



CITY PLANNING COMMISSION

May 11, 2011/Calendar No. 13

C 110177 ZMM

IN THE MATTER of an application submitted by the NYC Department of City Planning and Manhattan Community Board 4 pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No 8c:

1. changing from an M1-5 District to an R8 District property bounded by:
 - a. West 52nd Street, a line 200 feet easterly of Eleventh Avenue, West 51st Street, a line 175 feet easterly of Eleventh Avenue, West 48th Street, a line 450 feet westerly of Tenth Avenue, a line midway between West 46th Street and West 47th Street, a line 500 feet westerly of Tenth Avenue, West 47th Street, and a line 100 feet easterly of Eleventh Avenue; and
 - b. West 46th Street, a line 450 feet westerly of Tenth Avenue, West 45th Street, and a line 100 feet easterly of Eleventh Avenue,
2. changing from an M1-5 District to an R8A District property bounded by:
 - a. West 52nd Street, a line 100 feet easterly of Eleventh Avenue, West 47th Street, and Eleventh Avenue; and
 - b. West 46th Street, a line 100 feet easterly of Eleventh Avenue, West 45th Street, and Eleventh Avenue;
3. changing from an M1-5 District to an R9 District property bounded by West 44th Street, the easterly boundary line of a railroad right-of-way, West 43rd Street, and Eleventh Avenue;
4. changing from an M1-5 District to an M2-4 District property bounded by:
 - a. West 52nd Street, Eleventh Avenue, West 51st Street, and a line 150 feet westerly of Eleventh Avenue;
 - b. West 49th Street, Eleventh Avenue, West 47th Street, and Twelfth Avenue; and
 - c. West 47th Street, a line 500 feet westerly of Tenth Avenue, a line midway between West 46th Street and West 47th Street, a line 450 feet westerly of Tenth Avenue, West 46th Street and Eleventh Avenue;

5. changing from an M2-3 District to an M2-4 District property bounded by:
 - a. West 55th Street, Eleventh Avenue, West 52nd Street, a line 150 feet westerly of Eleventh Avenue, West 51st Street, Eleventh Avenue, West 49th Street, and Twelfth Avenue; and
 - b. West 47th Street, Eleventh Avenue, West 43rd Street, Twelfth Avenue, West 45th Street, a line perpendicular to the southerly street line of West 46th Street distant 250 feet easterly (as measured along the street line) from the point of intersection of the southerly street line of West 46th street and the easterly street line of Twelfth Avenue, West 46th Street, and Twelfth Avenue;
6. changing from an M3-2 District to an M2-4 District property bounded by West 46th Street, a line perpendicular to the southerly street line of West 46th Street distant 250 feet easterly (as measured along the street line) from the point of intersection of the southerly street line of West 46th street and the easterly street line of Twelfth Avenue, West 45th Street, and Twelfth Avenue;
7. establishing within a proposed R8A District a C2-5 District bounded by:
 - a. West 52nd Street, a line 100 feet easterly of Eleventh Avenue, West 47th Street, and Eleventh Avenue; and
 - b. West 46th Street, a line 100 feet easterly of Eleventh Avenue, West 45th Street, and Eleventh Avenue;
8. establishing within a proposed R9 District a C2-5 District bounded by West 44th Street, a line 100 feet easterly of Eleventh Avenue, West 43rd Street, and Eleventh Avenue; and
9. establishing a Special Clinton District bounded by the northerly street line of West 47th Street and its westerly and easterly prolongations, the easterly street line of Eleventh Avenue and its northerly and southerly prolongations, the southerly street line of West 45th Street and its easterly prolongation, a line 100 feet westerly of Eleventh Avenue, the southerly street line of West 44th Street, a line perpendicular to the southerly street line of West 45th Street distant 150 feet easterly (as measured along the street line) from the point of intersection of the southerly street line of West 45th street and the easterly street line of Twelfth Avenue, the southerly street line of West 45th Street, the easterly street line of Twelfth Avenue, West 43rd Street, and Twelfth Avenue;

as shown on a diagram (for illustrative purposes only) dated January 3, 2011, and subject to the CEQR Declaration E-268.

The application for an amendment of the Zoning Map was filed by the Department of City Planning and Manhattan Community Board 4 on December 15, 2010, to rezone all or portions of 18 blocks in the West Clinton neighborhood in Manhattan Community District 4. The proposed rezoning from M1-5, M2-3 and M3-2 districts to R8, R8A, R8A/C2-5, R9, R9/C2-5 and M2-4 districts, together with the proposed Zoning Text amendment, is intended to provide new opportunities for residential development, including new affordable housing, in the West Clinton neighborhood, to encourage new manufacturing compatible uses between Eleventh Avenue and the West Side Highway, and to ensure that the form of new buildings relates to and enhances neighborhood character.

RELATED ACTION

In addition to the application which is the subject of this report (C 110177 ZMM), implementation of the proposal also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

N 110176 ZRM An amendment of the Zoning Resolution relating to Article IX, Chapter 6 (Special Clinton District), and Article I, Chapter 4 (Sidewalk Café Regulations), and Appendix F.

BACKGROUND

The Department of City Planning and Manhattan Community Board 4 propose to rezone all or portions of 18 blocks in the West Clinton neighborhood in Community District 4. The rezoning area is generally bounded by West 55th Street to the north, West 43rd Street to the south, a variable line between Tenth and Eleventh avenues to the east, and Twelfth Avenue to the west.

West Clinton is a neighborhood with a wide range of uses including auto repair, auto-dealerships, office, warehouse, utility, vehicle-distribution facilities, and some residential. The varied mix of uses in the area dates back to the nineteenth century when residences, factories and warehouses began developing on farm land adjacent to the Hudson River. By the early twentieth century, the blocks east of Eleventh Avenue were predominantly developed with old- and new-law tenement residences with interspersed commercial uses, and the blocks west of Eleventh Avenue were developed with factories, warehouses and Consolidated Edison gas refineries, along with some waterfront related uses. Similar to other New York neighborhoods in the mid- to late-twentieth century, the West Clinton neighborhood began losing jobs and residents, and most of the tenements and older factories in the rezoning area fell into disrepair and were

demolished. Vacant lots then became used as surface parking lots or vehicle storage facilities, and auto repair shops.

Today, the West Clinton neighborhood is developed with a mix of building types including large loft buildings along Eleventh Avenue and the West Side Highway, single-story auto dealerships and auto repair shops, full-block vehicle distribution and utility facilities, and a small number of walk-up tenement-style buildings. Businesses such as Verizon, Federal Express (FedEx) and United Parcel Service (UPS) have expanded in the area, and new businesses such as Kenneth Cole, Prada, and Ogilvy & Mather have moved into the West Clinton neighborhood, keeping the number of jobs in the rezoning area fairly constant over the past decade. Along the waterfront adjacent to West Clinton, the U.S.S. Intrepid Museum and the cruise ship terminals on Piers 84 through 90 have recently been rehabilitated. Clinton Cove Park at West 55th Street, a part of Hudson River Park, opened in 2005. Renovations and improvements—including new ball fields and a dog run—at De Witt Clinton Park, a 5.8-acre neighborhood park occupying two full city blocks between Eleventh Avenue, Twelfth Avenue, West 52nd Street, and West 54th Street, have recently been completed.

The West Clinton rezoning area is served by mass transit and is readily accessible by highway and local streets. The area has access to numerous transit and bus lines as well as access to Route 9A (West Side Highway), which runs along the west side of Manhattan, and forms the western boundary of the rezoning area. West Clinton is served by subway stops on New York City Transit's A, C and E subway lines, with subway stations located within walking distance of the entire proposed rezoning area. Eleventh Avenue, a wide, two-way, north-south arterial street, runs through the center of the rezoning area. Local, narrow streets carry traffic either east or west through the rezoning area. West 42nd Street and West 57th Street, located just north and south of the rezoning area, respectively, are wide, two-way arterial streets that carry traffic east-west across Manhattan.

The proposed West Clinton rezoning area consists of M1-5, M2-3 and M3-2 zoning districts. Residential uses are not permitted in manufacturing zones. An 11-block area currently zoned M1-5 comprises half of the proposed rezoning area. These blocks contain a mix of uses, including warehouses, self-storage, auto repair shops, automobile dealerships, commercial loft buildings, and vehicle-distribution based businesses. M1-5 districts generally permit light industrial, commercial, hotels and limited community facility uses. Manufacturing and commercial uses have a maximum floor-area ratio (FAR) of 5.0 and community facilities have a maximum FAR of 6.5. There are no height limits, and building heights and setbacks are governed by the sky exposure plane.

An eight-block area located to the west of Eleventh Avenue is currently zoned M2-3. This area contains a mix of uses including parking lots, self-storage, warehouses, vehicle-distribution

based businesses, auto repair shops, commercial loft buildings and a Con Edison substation. The existing M2-3 district has a maximum commercial/manufacturing FAR of 2.0. M2-3 districts occupy the middle ground between light and heavy industrial areas. A range of manufacturing uses are permitted, but most community facilities are not allowed in M2-3 zoning districts. There are no height limits, and building heights and setbacks are governed by the sky exposure plane.

A portion of one block west of Eleventh Avenue between West 45th and West 46th streets is currently zoned M3-2. This block is owned by the New York State Department of Transportation and is currently used as a surface parking lot and a landing for the pedestrian bridge across the West Side Highway to the Intrepid Museum. M3-2 districts permit the heaviest industrial uses, but most community facilities are not allowed in M3-2 zones. The existing M3-2 district has a maximum commercial/manufacturing FAR of 2.0. There are no height limits, and building heights and setbacks are governed by the sky exposure plane.

In all three existing districts, parking is not required because the rezoning area is located in the Manhattan core, south of 60th Street. A maximum amount of parking is permitted based on the size of the use on the zoning lot. The Other Area of the Special Clinton District covers the entire rezoning area, with the exception of three blocks currently zoned M2-3 and M3-2 to the west of Eleventh Avenue, and portions of two blocks currently zoned M1-5 east of Eleventh Avenue. The Other Area requires street tree planting for all developments.

The proposed actions would maintain the existing mix of uses in West Clinton, while encouraging new residential development, including affordable housing, on the east side of Eleventh Avenue and encouraging the growth of businesses west of Eleventh Avenue. While allowing residential and manufacturing growth, the proposed actions would also ensure that the form of new buildings relates to and enhances the neighborhood character.

Development trends in the broader Clinton neighborhood have demonstrated an increase in residential construction, particularly in the western portion of Clinton, generally the area west of Tenth Avenue. Two new residential towers have been constructed on the west side of Tenth Avenue between West 51st and West 53rd streets (Archstone Clinton); a recent zoning map change from M1-5 to C6-3X on a block east of Eleventh Avenue between West 53rd and West 54th streets will facilitate the development of a 675 unit residential building; an application for a zoning map change from an M1-5 district to an R8/R10 district on a block bounded by Eleventh Avenue, Tenth Avenue, West 44th and West 45th streets was approved, and it will facilitate the construction of a 1,200 unit residential development; and various other as-of-right residential buildings have been constructed in the existing R8 district between Tenth and Eleventh avenues.

While residential construction has increased, new commercial, office, utility and other manufacturing-compatible use construction has also taken place on the blocks west of Eleventh

Avenue. Verizon has expanded an existing vehicle storage and office facility on the block west of Eleventh Avenue between West 47th and West 48th streets; FedEx has constructed a new vehicle distribution center with offices between West 48th and West 49th streets; Con Edison has constructed a new utility facility across Eleventh Avenue from their existing facility between West 50th and West 51st streets; and the worldwide headquarters for the advertising firm Ogilvy and Mather has been located in an existing loft building on Eleventh Avenue between West 46th and West 47th streets. Offices for Prada and Kenneth Cole, as well as studios for the “Daily Show” have also moved into existing buildings west of Eleventh Avenue.

To address these recent trends, the Department of City Planning and Manhattan Community Board 4 propose a zoning map amendment to extend the residential districts from Tenth Avenue to the east side of Eleventh Avenue, and to increase the density permitted on certain blocks zoned for manufacturing and manufacturing compatible uses to the west of Eleventh Avenue. Proposed text amendments would ensure new development in the rezoning area would be in context with the surrounding built environment.

The proposed R8 district would extend the existing R8 district, located in the area east of the rezoning area, to portions of six blocks currently zoned M1-5, east of Eleventh Avenue. Uses found in this portion of the rezoning area are varied and include auto repair shops, a Salvation Army warehouse, office space and a few multi-family residences. Building types within this area are also varied, and range from large warehouse buildings, to one- and two-story garages. In addition to the zoning map change, the proposed text amendment would also extend the existing Preservation Area of the Special Clinton District to cover this expanded R8 district between West 45th Street and West 50th Street, and would extend the Other Area of the Special Clinton District on the east side of Eleventh Avenue between West 50th and West 52nd streets to cover the remainder of the expanded R8 district. R8 districts in the Preservation Area and Other Area permit residential and community facility uses. The maximum FAR for residential and community facility uses is 4.2, and the maximum height for all buildings on narrow streets is 66 feet, or seven stories, whichever is less. Further regulations applicable in the Preservation Area include special lot coverage and open space regulations, with maximum lot coverage of 60 percent, and a minimum of 20 percent of the lot must be available to the tenants of the zoning lot. No parking is permitted as-of-right in the Preservation Area.

The proposed R8A district with a C2-5 commercial overlay would extend the existing R8A district with a C2-5 overlay at a depth of 100 feet along the eastern side of Eleventh Avenue. The eastern frontage of Eleventh Avenue is developed with single-story auto dealership and repair buildings, a gas station, a Con Edison facility and some walk-up, multi-family residential buildings. R8A districts permit residential and community facility uses and the C2-5 commercial overlay permits local retail and commercial uses at the ground floor. The proposed zoning text amendment will make the Inclusionary Housing provisions applicable in this area. The

maximum base FAR for residential uses is 5.4. A maximum FAR of 7.2 would be achievable if affordable housing is provided on or off-site. R8A zoning districts are contextual zoning districts requiring buildings to be built at or near the street line with maximum base height of 60 feet and a maximum building height of 120 feet. Accessory parking for 20% of new residential uses is permitted as-of-right, but parking is not required. The block frontages south of West 50th Street would remain in the Other Area of the Special Clinton District and the block frontages north of West 50th Street would remain in the Excluded Area. The R8A zoning district with the C2-5 commercial overlay would provide opportunities for residential development with ground floor retail on the east side of Eleventh Avenue at an appropriate height and density for the existing built context of the R8A district to the north.

The proposed R9 district would cover a portion of one block between West 43rd and West 44th Streets to the east of Eleventh Avenue. A C2-5 commercial overlay at a depth of 100 feet would be mapped in conjunction with the R9 district on the Eleventh Avenue frontage. This block is developed with multi-story warehouses, single-story auto-repair shops, an auto rental facility, a single-story restaurant and an uncovered, below-grade rail cut. R9 districts permit residential and community facility uses and the C2-5 commercial overlay permits local retail and commercial uses at the ground floor. The proposed zoning text amendment will make the Inclusionary Housing provisions applicable in this area. The maximum base FAR for residential uses is 6.0. A maximum FAR of 8.0 would be achievable if affordable housing is provided on or off-site. The typical building envelope for development within the R9 district would be modified by a proposed text amendment that would require any development or enlargement within an R9 district within the Other Area of the Special Clinton District west of Tenth Avenue to follow the height and setback regulations of the R9A zoning district. The maximum building height would be 135 to 145 feet and the maximum base height would be 95 to 102 feet. Accessory parking for 20 percent of new residential uses is permitted as-of-right, but parking is not required. The block would remain in the Other Area of the Special Clinton District. The R9 zoning district with the C2-5 commercial overlay would provide opportunities for residential development with ground floor retail on the east side of the Eleventh Avenue frontage at a height and density that would provide an appropriate transition from the high-density development on West 42nd Street to the lower-density development found to the north and east.

The proposed M2-4 district would cover a ten-block area bound by the West Side Highway to the west, West 55th Street to the north, Eleventh Avenue to the east, and West 43rd Street to the south. A portion of one block east of Eleventh Avenue between West 46th and West 47th streets would be rezoned from M1-5 to M2-4. This block contains a large loft building that is currently used as the headquarters for the Ogilvy and Mather advertising agency. The blocks west of Eleventh Avenue are developed with a mix of warehouses, mini-storage, vehicle distribution-based businesses, auto-repair shops, auto dealerships, loft office buildings, a ConEd facility and a hotel. Light industrial uses and commercial uses are permitted in M2-4 zoning districts at a

maximum FAR of 5.0. Hotels are not permitted. The proposed text amendment would limit the height of buildings in the proposed M2-4 district in the Other Area of the Special Clinton District to 135 feet. Parking is not required, but a certain amount of parking is permitted based on the size of a use on a zoning lot. The M2-4 rezoning area would remain in the Other Area of the Special Clinton District, and three blocks between West 44th and West 47th streets would be included in the Special Clinton District, in the Other Area. This rezoning is proposed to permit existing and new industrial and commercial uses to expand in an area where they can provide essential services to Midtown Manhattan and the city as a whole.

Also an amendment to the Zoning Map would be the proposed extension of the Special Clinton District to include two full blocks and a portion of one block west of Eleventh Avenue between West 44th and West 47th Streets and extend the applicability of certain regulations of the Other Area of the Special Clinton District from the blocks to the north, east, and south.

Zoning Text Amendment

The Department of City Planning and Manhattan Community Board 4 are also proposing zoning text amendments to the Special Clinton District (Zoning Resolution Article IX, Chapter 6), to the Sidewalk Café Regulations (Zoning Resolution Article I, Chapter 4), and to Zoning Resolution Appendix F.

First, the Zoning Resolution's Inclusionary Housing program, which establishes incentives for the creation and preservation of affordable housing in conjunction with new development, would be made applicable in the proposed R8A and R9 districts of the rezoning area.

Under the Inclusionary Housing program, a development providing affordable housing is eligible for a floor area bonus within the underlying contextual height and bulk regulations. Developments could qualify for the maximum FAR by providing twenty-percent (20%) percent of the residential floor area in the development as permanently affordable housing for low- and moderate-income households. Affordable units can be provided either on-site or off-site and can be new construction or preservation of existing units. As proposed off-site affordable units must be located within Community District 4 or within a half-mile of the bonused development if in a different community district (modification is discussed below, under "Consideration"). Other city, state and federal housing finance programs may be used to provide further assistance in creating affordable units.

Second, the proposed zoning text amendment would modify bulk and use regulations in the Special Clinton District text as follows:

- Extend the Preservation Area of the Special Clinton District generally to within 100 feet of the east side of Eleventh Avenue between West 45th and West 50th Streets to provide

opportunities for residential development at a density and height in context with the area immediately to the east;

- Extend the Other Area of the Special Clinton District to a depth of 175 feet on the east side of Eleventh Avenue between West 50th and West 51st streets and a depth of 200 feet on the east side of Eleventh Avenue between West 51st and West 52nd streets;
- Establish two new subareas within the Other Area of the Special Clinton District: the Northern Subarea and the Western Subarea. The Northern Subarea (C1) would include all of the blocks in the Other Area north of West 55th Street, and the Western Subarea (C2) would include all of the blocks in the Other Area south of West 55th Street.
- Place R9A contextual building envelope restrictions on developments within the proposed R9 district. In R9 districts in the Other Area of the Special Clinton District west of Tenth Avenue, the building envelope regulations for R9A districts would apply. The contextual building envelope and maximum height of 145 feet would ensure future development would be in context with the large warehouse buildings existing on the block.
- Establish a maximum height and street wall requirements for developments in the proposed M2-4 district. In M2-4 districts in the Other Area of the Special Clinton District west of Eleventh Avenue, the maximum height of any new development or enlargement is 135 feet; a street wall is required with a minimum height of 50 feet and a maximum height of 95 feet. The street wall and height requirements would ensure future development would be in context with the loft buildings existing in the area.
- Require street walls in the Preservation Area of the Special Clinton District. New buildings in the Preservation Area currently do not need to provide street walls at the lot line of the zoning lot, or meet the street wall of adjacent buildings. The proposed text would require new development to build to the lot line, or meet the street walls of adjacent buildings. This amendment would ensure new development is in context with the existing built environment.
- Allow existing legal adult uses to remain in the Other Area of the Special Clinton District.

Finally, the proposed text amendment would modify Article 1, Chapter 4 of the Zoning Resolution. Currently both Enclosed and Unenclosed Sidewalk Cafés are permitted in the Special Clinton District. Per the Zoning Resolution definition, an “enclosed sidewalk café” is a sidewalk café that is contained within a structure constructed predominantly of light materials such as glass, slow-burning plastic or lightweight metal, and an “unenclosed sidewalk café” is a space on the sidewalk that contains readily removable tables, chairs or railings with no overhead coverage other than umbrellas or a retractable awning that is affixed to the building wall. Enclosed sidewalk cafés are more likely to block views along the sidewalk and impede pedestrian flow, especially in the highly trafficked sidewalks of the Clinton neighborhood. Therefore, a proposed zoning text amendment would specify that enclosed sidewalk cafés are not permitted within the Special Clinton District.

ENVIRONMENTAL REVIEW

This application (C 110177 ZMM), in conjunction with the application for the related action (N 110176 ZRM), 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 11DCP068M. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on January 3, 2011. The Negative Declaration included (E) designations to avoid the potential for significant adverse impacts related to air quality, noise and hazardous materials (E-268), as described below:

The (E) designation requirements related to air quality would apply to the following development sites:

Projected Development Sites:

- Block 1072, Lot 10 (Projected Development Site 2)
- Block 1072, Lots 21, 42, 44, 45 (Projected Development Site 3)
- Block 1076, Lot 1 (Projected Development Site 7)
- Block 1076, Lot 9 (Projected Development Site 8)
- Block 1076, Lot 13 (Projected Development Site 9)
- Block 1076, Lots 55, 56, 57, 59, 60 (Projected Development Site 10)
- Block 1077, Lots 1, 61 (Projected Development Site 11)
- Block 1079, Lot 3 (Projected Development Site 13)
- Block 1094, Lots 11, 12, 17 (Projected Development Site 18)
- Block 1094, Lots 27, 29, 36, 37, 38 (Projected Development Site 19)
- Block 1098, Lots 15, 48 (Projected Development Site 23)

Potential Development Sites:

- Block 1074, Lots 49, 54 (Potential Development Site 5)
- Block 1078, Lot 7 (Potential Development Site 12)
- Block 1079, Lot 61 (Potential Development Site 14)
- Block 1092, Lots 21, 28 (Potential Development Site 16)
- Block 1093, Lots 31, 33, 36 (Potential Development Site 17)
- Block 1094, Lot 44 (Potential Development Site 20)
- Block 1098, Lot 11 (Potential Development Site 21)
- Block 1098, Lots 51, 54 (Potential Development Site 24)
- Block 1099, Lots 47, 48 (Potential Development Site 26)

The text for the (E) designation related to air quality is as follows:

Projected Development Sites:

Block 1072, Lot 10 (Projected Development Site 2)

Any new residential and/or commercial development on Block 1072, Lot 10 must ensure that only natural gas is used as fuel for the heating system boilers and that the setback distance for the HVAC exhaust stack be at least 20 feet from the edge of the source building on any side facing an adjacent receptor building.

Block 1072, Lots 21, 42, 44, 45 (Projected Development Site 3)

Any new residential and/or commercial development on Block 1072, Lots 21, 42, 44, and 45 must ensure that only natural gas is used as fuel for the heating system boilers.

Block 1076, Lot 1 (Projected Development Site 7)

Any new residential and/or commercial development on Block 1076, Lot 1 must ensure that No. 2 fuel oil or natural gas is used as fuel for the heating system boilers.

Block 1076, Lot 9 (Projected Development Site 8)

Any new residential and/or commercial development on Block 1076, Lot 9 must ensure that only natural gas is used as fuel for the heating system boilers.

Block 1076, Lot 13 (Projected Development Site 9)

Any new residential and/or commercial development on Block 1076, Lot 13 must ensure that No. 2 fuel oil or natural gas is used as fuel for the heating system boilers.

Block 1076, Lots 55, 56, 57, 59, 60 (Projected Development Site 10)

Any new residential and/or commercial development on Block 1076, Lots 55, 56, 57, 59, 60 must ensure that only natural gas is used as fuel for the heating system boilers and that the setback distance for the HVAC exhaust stack be at least 20 feet from the edge of the source building on any side facing an adjacent receptor building.

Block 1077, Lots 1, 61 (Projected Development Site 11)

Any new residential and/or commercial development on Block 1077, Lot 1, 61 must ensure that No. 2 fuel oil or natural gas is used as fuel for the heating system boilers.

Block 1079, Lot 3 (Projected Development Site 13)

Any new residential and/or commercial development on Block 1079, Lot 3 must ensure that only natural gas is used as fuel for the heating system boilers.

Block 1094, Lots 11, 12, 17 (Projected Development Site 18)

Any new residential and/or commercial development on Block 1094, Lot 11, 12, 17 must ensure that only natural gas is used as fuel for the heating system boilers and that the setback distance for the HVAC exhaust stack be at least 20 feet from the edge of the source building on any side facing an adjacent receptor building.

Block 1094, Lots 27, 29, 36, 37, 38 (Projected Development Site 19)

Any new residential and/or commercial development on Block 1094, Lots 27, 29, 36, 37, 38 must ensure that only natural gas is used as fuel for the heating system boilers.

Block 1098, Lots 15, 48 (Projected Development Site 23)

Any new residential and/or commercial development on Block 1098, Lots 15, 48 must ensure that only natural gas is used as fuel for the heating system boilers.

Potential Development Sites:

Block 1074, Lots 49, 54 (Potential Development Site 5)

Any new residential and/or commercial development on Block 1074, Lots 49, and 54 must ensure that only natural gas is used as fuel for the heating system boilers.

Block 1078, Lot 7 (Potential Development Site 12)

Any new residential and/or commercial development on Block 1078, Lot 7 must ensure that only natural gas is used as fuel for the heating system boilers.

Block 1079, Lot 61 (Potential Development Site 14)

Any new residential and/or commercial development on Block 1079, Lot 61 must ensure that only natural gas is used as fuel for the heating system boilers.

Block 1092, Lots 21, 28 (Potential Development Site 16)

Any new residential and/or commercial development on Block 1092, Lot 21, 28 must ensure that No. 2 fuel oil or natural gas is used as fuel for the heating system boilers.

Block 1093, Lots 31, 33, 36 (Potential Development Site 17)

Any new residential and/or commercial development on Block 1093, Lots 31, 33, 36 must ensure that only natural gas is used as fuel for the heating system boilers.

Block 1094, Lot 44 (Potential Development Site 20)

Any new residential and/or commercial development on Block 1094, Lot 44 must ensure that only natural gas is used as fuel for the heating system boilers.

Block 1098, Lot 11(Potential Development Site 21)

Any new residential and/or commercial development on Block 1098, Lot 11 must ensure that only natural gas is used as fuel for the heating system boilers.

Block 1098, Lots 51, 54 (Potential Development Site 24)

Any new residential and/or commercial development on Block 1098, Lots 51 and 54 must ensure that only natural gas is used as fuel for the heating system boilers.

Block 1099, Lots 47, 48 (Potential Development Site 26)

Any new residential and/or commercial development on Block 1099, Lots 47 and 48 must ensure that No. 2 fuel oil or natural gas is used as fuel for the heating system boilers.

The (E) designation requirements related to noise would apply to the following development sites:

Projected Development Sites:

Block 1072, Lots 1, 61, 59 (Projected Development Site 1)

Block 1072, Lot 10 (Projected Development Site 2)

Block 1072, Lots 21, 42, 44, 45 (Projected Development Site 3)

Block 1072, Lot 50 (Projected Development Site 4)

Block 1074, Lot 63 (Projected Development Site 6)

Block 1076, Lot 1 (Projected Development Site 7)
Block 1076, Lot 9 (Projected Development Site 8)
Block 1076, Lot 13 (Projected Development Site 9)
Block 1076, Lots 60, 59, 57, 56, 55 (Projected Development Site 10)
Block 1077 Lots 1, 61 (Projected Development Site 11)
Block 1079, Lot 3 (Projected Development Site 13)
Block 1094, Lots 11, 12, 17 (Projected Development Site 18)
Block 1094, Lots 27, 29, 36, 37, 38 (Projected Development Site 19)

Potential Development Sites:

Block 1074, Lots 49, 54 (Potential Development Site 5)
Block 1078, Lot 7 (Potential Development Site 12)
Block 1079, Lot 61 (Potential Development Site 14)
Block 1092, Lot 16 (Potential Development Site 15)
Block 1094, Lot 44 (Potential Development Site 20)
Block 1098, Lot 11 (Potential Development Site 21)
Block 1098, Lots 51, 54 (Potential Development Site 24)

The (E) designation text related to noise is as follows:

Projected Development Sites:

Block 1072, Lots 1, 61, 59 (Projected Development Site 1)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1072, Lot 10 (Projected Development Site 2)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 33 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1072, Lots 21, 42, 44, 45 (Projected Development Site 3)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 33 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1072, Lot 50 (Projected Development Site 4)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 33 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1074, Lot 63 (Projected Development Site 6)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 28 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1076, Lot 1 (Projected Development Site 7)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1076, Lot 9 (Projected Development Site 8)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 33 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1076, Lot 13 (Projected Development Site 9) To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 33 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1076, Lots 60, 59, 57, 56, 55 (Projected Development Site 10)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 28 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1077 Lots 1, 61 (Projected Development Site 11)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 28 dBA window/wall attenuation on all but the west façade, and 31 dBA window/wall attenuation on the west façade to maintain an interior noise level of 45 dBA. To maintain a closed-window

condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1079, Lot 3 (Projected Development Site 13)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 28 dBA window/wall attenuation on all but the west façade, and 31 dBA window/wall attenuation on the west façade to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1094, Lots 11, 12, 17 (Projected Development Site 18)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 33 dBA window/wall attenuation on all but the west façade, and 39 dBA window/wall attenuation on the west façade to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1094, Lots 27, 29, 36, 37, 38 (Projected Development Site 19)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 28 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

*Attenuation values shown apply to residential uses only. Commercial uses would require 5 dBA less attenuation.

Potential Development Sites:

Block 1074, Lots 49, 54 (Potential Development Site 5)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 28 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1078, Lot 7 (Potential Development Site 12)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 28 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1079, Lot 61 (Potential Development Site 14)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1092, Lot 16 (Potential Development Site 15)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 28 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1094, Lot 44 (Potential Development Site 20)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 33 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1098, Lot 11 (Potential Development Site 21)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 28 dBA window/wall attenuation on all but the west façade, and 39 dBA window/wall attenuation on the west façade to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1098, Lots 51, 54 (Potential Development Site 24)

To ensure an acceptable interior noise environment, future residential/commercial* uses must provide a closed window condition with a minimum of 28 dBA window/wall attenuation on all but the west façade, and 39 dBA window/wall attenuation on the west façade to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

The (E) designation requirements related to hazardous materials would apply to the following development sites:

Projected Development Sites:

Block 1072, Lots 1, 59, 61 (Projected Development Site 1)

Block 1072, Lot 10 (Projected Development Site 2)

Block 1072, Lots 21, 42, 44, 45 (Projected Development Site 3)

Block 1072, Lot 50 (Projected Development Site 4)

Block 1074, Lot 63 (Projected Development Site 6)
Block 1076, Lot 1 (Projected Development Site 7)
Block 1076, Lot 9 (Projected Development Site 8)
Block 1076, Lot 13 (Projected Development Site 9)
Block 1076, Lots 55, 56, 57, 59, 60 (Projected Development Site 10)
Block 1077, Lots 1, 61 (Projected Development Site 11)
Block 1079, Lot 3 (Projected Development Site 13)
Block 1094, Lots 11, 12, 17 (Projected Development Site 18)
Block 1094, Lots 27, 29, 36, 37, 38 (Projected Development Site 19)
Block 1098, Lots 15, 48 (Projected Development Site 23)

Potential Development Sites:

Block 1074, Lots 49, 54 (Potential Development Site 5)
Block 1078, Lot 7 (Potential Development Site 12)
Block 1079, Lot 61 (Potential Development Site 14)
Block 1092, Lot 16 (Potential Development Site 15)
Block 1092, Lots 21, 28 (Potential Development Site 16)
Block 1093, Lots 31, 33, 36 (Potential Development Site 17)
Block 1094, Lot 44 (Potential Development Site 20)
Block 1098, Lot 11 (Potential Development Site 21)
Block 1098, Lots 20, 42 (Potential Development Site 22)
Block 1098, Lots 51, 54 (Potential Development Site 24)
Block 1098, Lots 14, 17 (Potential Development Site 25)
Block 1099, Lots 47, 48 (Potential Development Site 26)

The (E) designation text related to hazardous materials is as follows:

Task 1

The applicant submits to OER, for review and approval, a Phase 1A of the site along with a soil and groundwater testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented.

If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of sample sites should be selected to adequately characterize the site, the specific source of suspected contamination (i.e., petroleum based contamination and non-petroleum based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

Task 2

A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.

If remediation is indicated from the test results, a proposed remediation plan must be submitted to OER for review and approval. The applicant must complete such remediation as determined necessary by OER. The applicant should then provide proper documentation that the work has been satisfactorily completed.

A OER-approved construction-related health and safety plan would be implemented during evacuation and construction and activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This plan would be submitted to OER for review and approval prior to implementation.

All demolition or rehabilitation would be conducted in accordance with applicable requirements for disturbance, handling and disposal of suspect lead-paint and asbestos-containing materials. For all projected and potential development sites where no E-designation is recommended, in addition to the requirements for lead-based paint and asbestos, requirements (including those of NYSDEC) should petroleum tanks and/or spills be identified and for off-site disposal of soil/fill would need to be followed.

With the implementation of the above (E) designation (E-268), no significant adverse impacts related to air quality, noise and hazardous materials would occur.

UNIFORM LAND USE REVIEW

This application (C 110177 ZMM) was certified as complete by the Department of City Planning on January 3, 2011, and was duly referred to Community Board 4 and the Borough President, along with the related non-ULURP text change application (N 110176 ZRM) 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 (C 110177 ZMM), in conjunction with the application for the related action (N 110176 ZRM), on March 6, 2011 and on that date, by a vote of 35 to 0 with 2 abstentions, adopted a resolution recommending approval of the application, with the following condition: “that the Anti-Harassment and Cure (Section 96-110),

Alteration of Building (Section 96-109) and the Demolition Restrictions (Section 96- 108) of the SCD be extended to the Western Subarea (C2) of the Other Area.”

Borough President Recommendation

The application (C 110177 ZMM), in conjunction with the application for the related action (N 110176 ZRM), was considered by the Manhattan Borough President, who issued a recommendation on April 5, 2011 approving the application with the condition that the application be modified to:

...include additional tenant protections, preservation regulations, and family-sized unit requirements; and ensure the new inclusionary housing regulations are consistent with the rest of the special district. Additionally, the City should consider additional zoning mechanisms that will allow additional uses in the C2 Subarea and the City should work towards creating appropriate residential infrastructure and promoting a friendly pedestrian environment along Eleventh Avenue.

City Planning Commission Public Hearing

On March 30, 2011 (Calendar No. 3), the City Planning Commission scheduled April 13, 2011 for a public hearing on this application (C 110177 ZMM) and the related action (N 110176 ZRM). The hearing was duly held on April 13, 2011 (Calendar No. 13). There were 22 speakers in favor of the application, and none in opposition.

A representative from Con Edison described their concern that an electric substation in their ownership, located on the eastern side of Eleventh Avenue between West 49th Street and West 50th Street is proposed to be rezoned from an existing M1-5 district to a split zone R8A/C2-5 and R8 district. Under the proposed R8A/C2-5 and R8 districts, the substation, which was completed as an as-of-right building in 2009, would become a non-conforming use. The representative stated that the substation is critical to serving the electric needs of midtown Manhattan, and should it become a non-conforming use, Con Edison would be restricted from increasing the floor area of the substation in the future. Con Edison requested that the Commission amend the Special Clinton District zoning text to allow for the continuation of existing electrical utility substations as a conforming use governed by the use regulations of the current M1-5 zoning district, while having the bulk regulations of the proposed new R8A zoning district apply to any future enlargement.

Fifteen neighborhood residents spoke in support of the proposed rezoning, but all stated that the anti-harassment and anti-demolition zoning regulations outlined in the Preservation Area of the Special Clinton District should apply to the entire rezoning area. Several of the neighborhood residents also stated that residential units within the rezoning area should be required to have two

or more bedrooms, and that there should be more affordable housing units in the neighborhood. Quality of life concerns such as allowing pedestrians more time to cross Eleventh Avenue, the need for a bus route on Eleventh Avenue, the need for more open space and grocery stores in the area were discussed by many of the residents. One resident spoke of her concern that the rezoning would exacerbate school over-crowding in the area. She also stated that children in the neighborhood need daycare, health care and other social services.

The Director of Land Use, Planning and Development in the Manhattan Borough President's Office reiterated the Borough President's recommendation, which stated that anti-harassment and anti-demolition regulations should cover the entire rezoning area. The Director also stated that the Con Edison request to amend the Special Clinton District zoning text was an appropriate way to address the use issue for the electric substation.

The two co-chairs of the Community Board 4 Clinton/Hell's Kitchen Land Use Committee spoke in favor of the application. Both stated that the position of the community board is to extend the anti-harassment and anti-demolition regulations over the entire rezoning area. One co-chair stated he would like the Department of City Planning to do a follow-up application to the current text amendment application (N 110176 ZRM) to include anti-harassment and anti-demolition provisions in the remainder of the rezoning area.

Representatives for Congressman Jerrold Nadler, State Senator Thomas K. Duane and Assembly Member Richard N. Gottfried read statements from the respective elected officials. Each statement affirmed that the rezoning and text amendment application are beneficial to the neighborhood and the residents. However, each statement also included concerns that the anti-harassment and anti-demolition regulations were not extended to cover the entire rezoning area. Each statement also included a request that regulations be put in place to require the provision of more family-sized, or two- or more bedroom, units in the rezoning area, and that affordable housing be built on-site.

There were no other speakers and the hearing was closed.

Waterfront Revitalization Program Consistency Review

This application (C 110177 ZMM), in conjunction with the application for the related action (N 110176 ZRM), was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is WRP #10-021.

The action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that this application to amend the Zoning Map (C 110177 ZMM), in conjunction with the related amendment to the Zoning Resolution (N 110176 ZRM), as modified, is appropriate.

The Commission is pleased to note that the West Clinton Rezoning proposal is the product of collaboration between the Department of City Planning and Manhattan Community Board 4, and that they are co-applicants on the application. The Commission recognizes that the West Clinton rezoning area, currently zoned M1-5, M2-3 and M3-2, contains a mix of uses, including warehouses, self-storage, auto repair shops, automobile dealerships, commercial loft buildings, utility facilities, vehicle-distribution based businesses, and some residential buildings. The Commission also recognizes that recent development trends show that new residential development has occurred to the east of the rezoning area, west of Tenth Avenue. In addition, the Commission notes that some blocks within the rezoning area have been developed with new commercial, utility and other manufacturing-district compatible uses. The Commission believes that the proposed actions would maintain the existing mix of uses in West Clinton, while encouraging new residential development, including affordable housing, on the east side of Eleventh Avenue and encouraging the growth of businesses west of Eleventh Avenue. The Commission also believes that the proposed actions would ensure that the form of new buildings relates to and enhances the neighborhood character.

The Commission is pleased that the Inclusionary Housing program, which establishes incentives for the creation and preservation of affordable housing in conjunction with new development, would be made applicable in the proposed R8A and R9 districts of the rezoning area.

The Commission believes that the text amendments dictating building form, such as placing R9A contextual building envelope restrictions on developments within the proposed R9 district, establishing a maximum height and street wall requirements for developments in the proposed M2-4 district, and requiring street walls in the Preservation Area of the Special Clinton District, would ensure that new development in the rezoning area would relate to and enhance the existing neighborhood character. Also, the Commission believes that enclosed sidewalk cafes are not appropriate within the Special Clinton District because they block views along the sidewalk and impede pedestrian flow, especially in the highly trafficked sidewalks of the Clinton neighborhood.

The Commission acknowledges the conditions set forth in the recommendations of the community board and the Borough President, as well as the statements of community members,

that the Special Clinton District Preservation Area anti-harassment and anti-demolition regulations should be placed on all areas of the rezoning area. However, the Commission notes that application of these regulations to the entire rezoning area is outside the scope of this application.

The Commission has carefully considered the request of the community board and the Borough President that any affordable units generated by the Inclusionary Housing districts in the rezoning area be located in the Special Clinton District. The Commission acknowledges that this requirement currently exists in the Eighth Avenue and 42nd Street Perimeter Areas of the Special Clinton District. Given that this requirement has been incorporated in the Special Clinton District zoning text since Inclusionary Housing regulations have existed, the Commission believes it appropriate that the requirement that affordable housing units generated by the Inclusionary Housing Bonus within the rezoning area be located within the Special Clinton District, and has modified the companion text amendment application to reflect this change (N 011076 ZRM).

The Commission acknowledges the importance of the Con Edison electric utility substation on the east side of Eleventh Avenue between West 49th Street and West 50th Street in serving midtown Manhattan. Therefore, the Commission has modified the companion text amendment application (N 011076 ZRM) to state that electrical utility substations, operated for public utility purposes, existing on the date this action is approved, and located wholly or partially within the portion of Western Subarea C2 east of 11th Avenue, are considered conforming uses that are subject to the bulk regulations of the underlying district and the use regulations of an M1-5 District.

The Commission received a letter from the director of development from the Moinian Group asking that the Commission consider a zoning designation that would permit a maximum FAR of 12.0 on the block bounded by Eleventh Avenue, Tenth Avenue, West 43rd Street and West 44th Street. The Commission believes the proposed R9 zoning district is appropriate for this block, and notes further that permitting an FAR above the proposed 8.0 FAR is out of scope for this application.

The Commission also received a letter from a representative of Real Estate Industrials, Inc regarding a through-block site between West 48th Street and West 49th Street east of Eleventh Avenue that was the subject of a previously approved zoning map amendment and text amendment (C 070289 ZMM and C 070539 ZRM). A portion of the site that is currently within the Other Area of the Special Clinton District is proposed to be included in the Preservation Area of the Special Clinton District. The Preservation Area has a more restrictive lot coverage regulation than the Other Area, with the Preservation Area permitting a maximum lot coverage of 60%, and the Other Area permitting a maximum lot coverage of 70%. As described in the

2008 report for the zoning map amendment application for the site (C 070289 ZMM) the Commission believes the 70% lot coverage is appropriate for the site, and continues to believe this to be the case. Therefore, the Commission has modified the text amendment application (N 011076 ZRM) to keep the subject site in the Other Area of the Special Clinton District.

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, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York city Charter, that based on the environmental determination and the 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 by changing the Zoning Map, Section No. 8c:

1. changing from an M1-5 District to an R8 District property bounded by:
 - a. West 52nd Street, a line 200 feet easterly of Eleventh Avenue, West 51st Street, a line 175 feet easterly of Eleventh Avenue, West 48th Street, a line 450 feet westerly of Tenth Avenue, a line midway between West 46th Street and West 47th Street, a line 500 feet westerly of Tenth Avenue, West 47th Street, and a line 100 feet easterly of Eleventh Avenue; and
 - b. West 46th Street, a line 450 feet westerly of Tenth Avenue, West 45th Street, and a line 100 feet easterly of Eleventh Avenue,
2. changing from an M1-5 District to an R8A District property bounded by:
 - a. West 52nd Street, a line 100 feet easterly of Eleventh Avenue, West 47th Street, and Eleventh Avenue; and
 - b. West 46th Street, a line 100 feet easterly of Eleventh Avenue, West 45th Street, and Eleventh Avenue;

3. changing from an M1-5 District to an R9 District property bounded by West 44th Street, the easterly boundary line of a railroad right-of-way, West 43rd Street, and Eleventh Avenue;
4. changing from an M1-5 District to an M2-4 District property bounded by:
 - a. West 52nd Street, Eleventh Avenue, West 51st Street, and a line 150 feet westerly of Eleventh Avenue;
 - b. West 49th Street, Eleventh Avenue, West 47th Street, and Twelfth Avenue; and
 - c. West 47th Street, a line 500 feet westerly of Tenth Avenue, a line midway between West 46th Street and West 47th Street, a line 450 feet westerly of Tenth Avenue, West 46th Street and Eleventh Avenue;
5. changing from an M2-3 District to an M2-4 District property bounded by:
 - a. West 55th Street, Eleventh Avenue, West 52nd Street, a line 150 feet westerly of Eleventh Avenue, West 51st Street, Eleventh Avenue, West 49th Street, and Twelfth Avenue; and
 - b. West 47th Street, Eleventh Avenue, West 43rd Street, Twelfth Avenue, West 45th Street, a line perpendicular to the southerly street line of West 46th Street distant 250 feet easterly (as measured along the street line) from the point of intersection of the southerly street line of West 46th street and the easterly street line of Twelfth Avenue, West 46th Street, and Twelfth Avenue;
6. changing from an M3-2 District to an M2-4 District property bounded by West 46th Street, a line perpendicular to the southerly street line of West 46th Street distant 250 feet easterly (as measured along the street line) from the point of intersection of the southerly street line of West 46th street and the easterly street line of Twelfth Avenue, West 45th Street, and Twelfth Avenue;
7. establishing within a proposed R8A District a C2-5 District bounded by:
 - a. West 52nd Street, a line 100 feet easterly of Eleventh Avenue, West 47th Street, and Eleventh Avenue; and
 - b. West 46th Street, a line 100 feet easterly of Eleventh Avenue, West 45th Street, and Eleventh Avenue;

8. establishing within a proposed R9 District a C2-5 District bounded by West 44th Street, a line 100 feet easterly of Eleventh Avenue, West 43rd Street, and Eleventh Avenue; and
9. establishing a Special Clinton District bounded by the northerly street line of West 47th Street and its westerly and easterly prolongations, the easterly street line of Eleventh Avenue and its northerly and southerly prolongations, the southerly street line of West 45th Street and its easterly prolongation, a line 100 feet westerly of Eleventh Avenue, the southerly street line of West 44th Street, a line perpendicular to the southerly street line of West 45th Street distant 150 feet easterly (as measured along the street line) from the point of intersection of the southerly street line of West 45th street and the easterly street line of Twelfth Avenue, the southerly street line of West 45th Street, the easterly street line of Twelfth Avenue, West 43rd Street, and Twelfth Avenue;

as shown on a diagram (for illustrative purposes only) dated January 3, 2011, and subject to the CEQR Declaration E-268.

The above resolution (C 110177 ZMM), duly adopted by the City Planning Commission on May 11, 2011 (Calendar No. 13), is filed with the Office of the Speaker, City Council, and the Manhattan Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,
RICHARD W. EADDY, NATHAN LEVENTHAL, ANNA HAYES LEVIN,
SHIRLEY A. McRAE, Commissioners



CITY OF NEW YORK

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JOHN WEIS
Chair

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

March 4, 2011

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

**Re: ULURP Nos. N110177ZMM and N110176ZRM
All or portions of 18 blocks, bounded by West 43rd Street, West 55th
Street, Twelfth Avenue and a variable line between Tenth and
Eleventh Avenues**

Dear Chair Burden:

At the recommendation of its Clinton/Hell's Kitchen Land Use ("C/HKLU") Committee, Manhattan Community Board 4 (CB4), having held a duly noticed public hearing on ULURP application numbers N110177ZMM and N110176ZRM (the "Proposed Actions") adopted the following resolution by roll call vote at its meeting on March 2, 2011, 35 in favor, 0 opposed, 2 abstaining and 0 present but not eligible to vote.

The resolution recommends **approval** of ULURP N110177ZMM **with condition** and **approval** of ULURP N110176ZRM.

OVERVIEW

CB4 is delighted to act as a co-applicant with the Department of City Planning ("DCP") in the Proposed Actions to rezone the West Clinton/Eleventh Avenue corridor. CB4 heartily supports these applications, which represent the culmination of three years of collaboration and active dialogue among DCP, CB4, and community residents.

DCP and CB4 have worked closely since 2008 to craft this rezoning. Together, we have co-hosted four large public forums and conducted a number of smaller meetings. Each of the forums, including the recent January 27, 2011 C/HKLU meeting with 19 inches of snow, have been well attended by residents who largely support the proposed rezoning. We appreciate that DCP, in particular Edith Hsu-Chen and Erika Sellke, have thoughtfully engaged with the larger Clinton community. At each of the forums, Mss.

Hsu-Chen and Sellke have listened to each concern raised, and where feasible, proposed modifications to the proposal.

It is rare for a Community Board to join DCP as a co-applicant on a rezoning proposal and CB4 is thrilled to take that step. On the whole, we are extremely pleased with the results of this collaborative process, and in particular, that the Proposed Actions:

- Permit residential development on the east side of Eleventh Avenue, roughly between 45th and 52nd Streets, by creating a R8A zoning district with maximum building heights of 120 feet;
- Extend the existing R8 district and the Preservation Area of the Special Clinton District (SCD) boundaries west to meet the new R8A district;
- Rezone most of the block between 43rd and 44th Streets on the east side of Eleventh Avenue as a R9 district, with a commercial overlay on the Eleventh Avenue frontage with district text creating maximum building heights of 145 feet;
- Replace the M1-5, M2-3, and M3-2 districts west of Eleventh Avenue and at 636 Eleventh Avenue with an M2-4 district, thus excluding hotel use with district text creating maximum building heights of 135 feet;
- Create an Inclusionary Housing Designated Area in the new R8A and R9 districts to facilitate the development of affordable housing.
- Require street walls to be at the street line on narrow streets in the Preservation Area of the SCD; and,
- Amend ZR Section 14-44 to prohibit enclosed sidewalks cafes in the SCD.

As with any collaborative process, there are items which CB4 had hoped to see in the rezoning but which are not included at this time. The most important omission is the failure to extend the Anti-Harassment, Alteration and Demolition Restrictions to the western-most boundary of the SCD to Twelfth Avenue into the new Western Subarea C2 of the Other Area. These issues have been the most consistently expressed concerns voiced by community members attending the forums, and were the subject of passionate testimony by more than forty (40) residents at the January committee meeting. CB4 remains optimistic that a resolution can be reached to extend the Anti-Harassment and Demolition Restrictions in the context of the Proposed Actions.

In addition, given the community's need for larger, family-sized units in our community [see comment under *Affordable Housing* in "Other Issues to Address" below], the failure to extend ZR Section 96-105 *Dwelling Unit Distribution* requirement to create 20% of the units as family-sized two bedroom units will unfortunately result in a disproportionate number of studio and one bedroom units.

Other omitted concerns raised by community members include not permitting residential development on the west side of Eleventh Avenue west to Twelfth Avenue. Lastly, the rezoning west of Eleventh Avenue will continue to allow the proliferation of nightclub and large venue use and forfeit an opportunity to develop the blocks leading to the Hudson River as active, welcoming block fronts that act as a friendly access to the waterfront.

THE PROPOSED ACTIONS

The Proposed Actions contemplate zoning map and text amendments that will affect all or portions of 18 blocks in and around the Eleventh Avenue corridor in the SCD. The rezoning area, in the western part of the Clinton neighborhood, is generally bounded by West 55th Street to the north, West 43rd Street to the south, a variable line between Tenth and Eleventh Avenues to the east, and Twelfth Avenue to the west. The Proposed Actions present a zoning map amendment that roughly extends the residential designation to the east side of Eleventh Avenue, overlays a C2-5 district along the east side of Eleventh Avenue and rezones the west side of Eleventh Avenue to Twelfth Avenue as M2-4 to permit manufacturing compatible uses.

CB4 has carefully reviewed the Proposed Actions; our comments and recommendations follow. The Proposed zoning actions include:

1) ULURP No. N110177ZMM – Zoning Text Amendment to:

- Establish the Inclusionary Housing program within the R8A and R9 districts of the proposed rezoning area of the SCD;
- Extend the Preservation Area of the SCD to generally within 100 feet east of Eleventh Avenue between West 45th Street and West 50th Streets;
- Extend the Other Area of the SCD to a depth of 175 feet on the east side of Eleventh Avenue between West 50th and West 52nd Street;
- Establish two new subareas within the Other Area of the SCD: the Northern Subarea (C1) to include all blocks in the Other Area north of West 55th Street and the Western Subarea (C2) to include all blocks in the Other Area south of West 55th Street;
- Place R9A contextual building envelope restrictions on developments within the proposal R9 district at a maximum height of 145 feet;
- Establish a maximum height of 135 feet and street wall requirements for developments in the proposed M2-4 district;
- Require street walls to be at the street line on narrow streets in the Preservation Area of the SCD;
- Permit the legal adult uses to remain in the Other Area of the SCD; and
- Amend ZR Section 14-44 to prohibit enclosed sidewalks cafes in the SCD.

CB4 recommends approval of the proposed zoning text amendment with the condition outlined below.

2) ULURP No. N110176ZRM

Zoning Map Amendment to rezone approximately 18 blocks along the Eleventh Avenue corridor to permit residential uses on the east side of Eleventh Avenue and to effect a change in zoning to M2-4 on the west side of Eleventh Avenue. The zoning map amendment includes an extension of the Preservation Area of the SCD to 100 feet east of Eleventh Avenue between West 45th Street to West 50th Street.

CB4 recommends approval of the proposed zoning map amendment.

HISTORY

The rezoning of West Clinton/Eleventh Avenue corridor represents not only the culmination of three years of engagement with DCP, but the end of a longer internal CB4 planning process that began shortly after the rezoning of the Hudson Yards District in 2005. While most areas of CD4 had recently undergone extensive rezoning, the Eleventh Avenue corridor remained primarily zoned for manufacturing. Although few, if any, new manufacturing uses were introduced, other uses, such as small hotels, incompatible to the historic residential community, were taking advantage of the outdated zoning. Sites located in the Excluded Areas of the SCD, including the Clinton Urban Renewal Area (CURA) and Studio City/P.S.51 site were being rezoned for residential projects; however, residential projects were not permitted elsewhere in the corridor.

Concerned that the area was being steadily developed without a comprehensive plan, the C/HKLU committee developed its proposed framework for the rezoning of the Eleventh Avenue corridor through a series of public discussions. The framework proposed limited building heights, extended the Preservation Area of the SCD, including tenant Anti-Harassment protections and Demolition Restrictions, embraced family-size units and permitted residential development at heights compatible with our low rise residential community.

Many of the elements of CB4's proposed framework are incorporated in the Proposed Actions. We are pleased to partner in the ULURP actions that proactively plan for the development of our community, protect the larger residential community through height restrictions, anti-harassment provisions and demolition restrictions and include Inclusionary Housing bonuses to incentivize low income housing. However, there are a number of concerns that were raised, loudly and repeatedly, at each public meeting that must be addressed in our response.

THE COMMUNITY'S CONCERNS

The January 27, 2011 public hearing was well attended by residents living in the proposed rezoning area. Most residents were largely supportive of the overall proposal and welcomed the introduction of residential uses at heights that matched our low rise neighborhood context. However, almost all of the forty (40) residents who attended spoke passionately about the need to further extend the Anti-Harassment, Alteration and Demolition Restrictions (ZR Sections 96-108 through 96-110)) of the Preservation Area of the SCD to the western boundary of the Other Area and the need to create family-sized affordable units (Section 96-105) that are two bedrooms or larger. Many also mourned what they perceive to be the lost opportunity to rezone the west side of Eleventh Avenue and the blocks west for residential use, thereby creating a user friendly access to the waterfront.

Anti-Harassment Provision and Demolition Restriction

The Proposed Actions extend the Preservation Area from a variable line between Tenth and Eleventh Avenues to within 100 feet east of the Eleventh Avenue. However, in the Western Subarea C2 of the Other Area south of West 55th Street alone, there are 15 residential buildings located just west of that proposed extension. (A list and photo documentation of the residential buildings located west of the proposed extension of the Preservation Area is attached as Appendix A.)

Residents living in the immediate area recounted stories of harassment by their landlords, harassment that continues to this day. These residents were vocal about the failure to extend the Anti-Harassment and Demolition Restriction protections to the western-most boundary of the SCD and voiced their strong disapproval. They are concerned that the proposed rezoning will increase the incentive for their landlords to harass them and demolish their homes, and we agree that this is a likely outcome.

The Demolition Restrictions and Anti-Harassment Provisions of the SCD have been in effect since 1973. They have been a proven and effective tool for community preservation and tenant protection for over 38 years. Those provisions were extended with an extension of the Preservation Area in 1990 to the mid-blocks from West 45th to West 50th Streets between Tenth and Eleventh Avenues.

As part of the agreements between the New York City Council and the Mayor, similar Demolition Restrictions and Anti-Harassment Provisions were extended to subareas of the Hudson Yards Special District to protect 1291 apartments in 86 buildings. Those same restrictions and provisions were also extended to protect 250 apartments in 22 buildings in West Chelsea Special District.

Anytime public action, such as the West Clinton/Eleventh Avenue Rezoning, creates opportunities for development, public action must always be taken to balance community preservation and tenant protection. Demolition restrictions would cover 316 apartments

in 15 buildings. **Without the requested modification, Western Subarea C2 of the Other Area of the SCD would stand out as the only area in Manhattan Community District 4, that has been rezoned for residential use with increased bulk without extending the Demolition Restrictions and Anti-Harassment Provisions.**

CB4 requests that *Section 96-108 Demolition of Buildings*, *Section 96-109 Alteration of Buildings* and *Section 96-110 Harassment and Cure* be extended to Western Subarea C2 of the Other Area to preserve the 316 apartments in the 15 buildings and protect the individuals and families who live in them. We are deeply disappointed that these provisions were not included in this application on which we are a co-applicant and will work for their inclusion when the application reaches the City Council.

Other Issues to Address

Affordable Housing

CB4 is pleased that the R8A and R9 districts will be Inclusionary Housing Designated Areas under the Proposed Actions. CB4 celebrates its economic diversity and welcomes development of affordable housing for people of all income levels. It is important to CB4 that the upcoming housing development mirrors the socioeconomic diversity that is the hallmark of the Clinton neighborhood. Not only must the affordable housing be built within the SCD, but if built within a market-rate building, the affordable apartments should be distributed evenly across all floors of the building and not segregated from the market-rate units.

Units in to be located in SCD

CB4 had requested that all Inclusionary Housing be required be built within the SCD as required for Perimeter Area B. While it is clear that is the intent of the amended text, it needs clarification. Specifically, in referring to the Inclusionary Housing Program both in:

- 96-31, Special Regulations in R8 Districts, Section (b), paragraph (1) reads that the Inclusionary Housing Program Regulations “as modified within the Special District”
- 96-32 Special Regulations in R9 Districts Section (a), that the Inclusionary Housing Program Regulations “as modified within the Special District”

The Board believes that the text should have used the defined term #Special Clinton District# to clearly point to the modifications of 23-90 embodied in the SCD.

20% Two Bedroom Requirement

However, market-rate housing in CD4 has been overwhelmingly developed as smaller sized units. We therefore have a disproportionate number of studios and one bedroom

units created in our district. Because existing affordable housing programs, including HFA's 421-a program, require that affordable units mirror market-rate units in apartment size, the weight toward smaller units extends to the affordable units as well. This is unfortunate, as CD4 is desperate for affordable family-sized units. ***CB4 therefore requests that Section 96-105 Dwelling unit regulations that requires that 20% of the units developed be two bedroom or larger, be applied to the Western Subarea C2 of the Other Area.***

Residential Use on the West Side of Eleventh Avenue

CB4 is disappointed that the Proposed Actions do not permit residential development on the west side of Eleventh Avenue and areas west. While CB4 prefers and supports the proposed M2-4 designation over the existing M1-5 zoning, we firmly believe that residential use represents the future of this area and would further enhance our community by providing a user friendly access to the waterfront. The existing industrial uses west of Eleventh create block long frontages on the side streets with no active street life, generating concerns about safety. Integrating active residential uses along the western-most blocks would create a more welcoming gateway to the waterfront.

Furthermore, residents gave voice to their concerns that the building heights to the west of Eleventh Avenue exceed those on the eastern side, thereby creating a "wall effect" and effectively blocking off the waterfront.

Large Venue Club and Bar Use

It has been the experience of CB4 in West Chelsea that large bar and club use (200 plus capacity) is prevalent in manufacturing districts. CB4 is concerned that the area west of Eleventh Avenue has started to become the next location for a proliferation of large venue/nightclub use. The Board's West Chelsea experience teaches us that with such uses in this area, club goers will pass through the historic residential Clinton neighborhood in order to access public transportation to the east, and the attendant noise and loitering will have serious negative repercussions on neighborhood character. We understand that clubs cannot be restricted from one area without ensuring that a viable alternate location is made available, so while CB4 enjoys its venues that are well-operated now, we seek to discourage oversaturation of such uses near residential neighborhoods, and are actively investigating solutions that would permit large venue and nightclub use adjacent to public transportation.

Community Facilities in the M2-4 Zone

The Board was unaware that Community Facilities, such as not-for-profits arts organizations and theatres would be prohibited in an M2-4 zone. The Board requests follow up corrective action (FUCA) to amend the SCD text to allow such uses.

Historic Resources

CB4 requests review by the Landmarks Commission and the landmark designation of certain historic resources identified in the West Clinton Environmental Assessment Statement (EAS). The physical fabric of the Clinton/Hell's Kitchen community represents a unique opportunity to preserve elements of the neighborhoods residential and industrial history. The buildings presented in the EAS embody the neighborhoods transformation from a low-rise, working class immigrant area of tenements to the growth of industry along Eleventh Avenue in the late 19th and early 20th centuries. Photographs of the proposed buildings are attached as Appendix B. We therefore urge the individual landmark designation of the following historic resources cited in the EAS.

Historic Resources identified the prior PS 51/Gotham EIS:

Industrial

- ***E&J Burke Company Warehouse, 616-620 West 46th Street – (S/NR eligible)***
Built in 1912-1913 for the E & J Burke company, an importer and seller of beer and whiskey, the warehouse was designed by Thomas J. Duff. The building's four bay-wide façade has street level loading docks, two end bays that project slightly forward from the two center bays, and regular fenestration and retains the historic two-over-two double-hung sash and copper window frames. Two copper finials extend above the roof. A stone panel inscribed with the words "E & J. Burke" spans the top of the center bays.
- ***Acker, Merrall & Condit Company Warehouse, 536 West 46th Street - S/NR eligible***
Built circa 1907 for the former wholesale grocery business, the five-story Romanesque Revival warehouse, presently occupied by the Salvation Army Thrift Store, is faced in patterned orange and brown brick with terra cotta stringcourses. The ground floor has three tall arched garage entrances. The building's most distinctive components are its three expansive triple-height arched window bays extending from the second through the fourth floors.
- ***Houbigant Company Building, 539 West 45th Street –S/NR-eligible***
This 11-story warehouse was built for a perfume and cosmetics manufacturer, the Houbigant Company, by Lockwood Greene & Company in 1924. The tan brick faced building has a granite and limestone base, copper spandrel panels below the tripartite window bays, and setbacks above the seventh and ninth floors. The word "Houbigant" is inscribed in the limestone panel above the second floor.

Residential

- ***626 Eleventh Avenue, the Landmark Tavern***
The Board requests the reconsideration of 626 Eleventh Avenue, the site of the Landmark Tavern, as eligible for designation. The 1868 three-story, red brick building with three window bays across and an Italianate cornice is among the last

buildings of its kind along Eleventh Avenue. The building, which has been continually occupied as a bar, retains original interior fittings. The Landmark Tavern significantly contributes to the story of Hell's Kitchen's immigrant and industrial past.

Educational

- ***P.S. 51, 520 West 45th Street – S/NR eligible***
This 1905 Renaissance-style school designed by C.B.J. Snyder marks the proliferation of school construction following the consolidation of New York City. Its five-story, red-brick façade with stone base features a tripartite design, with a base, shaft, and capital. The conversion of the C.B.J. Snyder building into residential use and construction of a new, five-story school building immediately to the south reinstates the original use of the new school site, as it is the location of the original P.S. 51 school built in 1855.

Historic Resources identified in the West Clinton EAS include:

Industrial

- ***Kohler & Campbell Piano Factory, 601-613 West 50th Street***
This six-story brick building completed circa 1909 was originally the office and factory of the Kohler & Campbell piano manufacturer. It was designed by Ross and McNeil and is articulated with recessed window bays on the upper floors and recessed arched opening on the ground floor that correspond to the bays above. A stone belt court and frieze of projecting brick headers runs between the first and second floors. A projecting cornice runs above the fifth floor.

Institutional

- ***Former Department of Street Cleaning Stable B, 618 West 52nd Street***
The three-story brick Stable B building dates to before 1896. After its creation the Department of Street Cleaning established stables throughout Manhattan and the Bronx. By 1934, the building was being used as a private garage and an illegal distillery producing 2,000 gallons of alcohol a day before it was raided by the federal government. It is a Romanesque Revival design with arched, corbelled window lintels, heavy piers, recessed decorative panels, recessed window bays, and arched windows.

Residential

- ***Tenement at 605 West 47th Street***
This five-story brick tenement was constructed circa 1895. The upper floors feature arched windows with arched stone lintels, a corbelled stone cornice above the third floor, and an ornate, bracketed metal cornice at the roofline. The company sign above the ground floor dates to the 1930s.

Religious

- ***Saints Kiril and Methodi Bulgarian Eastern Orthodox Diocesan Cathedral, 552 West 50th Street***

From 1915 until 1974 this three-story brick church was occupied by the Croatian Catholic Church of Saints Cyril and Methodius. The church supported the Croatian independence movement and opposition to the post-1945 communist government of Yugoslavia. Gothic-style details on the church façade include a large, central pointed arch stained glass window flanked by two smaller pointed arch stained glass windows, a pointed arch entrance with stained glass below the arch, eared lintels, niches, and pinnacles. A squat, square tower and spire tops the building.

- ***Centro Maria, 539 West 54th Street – S/NR Eligible***

This four-story neo-Gothic building was designed by John V. Van Pelt for the Roman Catholic parish church of St. Ambrose in 1911. Neo-gothic design elements include three pointed-arch entrances with limestone enframements and thin half columns, quatrefoil and trefoil motifs, three niches with statuary, and a limestone parapet with a blind arcade.

- ***Former Rectory of the Church of St. Ambrose, 513 West 45th Street***

This 3 1/2-story building is the former rectory of the original (non-extant) Roman Catholic parish church of St. Ambrose, which was constructed in 1898. After the church and rectory relocated, this building became a convent. By 1951, it was used for offices and it now houses a television studio. The building has a modest Romanesque appearance with a rusticated base, arched windows with arched lintels, recessed plans, a bracketed stone cornice between the first and second floors, and a bracketed metal cornice at the roofline.

The following buildings are controlled by a local not-for-profit group and CB4 requests that this not-for-profit voluntarily pursue landmark status on these buildings:

- ***Factory, 556 West 52nd Street***

This five-story brick building was built circa 1889 and originally housed the Travers Brothers' twine, cord, and hammock factory.

- ***Tenement, 562 West 52nd Street***

This intact five-story tenement dates to before 1896.

- ***Tenements, 730-736 Eleventh Avenue***

These four four-story Italianate tenements were built sometime before 1896.

- ***Tenement, 724 Eleventh Avenue***

This five-story brownstone tenement dates to 1887, as identified on the ornate, bracketed metal cornice at the roofline.

All of the buildings noted above are subject to demolition and alteration. There are currently no controls in place to protect these important historic resources. Both the resources already identified in the PS51 Draft Environmental Impact Statement (DEIS) and those newly identified in the West Clinton EAS need to be protected in a manner similar to those identified during the West Chelsea Rezoning. CB4 is committed to the preservation of these historic resources which tell an important story about the history of Hell's Kitchen, its residents, and its transition from an immigrant neighborhood to an industrial neighborhood.

Additional concerns raised at the public forum have been incorporated into recommendations in CB4's response to the Environmental Assessment Statement

NOW, THEREFORE, BE IT RESOLVED that Manhattan Community Board 4

- Recommends **approval** of ULURP N110176ZRM; and
- Recommends **approval** of ULURP N110177ZMM with the following **condition**:
 - That the Anti-Harassment and Cure (Section 96-110), Alteration of Building (Section 96-109) and the Demolition Restrictions (Section 96-108) of the SCD be extended to the Western Subarea (C2) of the Other Area.

In addition, CB4 strongly urges that DCP and the Commission work to address the other concerns raised by the community, either in this or in future actions. These concerns include:

- Extend the 20% two bedroom requirement, Section 96-105 of the SCD, to the Western Subarea (C2) of the Other Area.
- Require that the affordable units developed under the Inclusionary Housing program be built on-site and be distributed evenly throughout all floors of the building;
- Permit residential uses on the western side of Eleventh Avenue;
- Prohibit large venue and nightclub operations on Eleventh Avenue and areas west; and,
- Preserve the Historic Resources as noted above.

Sincerely,



John Weis, Chair
Manhattan Community Board 4



Elisa Gerontianos, Co-Chair
Clinton/Hell's Kitchen Land Use Committee



Sarah Desmond, Co-Chair
Clinton/Hell's Kitchen Land Use Committee

cc: NYC Council Speaker Christine Quinn
NYS Senator Thomas K. Duane
NYS Assemblyman Richard Gottfried
Congressman Jerrold Nadler
Manhattan Borough President Scott Stringer
Erika Sellke, Edith Hsu-Chen, DCP
City Council Land Use – Danielle DeCerbo
Manhattan Borough President's Office – Brian Cook, Deborah Morris
Westside Neighborhood Association
Civic and Block Associations

Appendix A (part 1)

**11th Avenue Rezoning
Residential Buildings in Subarea C2**

Buildings West of 11th Avenue			
Block	Lot	Address	Unit Count
1095	27	605 West 47th Street	10
1099	20	621 West 51st Street	8
1099	51	628 West 52nd Street	6
Buildings on 11th Avenue			
Block	Lot	Address	Unit Count
1074	1	610 11th Avenue	2
1074	1	612 11th Avenue	4
1074	1	614 11th Avenue	3
1079	63	714 11th Avenue	7
1099	30	723 11th Avenue	11
1099	31	725 11th Avenue	12
1099	36	735 11th Avenue	7
Buildings Between 10th and 11th Avenues			
Block	Lot	Address	Unit Count
1077	57	544 West 49th Street	20
1080	1	565 West 51st Street	12
1080	105	564 West 52nd Street	32
1081	1	555 West 52nd Street	96
1081	61	554 West 53rd Street	86
		Total Dwelling Units	316
		Total Buildings	15

11TH AVENUE REZONING

APPENDIX A: RESIDENTIAL BUILDINGS IN SUBAREA C2

**BUILDINGS WEST OF
11TH AVENUE**



605 West 47th Street



628 West 52nd Street

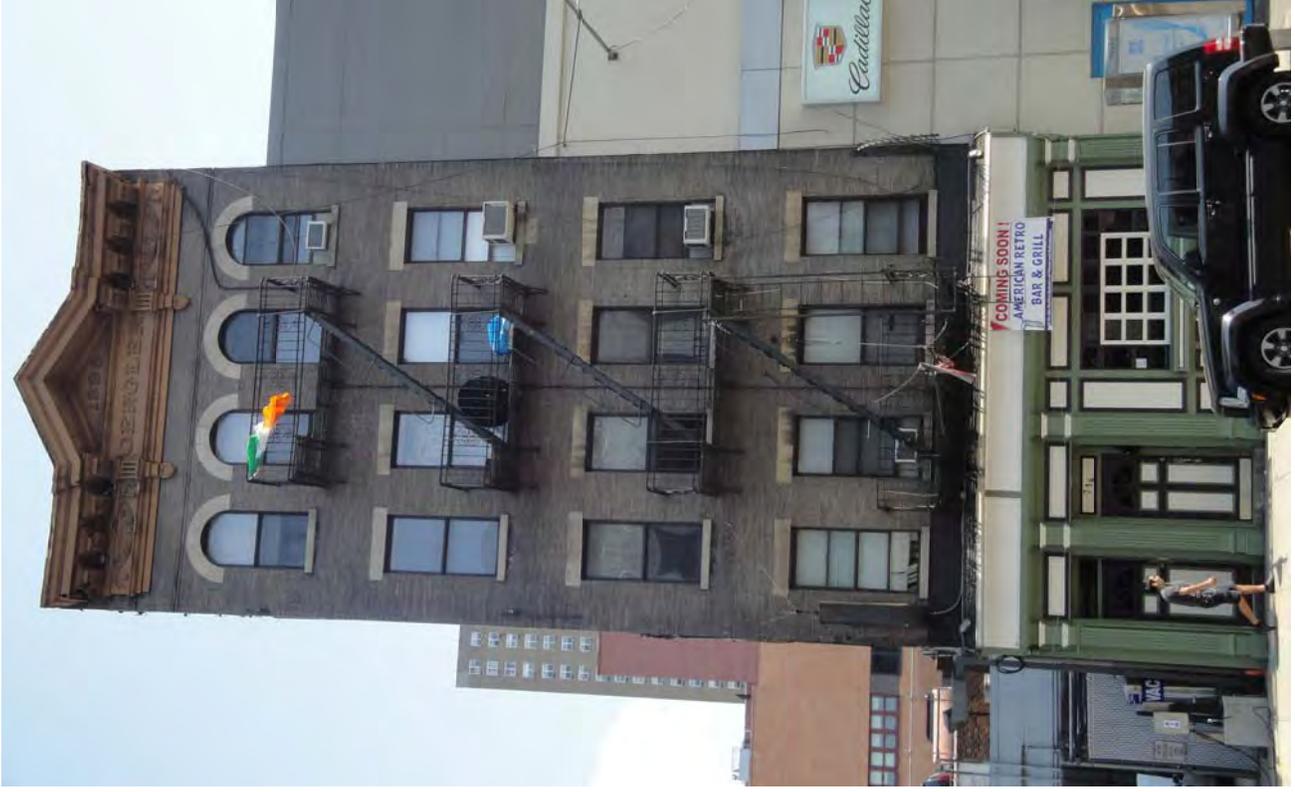


621 West 51st Street

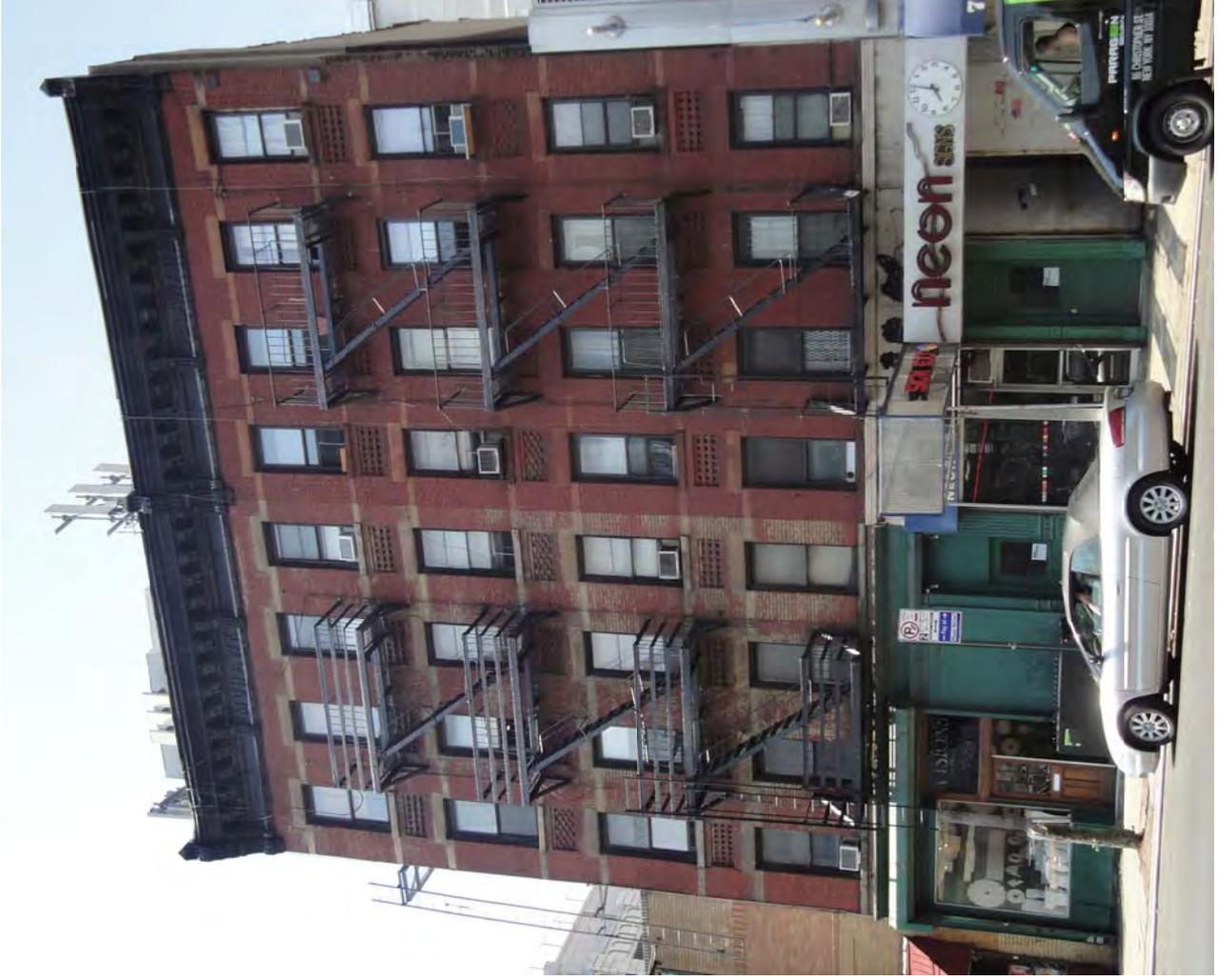
BUILDINGS ON ELEVENTH AVENUE



614, 612, 610 Eleventh Avenue



714 Eleventh Avenue



725, 723 Eleventh Avenue



735 Eleventh Avenue

**BUILDINGS
BETWEEN 10TH AND
11TH AVENUES**



544 West 49th Street



565 West 51st Street



564 West 52nd Street



555 West 52nd Street



554 West 53rd Street

Appendix B: Historic Resources

Industrial Buildings

*E&J Burke Company Warehouse, 616-620 West 46th Street – S/NR eligible (EAS ID: (3))
Acker, Merrill & Condit Company Warehouse, 536 West 46th Street - S/NR- eligible (1)*



E&J Burke Company Warehouse



Acker, Merrill & Condit Company Warehouse

Industrial Buildings

*Houbigant Company Building, 539 West 45th Street –S/NR-eligible (2)
Kohler & Campbell Piano Factory, 601-613 West 50th Street (12)*



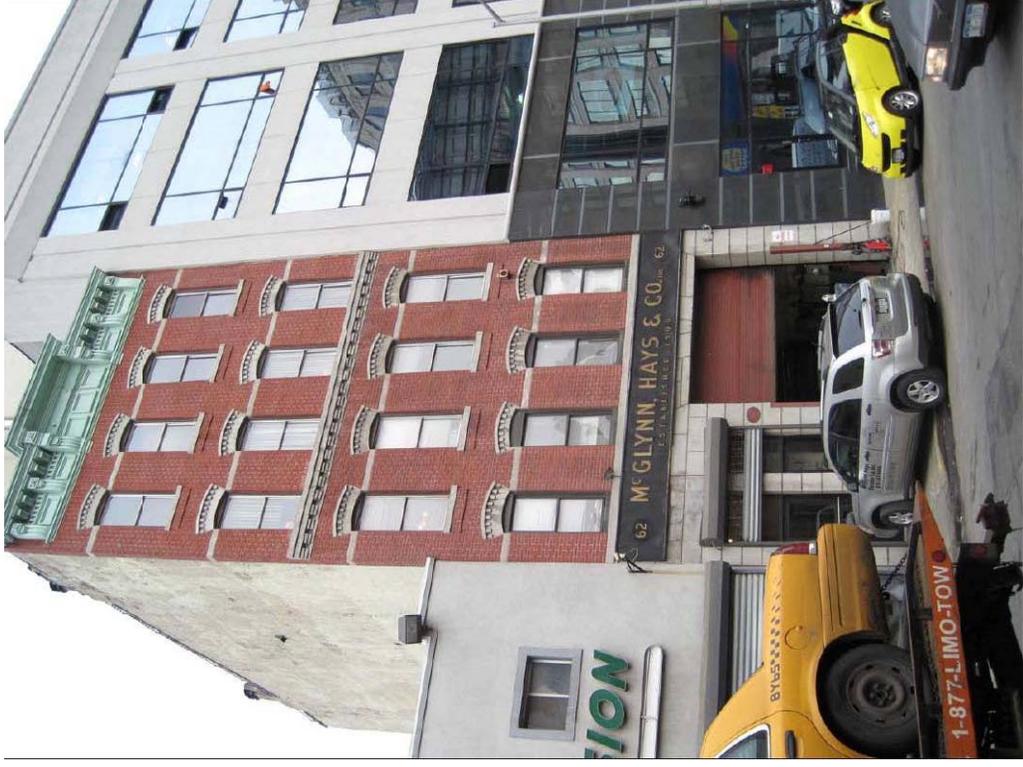
Houbigant Company Building



Kohler & Campbell Piano Factory

Residential

*626 Eleventh Avenue, the site of the Landmark Tavern
Tenement at 605 West 47th Street (16)*



605 West 47th Street



Landmark Tavern

Educational

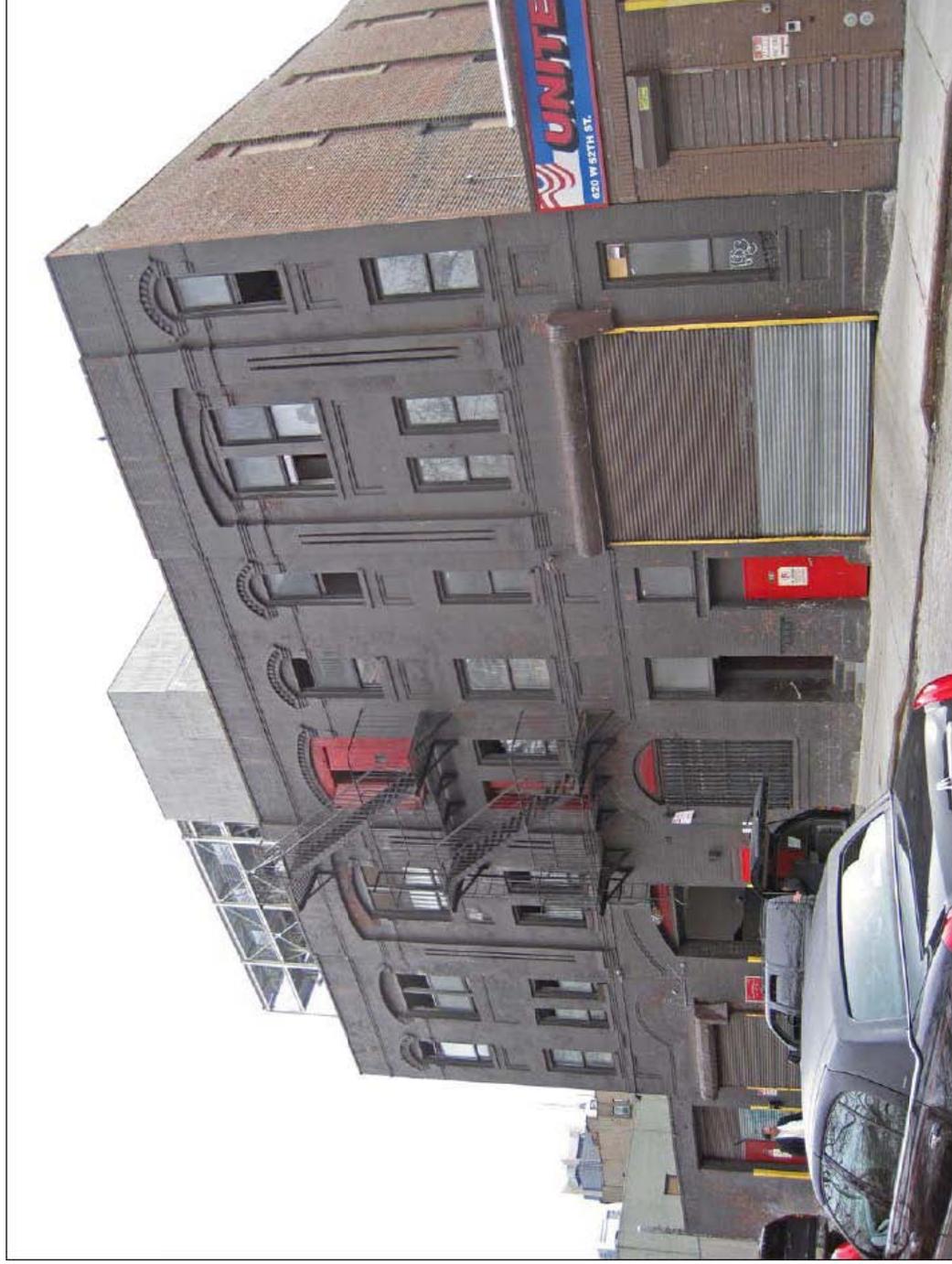
P.S. 51, 520 West 45th Street – S/NR eligible (21)



P.S. 51

Institutional

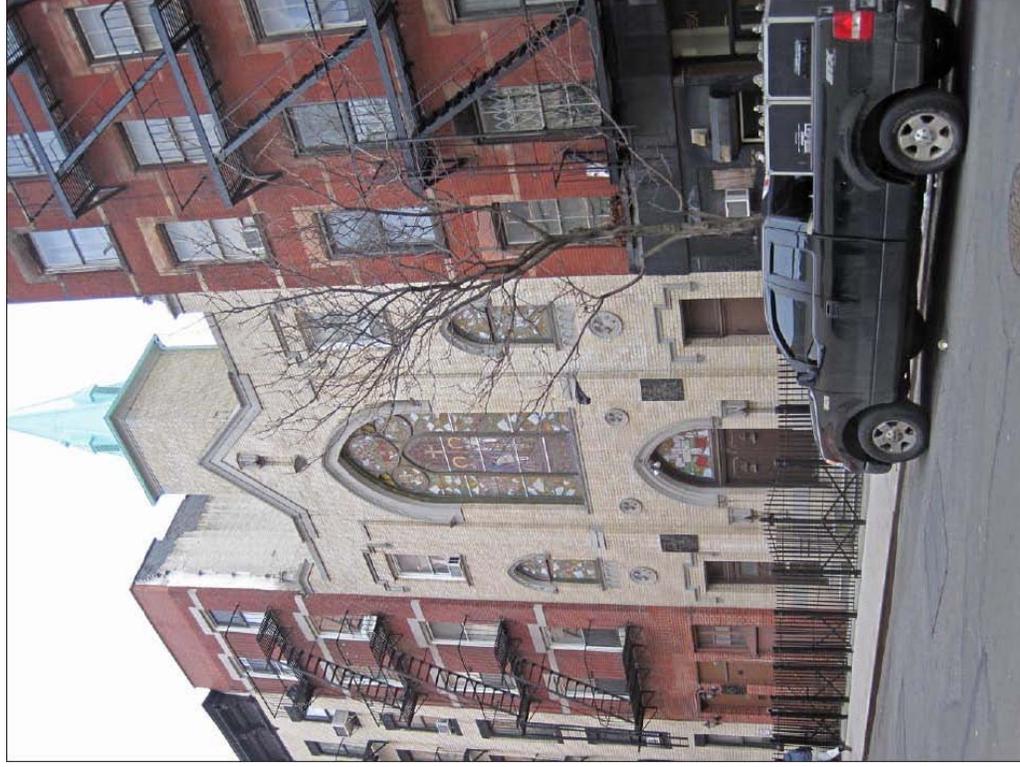
F Former Department of Street Cleaning Stable B, 618 West 52nd Street (11)



Former Department of Street Cleaning Stable B

Religious

Saints Kiril and Methodi Bulgarian Eastern Orthodox Diocesan Cathedral, 552 West 50th Street (13)
Centro Maria, 539 West 54th Street – S/NR Eligible (18)



**Saints Kiril and Methodi Bulgarian
Eastern Orthodox Diocesan Cathedral**



Centro Maria

Religious

Former Rectory of the Church of St. Ambrose, 513 West 45th Street (26)



Former Rectory of the Church of St. Ambrose

Voluntary Landmarks

*Factory, 556 West 52nd Street (7)
Tenement, 562 West 52nd Street (8)*



556 West 52nd Street



562 West 52nd Street

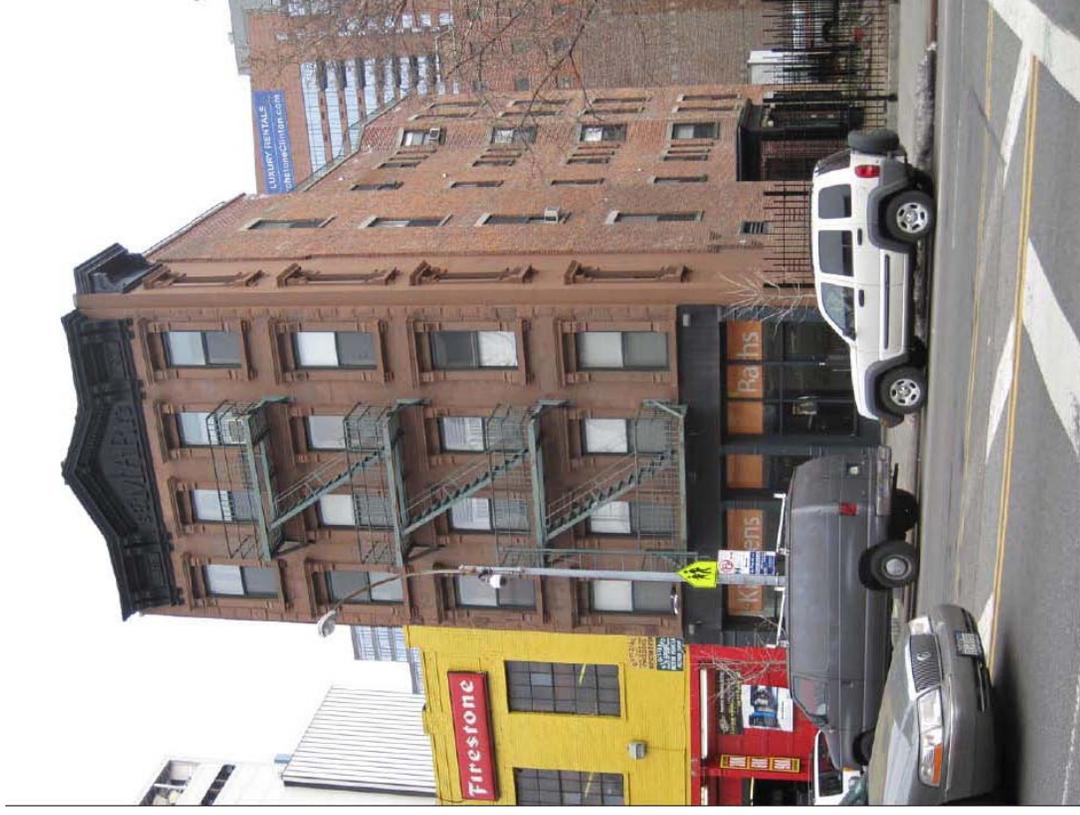
Voluntary Landmarks

Tenements, 730-736 Eleventh Avenue (9)

Tenement, 724 Eleventh Avenue (10)



730-736 Eleventh Avenue



724 Eleventh Avenue

**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 110176 ZRM and C 110177 ZMM

Docket Description:

See Attached

COMMUNITY BOARD NO: 4

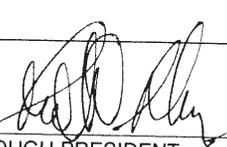
BOROUGH: Manhattan

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

4/5/2011
DATE

C 110177 ZMM

In the Matter of an application submitted by NYC Department of City Planning and Manhattan Community Board 4 pursuant to Sections 177-c and 201 of the New York City Charter for an amendment of the zoning Map, Section No 8c:

1. changing from an M1-5 District to an R8 District property bounded by:
 - a. West 52nd Street, a line 200 feet easterly of Eleventh Avenue, West 51st Street, a line 175 feet easterly of Eleventh Avenue, West 48th Street, a line 450 feet westerly of Tenth Avenue, a line midway between West 46th Street and West 47th Street, a line 500 feet westerly of Tenth Avenue, West 47th Street, and a line 100 feet easterly of Eleventh Avenue; and
 - b. West 46th Street, a line 450 feet westerly of Tenth Avenue, West 45th Street, and a line 100 feet easterly of Eleventh Avenue,
 2. changing from an M1-5 District to an R8A District property bounded by:
 - a. West 52nd Street, a line 100 feet easterly of Eleventh Avenue, West 47th Street and Eleventh Avenue; and
 - b. West 46th Street, a line 100 feet easterly of Eleventh Avenue, West 45th Street, and Eleventh Avenue;
 3. changing from an M1-5 District to an R9 District property bounded by West 44th Street, the easterly boundary line of a railroad right of way, West 43rd Street, and Eleventh Avenue;
 4. Changing from an m1-5 District to an m2-4 District property bounded by:
 - a. West 52nd, Eleventh Avenue, West 51st Street, and a line 150 feet westerly of Eleventh Avenue;
 - b. West 49th Street, Eleventh Avenue, West 47th Street, and Twelfth Avenue
 - c. West 47th Street, a line 500 feet westerly of Tenth Avenue, a line midway between West 46th Street and West 47th Street, a line 450 feet westerly of Tenth Avenue, West 46th Street and Eleventh Avenue;
 5. changing from an M2-3 District to an M2-4 District property bounded by:
 - a. West 55th Street, Eleventh Avenue, West 52nd Street, a line 150 feet westerly of Eleventh Avenue, West 51st Street, Eleventh Avenue, West 49th Street, and Twelfth Avenue; and
 - b. West 47th Street, Eleventh Avenue, West 43rd Street, Twelfth Avenue, West 45th Street, a line perpendicular to the southerly street line of West 46th Street distant 250 feet easterly (as measured along the street line) from the point of intersection of the southerly street line of West 46th Street and the easterly street line of Twelfth Avenue, West 46th Street, and Twelfth Avenue;
 6. changing from an M3-2 District to an M2-4 District property bounded by West 46th Street, a line perpendicular to the southerly street line of West 46th Street distant 250 feet easterly (as measured along the street line) from the point of intersection of the southerly street line of West 46th Street and the easterly street line of Twelfth Avenue, West 45th Street, and Twelfth Avenue;
 7. establishing within a proposed R8A District a C2 5 District bounded by:
 - a. West 52nd Street, a line 100 feet easterly of Eleventh Avenue, West 47th Street, and Eleventh Avenue; and
 - b. West 46th Street, a line 100 feet easterly of Eleventh Avenue, West 45th Street, and Eleventh Avenue;
 8. establishing within a proposed R9 District a C2-5 District bounded by West 44th Street, a line 100 feet easterly of Eleventh Avenue, West 43rd Street, and Eleventh Avenue; and
 9. establishing a Special Clinton District bounded by the northerly street line of West 47th Street and its westerly and easterly prolongations, the easterly street line of Eleventh Avenue and its northerly and southerly prolongations, the southerly street line of West 45th Street and its easterly prolongation, a line 100 feet westerly of Eleventh Avenue, the southerly street line of West 44th Street, a line perpendicular to the southerly street line of West 45th Street distant 150 easterly (as measured along the street line) from the point of intersection of the southerly street line of West 45th street and the easterly street line of Twelfth Avenue, the southerly street line of West 45th Street, the easterly street line of Twelfth Avenue, West 43rd Street and Twelfth Avenue;
- in the Borough of Manhattan Community District 4.

N 110176 ZRM

IN THE MATTER OF an application submitted by the Department of City Planning and Community Board 4 pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article 1, Chapter 4 (Sidewalk Café Regulations), Article IX, Chapter 6 (Special Clinton District) and Appendix F (Inclusionary Housing Designated Areas) in the Borough of Manhattan, Community District 4.



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

SCOTT M. STRINGER
BOROUGH PRESIDENT

April 5, 2011

ULURP Application Nos. N 110176 ZRM and C 110177 ZMM
West Clinton Rezoning
by the New York City Department of City Planning
and
Manhattan Community Board 4

PROPOSED ACTION

The Department of City Planning (“DCP”) and Manhattan Community Board 4 (“CB4”) seek approval of a **Zoning Map amendment** (C 110177 ZMM) relating to an area within the Special Clinton District (“CL” or “Clinton District”) and in the West Clinton neighborhood of Community District 4. The proposed action area is comprised of approximately 18 blocks generally bounded by West 55th Street to the north, West 43rd Street to the south, a variable line between Tenth and Eleventh avenues to the east, and Twelfth Avenue to the west. The map amendment would change the existing M1-5, M2-3, and M3-2 zoning districts within the project area to R8, R8A/C2-5, R9, R9/C2-5, and M2-4 districts.

DCP and CB4 have also filed a related application for **Zoning Text amendments** (N 1110176 ZRM) to modify the New York City Zoning Resolution. The text amendments would:

1. Apply Inclusionary Housing Program regulations to the proposed R8A and R9 zoning districts;
2. Extend the Preservation Area of the Clinton District to within 100 feet of the east side of Eleventh Avenue between West 45th and 46th streets and West 47th and West 50th streets;
3. Extend the Other Area of the Clinton District to a depth of 175 feet on the east side of Eleventh Avenue between West 50th and West 51st streets and a depth of 200 feet on the east side of Eleventh Avenue between West 51st and West 52nd streets;
4. Make a change to the nomenclature of the Other Area of the Clinton District, creating two new subareas: the Northern Subarea (“C1”) and the Western Subarea (“C2”). C1 would include all of the blocks in the Other Area north of West 55th Street, and the C2 would include all of the blocks in the Other Area south of West 55th Street;
5. Place R9A contextual building envelope restrictions on developments within the proposed R9 district;
6. Establish a maximum height and street wall requirements in the proposed M2-4 district;
7. Require street walls in the Preservation Area;

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8. Allow existing legal adult uses to remain in the Other Area of the Clinton District; and
9. Permit only Unenclosed Sidewalk Cafés in the Clinton District.

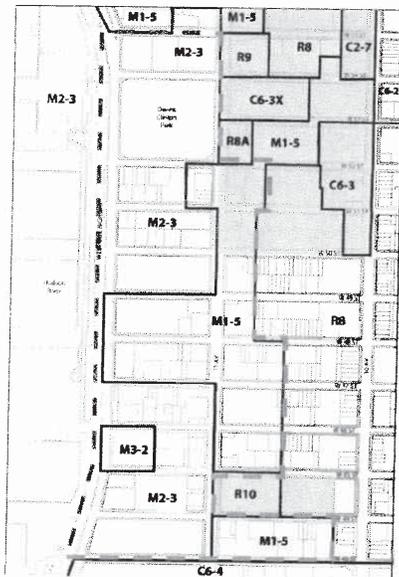
PROJECT DESCRIPTION

The proposed zoning map changes and related text amendments were formulated to address community concerns regarding the West Clinton neighborhood's increasing residential demand and changing commercial and manufacturing character. The rezoning plan generally envisions contextual residential development, including affordable housing, east of Eleventh Avenue. To the west, the proposed changes would encourage manufacturing-compatible uses between Eleventh and Twelfth avenues within contextual building envelopes.

The existing character of West Clinton is varied with a mix of residential, commercial, and manufacturing uses. Existing land uses primarily consist of residential buildings, auto-related activities, storage warehouses, light industrial uses, parking lots, and commercial uses. Much of West Clinton's current built character is a reflection of the area's historical land uses – including former large factory and warehouse buildings, and grandfathered residential tenement buildings.

Current Zoning

The current zoning for West Clinton consists of M1-5, M2-3, and M3-2 zoning districts. The M1-5 manufacturing district comprises half of the proposed rezoning area. M1-5 districts have a maximum allowable FAR of 5.0 for manufacturing and commercial uses and a maximum allowable FAR of 6.5 for certain community facilities. The M1-5 district does not have street wall and building height requirements.



Current Zoning
Source: Dept. of City Planning

The M1-5 zoning district allows commercial uses and manufacturing uses as of right. As such, these blocks primarily contain a mix of light industrial uses, including warehouses, self-storage, automobile-related uses, and commercial loft buildings. While the area also includes several residential and mixed-use buildings, new residential development is not permitted as of right.

The existing M2-3 zoning district is a non-contiguous eight-block area to the west of Eleventh Avenue between West 43rd and West 55th streets. M2-3 zoning districts have a maximum allowable FAR of 2.0 for manufacturing and commercial uses. The M2-3 district does not have requirements for street wall and building heights. These blocks contain light industrial uses, including warehouses, self-storage, automobile-related uses, commercial loft buildings, parking lots, a Con Edison substation, and a few grandfathered

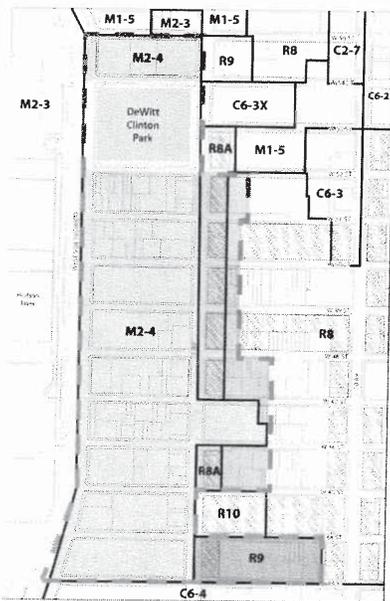
uses, commercial loft buildings, parking lots, a Con Edison substation, and a few grandfathered

pre-1961 residential buildings. A wider range of industrial and commercial uses are permitted within this district compared to the M1-5 zoning district. New residential or community facility development is not permitted as of right.

The M3-2 zoning district is mapped for a portion of the block west of Eleventh Avenue between West 45th and West 46th Street. This block is owned by the New York State Department of Transportation and is used as a parking lot and the landing for the pedestrian bridge to the Intrepid Museum. M3-2 districts have a maximum allowable FAR of 2.0 for manufacturing and commercial uses. M3-2 districts permit the highest intensity industrial uses, and residential and community facilities are not permitted as of right. This zoning district does not have requirements for street wall and building heights.

Proposed Zoning Districts (C 110177 ZMM)

M2-4 zoning districts are proposed for the west side of Eleventh Avenue, between West 43rd Street and West 55th Street and for a portion of one block on the east side of Eleventh Avenue between West 46th and West 47th streets. The small portion of the proposed M2-4 district on the east side of Eleventh Avenue contains a large loft building, previously used as a candy factory that is currently leased to the New York office for Ogilvy & Mather, an advertising agency.



Proposed Zoning
Source: Dept. of City Planning

The M2-4 district permits commercial and manufacturing uses; however, hotel development is not allowed as of right. Further, DCP and CB4 propose to modify the district's bulk regulations with a text amendment to the Clinton District, which would establish contextual controls throughout the M2-4 zoning district. The new contextual controls would require a street wall height of 50 feet to 95 feet and a maximum building height of 135 feet. A setback of 10 feet on a narrow street and 15 feet on a wide street would be required at the maximum street wall height.

The proposed M2-4 district is intended to permit the growth of existing and new industrial and commercial businesses in the West Clinton neighborhood while promoting contextual development.

R8A zoning districts with C2-5 overlay are proposed for the east side of Eleventh Avenue, between West 45th Street and West 52nd Street (except for a portion of one block on the east side of Eleventh Avenue between West 46th and West 47th streets). The R8A zoning district permits a maximum building height of 120 feet. Buildings must be built with a street wall and may rise to between 60 and 85 feet before setting back 10 feet or 15 feet (on a narrow and wide street, respectively).

Within the R8A district, residential and community facility uses would be allowed as of right. The C2-5 overlay would permit ground-floor commercial or an FAR of 2.0. The sites within the proposed R8A districts would be eligible for a residential density bonus under the City's Inclusionary Housing Program. The R8A district would have a base residential FAR of 5.4 and a maximum FAR of 7.2 if affordable housing were provided. The maximum FAR can only be achieved if the developer provides 20 percent of the density as affordable housing to households earning up to 80 percent of the Area Median Income ("AMI"). The affordable housing may be located in the development, within one-half mile, or elsewhere in the community district. Even if the Inclusionary Housing bonus is utilized, the development must still conform to the contextual envelope.

This zoning district is intended to provide opportunities for new contextual residential development with ground-floor retail on the east side of Eleventh Avenue.

R9 zoning district with C2-5 overlay are proposed for the majority of a block located east of Eleventh Avenue to 100 feet of east of Tenth Avenue between West 43rd and 44th streets. The C2-5 commercial overlay would be mapped to a depth of 100 feet on the Eleventh Avenue frontage and would allow a 2.0 FAR for commercial development or ground-floor commercial uses within the commercial overlay area. R9 districts permit residential and community facility uses.

DCP and CB4 further propose to modify this R9 district through a text amendment, which would require that development conform to the contextual bulk regulations of R9A zoning districts. The maximum building height permitted would be 135 feet on a narrow street and 145 feet on a wide street. The maximum street wall height would be 95 feet to 102 feet, and a setback of 10 feet (on a wide street) and 15 feet (on a narrow street) would be required. Development within this R9 district would be eligible for a residential density bonus under the Inclusionary Housing Program. The R9 district would permit a base residential FAR of 6.0 and a maximum FAR of 8.0 if affordable housing were provided.

The R9 zoning district is intended to provide opportunities for residential development with ground-floor retail on the eastern frontage of Eleventh Avenue. The specified height and density are proposed to provide a transition from higher-density development on the West 42nd Street corridor to the lower-density development found to the north and east.

R8 zoning districts are proposed for portions of seven blocks currently zoned MI-5 and located east of Eleventh Avenue between West 45th Street and West 50th Street, which would extend the existing R8 district located in the area east of the proposed rezoning area. DCP and CB4 additionally propose a text amendment to include the R8 districts south of West 50th Street in the Preservation Area and the portion north in the Other Area of the Clinton District.

In these areas, the R8 district would have a maximum FAR of 4.2 for residential and community facility uses, and the maximum height for all buildings on narrow streets is 66 feet and 85 feet for a wide street. The Preservation Area contains additional bulk regulations relating to lot coverage requirements and special open space regulations. Further, the extension of the

Preservation Area includes anti-demolition restrictions and anti-tenant harassment provisions, as well as a requirement that 20 percent of new residential units be 2-bedroom units or larger. The Other Area does not include these anti-demolition, anti-tenant harassment, or minimum unit size provisions applicable to the Preservation Area.

This area is intended to allow appropriate residential development, while extending the Preservation Area and Other Area regulations where appropriate.

Proposed Text Changes (N 110176 ZRM)

DCP and CB4 propose several amendments to the Zoning Resolution. The majority of proposed text amendments would alter the Clinton District zoning text. The proposed text change would ensure the entire proposed zoning area is included in the Clinton District. Currently, two full blocks and a portion of one block west of Eleventh Avenue between West 44th and West 47th streets are excluded from the special district and would be included in the Other Area.

Additionally, the text changes will create two sub-districts in the Other Area and reinforce neighborhood distinctions for these areas by establishing the “Northern Subarea” (“C1”) and the “Western Subarea” (“C2”) of the Other Area. C1 would include all of the blocks in the Other Area north of West 55th Street, and C2 would include all of the blocks in the Other Area south of West 55th Street. This change in nomenclature was made at the request of the community board to differentiate these two areas.

Further, DCP and CB4 propose changes that would apply to the entire special district in order to address and correct conditions created by new developments. Currently, developments in the Preservation Area and the Other Area do not have to provide street walls at the street line on narrow streets. The proposed text change would require new developments in these areas to build to the lot line or to match the street wall of existing adjacent buildings. The proposed text amendments will additionally modify sidewalk café regulations so that enclosed sidewalk cafés are no longer permitted in the Clinton District.

Finally, adult uses are currently not permitted to be within 500 feet of a residential zoning district. Consequently, any existing adult use does not have grandfather rights and must vacate its premises within two years of a zoning map change that results in such use being located near a residential zoning district. In order to allow the existing adult establishments to continue operating, DCP and CB4 propose to grandfather the three existing adult uses in the Clinton District (located between Eleventh and Twelfth avenues).

Anticipated Development under the Reasonable Worst Case Scenario Development

The Environmental Assessment Statement (“EAS”) indicates that under a Reasonable Worst Case Scenario Development, the proposed actions would result in 26 possible development sites. Fourteen “projected” development sites¹ are likely to occur by 2020 (the analysis year). Without

¹ Projected developments are considered more likely to occur during the analysis period than potential developments.

the proposed action, the EAS assumes 9 development sites would be developed by 2020. It is anticipated that the development of the 14 projected sites would result in a net increase (from a "No-Action" condition) of 1,623 dwelling units, of which approximately 252 would be affordable housing units, and an estimated population increase of approximately 2,662 new residents. In addition, the EAS estimates that there would be a net decrease of 719,045 SF of commercial space (retail, office, and hotel). On January 3, 2011, the City Planning Commission issued a Negative Declaration, which determined that the proposed actions will have no significant adverse effect on the quality of the environment.

COMMUNITY BOARD'S RECOMMENDATION

At its Full Board meeting on March 2, 2011, Manhattan Community Board 4 voted to recommend conditional approval of the application by a vote of 35 in favor, 0 opposed, and 2 abstentions. While CB4 as a co-applicant supports the rezoning, the community board's recommendation included some longstanding concerns that the board would like to be addressed as well as several concerns raised during the public hearings held during its review period. The conditions include that the rezoning be modified to:

- Extend the anti-harassment and cure, alteration, and demolition restrictions of the Preservation Area to the newly created C2 Subarea of the Other area;
- Extend the Clinton District's 20 percent 2-bedroom requirement to the C2 Subarea;
- Require that affordable units built under Inclusionary Zoning be located on-site and distributed evenly throughout all floors of a building;
- Permit residential and community facility uses on the west side of Eleventh Avenue;
- Prohibit nightclubs on Eleventh Avenue and areas to the west; and
- Include landmarking of historic resources.

BOROUGH PRESIDENT'S COMMENTS

West Clinton has a long tradition of being a mixed-use community with a mix of residential, light industrial, and commercial uses. Additionally, this neighborhood uniquely provides many essential services necessary to support the midtown Central Business District, including shipping, printing, and automotive services. This mix has not only created a vibrant community, but given the neighborhood an important role in the economic vitality of the City.

In recent years, however, the neighborhood has undergone significant change. Manufacturing uses are in decline, reflecting citywide trends. Additionally, DCP has undertaken several rezonings in the surrounding area to encourage new commercial and residential uses, including large rezonings such as Hudson Yards and smaller project-based rezonings such as Clinton Commons and the West 44th Street/Eleventh Avenue Site. As such, West Clinton is experiencing increasing redevelopment pressures. While the area has seen an increase of commercial uses that complement the Central Business District, including Kenneth Cole, Prada, Ogilvy & Mather, and expanded Fed-Ex and UPS facilities, the area has also experienced an increased demand for hotel uses, which would displace essential uses that support the Central Business District.

The neighborhood has many low-scale underutilized properties that are at an increasing risk for redevelopment and displacement by hotels. In addition, continued development under the existing zoning, which lacks bulk controls, is likely to create developments that do not preserve the neighborhood's distinct built form and character. It is, therefore, appropriate to re-examine the uses and building forms that are encouraged by the existing zoning and seek new controls that respond to the changing needs and pressures in the area.

The proposed rezoning plan was formulated in response to community interest in realizing a comprehensive rezoning of the subject area. DCP has worked collaboratively with Community Board 4 to create a contextual rezoning of the West Clinton neighborhood. While the existing zoning lacks height limits and bulk controls, the proposed zoning will introduce new bulk controls, which will promote developments of an appropriate scale and character. Additionally, the proposed zoning's as-of-right uses will generally preserve and promote primary uses, including manufacturing and commercial west of Eleventh Avenue and residential development to the east.

Further, the proposed zoning will meet several important community planning goals such as the creation of new affordable housing and the prohibition of as-of-right hotel. Finally, the proposed changes applicable to the Clinton District, such as the prohibition of enclosed sidewalk cafés and required street walls in the Preservation Area, will meet longstanding community concerns and encourage a more predictable building form. With these new controls, the proposed zoning will encourage a continuation of the mixed-use character that has made West Clinton one of the City's most successful neighborhoods.

Community Concerns

The proposed rezoning meets many of the community's goals and priorities. The proposed zoning districts, with contextual controls, are widely accepted as appropriate, and the incentives for affordable housing creation, new use restrictions, and modification of certain provision within the Clinton District meet longstanding community priorities. Despite widespread community support for the zoning changes, several additional community issues were identified through the course of public review and also highlighted in CB4's recommendation.

In general, these changes would complement the proposed rezoning without detracting from its goals and should be explored by the City. Specifically, DCP or the relevant City agency should explore: enhancing the tenant protections in the area; modifying the proposed inclusionary housing regulations to match existing Clinton District regulations for inclusionary housing; extending the requirements for family-size units; increasing preservation efforts in the area; re-examining uses in the Western Subarea (C2); and addressing environmental concerns.

Tenant Protections

At the community board's public hearing, many residents of the 15 residential buildings in the proposed rezoning area testified about their personal experiences with landlord harassment. The qualitative information provided by the residents is supported by quantitative data identified in

the EAS for the proposed rezoning. According to the EAS, current median rents in the area are 185 percent higher than the median rents reported in the 2000 census, and recent household sale prices were 127 percent higher than the median household value reported in the 2000 census. Based on the differential between median rentals and household value and the recent rental and sale prices, there is an incentive to remove buildings from programs such as rent stabilization.

The significant changes in the area's real estate market have been coupled with changes in the socio-economic character of the neighborhood's population. The EAS demonstrates that the number of residents in the study area at or below the poverty line decreased by 15.3 percent compared to a decrease of only 2.5 percent for Manhattan. Additionally, the median household income has grown by 25.8 percent in the study area compared to an increase of only 7.6 percent for Manhattan.

It is clear that the socio-economic composition of West Clinton's population is changing at a greater pace than the rest of Manhattan, and the experiences of neighborhood residents suggest that some of this change may be occurring through harassment. Further, the areas immediately surrounding West Clinton have been recently rezoned to be some of the highest density districts in the City. It is likely that these rezonings along with the proposed rezoning's permitted uses and densities will only increase the incentive for harassment and displacement.

The City, therefore, should put into place additional measures to protect tenants and discourage harassment. The Clinton District, in the Preservation Area, already includes mechanisms to discourage harassment – specifically the anti-harassment and cure provisions. These provisions still allow for new development, while protecting existing tenants from harassment by property owners motivated to redevelop their properties. Considering that the Other Area will experience the majority of projected residential development due to the proposed rezoning, it is appropriate to extend these protective provisions to, at a minimum, the Other Area.

Inclusionary Housing

The new inclusionary housing provisions are a welcome addition to the special district, as they help to address both Citywide and neighborhood need for affordable housing. The Clinton District, however, contains unique regulations regarding the Inclusionary Housing program. These include that all the affordable housing units produced through inclusionary zoning must be located within the special district. The new inclusionary zoning text, however, does not include this provision.

Since this area is experiencing rapid demographic changes, as outlined above, it is important that these provisions be extended to the new inclusionary housing areas established by the proposed rezoning. This would also ensure meeting an important community goal to maintain a mix of incomes in the neighborhoods as new residential development occurs.

Family-Size Units

The Preservation Area of the Clinton District requires that any new development built have at least 20 percent of its units be 2-bedroom units or larger. However, this restriction does not

apply to the Other Area. The Other Area, which will have both an increase in density and new residential uses, includes the majority of new residential developments anticipated as a result of this rezoning. As indicated in the EAS, the average household size has been decreasing in the study area, while slightly increasing for Manhattan and the New York City as a whole. CB4 postulates that this reduction is occurring because new developments are less likely to include family-size units.

Not only is it necessary for a healthy neighborhood to have a mix of incomes, but it is also important for a neighborhood to have a mix of unit types. A variety of unit sizes ensures that longtime residents and families will be able to remain in the neighborhood as their circumstances change or as their families grow, which contributes to maintaining a stable neighborhood and fosters a sense of community. Regardless of the cause, it is clear that there is a trend of decreasing household size. New developments represent an opportunity to reverse this trend. The City should extend the family-size unit requirement as it has elsewhere in the Clinton District.

Preservations Efforts

An important goal stated in the general purposes of the Special Clinton District is “to preserve and strengthen the residential character of the community.” To meet this goal, the Preservation Area has provisions, which prevent the alteration or demolition of sound residential buildings. While new residential development is appropriate for underutilized sites in the district, several community members have expressed concern that the new development will result in the demolition or alteration of sound residential buildings and historic resources.

The EAS identifies at least 26 sites likely to be redeveloped as a result of the proposed rezoning. The EAS identified development sites do not include any residential buildings; this is because the Reasonable Worst Case Scenario Development analysis assumes that residential buildings of a certain size and age are unlikely to be redeveloped since they are likely subject to rent stabilization laws. However, given the likelihood of harassment and the area’s rapidly increasing property values, it should not be assumed that these sites are protected from redevelopment pressures as is assumed in the EAS. Therefore, the City should extend the preservation and alteration restrictions to the Other Area. This extension will ensure that the proposed rezoning will not result in a significant impact on the existing residential population, as found in the EAS.

Additionally, several sites in the proposed rezoning area have been identified as historic resources but lack the protections afforded by landmark designation, in particular those protections required pursuant to designation by the New York City Landmarks Commission. Historic sites positively contribute to neighborhood character. To prevent the loss of these important resources, the City should explore landmarking appropriate sites, such as those identified in the EAS and by CB4.

Uses in the Western Subarea (C2)

The Western Subarea of the Other Area is currently proposed to be a manufacturing/commercial district west of Eleventh Avenue and residential district east of Eleventh Avenue. The area west

of Eleventh Avenue is currently designed to preserve and encourage commercial services which support the Central Business District. In part, the City has achieved this goal by eliminating the opportunity for as-of-right hotels and by not allowing new residential development. New opportunities for residential and community facility growth are restricted to east of Eleventh Avenue. In the proposed residential area, commercial and manufacturing uses would not be allowed as of right. While the proposed zoning districts generally meet community goals, the community expressed a desire to see preservation of the neighborhood's mixed-use character. The area has traditionally housed a combination of uses that are not traditionally coupled – such as manufacturing and residential uses. As such, it is appropriate in this area to explore whether the zoning districts can be expanded beyond their current parameters to meet a wider range of potential uses.

During public review of the proposed rezoning, Con Edison reached out to the Borough President's office to express its concern that an existing substation, located on the east side of Eleventh Avenue between West 49th and 50th streets, would be made non-conforming under the proposed residential zoning for that site. As such, if Con Edison needed to modernize the facility, it would be extremely limited in its ability to alter or expand the existing structure. Con Edison has expressed a willingness to make changes to the building in compliance with the proposed rezoning's bulk regulations. It would, however, like to have its manufacturing substation use on this site included as a use permitted within the proposed R8A zoning district within the special district. This change is appropriate as the substation is necessary and important infrastructure for both the neighborhood and the City.

Additionally, CB4 has expressed concern that community facility uses would not be allowed in the proposed M2-4 zoning district. Community facilities are necessary to support residential and commercial neighborhoods. In general, community facilities are prohibited from medium-density manufacturing districts in order to minimize the potential for conflict. New development in the proposed manufacturing district, however, is more likely to be commercial in character and more compatible with community facility uses.

Currently, community facility uses are not allowed in the M2-3 and the M3-2 zoning districts but they are permitted in the M1-5. Two blocks, currently zoned M1-5 are proposed to be zoned M2-4; therefore, they will not permit community facilities in the future. As such, only these two blocks are in scope to reintroduce community facility uses within the proposed manufacturing zoning districts. As part of a future follow-up action, however, it would be appropriate to explore which community facilities could be added to the M2-4 district while preserving the existing essential business services.

Finally, many community members have expressed an interest in having residential uses within the area west of Eleventh Avenue. However, this area is currently proposed to maintain its manufacturing designation in order to preserve the essential commercial services necessary for the function of the surrounding area and the Central Business District. While residential uses are beneficial as they contribute to activating and enlivening a neighborhood, particularly during non-peak business hours, it is important for the City to continue to prioritize essential commercial services. The City and the community should, however, explore the possibility of

permitting residential uses in this area utilizing zoning mechanisms that will protect the important commercial uses in the neighborhood.

Environmental Concerns

Comprehensive planning must be greater than comprehensive zoning and requires the coordination of multiple City agencies. The proposed rezoning does not result in significant adverse impacts as set forth in the City's environmental review process. Nonetheless, the rezoning would permit a significant increase in residential population. The City's recognition and encouragement of this area as appropriate for greater residential uses should be coupled with City policies that promote necessary residential infrastructure, such as mass-transit, schools, day care, and open space.

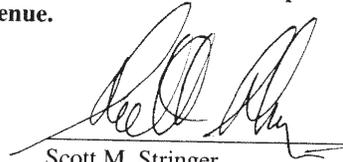
Further, while the EAS did not show an impact on traffic, the project will introduce significant new residential development on Eleventh Avenue. Based on longstanding community complaints, residents currently have difficulty crossing Eleventh Avenue, particularly the elderly, disabled and those with children. Similar complaints have been expressed by communities along the Eleventh Avenue corridor, such as community members within Community District 7. As such, the City should undertake efforts to calm traffic and increase pedestrian safety for the length of Eleventh Avenue.

Conclusion

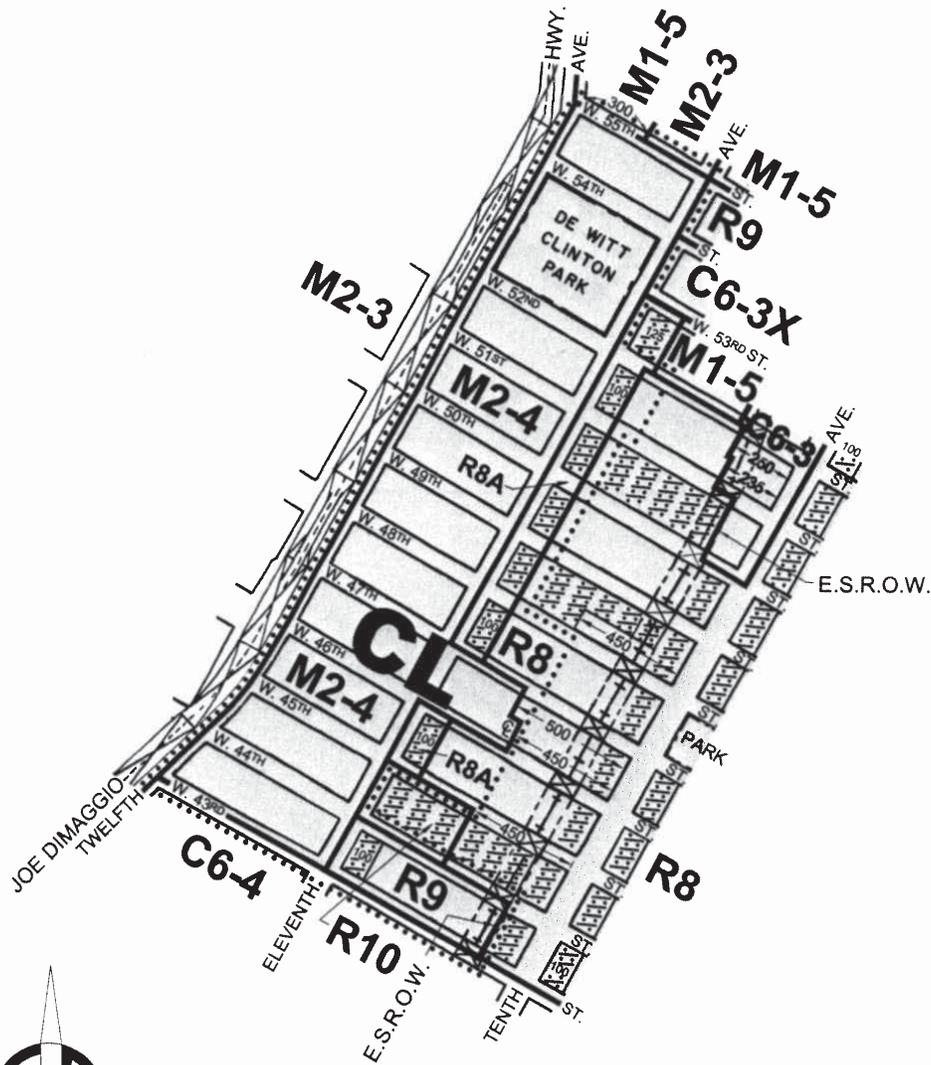
The proposed rezoning is a well crafted plan that will preserve the essential commercial uses, provide new opportunities for affordable housings, and meets longstanding community goals for the Clinton District. The proposed rezoning has wide spread community support, and DCP and CB4 should be commended for working collaboratively to create this vision. In addition to the proposed benefits of the rezoning, the City should include the changes outlined above, which will serve to enhance the goals of the proposed rezoning.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends conditional approval of ULURP Application Nos. N 110176 ZRM and C 110177 ZMM provided that the rezoning is modified to: include additional tenant protections, preservation regulations, and family-sized unit requirements; and ensure the new inclusionary housing regulations are consistent with the rest of the special district. Additionally, the City should consider additional zoning mechanisms that will allow additional uses in the C2 Subarea and the City should work towards creating appropriate residential infrastructure and promoting a friendly pedestrian environment along Eleventh Avenue.



Scott M. Stringer
Manhattan Borough President



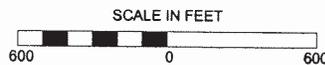
CITY PLANNING COMMISSION
 CITY OF NEW YORK
 DIAGRAM SHOWING PROPOSED
ZONING CHANGE
 ON SECTIONAL MAP

8c

BOROUGH OF
MANHATTAN

S. Voyages
 S. Voyages, R.A. Director
 Technical Review Division

New York, Certification Date
JANUARY 03, 2011



- NOTE:**
-  Indicates Zoning District Boundary.
 -  The area enclosed by the dotted line is proposed to be rezoned by changing from M1-5, M2-3 and M3-2 Districts to R8, R8A, R9 and M2-4 Districts, establishing within proposed R8A and R9 Districts a C2-5 District, and establishing a Special Clinton District.
 -  Indicates a C2-5 District.
 -  Indicates a Special Clinton District.