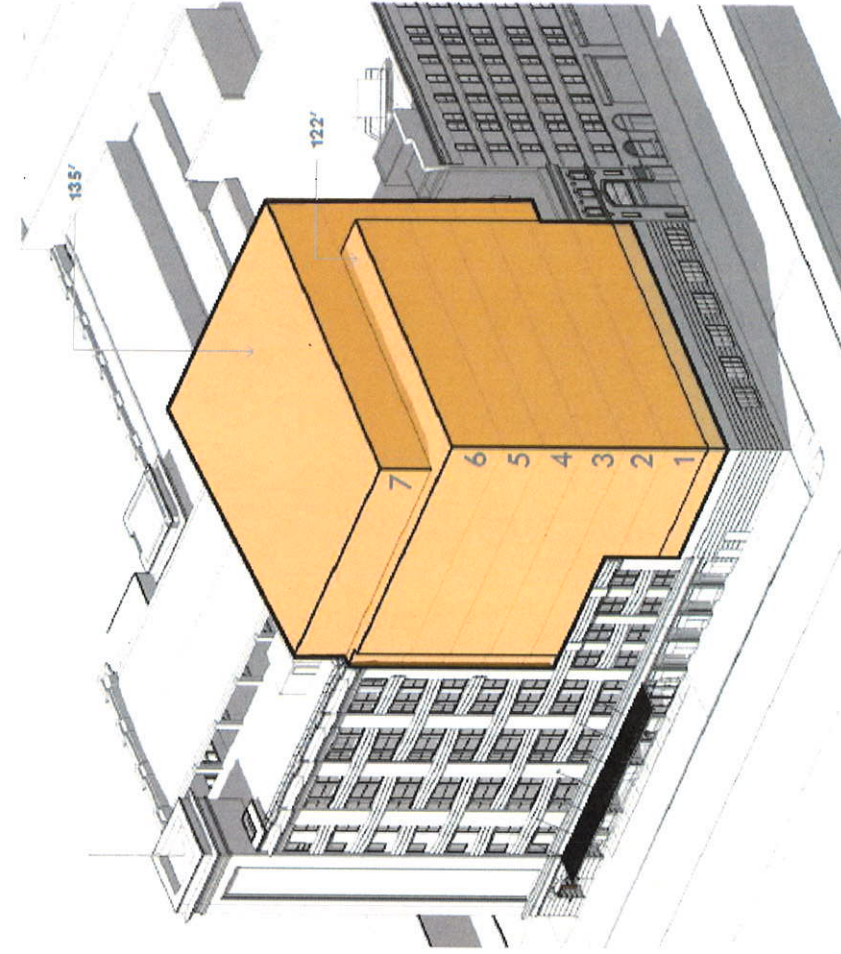
VIEW FROM SOUTHWEST - REVISED
CHELSEA MARKET

Figure 6



ULURP MASSING

11 STORIES OF NEW CONSTRUCTION
90,930 GSF
OVERALL ENVELOPE HEIGHT 160'



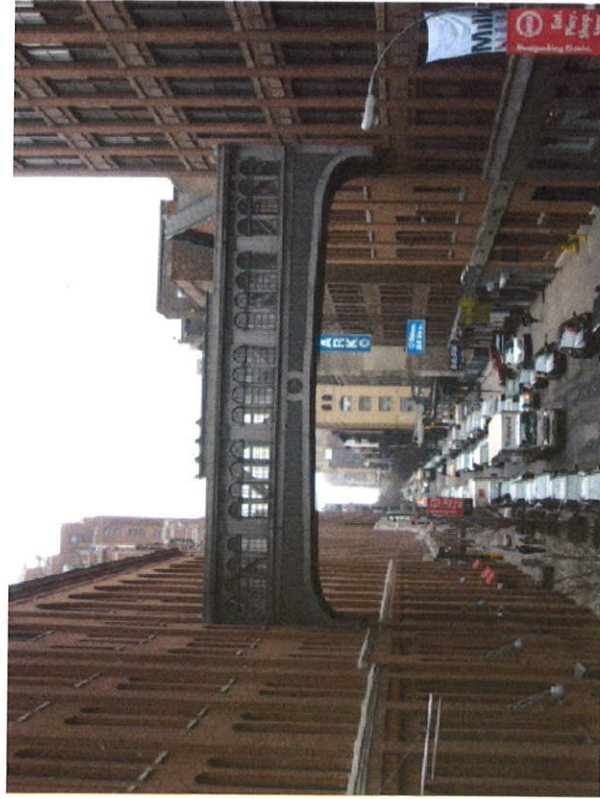
POTENTIAL MASSING

7 STORIES OF NEW CONSTRUCTION
77,240 GSF
OVERALL ENVELOPE HEIGHT 135'

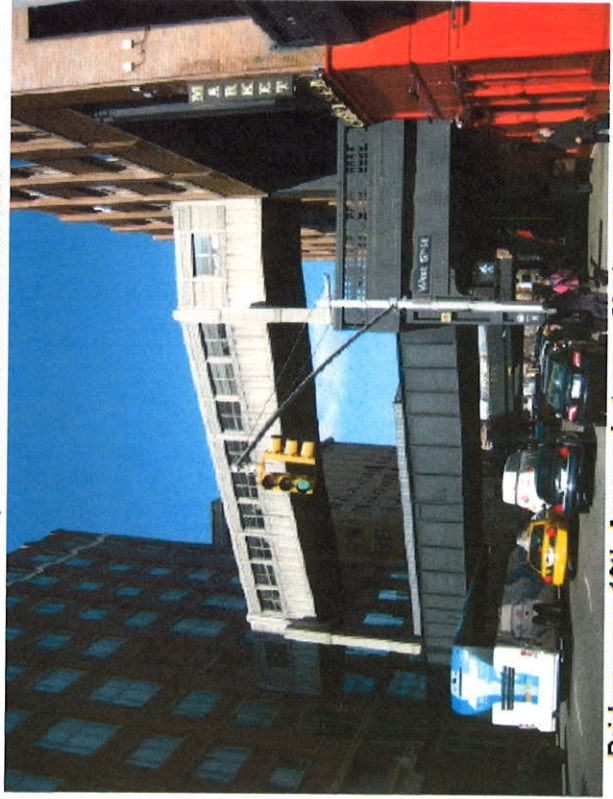
**9TH AVENUE MASSING CHANGES
CHELSEA MARKET**

April 16, 2012

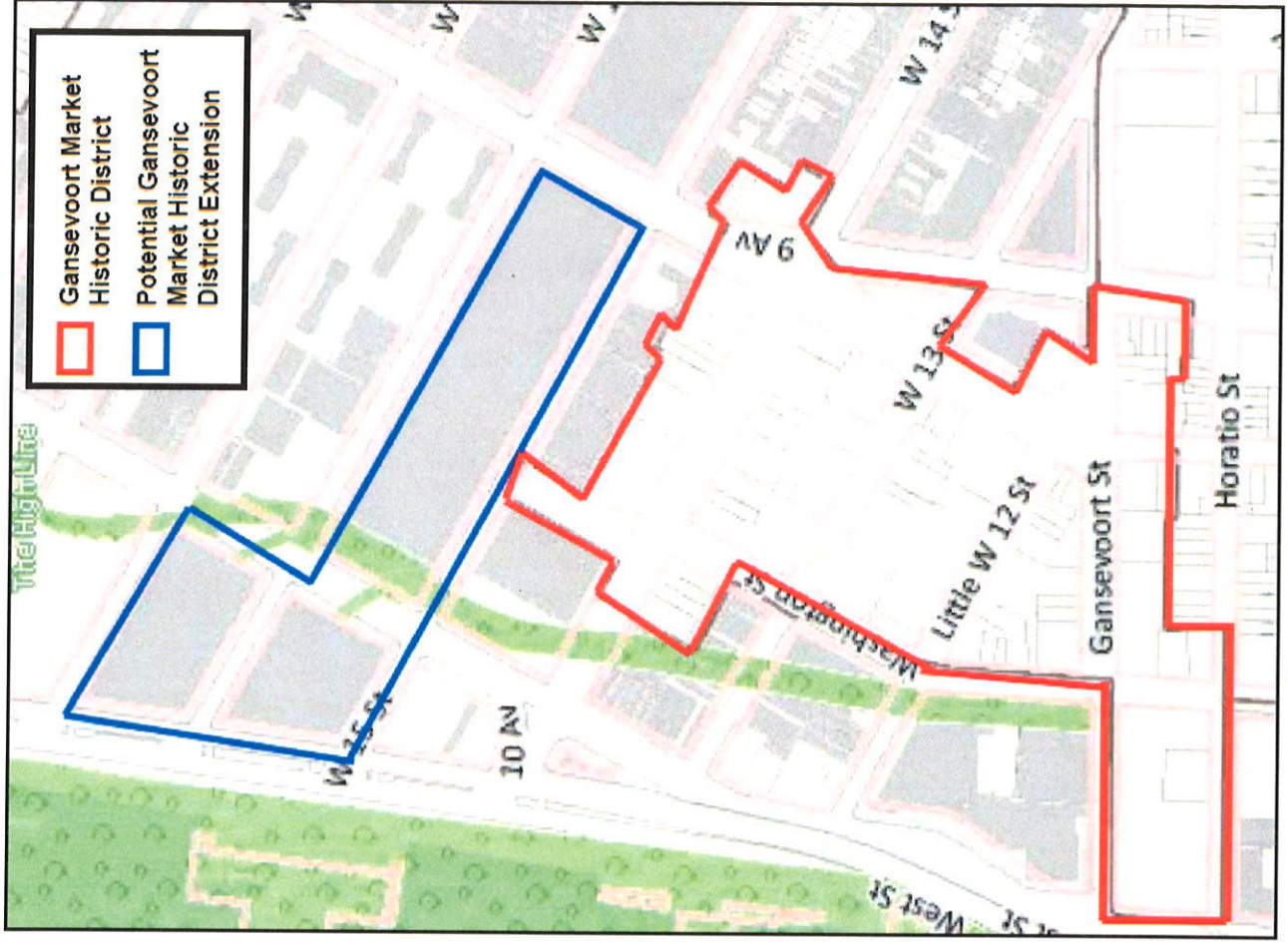
Figure 7



Bridge over West 15th Street between 9th and 10th Avenues, Chelsea Market on left side



Bridges over 10th Avenue between Chelsea Market and 85 10th Avenue



Source: NYC Oasis w/ CB4 edits

Borough President Recommendation

City Planning Commission
22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application #: N 120142 ZRM and C 120143 ZMM

Docket Description:

N 120142 ZRM and C 120143 ZMM - IN THE MATTER OF an application submitted by Jamestown Premier Chelsea Market, LP seeking an amendment of the Zoning Map, Section No. 8b, by establishing a Special West Chelsea District bounded by West 16th Street, Ninth Avenue, West 15th Street and Tenth Avenue. The applicant also seeks a zoning text amendment to the Special West Chelsea District (ZR § 98) to increase the maximum permitted floor area ratio for the site from 5.0 to 7.5 in exchange for a contribution to the High Line Improvement Fund and the construction of High Line amenities. The zoning text amendment would also establish specific height, setback, and other building envelope controls that would govern development on property located at 75 Ninth Avenue (Block 713, Lot 1), in an M1-5 District, Borough of Manhattan, Community District 4.

COMMUNITY BOARD NO: 4

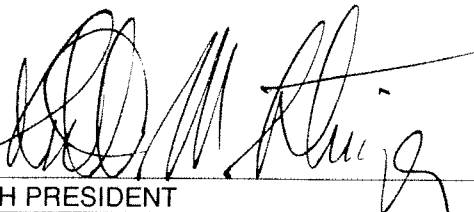
BOROUGH: Manhattan

RECOMMENDATION

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE
- DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See Attached


BOROUGH PRESIDENT

July 18, 2012
DATE



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT STRINGER
BOROUGH PRESIDENT

July 18, 2012

Recommendation on
ULURP Application Nos. N 120142 ZRM and C 120143 ZMM
Chelsea Market Expansion
by Jamestown Premier Chelsea Market, LP

PROPOSED ACTIONS

Jamestown Premier Chelsea Market, LP (“the applicant”) seeks an amendment of the Zoning Map, Section No. 8b, by establishing a Special West Chelsea District bounded by West 16th Street, Ninth Avenue, West 15th Street and Tenth Avenue, Borough of Manhattan, Community District 4. Further, the applicant seeks a zoning text amendment to the Special West Chelsea District to increase the maximum permitted floor area ratio for the site from 5.0 to 7.5 in exchange for a contribution to the High Line Improvement Fund and the construction of High Line amenities. The zoning text amendment would also establish specific height, setback, and other building envelope controls that would govern development on the project site. The City Planning Commission (“CPC”) issued a negative declaration for this application on April 9, 2012.

PROJECT DESCRIPTION

The applicant seeks a zoning text and map amendment to facilitate the expansion of the Chelsea Market at 75 Ninth Avenue. As certified by the CPC on April 9, 2012, the proposed expansion consists of three components: (1) an approximately 240,000-SF office addition to the westernmost portion of Chelsea Market alongside 10th Avenue; (2) an approximately 90,000-SF addition above the portion of the complex at 9th Avenue and West 16th Street; and (3) High Line amenities, including restrooms, a freight elevator and support space, as well as a contribution to the High Line Improvement Fund.

Existing Chelsea Market

The Chelsea Market complex consists of 18 individual buildings with origins in New York City’s industrial past. The complex was originally assembled by the National Biscuit Company (later Nabisco) beginning in 1898. The baking company expanded to nearby sites, which were

ultimately connected by pedestrian bridges. Although Nabisco incrementally redeveloped the entire block, a significant transformation took place in 1934 with the replacement of buildings at the western edge of the site with a new structure that enabled an elevated freight line (now the High Line) to pass through the building. Following Nabisco's departure in 1959, the complex continued to house light manufacturing until it was redeveloped in the 1990s as an office and retail complex. Due to the site's history, Chelsea Market is in the State and National Registers-designated Gansevoort Market Historic District.

Chelsea Market is located on a 165,200-SF lot (Block 713, Lot 1) and is bounded by 9th and 10th avenues, and West 15th and 16th streets. The lot constitutes an entire city block. The project site currently houses approximately 164,755 SF of retail, wholesale and production space on the ground level, 751,042 SF of office space on upper floors and 165,000 SF in the basement level. Existing structures are built to an approximate 5.4 floor area ratio ("FAR"). The entire lot is in an M1-5 zoning district, which permits a maximum 5.0 FAR.

The Chelsea Market complex now consists of a diversity of uses. The first and cellar levels are predominantly occupied by retail and wholesale businesses. The ground floor of the complex features an internal "concourse" or arcade that connects 9th and 10th avenues with concourse-facing shops and restaurants. Roughly 85% of the concourse space is food-related, including retail, restaurant, wholesale and production space. The remaining 15% of the area is non-food related retail and service space for office tenants. Additionally, there are four avenue-facing retail spaces that are excluded from these calculations. The upper floors of Chelsea Market consist of offices and television studios occupied by technology, media and software development firms.

Proposed Action

The application proposes an alteration of the zoning map to extend the Special West Chelsea District ("SWCD") southward to include Block 713. The proposal maintains the existing underlying M1-5 district designation over the entire project site. The associated zoning text changes propose to:

- create "Subarea J" in the Special District to govern the Chelsea Market block;
- increase the permitted floor area ratio of Subarea J from 5.0 FAR to 7.5 FAR by making the site eligible for the High Line Improvement Bonus;
- establish height, setback and building envelope controls in Subarea J;
- require a contribution to the High Line Improvement Fund in the amount of \$58.08 per square foot of added floor area, which shall be adjusted annually proportionate to the Consumer Price Index;
- require the provision of High Line Support Easement Volumes within the Tenth Avenue Zone to include: male and female public restrooms, 2,400 to 3,000 SF of support space adjacent to the High Line, 800 to 1,000 SF of support space in the cellar, and a freight elevator;
- offer an optional additional 7,500 SF space for the High Line at fair market value, which if exercised, would be deducted from the High Line Improvement Fund contribution;
- allow museums and non-commercial art galleries (from Use Group 3) as-of-right, although the applicant does not include such uses as part of the application; and

- exclude Subareas H, I and J from the requirement to provide an easement volume for pedestrian access to the High Line.

While the existing zoning has no height limits, the proposed zoning map change and text amendment create specific zoning envelopes to control building form. Within 200 feet of 10th Avenue, buildings will be required to have a 15-foot tall recess above the existing buildings. The 10th Avenue building may then rise to 185 feet without setback, 200 feet after a 10-foot setback, and 230 feet after a second 25-foot setback. Within 150 feet of 9th Avenue, buildings may rise to 130 feet without setback and reach 160 feet after a 5-foot setback on 9th Avenue and a 15-foot setback on West 15th and 16th streets. In the mid-block, the zoning envelope permits a maximum streetwall of 130 feet without setback and a maximum height of 150 feet after a 20-foot setback. While not yet reflected in application materials, Community Board 4 received an e-mail dated June 7, 2012 from the applicant stating a commitment to reduce the 9th Avenue maximum building height to 140 feet and reduce the mid-block maximum streetwall and building heights to 100 feet and 130 feet respectively.

The proposed project, however, only anticipates development in two areas. The first addition is proposed on the northeast corner of the block, which currently includes two buildings that measure 26 feet and 51 feet in height and is often referred to as the “missing tooth” in the complex. This corner is proposed to be filled in by an approximately 90,000-SF, 11-story addition above the existing one- and three-story buildings, which would produce a 160-foot height after setback at 130 feet, equal to 12 stories.¹ The second addition is proposed for the western 200 feet of 10th Avenue. The nine-story structure would be built over the existing 84-foot tall structures to reach 16 stories. The proposed addition would add approximately 240,000 SF and reach 230 feet after required setbacks at 185 and 200 feet.² The zoning envelope also requires a 15-foot tall recess between the original building and extension along much of 10th Avenue. No structures are currently proposed in the mid-block where heights range from 86 to 112 feet. The application does not propose any accessory parking.

The 10th Avenue addition is proposed to house additional office space, potentially for the expansion of existing tenants. The 9th Avenue extension was intended for hotel use in the original application materials; the applicant has since committed to prohibiting hotel use and proposes office use instead.³

Background to the Special West Chelsea District

Adopted by the City Council in 2005, the Special West Chelsea District was designed to promote residential and commercial development, facilitate the transformation of the elevated rail structure into the High Line park and fortify the area’s art gallery district. It is generally bound by 10th and 11th avenues, and West 16th and 30th streets. Through both building envelope controls and incentive mechanisms, the SWCD was designed to move bulk away from the High

¹ May 31, 2012 renderings by the applicant show the 9th Avenue expansion totaling 77,240 SF with a streetwall and building height of 123’ and 135’ respectively.

² July 10, 2012 renderings by the applicant show the 10th Avenue expansion totaling 232,000 SF with a streetwall of 184’, a height of 197’ after setback and a building height of 226’ after a second setback.

³ Letter from applicant to Community Board 4 dated June 6, 2012.

Line to afford views, light and air to and from the park. The Special District introduced several zoning mechanisms to preserve the High Line and foster a superior open space. Specifically, the text creates the High Line Transfer Corridor and the High Line Improvement Bonus. The High Line Transfer Corridor allows development rights from properties beneath and to the west of the rail structure to be transferred to designated areas within the district. The High Line Improvement Bonus permits density bonuses on certain sites in exchange for monetary contributions to a dedicated capital improvement fund and the provision of amenities related to operations of the park.

Area Context

The subject site is at the threshold of the Meatpacking District to the south and Chelsea to the north. Chelsea Market shares in the Meatpacking District's industrial history, particularly as a hub for food production and distribution from the late 19th century to the 1950s. The Meatpacking District, which includes the historic Gansevoort Market, maintains a low-rise character with many decades-old industrial buildings still intact yet repurposed. The blocks south of Chelsea Market to Gansevoort Street include a mixture of commercial and manufacturing uses including boutique retail, restaurants, bars, hotels, office space, creative studios, parking lots and garages, a lumber yard, and gas stations.

The Chelsea neighborhood to the north is distinctly more residential. The four blocks to the north of the project site are largely occupied by the Robert Fulton Houses, an apartment complex managed by the New York City Housing Authority. The Caledonia, a 250-foot tall apartment building across West 16th Street, was built pursuant to SWCD envelope regulations and the High Line Improvement Bonus. Blocks to the east consist of a more finely grained building stock of row houses, apartment buildings and schools, with the exception of the Port Authority Commerce Building, a 2.8 million square foot office building across 9th Avenue. The blocks between 10th Avenue and the Hudson River are also occupied by industrial warehouses with large footprints that have been converted to offices and mini storage.

Open spaces nearest Chelsea Market include the High Line elevated park, which passes through the project site, 14th Street Park on a trapezoidal block southwest of the site, and the Dr. Gertrude B. Kelly Playground between West 16th and 17th streets just west of 8th Avenue. The shadow analysis in the Environmental Assessment Statement (EAS) associated with this application found that the proposed project would cast incremental shadows on the High Line for a maximum of four and half hours on December 21st. The area in shadow during this time includes the 10th Avenue Viewing Square to the north of the project site. Additionally, the study found that the proposed development would cast incremental shadows on smaller areas of the High Line and 14th Street Park during other days of the year. These incremental shadows were found to not constitute significant adverse impacts.

Chelsea Market is accessible by public transit, with several major MTA subway stations along West 14th Street, including the A, C, E, L trains at 8th Avenue; the 1, 2, 3 trains at 7th Avenue; and F, M, L trains at 6th Avenue. There are several nearby NYC Transit bus routes, including the M11 that stops in front of the complex on 9th and 10th avenues and the 14th Street M14A/D. There is also a dedicated bike lane on 9th Avenue from West 14th to 30th streets. The EAS found

that the addition of up to 359,000 SF of commercial space at the project site will not result in significant adverse impacts on public transit given the distribution of riders among West 14th Street subway stations and vehicular trips would not exceed the threshold necessary to warrant additional impact analyses.

COMMUNITY BOARD'S RECOMMENDATION

At its Full Board meeting on June 6, 2012, Community Board 4 ("CB4") recommended conditional disapproval of this ULURP application by a vote of 26 in favor and 14 opposed. Following a series of Board-led public forums, deliberations by the Chelsea Preservation and Planning Committee and a public hearing on May 2, 2012, the Board's vote represents a culmination of informed reflection, intensive analysis and transparent debate.

In its resolution, CB4 formulated a threshold condition of two tiers.

First, the Board recommended denial of the project as it does not create affordable housing equal in floor area to 27% of the floor area of any additions. Second, if mitigation is found on the affordable housing, Community Board 4 recommends disapproval unless the following conditions are met:⁴

- Ninth Avenue Zone: the proposed text is amended to reflect a maximum streetwall height of 123 feet and maximum building height of 135 feet with setbacks of 5 feet on 9th Avenue and 15 feet on West 15th and 16th streets;
- Tenth Avenue Zone: the proposed text is amended to reflect a maximum streetwall height of 170 feet and a maximum building height of 184 feet with a 35-foot setback, obstructions other than those in ZR § 33-42 are allowed in the recess to mitigate the "floating" effect of the addition over the existing building, and a written commitment from the applicant to further discuss façade and recess treatments;
- Mid-Block Zone: the proposed text is amended to reflect a maximum streetwall height of 110 feet and a maximum building height of 130 feet with a 20-foot setback;*
- The restrictive declaration requires that 60% of ground floor space, excluding the four corners, be used for food-related uses;
- The restrictive declaration prohibits hotel and outdoor eating and drinking establishments;*
- The applicant does not oppose efforts to landmark the building, provided stipulated conditions are met;*
- The applicant uses best efforts to conform to, at minimum, LEED Silver standards when constructing the proposed additions;*
- The applicant agrees to comply with the Department of Environmental Protection Draft Rule to detain storm water and to use best efforts to retain storm water for at least one inch of rainfall over the entire site;
- The applicant agrees to form a Construction Task Force; and
- The applicant agrees to fund a Technology Jobs Training Center in the Chelsea Market

⁴ In a letter to Community Board 4 dated June 6, 2012 and e-mail to Robert Benfatto dated June 7, 2012, the applicant committed to several of CB4's conditions, as indicated by an asterisk (*).

complex for neighborhood residents and work with local public schools to provide aid and internship opportunities; and

- The applicant agrees to support a Jobs Program for Chelsea Market and to work with CB4 in its implementation.

The Board further seeks a commitment from the city to study the expansion of the SWCD to four stipulated areas to preserve neighborhood character and to expand the New York City Gansevoort Market Historic District to include the Chelsea Market complex, 85 10th Avenue and 99 10th Avenue.

BOROUGH PRESIDENT'S COMMENTS

Over the last several decades, New York City has experienced a rapid expansion of its technology and new media sectors. Silicon Alley, which includes neighborhoods like Chelsea, the Flatiron District, SoHo and Tribeca, has become competitive on a national and global scale. The continued expansion of these industries is critical to allow the city to compete against its national and world-wide counterparts and New York must create conditions that ease the challenges of finding space for new and growing firms to locate. These industries will not only diversify the local economy, but also spur innovation in all sectors, attract new companies and assist in attracting the best and brightest to New York City.

The existing Chelsea Market office space has become a desirable location for technology and new media sectors. Chelsea Market has undoubtedly succeeded in part because of its proximity to a concentration of creative sector offices; easy access to lower Manhattan and Midtown through mass transit connectivity; and the cultural status the ground level market has achieved since the 1990s. The success of Chelsea Market has resulted in a low vacancy rate and the proposal seeks to expand on this demand. The applicant expects the proposed development will result in benefits to the overall citywide economy of \$311 million from the design and construction of the project and \$660 million annually from ongoing operations.⁵

Further, the applicant will contribute approximately \$19 million to the High Line Improvement Fund as well as provide additional amenity space. The High Line Improvement Fund is managed by the city and used for capital projects to maintain the rail structure and safeguard the park. Since its opening in 2009, the High Line has become one of the most heavily trafficked destinations in New York City by both local residents and tourists. It sees 1.5 million visitors each year, a number that far exceeds the anticipated 300,000 visitors when it was conceived.⁶ The five-acre park is more than a meeting place – the High Line runs over 350 public programs each year, commissions and produces public art, and hosts mentoring and youth programs for local teens. While the original mapping of the Special District created the conditions necessary to preserve the rail track and provided funding for the park, the scale of the High Line's success brings with it a new set of needs and considerations.

While the potential economic impact of the Chelsea Market expansion will undoubtedly provide a financial benefit to New York City, it must co-exist with, not overwhelm, the local

⁵ Appleseed. "The Economic Impact of the Proposed Chelsea Market Expansion." 8 September 2011.

⁶ Humm, Andy. "Crowds, Development and Concerns." *The Villager*. 4 July 2012.

neighborhood. This principle is essential not only for local residents but for the city at large. People are drawn to New York not only for economic opportunity but also for the quality of life found in living in distinctive, historic neighborhoods, such as Chelsea.

Over the last several months, the community has expressed concern regarding the potential addition of 330,000 SF of commercial space. Specifically, neighborhood residents are troubled by the project's potential to exacerbate traffic conditions, create crowded sidewalks, increase subway congestion, and compromise general quality of life. Community members see the rapid expansion of new businesses and office tenants as tipping the balance of a chiefly residential community to a high-profile commercial and tourist district.

Specifically, neighborhood residents have expressed concerns about:

- the shadow and view corridor impacts from the additional height and bulk over the Chelsea Market buildings, specifically over 10th Avenue and the High Line;
- the project failing to adhere to the SWCD principles;
- the potential loss of existing ground floor uses in the Chelsea Market, which remain unprotected;
- the potential impacts from a new hotel in the neighborhood;
- the potential nuisance from new rooftop eating and drinking establishments;
- the lack of protection for the historic Chelsea Market buildings, which could be demolished;
- the compatibility of the proposed design, as reflected in renderings presented by the applicant, with the Chelsea Market complex and surrounding buildings;
- the project's limited community integration or benefit beyond the High Line improvements; and
- the potential precedent of the proposed project and the vulnerability of nearby sites to out-of-context development.

Height

Appropriateness of Tenth Avenue

The majority of the proposed expansion of Chelsea Market is sited in the Tenth Avenue Zone. Currently, the proposed text amendment will allow an addition of approximately 240,000 SF over the westernmost buildings in the complex with a maximum height of 230 feet after two setbacks and the inclusion of a 15-foot high recess between the existing structures and the new construction above.

The applicant's proposed height is intended to be a reflection of surrounding buildings. Notably the applicant cites 85 10th Avenue (180 feet) immediately across the street from the project site; 99 10th Avenue (160 feet) catty-corner from the site; and the Caledonia (250 feet) directly north of the site. Two of the buildings cited above, however, are grandfathered, non-complying building forms and the Caledonia was specifically designed to have a low streetwall in the SWCD to reflect 85 and 99 10th Avenues and the existing Chelsea Market building.

Furthermore, no consideration is made in the proposed envelope to meet the context of the block immediately to the south of the site, which consists of one- to eight-story buildings and a public park located across 10th Avenue between 14th Street and 15th Street. Intuitively, an enlargement of nine stories (146 feet) over an existing seven-story (84 feet) building contradicts the logical distribution of bulk. The addition, as rendered by the applicant, echoes the bulk of the building below, but is taller, which creates a visual imbalance.

The proposed height on 10th Avenue contradicts many of the goals of the SWCD and the principles that prompted the Caledonia's design. SWCD bulk regulations generally require that building frontages nearest the High Line rise no higher than the level of the park, and that higher portions of buildings are set back at a minimum distance. The 2005 CPC report creating the SWCD not only identifies a building form that positions height and mass away from the High Line, but also creates mechanisms to transfer density away from the open space. The proposed development would be the only structure approved in the SWCD that shifts the majority of bulk towards, not away from, the High Line.

While the Caledonia was allowed to rise to 250 feet at its highest point, the frontage nearest the High Line is 120 feet tall and the 250-foot tower is set back towards the middle of the block on the south side of West 17th Street, away from the High Line. The 2005 CPC report describes the consideration that allowed the building form for the Caledonia (Subarea I of the SWCD):

“The Commission believes that the proposed base height of 120 feet adjacent to the High Line is appropriate and is consistent with the loft buildings that occupy the other three corners of the West 16th Street intersection with Tenth Avenue. At the same time, the Commission believes that an addition to the base height along West 16th Street would, in combination with the very high streetwall of the Chelsea Market building on the south side of 16th Street, compromise the pedestrian experience.”

This excerpt makes two statements about Chelsea Market's height in relation to surrounding buildings and the prospective development on the north side of West 16th Street. First, the CPC acknowledges that Chelsea Market, 85 10th Avenue and 99 10th Avenue present a benchmark for new construction and suggest an appropriate height relative to the High Line that they surround. Second, the CPC recognizes Chelsea Market's already high streetwall and uses the streetwall height to determine appropriate nearby building forms. Altering Chelsea Market's streetwall on 10th Avenue and West 16th Street undermines the original planning rationale for the Caledonia.

Given the CPC's previous position that a new building with a streetwall height greater than 120 feet at the corner of West 16th Street and 10th Avenue would compromise the pedestrian experience, the proposed 230-foot high building with a 185-foot streetwall is excessive.

While 10th Avenue is defined by its proximity to the High Line, the 14th Street Park and carefully crafted building forms, 9th Avenue has a very different character. Chelsea Market is directly across 9th Avenue from the 275-foot tall 111 Eighth Avenue, constructed by the Port Authority, and south of the Fulton Houses, a four-block New York City Housing Authority complex with buildings that rise to 220 feet.

9th Avenue is a more appropriate location for density than 10th Avenue. However, the maximum height recommended by CB4 for 10th Avenue is still appropriate on 9th Avenue. CB4 has recommended a maximum building height of 184 feet after a setback at 170 feet. It implies a reduction of 46 feet and approximately three stories from the current 10th Avenue addition. A 170-foot streetwall on 9th Avenue with a maximum building height of 184 feet will allow the development to step down from the taller 111 Eighth Avenue and Fulton Houses to lower-scale buildings in Chelsea Market's mid-block as well as buildings on the block to the south.

Additionally, shifting the bulk to 9th Avenue would protect the High Line's view corridors, improve access to light and air, and reduce the canyon-like effect near popular High Line amenities like the 10th Avenue Viewing Square.

While this significant change needs to be evaluated to determine if it is in scope, it should minimize, not increase, impacts. The original application was issued a Negative Declaration; shifting bulk should not result in any additional density-related impacts. Additionally, the proposal moves mass away from two public parks, which should diminish shadows on both. Finally, because the M1-5 district is not subject to height limits, the movement of bulk to 9th Avenue should be in regulatory scope. A more detailed analysis should be performed to assess all potential environmental and regulatory impediments.

The applicant is already proposing an addition of one- and three- story buildings on 9th Avenue. The recommendation to build an addition only on 9th Avenue simplifies the challenges of developing on two segments of the complex.

For all the reasons stated above, the applicant should explore moving density from 10th Avenue to 9th Avenue. The 9th Avenue enlargement better reflects the original intent of the SWCD, respects the low-rise buildings to the south, shifts density away from the High Line, and does not compromise the pedestrian experience. Whether or not the proposed shift to 9th Avenue proves to be in scope, the proposed streetwall height should be no higher than 170 feet and the building should rise no higher than 184 feet.

Mid-Block Zone

Existing buildings in the Mid-Block Zone vary in height from 86 to 112 feet. The proposed text amendment will set height controls with a maximum streetwall at 130 feet with a 20-foot setback and a maximum height of 150 feet. While the applicant does not currently plan any construction in the mid-block, the building envelope is larger than the existing condition.

This discrepancy in proposed and existing building heights could encourage the demolition of existing sound buildings, which would greatly increase the impact of any proposed development. As the applicant is currently only bound by the zoning envelopes and not the site plans, such a demolition will be possible as-of-right without modification to the plan.

The applicant has committed to CB4 to lower the proposed envelopes to a 100-foot streetwall with a 20-foot setback and a 130-foot maximum building height. This envelope is consistent

with the existing conditions and is therefore appropriate to discourage demolition of the existing buildings.

Density

While much of the discussion concerning the appropriateness of the Chelsea Market proposal has been around its height, the massing of the planned additions is a direct result of the proposed increase in permitted density on the project site from 5.0 FAR to 7.5 FAR. The current Chelsea Market occupies one city block and one zoning lot, which is built to 5.4 FAR and already exceeds the permitted floor area.

The proposed density will permit 1,239,000 SF over the Chelsea Market block, which is 477,000 SF greater than Subarea H – one of the highest densities in the district. Moreover, the proposal will yield an additional 120,000 SF more than the two blocks to the north.

A 7.5 FAR over an entire city block is inconsistent with the permitted densities in the Special District and needs to be revisited.

In considering the appropriateness of any proposal to incorporate a new block within the SWCD, it is necessary to understand the objectives of the district. The permitted densities in the SWCD vary along the length of the High Line; many are specific to the conditions in and intentions for the respective Subarea. Generally, the maximum permitted densities are 5.0, 6.0 or 7.5 FARs. Two areas are permitted higher densities— Subarea A, south of the Western Rail Yards, and Subarea H, west of 10th Avenue between West 17th and 18th streets.

Looking more closely at the distribution of high densities in the SWCD, it becomes apparent that the southern Subareas subject to FARs of 7.5 are substantially less than a full city block. Similarly, the highest permitted density in the southern part of the district, Subarea H, is an irregular, small city block with significant bulk controls to keep density away from the High Line. Subarea I, to the north of the site, is comprised of the western halves of two blocks adjacent to the High Line; the eastern halves are occupied by the Fulton Houses, a New York City Housing Authority complex, which are outside of the Special District and subject to a 6.0 FAR.

The two halves in Subarea I measure approximately 82,000 SF and 76,000 SF, where a 7.5 FAR applies. Similarly, the largest density in the southern part of the Special District, Subarea H, includes a 76,245-SF lot. The applicant proposes a 7.5 FAR across the entirety of the Chelsea Market zoning lot, which is 165,200 SF.

The prescription of floor area to a site of 70,000 to 80,000 SF is different from an equivalent FAR on a site that is 165,200 SF. Therefore, the proposed density should be reduced to lessen impacts, reduce the overall bulk and bring the development in line with the rest of the SWCD.

Proposed Uses

At certification, the applicant's proposed use in the Ninth Avenue Zone included a hotel. A hotel

use is permitted as-of-right in an M1-5 zone. From the outset of the proposal, a hotel use raised significant concern given the high amount of traffic hotels can generate. Residents are concerned that the high number of hotels recently developed in the area risks over-saturating the neighborhood. Further, many hotels have opted to include outdoor eating or drinking establishments on setback and roof areas, which conflicts with residential uses.

Since certification, the applicant has committed not to pursue a hotel use or outdoor eating and drinking establishments. However, under the proposed zoning text, hotel uses will still be permitted as-of-right in the additions or within any portion of the existing complex. To prevent future conversion, the text should be modified to allow hotel uses in this portion of the SWCD only by special permit, as has been implemented in other areas of the city.

Historic Preservation

Preserving existing Chelsea Market buildings

The 2007 designation of the Gansevoort Market Historic District to the State and National Registers of Historic Places (S/NR) identifies the Chelsea Market complex as a contributing resource to the district. The New York City Landmarks Preservation Commission (LPC) also designated the Gansevoort Market Historic District in 2003, but the Historic District covers a smaller area and excludes the Chelsea Market block. Community groups submitted a Request for Evaluation to LPC in 2011 seeking an extension of the New York City historic district to include the complex; this application was denied.

The Historic Resources attachment in the Chelsea Market Expansion EAS states that, “while the proposed project would not remove or substantially alter the existing project site buildings’ historic façade, it would have a substantial effect on the appearance and function of the project site.” In spite of the recognition that the proposed heights are “substantially taller than the historic buildings of the Gansevoort Market area to the south,” the EAS claims the project will not result in significant adverse impacts on historic resources.

However, the EAS does not analyze the potential for the entire site to be demolished and reconstructed under the new zoning envelope. While this scenario may be unlikely under existing zoning as the site is currently overbuilt, the zoning map and text amendments do not secure the existing buildings from substantial change or even demolition. Instead, the zoning creates additional FAR and development potential which could result in the demolition and redevelopment of any portion of the site. Demolition of these sites will have a significant impact with the loss of an S/NR historic resource.

CB4 requests that the applicant not oppose efforts to landmark Chelsea Market’s building exterior and related bridges. The applicant has agreed to this request with a few conditions that protect the planned development from being impeded by the pursuit of landmark status. While LPC designation would protect existing Chelsea Market buildings from substantial alteration or demolition, the LPC has twice before omitted the buildings from the historic district and the application process may take years.

The EAS states that a restrictive declaration will be recorded against the property requiring the CPC Chair to determine that the final design plans for the 10th Avenue extension are consistent with the submitted Concept Plan. The EAS, however, offers no protections for the rest of the Chelsea Market.

Therefore, to prevent a significant adverse impact on historic resources, any proposed development on the Chelsea Market site must stipulate preservation protections for all existing buildings that comprise the Chelsea Market complex in the restrictive declaration.

Improving compatibility of additions

During discussions with the applicant, CB4 was instrumental in fine-tuning the façade treatments of the 9th Avenue and 10th Avenue enlargements. The 9th Avenue façade and building massing dated May 31, 2012 appropriately relate to neighboring buildings. The 10th Avenue addition had become more aesthetically acceptable to the Board over time, though both the community and the Board have expressed a need for further refinement of the design, including revisiting the proposed recess separating the existing and the new building.

If the shift of bulk to 9th Avenue proves to be in scope, the same consideration should be given to a 9th Avenue addition.

As any proposed addition will modify the historic character of the buildings below, finding appropriate treatment of not only bulk but materiality, fenestration and architectural features is essential to prevent any impact on historic resources. As such, the restrictive declaration must make clear the parameters under which development could occur, including the façade treatment of any proposed addition. Further, any addition should not only require certification by the CPC, but should also be referred to and developed in consultation with CB4 prior to issuing any building permits. The referral process would allow for community review of the proposed design.

Affordable Housing

Affordable housing continues to be a major concern in Manhattan and throughout the city. Market rents in Chelsea currently average \$2,700 for a studio, \$3,600 for a one-bedroom and \$6,300 for a 2-bedroom apartment. The trend of exponentially increasing rents has resulted in the displacement of many long-time residents and prevents new residents from moving into Chelsea and neighboring communities.

The project does not generate residential units and does not have 'secondary displacement impacts' where residents are expected to be displaced by the proposed development. Therefore, affordable housing cannot be required as mitigation as it lacks a nexus with the project. However, as the applicant seeks a bonus to achieve an increase in density, affordable housing could be provided as part of a policy decision to incentivize the development in exchange for affordable housing. As a matter of citywide policy, affordable housing bonuses are not typically applied to manufacturing districts; however, the inclusion of the site in a special district provides the opportunity to subject the site to an affordable housing bonus without setting citywide policy.

Special districts allow regulations to be created for specific areas without affecting citywide zoning.

The City Council, Mayor's office and city agencies recognized the critical need for affordable housing in Chelsea in 2005 during the original SWCD approvals. The city amended the SWCD to include affordable housing provisions in the form of inclusionary housing, public subsidy programs, development of public sites, an Affordable Housing Fund and preservation measures. Together, these specifications projected that 27% of units resulting from the Special District will be affordable. The Mayor codified the commitment in a letter known as the "points of agreement." For many members of the community and local stakeholders, the inclusion of the affordable housing was a primary consideration in approving the original densities and any new addition in the district should not dilute that commitment.

The Special District text currently includes a bonus structure in which certain sites classified as High Line Transfer Corridor receiving sites are able to add floor area (up to a set amount) in exchange for a contribution to the West Chelsea Affordable Housing Fund, administered by the Department of Housing Preservation and Development and dispersed in Community District 4.

CB4 recommended that the applicant create affordable housing with a floor area equal to 27% of the floor area of any additions to the Chelsea Market. The applicant could meet this goal using the West Chelsea Affordable Housing Fund structure. However, as noted by CB4, if this option is used, the site should be excluded from receiving any additional density from the High Line Transfer Corridor. The High Line Transfer Corridor allows density from under the High Line to be transferred to other sites and the Chelsea Market Proposal is already too dense.

Residential uses are not permitted on the project site and any affordable housing generated by the project would need to be located off-site. As city-owned property is scant, it is essential that the city not simply collect the money for affordable housing and risk not having a place to invest it. If a contribution is made to an affordable housing fund, the city should first identify specific receiving sites prior to granting additional density.

Therefore, the proposed text should be modified to require the applicant to provide funding to the West Chelsea Affordable Housing Fund, provided a receiving site be located in advance of granting any density.

Concourse Preservation

In many respects, Chelsea Market is synonymous with its ground floor concourse. Unlike most New York City office buildings, the complex provides a valuable retail resource, which attracts multitudes of visitors. The motley collection of small, epicurean businesses along the through-block concourse, paired with an idiosyncratic display of art and historic artifacts, lend perfectly to the creative spirit young firms seek in a city like New York.

The potential transformation of Chelsea Market signifies, in many people's minds, the potential loss of the buildings' concourse. Although the subject proposal does not include any modification of the ground level (except for a structural element at the western end of the

concourse), the community, including CB4, recognizes that the concourse itself remains unprotected. As the Chelsea Market concourse has created a unique destination and has become a neighborhood resource, any development proposal should also include appropriate safeguards to prevent its destruction.

Food-related uses

The concourse refers to the ground floor area of the complex that excludes the avenue frontage, or four corner storefronts, and any miscellaneous office support use. The spaces along the concourse face the interior concourse walkway and West 15th and 16th streets. Currently, 85% of the concourse floor area is occupied by food-related uses, which include retail, wholesale and production. Thirteen percent of the concourse is restaurant space. Businesses at the site include a lobster supplier, several bakeries, an Italian specialty grocer, a local cheese producer, a butcher, a creperie, a wine shop, restaurants, a florist and a bookshop. With food television studios above, Chelsea Market has become a premier food destination.

The applicant has committed that “at least 50% of the retail establishments fronting only on the concourse be dedicated to food-related uses, with 50% measured both in terms of rentable square feet and linear frontage....”⁷ This is 10% less than the commitment requested by CB4. Additionally, CB4 recommends that food-related regional and national chains be prohibited.

While it is appropriate to exclude the avenue corners, service space and office space from the calculation, restricting the calculation of floor area to just stores fronting the concourse means that areas accessed exclusively from West 15th and 16th streets can be deducted from the eligible floor area. The calculation creates a potential loophole, where the ground floor could be reoriented to provide access from the side streets rather than the interior concourse, thereby reducing the space that is subject to the requirement. Additionally, the commitment does not specifically require retail use on the ground floor and creates the potential for the owner or a future owner to close the market. Without the requirement that a percentage of floor space be dedicated to retail, the market remains unprotected.

In the interest of preserving this unique community resource, food-related uses on the ground floor of Chelsea Market must be preserved. The restrictive declaration should require that at least 50% of the entire ground floor be dedicated to retail. Additionally, 60% of the retail, calculated by square footage, excluding the four corners, should be restricted to food-related uses.

To continue to provide opportunities for unique small businesses, the restrictive declaration should restrict national and regional chain stores. If such a provision proves infeasible, then the city should consider restricting the total number of stores exclusively dedicated to restaurants, which would reduce the number of regional and national chains able to occupy the space. Such a provision would encourage the continued occupation of the space by unique food retailers, wholesalers and manufacturers.

Public art

⁷ Letter from applicant to Community Board 4 dated June 6, 2012.

The second ingredient in the success of Chelsea Market's concourse is the intermittent display of public art and historic artifacts along the arcade. The pieces vary from photographs, to hanging sculptures, to a small exhibit illustrating the buildings' history. Currently, two retail spaces, including one on 10th Avenue, are being occupied by an art gallery and a selection of small, independent craftspeople.

As part of its purpose, the SWCD aims to, "encourage and support the growth of arts-related uses in West Chelsea." While the applicant does not propose to include art gallery space as part of the subject proposal, the existing character of the concourse is defined in part by its public art. To maintain the unique character of the Chelsea Market ground level, it is appropriate that an element of public art is maintained.

The restrictive declaration should require no less than 10% of the ground floor internal concourse wall area, excluding areas of doors and windows, be used to showcase art and non-commercial information, such as the display of Chelsea Market's history. Art displayed should regularly rotate and should feature work produced by New York City artists.

Economic Development Opportunities

"The Economic Impact of the Proposed Chelsea Market" report commissioned by the applicant indicates that the planned new office space will be occupied by industries that are among the highest-paid and most productive in the city. Further, employment in technology and media sectors represents a unique opportunity to enter a career with the potential for advancement across multiple fields. While Chelsea is fortunate to attract investment by profitable, cutting-edge firms that provide lucrative jobs, the economic benefits of the jobs are not necessarily available to all residents of the community.

Employment in technology and media companies requires a varied level of training and education, but competition for these jobs remains high. Therefore, it is essential that residents of Community District 4 are provided with the opportunity to compete for these jobs, which requires training, working with local schools, and notifying local residents when jobs become available.

The proposed project should include a technology lab, training programs, and incubator space for small firms. Additionally, the applicant should work with local schools to offer programs and internships that complement the existing technology, media and food related uses. Finally, the Market should create a jobs program, which includes posting job openings to CB4's website, periodic job fairs and continued work with current and future tenants to identify ways to hire employees residing in CB4.

By including residents in the proposed program, the project would not only benefit the larger community but assist in integrating neighborhood residents with the office complex.

Construction

In any large scale project, construction will affect the quality of life of nearby residents. The proposed project presents unique construction impacts as the majority of construction is proposed over a popular public park. While not currently contemplated in the EAS, if construction were to occur over 10th Avenue, it could result in the temporary closure of portions of the High Line for safety reasons. Even if a temporary closure was not required, the noise from construction could render portions of the park unusable.

Therefore, it is essential that the applicant creates a careful construction mitigation plan that includes noise, air quality and traffic. Beyond the construction mitigation plan, the applicant must participate in a Construction Task Force prior to and during any construction cycle. Additionally, the applicant should create a single point of contact for residents or CB4 should problems arise during construction. Finally, the applicant should create and maintain a construction website, which would inform the public of upcoming construction-related activities and ensure that residents are not unduly disturbed.

Environmental Sustainability and Storm Water Management

The total impacts of large scale development are often not felt immediately but rather decades later through issues such as storm water, energy consumption, and greenhouse gases. Projects such as the Chelsea Market expansion have the opportunity to lessen these impacts through development of environmentally sustainable buildings. The applicant has agreed that additions to the Chelsea Market will be constructed to meet, at minimum, a LEED Silver certification.

Additionally, as the proposed project is commercial and does not include open space, its impacts on the combined sewage/storm water system will be greater than other similar projects. The applicant should comply with the Department of Environmental Protection Draft Rule to detain storm water, releasing it at a rate of 0.25 cubic feet per second per acre on the site, and use best efforts to retain storm water for at least one inch of rainfall over the entire site. By detaining storm water, the applicant would assist in preventing sewage overflow into the Hudson River.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends conditional disapproval of ULURP Application Nos. N 120142 ZRM and C 120143 ZMM unless:

- 1. the applicant explores shifting the proposed addition from 10th Avenue to the 9th Avenue section of the Chelsea Market complex;**
- 2. any addition, whether constructed on 9th or 10th avenue, reflects a building envelope with a streetwall no higher than 170 feet and a building height no higher than 184 feet to better reflect the intent of the SWCD and the existing built character;**
- 3. the Mid-Block Zone zoning envelope is lowered to reflect the existing buildings;**
- 4. the proposed density of the project is reduced to better reflect the SWCD;**
- 5. the text is modified to allow hotel uses on the site only by special permit;**
- 6. the existing Chelsea Market buildings are preserved in a restrictive declaration;**
- 7. the restrictive declaration includes specific requirements regarding the materiality, fenestration and architectural features of any proposed extension and the applicant**

- is required to consult the Community Board prior to the issuance of construction permits;
8. the text is modified to require the applicant to provide funding to the West Chelsea Affordable Housing Fund, provided a receiving site is located in advance of granting any density;
 9. the Chelsea Market concourse is preserved by requiring a minimum of 50% of the ground floor is dedicated to retail and 60% of the ground floor retail, excluding the avenue stores, is limited to food-related uses, and no less than 10% of the ground floor internal concourse wall area, excluding areas of doors and windows, is used to display art;
 10. chain retailers are restricted on the site, or the amount of stand-alone restaurant space is restricted to provide continued opportunities for small, independent food retailers, wholesalers and manufactures;
 11. the applicant creates a technology lab to host training and incubator space;
 12. the applicant works with local schools to provide training programs and internships;
 13. the applicant creates a jobs program, which includes posting job openings, periodic job fairs and continued work with current and future tenants to identify ways to hire employees residing in CB4;
 14. the applicant creates a construction mitigation plan, which includes measures for public outreach, and minimizes any potential closure of or impact to public spaces like the High Line; and
 15. the applicant pursues LEED Silver certification and makes best efforts to manage storm water.



Scott M. Stringer
Manhattan Borough President