



## **CITY PLANNING COMMISSION**

March 2, 2011 / Calendar No. 17

C 110126 HAM

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
  - c) the designation of property located at 533/543 West 52<sup>nd</sup> Street (Block 1801, part of Lot 1) as an Urban Development Action Area; and
  - d) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD;

to facilitate development of an eleven story building, tentatively known as Clinton Commons, with approximately 103 dwelling units and commercial space, Community District 4, Borough of Manhattan.

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Approval of three separate matters is required:

1. the designation of property located at 533/543 West 52<sup>nd</sup> Street (Block 1801, part of Lot 1) as an Urban Development Action Area; and
2. an Urban Development Action Area Project for such area; and
3. the disposition of such property to a developer selected by HPD.

The application for the designation of an Urban Development Action Area and Project and for the disposition of city-owned property was filed by the Department of Housing Preservation and Development on October 26, 2010, and was revised on January 20, 2011 and February 18, 2011. Approval of this application would facilitate the development of up to 103 affordable residential units.

The Department of Housing Preservation and Development states in its application that:

The project area consists of underutilized property which tends to impair or arrest the sound development of the surrounding community, with or without tangible physical blight. Incentives are needed in order to induce the correction of these substandard, insanitary, and blighting conditions. The project activities would protect and promote health and safety and would promote sound growth and development. The project area is therefore eligible to be an Urban Development Action Area Project pursuant to Article 16 of the General Municipal Law.

## **RELATED ACTIONS**

In addition to the UDAAP designation, project approval and disposition of City-owned property (C 110126 HAM) which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following which is being considered concurrently with this application:

C 110125 ZMM      Zoning Map Amendment from an M1-5 to an R8A zoning district

## **BACKGROUND**

The Department of Housing Preservation and Development (HPD) is seeking the designation of property located at 533/543 West 52<sup>nd</sup> Street (Block 1801, part of Lot 1) as an Urban Development Action Area, approval of an Urban Development Action Area Project for such area and the disposition of such property to a developer to be selected by HPD. In addition, HPD is also seeking approval of a zoning map amendment (C110125 ZMM) to facilitate development of an eleven story building, tentatively known as Clinton Commons, with up to 103 dwelling units.

The project site, which is the subject of the UDAAP designation, project approval, and disposition, begins approximately 225 feet east of Eleventh Avenue, runs east approximately 150 feet along West 52<sup>nd</sup> Street and is 100 feet deep. It comprises approximately 15,062 square feet of a larger 61,030 square foot zoning lot (Block 1081, Lot 1). The site is currently located in an M1-5 zoning district and is within the Excluded Area of the Special Clinton District. Currently located on site (from east to west) is a single-story commercial building, an open outdoor space, which is currently being used for industrial supply storage, a vacant two-story building, a vacant one-story building, a two-story rear storage extension to a building which fronts along 53<sup>rd</sup> street, and a vacant area currently being utilized for vehicle storage and parking. As certified, the rezoning application included a larger rezoning area which encompassed the project site, as well as a portion of Block 1081, Lot 1 to the west. Located on this portion of Lot 1 at 545-549 West 52<sup>nd</sup> Street is a single-story city-owned building and a 10-story, City-owned, loft building which both house community facility uses and artist studios.

The block in which the project site is located is home to a variety of uses and has recently experienced a surge in residential redevelopment. On the east side of the block is 501 West 52<sup>nd</sup> Street, a five story residential dwelling with ground-floor retail space, fronting on Tenth Avenue. Directly west of this building is the Oasis Community Garden. Also east of the site, located at 515 West 52<sup>nd</sup> Street, is Archstone Clinton, an HPD sponsored 24-story residential development, which also includes community facility space, commercial space, accessory parking and a publicly-accessible open arcade. West of the project site are two HPD sponsored projects. On the southwest corner of the block, is the Clinton Parkview, an 11-story mixed used building comprising retail space on the ground floor with residential apartments above. On the northwestern corner of the block is another recently rehabilitated residential development, known as the Flats, which integrates two buildings, (five and seven stories respectively) into a single mixed-use building with neighborhood retail occupying the ground floor (C 020463 ZMM, C 020464 HAM, C 020465 HAM).

On the block directly to the north of the project site a new mixed-use development, approved by the City Planning Commission in March 2008 (C 080008 ZMM, lead action), is currently under construction. That project will include approximately 640 rental housing units, approximately 20,000 square feet of health club space, an approximately 330,000 square foot automobile dealership and an approximately 36,000 square foot facility for the NYPD mounted unit, which will include horse stables.

HPD has determined that the project site, which is comprised of property at addresses 533-543 West 52<sup>nd</sup> Street, consists of underutilized vacant property that tends to impair or arrest the sound development of the surrounding community, with or without tangible physical blight. Incentives are needed in order to induce the correction of these conditions. The project activities would protect and promote health and safety and would promote sound growth and development. The project site is therefore eligible to be an Urban Development Action Area and the proposed project is therefore eligible to be an Urban Development Action Area Project pursuant to Article 16 of the General Municipal Law.

The portion of the project site consisting of a single-story commercial building, an open outdoor space, which is currently being used for industrial supply storage, a vacant two-story building, a vacant one-story building, and a two-story rear storage extension to a building which fronts along 53<sup>rd</sup> street is proposed for disposition to a developer selected by HPD (533-541 West 52<sup>nd</sup> Street). In the original disposition application, the portion of the project site consisting of the vacant parcel at 543 West 52<sup>nd</sup> Street was not proposed for disposition on the basis that this parcel had been previously approved for disposition by the City Planning Commission on August 10, 1994 (C 940650 HDM) and that no new disposition authority was needed. However, the 1994 disposition of this parcel was restricted for use as part of a community facility development, and it was subsequently determined that it cannot be utilized for purposes of a disposition for housing development. Accordingly, HPD plans to file a future application that would seek disposition for this portion of Block 1081, Lot 1 (543 West 52<sup>nd</sup> Street) so it can be developed as part of the Urban Development Action Area Project proposed herein.

The proposed project will consist of an eleven-story building with a height of 111.4 feet and a street wall height of 82.4 feet. The building will contain up to 103 affordable residential units. The total floor area of the proposed development will be approximately 89,862 square feet (5.97 FAR). The project will also include 52 spaces for bicycle parking in the basement of the building, as required. The project will include the planting of five trees on site and a sixth tree will be planted off site.

#### Zoning Map Amendment from M1-5 to R8A (C 110125 ZMM)

HPD requests the approval of a zoning map amendment changing an existing M1-5 District to an R8A district. The application for the zoning map amendment (C 110125 ZMM) that was certified as complete on November 15, 2010 proposed a zoning map amendment from the existing M1-5 district to a proposed R8A district with a C2-5 commercial overlay. On January 20, 2011, the applicant filed a revised application which removed the C2-5 commercial overlay from the proposal. On February 18, 2011 the applicant further revised the application by reducing the size of the rezoning area.

The rezoning area, as revised by HPD, begins approximately 225 feet east of Eleventh Avenue, extends easterly approximately 250 feet along West 52<sup>nd</sup> Street and has a depth of 100 feet, along a line which extends northerly from West 52<sup>nd</sup> Street to a line midway between West 52<sup>nd</sup> and 53<sup>rd</sup> Streets. As certified, the area to be rezoned included the project site and an approximately 100 foot by 100 foot parcel directly to the west of and adjacent to the project site which is also part of Block 1081, Lot 1 (545-549 West 52<sup>nd</sup> Street). This adjacent area (545-549 West 52<sup>nd</sup> Street) consists of a 10-story loft building, which rises 128 feet without setbacks and has an FAR of 5.25, and a single-story building. Like the project site, the adjacent area is currently located in an M1-5 zoning, a district which requires buildings to have maximum street wall heights of 85 feet; above 85 feet, buildings are governed by the sky exposure plane. Commercial and manufacturing uses in M1-5 districts have a maximum FAR of 5.0, with a maximum FAR of 6.5 for community facility uses. Residential uses are not permitted.

The proposed R8A zoning districts permits a maximum street wall height of 85 feet, with a setback of 15 feet on a narrow street and 10 feet on a wide street above 85 feet, an overall building height of 120 feet and a maximum FAR of 6.02 for residential uses, and a maximum FAR of 6.5 for community facility uses.

## **ENVIRONMENTAL REVIEW**

The application (C 110126 HAM), in conjunction with the application for the related action (C 110125 ZMM), 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 10HPD002M. The lead agency is the Department of Housing Preservation and Development.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on August 30, 2010.

## **UNIFORM LAND USE REVIEW**

This application (C 110126 HAM), in conjunction with the application for the related action, (C 110125 ZMM) was certified as complete by the Department of City Planning on November 15, 2010, and was duly referred to Community Board 4 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Community Board 4 held a public hearing on this application (C 110126 HAM) and the related action on December 1, 2010, and on that date, by a vote of 39 in favor, none opposed with no abstentions, adopted a resolution recommending approval with conditions:

NOW, therefore, be it resolved that Manhattan Community Board No. 4 recommends approval of ULURP Applications No. 110125 ZMM and 1101296 HAM, provided the following conditions are met, as agreed to by the Developer (see Attachment 1):

#### **Permanent Affordability**

- Community Land Trust Agreement or other mechanism must be used which will guarantee the permanent affordability of the 103 condominium units for those earning between 80% to 165% AMI as set forth above and includes the following:
  - The proposed site would be owned through a Community Land Trust in the form of a not-for-profit Housing Development Fund Corporation (HDFC)
  - Each unit owner will lease a percentage of the land, own their condominium unit, and own a percentage of the common elements of the building
  - The lease will run for 99 years with an option for renewal by the current owner for an additional 99 years
  - Each subsequent unit owner will take over the balance of the remaining lease term
  - Owners will only be able to sell to income-qualified buyers
  - Sales will be conducted by the Condominium to prevent under-the-table payments
  - The Condominium would have first right of refusal to recapture units lost through foreclosure
  - The amount of the sales price will be set annually based on the Department of Housing and Urban Development's (HUD) Income Level growth with not less than 2% appreciation

- The HDFC would oversee the project to ensure that affordability is maintained.
- The Developer timely provides all documents and continues to engage with CB4 on the underlying Community Land Trust agreement and/or other restrictive declarations as they are developed.

#### Apartment Distribution

- Units by income band shall be equally distributed throughout the building, with at least one unit of each income band on each floor of the building.

#### Facade

Per updated rendering (Attachment 2):

- Red brick façade with an industrial look to reinforce the existing context and vernacular of the surrounding blocks
- Inclusion of a two story base with brick piers with seven bays
- Upper two cornices shall be one color, the cornice at the base shall be one color with metal banding
- Fenestration shall be double-hung or sliders with seven wide repetitive main bays. Sliders will be grouped in sets of two and separated by a wide-paneled mullion, with a narrow mullion above the entrance
- Mullions shall be in equal divisions, not set off center
- Lot line windows will be included in the western façade
- Air conditioning shall be provided via an architectural louver beneath the windows
- The awning will be made of a solid metal or metal panel material with an industrial feel, not canvas.

#### Zoning

- As McKinney Welding has stated their intent to leave the site, the C2-5 commercial overlay must be removed from the current application.
- Applicant will confirm in a separate letter to CB4 its assertion that 545-549 West 52nd Street would be required to complete a UDAAP process for future disposition. CB4's approval of this project in no way waives CB4's right to comment on future proposals for this site.
- Street trees are planted as required in NYC ZR 96-51.

#### Tenant Relocation

- An agreement between the Developer and the vested commercial tenant, McKinney Welding, on the Project Site, is executed prior to December 31, 2010 providing a settlement for McKinney Welding to relinquish its right to remain.

#### Miscellaneous

- That the project meets HPD's Green Communities standards and Developer keeps CB4 apprised of initiative it takes
- There shall be a 50% community preference in condominium owner selection
- The Developer shall, throughout the life of the project, maintain sufficient staffing to maintain the property and the Land Trust.

#### **Borough President Recommendation**

This application (C 110126 HAM), in conjunction with the related action, was considered by the Borough President, who issued a recommendation approving the application on January 10, 2011.

#### **City Planning Commission Public Hearing**

On January 5, 2011 (Calendar No. 18), the City Planning Commission scheduled January 26, 2011, for a public hearing on this application (C 110126 HAM). The hearing was duly held on January 26, 2011 (Calendar No. 31) in conjunction with the public hearing on the application for the related action. Eight speakers spoke in favor of the applications and eight speakers spoke in opposition to the rezoning aspect of the proposal.

A representative of the New York City Department of Housing Preservation and Development explained the proposed project and described the affordable homeownership structure HPD is proposing to enact in the development.

The Chair of the Clinton Housing Association spoke in support of the project and explained that the proposed project would provide moderate income housing units, and would be the first newly-constructed co-operative ownership building under the new HPD affordable housing program.

Eight tenants, or supporters of the tenants, of the 549 West 52<sup>nd</sup> Street building, which is in the rezoning area as certified, but not within the project area, stated that they were in support of the affordable housing project, but that they do not want the 549 West 52<sup>nd</sup> Street building to be rezoned from M1-5 to R8A. They asserted that some of the arts-related uses in the building



would not be permitted in the proposed R8A zoning district. They also stated that, if the building is rezoned from M1-5 to R8A, it would increase the chance for the building to be converted to residential use, thereby displacing the arts-related tenants.

A representative from the developer explained that the FAR of 6.5 for commercial facility uses is the same for the existing M1-5 district and the proposed R8A district. He also described the project and the affordability levels for the residential units, as well as the building design and the green elements that would be incorporated into the building.

The co-Chair of the Clinton/Hell's Kitchen Land Use Committee of Community Board 4 reiterated the board's conditional approval of the project.

A representative from Clinton Housing Development Corporation, which holds the master lease for the 549 West 52<sup>nd</sup> Street building, has stated his intention that the 549 West 52<sup>nd</sup> Street building would remain as an arts-related use building with space for artists.

A representative from the Manhattan Borough Presidents Office reiterated the Manhattan Borough President's approval of the application.

The architect for the project was available for questions.

A representative from State Assemblyperson Linda Rosenthal's office read a letter from the Assemblyperson describing her support for the affordable housing project.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the application for UDAAP designation, project approval and disposition of city-owned property (C 110126 HAM), in conjunction with the revised related zoning amendment action (C 110125 ZMM), is appropriate.

This application would facilitate the development of an eleven-story residential building, which would provide up to 103 units of permanently affordable housing. The return of this vacant and under-utilized property to productive use would enable this city-owned property to be developed with a use that would serve the needs of Manhattan Community District 4 and the City of New York.

The Commission is pleased to note that the proposed project would provide affordable home-ownership opportunities in the Clinton community, as described by HPD in a letter to the Commission dated February 11, 2011.

The Commission believes that the proposed R8A district is appropriate for the project site. An existing R8A zoning district, developed with residential buildings with ground-floor retail, is located to the west of the site, along Eleventh Avenue. An R8 district is located directly south of the site and is developed with residential buildings.

The Commission understands that there is presently no plan for redevelopment of the property occupied by the 549 West 52<sup>nd</sup> Street building and the adjacent single-story building to the east (545-547 West 52<sup>nd</sup> Street) for housing, and has been advised by counsel that the 1994 approval of a disposition of this site was for community facility purposes only. Accordingly, any future plan for housing development on this site would require a ULURP disposition, as well as UDAAP or similar approvals for the housing development. In the absence of such a plan, a rezoning of this property from an M1-5 zoning district to R8A at this time would have the effect of making a number of the arts-related uses in the 549 West 52<sup>nd</sup> Street building non-conforming uses, insofar as they are classified as UG9 uses not permitted in an R8A district. Therefore, the Commission is pleased that HPD revised the application on February 18, 2011 to reduce the extent of the proposed R8A rezoning area so that the 549 West 52<sup>nd</sup> Street building and adjacent single-story building to the east (545-547 West 52<sup>nd</sup> Street) will remain within the existing M1-5 zoning district. In the event the site is proposed for redevelopment for housing at a later date, HPD may propose a rezoning for residential use, together with applications for ULURP

disposition and UDAAP or similar approvals.

**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

WHEREAS, the Department of Housing Preservation and Development has recommended the designation of property located at 533/543 West 52<sup>nd</sup> Street (Block 1801, part of Lot 1), located in Community District 4, Borough of Manhattan as an Urban Development Action Area; and

WHEREAS, the Department of Housing Preservation and Development has also recommended the approval of an Urban Development Action Area Project for such property;

THEREFORE, be it further **RESOLVED**, that the City Planning Commission, after due consideration of the appropriateness of the actions, certifies its unqualified approval of the following matters pursuant to the Urban Development Action Area Act:

- a) the designation of property located at 533/543 West 52<sup>nd</sup> Street (Block 1801, part of Lot 1) as an Urban Development Action Area, located in Community District 4, Borough of Manhattan as an Urban Development Action Area; and
- b) an Urban Development Action Area Project for such area; and

BE IT FURTHER **RESOLVED**, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that based on the environmental determination and the consideration described in this report, the application of the Department of Housing Preservation and Development, for the disposition of city-owned property located at 533/543 West 52<sup>nd</sup> Street (Block 1801, part of Lot 1) in Community District 4, Borough of Manhattan, to a developer to be selected by the Department of Housing Preservation and Development, is approved.

The above resolution (C 110126 HAM), duly adopted by the City Planning Commission on March 2, 2011 (Calendar No. 17), is filed with the Office of the Speaker, City Council, and the

Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, FAICP, Chair**  
**KENNETH J. KNUCKLES, Esq., Vice Chairman**  
**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,**  
**ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,**  
**RICHARD W. EADDY, ANNA HAYES LEVIN, SHIRLEY A. McRAE,**  
**KAREN A. PHILLIPS, Commissioners**



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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**JOHN WEIS**  
Chair

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

December 1, 2010

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

**Re: ULURP Applications No. 110125 ZMM and 110126 HAM  
Clinton Commons, 533-543 West 52<sup>nd</sup> Street**

Dear Chair Burden:

Manhattan Community Board 4 (CB4), having held a duly noticed public hearing on ULURP applications nos. 110125 ZMM and 110126 HAM (the "Applications"), adopted the following resolution by roll call vote 39 in favor, 0 opposed, 0 abstentions and 0 present but not eligible to vote at its meeting on December 1, 2010. The resolutions recommend approval of each of the Applications with conditions.

The Applications, submitted by the New York City Department of Housing Preservation and Development ("Applicant"), propose a new residential development of one eleven (11) story building of approximately 111 feet in height, fronting 150 feet along West 52<sup>nd</sup> Street, between Tenth and Eleventh Avenues (the "Project Site") on the Clinton Urban Renewal Area (CURA). The proposed project will create 103 condominium units permanently affordable to those of moderate and middle income.

The proposal has been presented to CB4's Clinton/Hell's Kitchen Land Use (C/HKLU) Committee on a number of occasions, most recently on November 15, 2010, and has been subject of prior resolutions in support dated April 11, 2006 and March 9, 2007.

**THE DEVELOPERS**

The proposed project will be a joint development by Clinton Housing Association (CHA) and Monadnock Construction (Monadnock) (collectively referred to as "Developer"). CHA is the oldest affordable housing developer in the Clinton neighborhood. Both CHA and Monadnock have constructed a number of properties in this district, have developed good working relationships with the Board, and have demonstrated a commitment to

working with the community in developing their plans. We are pleased to work with them on this project.

**THE PROPOSED PROJECT**

The Developer proposes to construct 102 permanently affordable condominium units (plus one superintendent unit) providing a mix of studios, one, and two-bedroom units for individuals and families earning between 80% and 165% of Area Median Income (AMI) as follows:

	80% AMI			130% AMI			165% AMI		
	HH Income	Price	Units	HH Income	Price	Units	HH Income	Price	Units
Studio	\$39,936	\$120,081	2	\$66,924	\$236,730	6	\$ 84,942	\$319,399	0
1 BR	\$46,080	\$126,772	9	\$77,220	\$259,986	16	\$ 98,010	\$355,515	20
2 BR	\$55,296	\$134,157	9	\$92,664	\$302,984	11	\$117,612	\$417,551	29
Total			20			33			49

These bands of income constitute a population that is underserved by both public and private development in Manhattan Community District #4.

This project provides much-needed permanently affordable ownership units in an area where development pressures have made and continue to make it increasingly difficult for middle-income families to remain, even as renters. As you are well aware, CB4 is committed to creating permanently affordable housing for low- and middle-income families who live in our community, including the public service workers who serve our community as policemen, firefighters, teachers, librarians, nurses and other similar professions.

The proposed project included extending the C2-5 commercial overlay across the entire rezoning area to accommodate the permanent relocation of the existing vested commercial tenant, McKinney Welding. Under the project as originally presented, McKinney Welding had the option to remain as a permanent commercial tenant with temporary relocation in the CURA during construction, or in the alternative, to accept a cash settlement and relocate at its own expense. Subsequent to the C/HKLU committee meeting, principals of McKinney Welding signed a Letter of Intent dated December 1, 2010 (Attachment 3) which expressed their intent to move off the Project Site permanently. As the Letter of Intent has been signed, the Board therefore asks that Developer remove the C2-5 commercial overlay from the project. Without the need for commercial space on the ground floor, the project will create 103 units, as opposed to 101 units plus the commercial space.

The Project Site has been designated for residential use in the Third Amended Urban Renewal Plan for the Clinton Urban Renewal Area, and the proposal to create affordable housing is consistent with both the Plan and the community’s vision for the CURA.

Additionally, the proposed project will meet or exceed the “Green Building Standards” required by Section 224.1 of the New York City Charter.

## **ZONING ACTIONS**

The applicant seeks approval for three separate zoning actions:

- 1) Zoning Map amendment to rezone the entire Rezoning Area (including the Project Site and the adjacent area to the west) from M1-5 to R8A including a C2-5 commercial overlay;
- 2) Disposition of the Project Site; and
- 3) Designation of the Project Site as an Urban Development Action Area Project (UDAAP).

The Project Site is currently zoned M1-5, and is proposed to be rezoned to R8A with a C2-5 commercial overlay. The R8A/C2-5 rezoning is achieved by extending the existing R8A/C2-5 from Eleventh Avenue easterly along West 52<sup>nd</sup> Street to the eastern boundary of the Project Site. It should be noted that the area to be rezoned includes the adjacent properties at 545 and 549 West 52<sup>nd</sup> Street, where there is currently a one-story garage and a 10-story building respectively, in addition to the Project Site. The disposition and use of 545-549 West 52<sup>nd</sup> Street as a community facility was approved in 1994 (ULURP Nos. C 940648 HUM, C 940649 ZSM and C 940650 HDM), that project did not proceed. The proposed rezoning permits the continuing community facility use at 545-549 West 52<sup>nd</sup> Street.

The Applicant has confirmed by way of a separate letter (please see Attachment 4) to CB4 that any future disposition of 545-549 West 52<sup>nd</sup> Street would be subject to the UDAAP process. CB4 reserves its right to comment on future proposals, if any, for 545-549 West 52<sup>nd</sup> Street and our conditional approval of the Applications should not be misconstrued to imply otherwise.

This proposed rezoning is contextual and consistent with this community’s planning goals. The building would contain eleven stories and be 111.4 feet tall.

At its presentation before the C/HKLU Committee, the Developer represented that the sole reason for the midblock commercial overlay was to accommodate the long-term and CURA vested commercial tenant McKinney Welding. Now that McKinney has signed a Letter of Intent stating their intent to give up their right to return to the Project Site, CB4’s approval is conditioned upon the removal of the C2-5 midblock overlay. CB4 has a long history in opposing midblock commercial uses on our predominantly residential side streets. However, we do support a commercial overlay in the limited instance of protecting a pre-existing and CURA vested commercial tenant.

It is our understanding that the Developer will also be seeking an Article XI Tax Exemption in a separate action before the NYC City Council. CB4 supports the grant of

an Article XI to the Clinton Commons project to ensure permanent affordability for the future moderate and middle income homeowners.

## **AFFORDABILITY**

CB4 was impressed with the diligence and creativity employed by the Developer in responding to our concerns regarding the development of a mechanism to guarantee the permanent affordability of this home-ownership project. After several meetings with CB4, the Developer ultimately rejected the more traditional New York City models that time-limit affordability restrictions in home ownership projects and instead researched and developed in concept a more progressive Community Land Trust agreement (“Land Trust”). A Land Trust is a non-profit entity created to acquire land and lease that land to, in this case, low and moderate-income homeowners on a long-term basis. The Land Trust transfers ownership of the improvements to the homeowners but retains rights to ensure that the housing remains affordable in perpetuity. This Land Trust will be modeled after permanently affordable ownership projects developed throughout the country and will govern the permanent affordability of the proposed project. CB4 is committed to working with the Developer to ensure that the terms of the final Land Trust embodies each of the representations made to CB4.

While the Land Trust is only now being developed and documents have yet to be produced, the Developer represented to the C/HKLU committee that:

- The Land Trust will be a Housing Development Fund Corporation (HDFC)
- Each unit owner will own a percentage of the common elements of the building and be leased a portion of the land
- The lease will run for 99 years with an option for renewal by the current owner for an additional 99 years
- This ownership structure is called a leasehold condominium
- The Land Trust will oversee the project to maintain affordability and financial health
- The Land Trust will be given a first right of refusal on any apartment which comes up for sale or is foreclosed upon
- The creation of the Land Trust is subject to obtaining eligibility for an Article XI tax exemption which allows for an exemption from real estate taxes for 40 years to maintain long-term affordability
- Subsequent to the November 16, 2010 Committee meeting, the Developer determined that minor amendments must be made to NYS Real Property Law (RPL) to permit this site, as a Leasehold Condominium, to be eligible for an Article XI Tax Exemption. NYS Real Property Law § 339-e (12) lists specific locations for Leasehold Condominiums: Battery Park City, Roosevelt Island, Queens West, Brooklyn Bridge Park, and East 57<sup>th</sup> Street & 3<sup>rd</sup> Avenue. The Developer will request the Clinton Special Zoning District be added to the list of permitted locations.
- Developer will report back to the Board in January 2011 on the progress of the proposed amendment



CB4 looks forward to reviewing the Community Land Trust Agreement as it is developed and hopes that it will be used as a successful model throughout the community district in guaranteeing affordability in home-ownership projects.

## **ARCHITECTURE**

The architectural rendering for the building was the subject of a lively discussion. The Committee offered several important improvements to maintain the contextual design of the building. Specifically, the Committee requested and the Applicant agreed to the following modifications:

- Upper two cornices shall be one color, cornice at the base shall be one color with metal banding
- Better quality materials are needed for panels at first floor. Those panels shall be of a durable material that will age well, preferably steel or aluminum. Applicant agrees to continue to revise rendering create an industrial, contextual look.
- Canopy over the front entrance must be raised to just below the 2<sup>nd</sup> floor windows and be of similar material to panels of the base
- The vertical band of glass at center of building, which breaks up the horizontal form of the façade building, is not compatible with the wide and repetitive fenestration and building form commonly seen in nearby warehouses and shall be modified fit into the surrounding neighborhood context
- The vertical band of glass which divides the building into two parts gives the impression of a floating façade, not anchored to the ground and shall be modified along the first floor treatment to better anchor the façade to ground
- Address the concern that off-set mullions are at eye level for a seated person inside the apartment looking out of the apartment and are not an industrial look. The mullions will be centered.
- Air conditioning shall be provided via an architectural louver beneath the windows.

Finally, the Applicant agreed to tree planting pursuant to NYC Zoning Resolution Section 96-51.

**NOW, therefore, be it resolved** that Manhattan Community Board No. 4 recommends approval of ULURP Applications No. 110125 ZMM and 1101296 HAM, provided the following conditions are met, as agreed to by the Developer (see Attachment 1):

### Permanent Affordability

- Community Land Trust Agreement or other mechanism must be used which will guarantee the permanent affordability of the 103 condominium units for those earning between 80% to 165% AMI as set forth above and includes the following:
  - The proposed site would be owned through a Community Land Trust in the form of a not-for-profit Housing Development Fund Corporation (HDFC)
  - Each unit owner will lease a percentage of the land, own their condominium unit, and own a percentage of the common elements of the building
  - The lease will run for 99 years with an option for renewal by the current owner for an additional 99 years
  - Each subsequent unit owner will take over the balance of the remaining lease term
  - Owners will only be able to sell to income-qualified buyers
  - Sales will be conducted by the Condominium to prevent under-the-table payments
  - The Condominium would have first right of refusal to recapture units lost through foreclosure
  - The amount of the sales price will be set annually based on the Department of Housing and Urban Development's (HUD) Income Level growth with not less than 2% appreciation
  - The HDFC would oversee the project to ensure that affordability is maintained.
  
- The Developer timely provides all documents and continues to engage with CB4 on the underlying Community Land Trust agreement and/or other restrictive declarations as they are developed.

### Apartment Distribution

- Units by income band shall be equally distributed throughout the building, with at least one unit of each income band on each floor of the building.

### Facade

Per updated rendering (Attachment 2):

- Red brick façade with an industrial look to reinforce the existing context and vernacular of the surrounding blocks
- Inclusion of a two story base with brick piers with seven bays
- Upper two cornices shall be one color, the cornice at the base shall be one color with metal banding

- Fenestration shall be double-hung or sliders with seven wide repetitive main bays. Sliders will be grouped in sets of two and separated by a wide-paneled mullion, with a narrow mullion above the entrance
- Mullions shall be in equal divisions, not set off center
- Lot line windows will be included in the western façade
- Air conditioning shall be provided via an architectural louver beneath the windows
- The awning will be made of a solid metal or metal panel material with an industrial feel, not canvas.

### Zoning

- As McKinney Welding has stated their intent to leave the site, the C2-5 commercial overlay must be removed from the current application.
- Applicant will confirm in a separate letter to CB4 its assertion that 545-549 West 52<sup>nd</sup> Street would be required to complete a UDAAP process for future disposition. CB4's approval of this project in no way waives CB4's right to comment on future proposals for this site.
- Street trees are planted as required in NYC ZR 96-51.

### Tenant Relocation

- An agreement between the Developer and the vested commercial tenant, McKinney Welding, on the Project Site, is executed prior to December 31, 2010 providing a settlement for McKinney Welding to relinquish its right to remain.

### Miscellaneous

- That the project meets HPD's Green Communities standards and Developer keeps CB4 apprised of initiative it takes
- There shall be a 50% community preference in condominium owner selection
- The Developer shall, throughout the life of the project, maintain sufficient staffing to maintain the property and the Land Trust.

Thank you for this opportunity to provide comments and to submit recommendations on these important applications. We look forward to continued dialogue.

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: DCP Calendar Office  
DCP – Edith Hsu-Chen, Erika Sellke  
HPD – Sara Levenson, Meilan Chiu  
MBPO – Deborah Morris  
CM Quinn – Amanda Younger, Melanie La Rocca  
CC Land Use – Danielle DeCerbo

Attachment 1: West 52<sup>nd</sup> St. Affordable Developers, LLC Commitment Letter, December 6, 2010

Attachment 2: Updated Project Rendering, November 18, 2010

Attachment 3: McKinney Welding Signed Letter of Intent, December 1, 2010

Attachment 4: Letter from NYC Department of Housing Preservation and Development  
re: future UDAAP for 549 West 52<sup>nd</sup> Street

**West 52<sup>nd</sup> St. Affordable Developers, LLC**

A Joint-Venture of Clinton Housing Association and  
 Monadnock Construction, Inc.  
 155 3<sup>rd</sup> St. Brooklyn, NY 11231

December 6, 2010

Manhattan Community Board 4  
 330 West 42nd Street, 26th Floor  
 New York, NY 10036

**Re: 533-543 West 52<sup>nd</sup> Street**

This letter confirms the commitments made to Manhattan Community Board 4 (CB4) by West 52<sup>nd</sup> St. Affordable Developers, LLC (the “Developer”). West 52<sup>nd</sup> St. Affordable Developers, LLC is an entity comprised of the not-for-profit sponsor, Clinton Housing Association (CHA), who was the original community sponsor for the Clinton Urban Renewal Area (CURA) and its development partner, Monadnock Construction. This letter is intended to address the issues raised by CB4’s Clinton/Hell’s Kitchen Land Use Committee most recently at its November 16, 2010 meeting and in its resolutions of April 11, 2006 and March 9, 2007 regarding the proposed affordable housing development at this CURA site. The development site is located at 533-543 West 52<sup>nd</sup> Street and is known as Clinton Commons (the “Site”). It will be developed into permanently affordable condominiums.

The commitments are as noted below:

1. Housing Program

The Site will be comprised of an affordable condominium that will have permanent income and price restrictions with the following income affordability bands:

	80% AMI			130% AMI			165% AMI		
	HH Income	Price	# Units	HH Income	Price	# Units	HH Income	Price	# Units
Studio	\$ 39,936	\$ 120,081	2	\$ 66,924	\$ 236,730	6	\$ 84,942	\$ 319,399	0
1BR	\$ 46,080	\$ 126,772	9	\$ 77,220	\$ 259,986	16	\$ 98,010	\$ 355,515	20
2BR	\$ 55,296	\$ 134,157	9	\$ 92,664	\$ 302,984	11	\$ 117,612	\$ 417,551	29
			20			33			49
									<b>102 Units</b>
									<b>1 Super</b>

- All units will be permanently affordable within each income band
- The income restrictions and appreciation limitations shall be embodied in deed restrictions recorded against each condo unit or in the terms of a ground lease. Those restrictions shall be permanent and shall not be time limited
- Apartment finishes shall be the same in all units
- Units of each income band will be distributed equally on all floors throughout the building. The units will be distributed as noted on the stacking chart below:

		UNITS										
		A	B	C	D	E	F	G	H (D on 9-11)	I	J	K
		1BR	2BR	2BR	Studio	1BR	1BR	1BR	2BR	2BR	1BR	1BR
11		130% AMI	165% AMI	130% AMI					80% AMI	165% AMI	165% AMI	
10		130% AMI	165% AMI	130% AMI					80% AMI	165% AMI	165% AMI	
9		80% AMI	165% AMI	165% AMI					165% AMI	130% AMI	165% AMI	
8		165% AMI	80% AMI	165% AMI	130% AMI	165% AMI	165% AMI	130% AMI	165% AMI	165% AMI	80% AMI	165% AMI
7		165% AMI	80% AMI	165% AMI	130% AMI	165% AMI	165% AMI	130% AMI	165% AMI	165% AMI	80% AMI	165% AMI
6		165% AMI	80% AMI	165% AMI	130% AMI	165% AMI	165% AMI	130% AMI	165% AMI	165% AMI	80% AMI	130% AMI
5		165% AMI	80% AMI	165% AMI	130% AMI	165% AMI	165% AMI	130% AMI	165% AMI	165% AMI	80% AMI	130% AMI
4		165% AMI	130% AMI	130% AMI	130% AMI	165% AMI	165% AMI	130% AMI	165% AMI	130% AMI	80% AMI	130% AMI
3		165% AMI	130% AMI	130% AMI	130% AMI	165% AMI	130% AMI	80% AMI	165% AMI	165% AMI	80% AMI	130% AMI
2		130% AMI	130% AMI	80% AMI	80% AMI	165% AMI	130% AMI	130% AMI	130% AMI	165% AMI	80% AMI	130% AMI
1		165% AMI	165% AMI	Super	80% AMI			80% AMI	80% AMI	165% AMI	130% AMI	

## 2. Community Land Trust

A Community Land Trust (CLT) is a non-profit entity created to acquire land and lease that land to, in this case, low and moderate-income homeowners on a long-term basis. The CLT transfers ownership of the improvements to the homeowners but retains rights to ensure that the housing remains affordable in perpetuity.

- The CLT will be a Housing Development Fund Corporation (HDFC)
- The CLT will lease the land to the each unit owner for 99 years and, at that time, the lease will be renewable at the option of the current owner for an additional 99 years
- This ownership structure is called a leasehold condominium
- The CLT will oversee the project to maintain affordability and financial health
- The CLT will be given a first right of refusal on any apartment which comes up for sale or is foreclosed upon
- The creation of the CLT is subject to obtaining eligibility for an Article XI tax exemption which allows for an exemption from real estate taxes for 40 years to maintain long-term affordability
- In order to obtain that Article XI tax exemption, it may be necessary to amend a provision of the New York State Real Property Law Article 9-B Condominium Act to make this Site eligible for that exemption
- The Developer will report back to the Board in January 2011 on the progress of the proposed amendment.

## 3. Financing, Income Qualifications, and Resale Restrictions

- Unit owners will only be able to sell to income-qualified buyers as defined in Section 1 and sales will be monitored by the CLT through a, city-wide, not-for profit Monitoring Agent

- Sales prices will be set annually based on Department of Housing and Urban Development (HUD) Income Level growth with a floor of 2% annual appreciation. For example:

**HUD Income Level Growth: 3%**

Original Purchase Price: \$100,000  
 HUD Income Growth in Year 1: 3%  
 Sales Price in Year 2:  $\$100,000 \times 1.03 = \$103,000$

**HUD Income Level Growth: 1%**

Original Purchase Price: \$100,000  
 HUD Income Growth in Year 1: 1%  
 Sales Price in Year 2:  $\$100,000 \times 1.02$  (minimum) = \$102,000

- The Source and Uses for the project are as follows:

**Sources**

Construction Loan	\$26,150,000
HPD Subsidy	\$5,884,359
NY State AHC	\$1,625,000
City Council Capital Funds	\$618,000
NYSERDA Incentives	\$70,000
Deferred Developer's Fee	\$2,500,000
Developer Equity	\$2,000,000
<b>Total</b>	<b>\$38,847,359</b>

**Uses**

Acquisition Costs	\$1
Hard Costs	\$28,247,354
Soft Costs	\$10,600,004
<b>Total</b>	<b>\$38,847,359</b>

- Developer will ensure that the project financing is structured to enable a long-term, viable project, CLT, and monitoring agent. This will include:
  - Funding the CLT through a capitalized reserve as well as a nominal monthly lease fee to each condominium owner
  - Ensuring that the CLT has policies and procedures that ensure sufficient asset management, home owner assistance, home improvement counseling, financial counseling, and foreclosure prevention
  - Developer will create a framework for the CLT to access bank lines of credit to provide short-term financing in order to exercise the first right of refusal
  - A replacement reserve that will be capitalized upfront as well as funded annually through the common charges of the building to fund future capital improvements.

#### 4. Building Design

As per attached rendering, dated November 18, 2010, overall design will include:

- Red brick façade with an industrial look to reinforce the existing context and vernacular of the surrounding blocks
- Inclusion of a two-story base with brick piers with seven bays as shown in the attached rendering.
- Developer will include single color cornices at the top two cornices
- Fenestration shall be double-hung or sliders with seven main bays. Sliders will be grouped in sets of two and separated by a wide-paneled mullion, with a narrow mullion above the entrance.
- Mullions shall be in equal divisions, not set off center
- Lot line windows will be included in the western façade
- Air conditioning shall be provided via an architectural louver beneath the windows
- The awning will be made of a material with an industrial feel, not canvas.

#### 5. Relocation—Commercial Tenant

The Site tenant is McKinney Welding, owned and operated by the Mattiace family, which was located at the Site at the time of the original condemnation of the CURA in 1969.

- If McKinney decides to continue as a Site tenant, they will continue operation as a specialty hardware store for welding supplies. All bottled gas storage will be removed from the Site permanently once construction has started and will not return to the Site in the new commercial space. McKinney Welding will be temporarily relocated to 549 West 52<sup>nd</sup> Street, the City-owned building to the west of the Site during construction and will return to a permanent home in a commercial space in the new building.
- If McKinney elects not to continue as a Site tenant, the commercial space allocated to them on the ground floor of the building will be reprogrammed for additional affordable housing space. This will result in an increase of two residential units to 103 units.

#### 6. Adjacency Issues

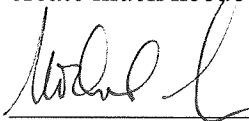
Heating Ventilation and Air Conditioning (HVAC) Equipment— HVAC equipment serving commercial or residential portions of the building will be located on the 11th floor roof or internal to the building. All external commercial HVAC equipment will be sound baffled to prevent any future noise issues affecting both the tenants of current and future residential buildings. No HVAC equipment shall be located in the courtyard.

#### 7. Site Issues

Developer will work with CB4, the Department of Transportation, and the Department of Parks and Recreation to locate any proposed Con Edison sidewalk vaults in a manner to maximize street tree planting with appropriate street tree guards on West 52<sup>nd</sup> Street to comply with Zoning Resolution 96-51 of the Clinton Special District.



We look forward to working with the Community Board to bring this project to fruition and create much needed middle-income housing in this neighborhood.



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Nick Lembo  
Monadnock Construction, Inc.



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Mary D'Elia  
Clinton Housing Association



\* FOR ILLUSTRATIVE PURPOSES ONLY

**CLINTON COMMONS**  
533-543 WEST 52ND STREET, NEW YORK, NEW YORK

**RENDERING**

PROJECT #: 2006-31  
SEPTEMBER 1, 2010 / DECEMBER 13, 2010

**A-11**

**SLCEArchitects**  
841 BROADWAY NEW YORK, NEW YORK 10003

**McKINNEY WELDING SUPPLY CO., INC.**  
**535 West 52nd Street**  
**New York, NY 10019**

December 1, 2010

Monadnock Construction Inc.  
155 Third Street  
Brooklyn, New York 11231

Attn: Frank Dubinsky

Dear Mr. Dubinsky:

This letter is to confirm that we believe having to relocate on several occasions, in order to accommodate the intended project, will be very disruptive to our business. We are therefore pursuing a lease in order to be able to permanently relocate within the area. Assuming that we are able to negotiate a satisfactory lease for space, as well as to reach an acceptable agreement with your company regarding giving up our rights to remain and/or return to our current location, we will not be requiring any "temporary space" or the ability to return to our present location once the project is completed.

Please provide our attorney with the proposed Agreements as soon as possible in order that we can bring this matter to a resolution and make a final determination.

Thank you for your consideration and attention.

Very truly yours,

McKinney Welding Supply Co. Inc.

Steve Mattiace

December 2, 2010

Sarah Desmond and Elisa Gerontianos  
Co-Chairs, Manhattan Community Board 4, Land Use Committee  
Manhattan Community Board 4  
330 West 42nd Street, 26th Floor  
New York, NY 10036

RE: **549 West 52<sup>nd</sup> Street**  
Manhattan Block, 1081, p/o Lot 1

Dear Ms. Desmond and Ms Gerontianos:

On November 15, 2010 the New York City Department of Housing Preservation and Development (“HPD”) certified the Clinton Commons ULURP application seeking approval of an Urban Development Action Area Project (UDAAP) designation, project approval, disposition of City-owned property (the “Project Site”), as well as a zoning map amendment, to facilitate the development of an eleven-story mixed-use residential building.

Immediately to the west of the Project Site is an occupied 10-story, City-owned, loft building located at 549 West 52<sup>nd</sup> Street which houses community facility uses. This building had been included in a 1994 ULURP application (C 940648 HUM, C 940649 ZSM, and C 940650 HDM) and subsequently received disposition approval. This property has been included within zoning map amendment action of the Clinton Commons ULURP in order to provide an extension of the existing R8A/C2-5 rezoning district located to the west of the site along Eleventh Avenue.

Though 549 West 52<sup>nd</sup> Street has been the subject of a previous disposition ULURP and a current zoning map amendment action, HPD would need to obtain additional approvals and a new Mayoral Authorization Document (MAD) in order to convey this property. Such additional approvals will require returning to the Community Board.

If you need additional information please contact Sara Levenson at 212-863-6394.

Sincerely,



Beatriz De La Torre





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

**SCOTT M. STRINGER**  
BOROUGH PRESIDENT

January 10, 2011

**Recommendation on**  
**ULURP Application Nos. C 110125 ZMM and C 110126 HAM**  
**Clinton Commons**  
**by New York City Department of Housing Preservation and Development**

CITY PLANNING  
2011 JAN 10 PM 4:55  
DEPT. OF CITY PLANNING

**PROPOSED ACTION**

The New York City Department of Housing Preservation and Development (“HPD”) seeks the approval of several land use actions to facilitate the construction of an 11-story residential building to be located at 533-543 West 52<sup>nd</sup> Street (Block 1081, p/o Lot 1) in the Clinton/Hell’s Kitchen neighborhood of Community District 4. The proposed project site is located within an “Excluded Area” in the Special Clinton District.

HPD seeks a **Zoning Map Amendment (C 110125 ZMM)**, pursuant to Sections 197-c and 201 of the New York City Charter, to change, from an M1-5 zoning district to an R8A zoning district with a C2-5 overlay, an area that begins approximately 125 feet east of Eleventh Avenue, extends eastward approximately 250 feet along West 52<sup>nd</sup> Street, and has a depth of 100 feet (the “Rezoning Area”).

HPD also seeks designation of City-owned property located at 533-543 West 52<sup>nd</sup> Street (beginning approximately 225 feet east of Eleventh Avenue, extending eastward approximately 150 feet along West 52<sup>nd</sup> Street, and having a depth of 100 feet) as an **Urban Development Action Area (“UDAA”) (C 110126 HAM)** and approval for the project as an **Urban Development Action Area Project (“UDAAP”)**. In addition, HPD seeks approval for the **disposition** of said property to West 52<sup>nd</sup> St. Affordable Developers, LLC (the “Developer”), which is a joint venture between Clinton Housing Association and Monadnock Construction.

City-owned properties that are no longer in use or are in deteriorated or deteriorating condition are eligible to be designated as UDAA and UDAAP, pursuant to the Urban Development Area Act (Article 16 of the State General Municipal Law). UDAA and UDAAP provide incentives for private enterprise to correct substandard, unsanitary and/or blighted conditions. According to New York State General Municipal Law § 694(4), to receive a UDAA and/or UDAAP designation the City Planning Commission



and the City Council must find that:

- (a) the present status of the area tends to impair or arrest the sound growth and development of the municipality;
- (b) the financial aid in the form of tax incentives, if any, to be provided by the municipality pursuant to [the Urban Development Area Act] ... is necessary to enable the project to be undertaken; and
- (c) the area designation is consistent with the policy and purposes [of the Urban Development Area Act].

Section 197-c of the New York City Charter (“Charter”) mandates that the disposition of all City-owned real property be subject to the Uniform Land Use Review Procedure (“ULURP”). While no specific findings must be met to make a property eligible for disposition under Section 197-c, Section 1801 paragraph J of the Charter limits HPD to the disposition of residential real property.

## **PROJECT DESCRIPTION**

HPD seeks the proposed actions to facilitate the development of a 103-unit affordable homeownership development known as “Clinton Commons.” The proposed Development Site, 533-543 West 52<sup>nd</sup> Street (Block 1081, p/o Lot 1), is City-owned property located on the south side of West 52<sup>nd</sup> Street between Eleventh Avenue and Tenth Avenue.

The proposed Development Site, which is comprised of 15,062 SF of an approximately 61,030-SF lot, contains a variety of uses. The easternmost use on the Development Site is a one-story commercial building (533-535 West 52<sup>nd</sup> Street) currently occupied by McKinney Welding Supply Co. (“McKinney”), which sells welding and gas supplies, products, and equipment. McKinney uses an adjacent 5,000-SF unenclosed parcel (537 West 52<sup>nd</sup> Street) for storage of industrial supplies. 539 West 52<sup>nd</sup> Street is a two-story building with a rear extension that previously contained industrial uses but is currently vacant. 541 West 52<sup>nd</sup> Street is a vacant one-story structure, and 543 West 52<sup>nd</sup> Street<sup>1</sup> is a vacant lot used for vehicle storage and parking. Between 541 and 543 West 52<sup>nd</sup> Street is a portion of a two-story structure that is the rear storage extension to 538 West 53<sup>rd</sup> Street and is used by the Stagecraft Alliance but will be vacated prior to construction. All of these parcels are owned by the City of New York and are leased to their current operators.

The project block and surrounding area contain a diverse mix of uses, reflecting the changes in neighborhood land uses from industrial uses to more residential or mixed-use developments. In addition to the uses identified on the Development Site, the project block includes a number of recent residential developments with ground-floor retail

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<sup>1</sup> This site previously received disposition approval in 1994 as part of a ULURP application for a development plan that included the rehabilitation of an existing community facility building occupied by Women’s Interart Center located at 549 West 52<sup>nd</sup> Street and its subsequent expansion into an adjacent parcel of land. The disposition was not completed, and the proposal has not been actualized.

space, including Clinton Parkview Apartments, Archstone Clinton, The Old School & The Flats, and 501 West 52<sup>nd</sup> Street. Other uses on the block consist of an occupied 10-story, City-owned, loft building (549 West 52<sup>nd</sup> Street) immediately west of the Development Site that houses community facility uses, the Oasis Community Garden, two public parking lots, a few restaurants, a graphic design company, industrial uses, an armored car dealership, a dance theater, and vacant commercial space. The area surrounding the project block includes residential buildings with neighborhood-oriented retail or office space on the ground floors along Tenth and Eleventh avenues. Other surrounding uses include a high concentration of car dealerships on Eleventh Avenue, The Sacred Heart Church, P.S. 111, and De Witt Clinton Park.

The Development Site is within an M1-5 zoning district and within an “Excluded Area” in the Special Clinton District. This zoning district permits light manufacturing, commercial, and certain community facilities uses. Residential uses, however, are not allowed as of right. The maximum allowable FAR for manufacturing and commercial uses is 5.0 and 6.5 for community facilities.

The subject block and surrounding area contain a mix of manufacturing, commercial, and residential zoning districts. The western portion of the subject block (abutting the proposed Rezoning Area) is an R8A zoning district with a C2-5 overlay mapped along Eleventh Avenue for a depth of 125 feet. The midblock portion, in which the Development Site is located, is an M1-5 zoning district. Immediately east of the Development Site is a C6-3 zoning district, which extends along Tenth Avenue (at various depths) between West 50<sup>th</sup> and 53<sup>rd</sup> streets. Other nearby zoning districts include C6-2, C6-4 and R8 to the east, M1-5 and R8 to the south, M1-5 and M3-2 to the west, and M1-5, C6-3X, R8 and R9 to the north. There are C2-5 overlays mapped along Tenth Avenue.

As the M1-5 district does not permit residential uses as of right, the applicant proposes to amend the zoning map by extending the existing R8A/C2-5 district mapped on the project block along Eleventh Avenue for an additional 250 feet to the midblock and for a depth of 100 feet. The Rezoning Area includes the Development Site and an adjacent 10,000-SF portion of Lot 1 that contains a 10-story loft building and an attached one-story garage structure (545-551 West 52<sup>nd</sup> Street). The R8A/C2-5 district would permit a maximum FAR of 6.02 for residential uses, 6.5 for community facility uses, and 2.0 for commercial uses. The permitted street wall height would be 60 to 85 feet and the permitted maximum building height would be 120 feet.

The proposed actions would facilitate the development of an 11-story residential building (approximately 111 feet) consisting of 89,862 SF. Clinton Commons would contain 102 permanently affordable homeowner units (and one unit for the building’s superintendent) available to low- and moderate-income households. The development originally proposed to include ground-floor commercial space in order to accommodate the return of McKinney to the site. During the ULURP process, however, McKinney has expressed an interest not to return to the site, and McKinney and the Developer are in discussions regarding its relocation timeline. Consequently, Clinton Commons will accommodate

two more residential units than was originally anticipated. In addition to the residential units, the building will have residential amenities, including a landscaped rear yard, storage for each unit, a bicycle room, and laundry facilities.

The building's 103 total units would primarily consist of one-bedroom units (45) and two-bedroom units (50) with the balance consisting of studios (8). Of the total affordable units, 20 units would be targeted at those earning up to 80 percent of AMI, 33 units would be targeted at those earning up to 130 percent of AMI, and 49 would be targeted at those earning up to 165 percent of AMI. The units of each income band will be distributed equally on all floors. The resident selection process will be set by HPD guidelines and criteria and will include a community preference for 50 percent of the units. HPD's guidelines include HPD staff monitoring access to the applications, overseeing the creation of the lottery list, and reviewing the list of qualified applicants. Income restrictions as well as appreciation limitations (to be based on the Department of Housing and Urban Development's ("HUD") Income Level Growth with a floor of 2 percent annual appreciation) for each unit will be part of a deed restriction for the site and the terms of the buyers' purchase agreements.

The Developer proposes to ensure the permanent affordability of the apartments by forming a Housing Development Fund Corporation that would own the land and the building. Though the exact structure is not yet set, the Developer currently anticipates that Clinton Commons will be an affordable cooperative building. In addition to private financing, the Developer expects funding from several sources, including an HPD subsidy (HOME Funds and City capital funds), a grant from the New York State Affordable Housing Corporation, City Council Capital Funds, and New York State Energy Research and Development Authority ("NYSERDA") incentives.

## **COMMUNITY BOARD'S RECOMMENDATION**

At its Full Board meeting on December 1, 2010, Manhattan Community Board 4 voted unanimously to recommend conditional approval of the application by a vote of 39 in favor. The community board's conditions relate to, among others, the proposed mechanism/ownership structure that would ensure permanent affordability of the project, the building's design, layout and composition, and the rezoning proposal.

Conditions regarding the proposed mechanism/ownership structure include that a Community Land Trust in the form of a not-for-profit Housing Development Fund Corporation own the site; unit owners only be able to sell to income-qualified buyers; the condominium have first right of refusal to recapture units lost through foreclosure; the sales price be set annually based on HUD's Income Level Growth with not less than two percent appreciation; and that the Developer provide all documents and continue to engage the community board on the underlying Community Land Trust agreement and/or other restrictive declarations as they are developed.

In relation to the building's design, layout and composition, the community board conditions included that units by income band be distributed equally throughout the



building, with at least one unit of each income band on each floor of the building; there be a 50 percent community preference in owner selection; the Developer modify a number of façade elements, including color and quality of certain building materials, fenestration pattern, and treatment of base; and the project meet HPD's Green Communities standards.

Additionally, the community board conditions included that the Developer execute a settlement for McKinney to relinquish its right to remain onsite; the C2-5 commercial overlay be removed from the current application as McKinney has stated its intent to leave the site; and the applicant confirm in a letter to CB4 its assertion that 545-549 West 52nd Street would be required to complete a UDAAP process for future disposition.

### **BOROUGH PRESIDENT'S COMMENTS**

The Clinton Commons proposal will result in an entirely and permanently affordable residential building. The residential development is consistent with surrounding land uses and represents a superior use of land compared to existing conditions. Additionally, the project will provide much-needed housing for a population identified by the community as underserved. The proposed development will also introduce new homeownership opportunities at a variety of incomes, which is currently lacking in this neighborhood. Furthermore, the applicant should be commended for creating a unit distribution within the building that mixes both apartment sizes and incomes, which will ensure a truly mixed-income community both in the neighborhood and within the specific project site.

The creation of permanently affordable housing in this area is a highly appropriate use of City-owned land and addresses a local and citywide need. HPD's disposition of this site will promote the sound growth that is necessary to obtain the UDAA and UDAAP designations.

The proposed R8A zoning district is both necessary and appropriate to fulfill community planning goals and bring needed vitality to an underutilized site. The zoning will permit residential development at a scale and density consistent with other zoning districts in the surrounding area. In addition, it would not introduce any new non-compliance or non-conformance within the Rezoning Area. Further, the Special Clinton District was established with goals that included, as indicated in its general purposes, to allow new development that preserves and strengthen the social and physical character of the community and to maintain a broad mix of incomes. The proposed rezoning and related development project would support these goals.

However, the proposed extension of the C2-5 overlay, which was necessary to permit the relocation of McKinney back to the site, would be mapped atypically deep into the midblock as compared to other residential blocks in the neighborhood. Given that McKinney will not return to the Development Site, based on current discussions with the Developer, the commercial overlay into the midblock is unnecessary, and the applicant should eliminate the overlay from the proposed Rezoning Area.

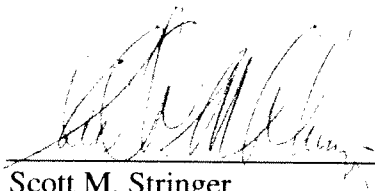
The proposed project will not only provide much-needed income-targeted, permanently affordable housing at an appropriate size and scale, but will also meet city goals regarding sustainable development. The developer has committed to incorporate energy-efficient and green elements in the building, meeting NYSERDA and Enterprise Green Communities standards. Some of these elements include: a highly-insulated building envelope; efficient mechanical systems; low-flow plumbing fixtures; Energy Star lighting; a high-albedo roof; low- or no-VOC adhesives and paints; and use of recycled materials. As such, Clinton Commons will contribute to environmentally sustainable development within the neighborhood.

Clinton Housing Association is the oldest affordable housing developer in the Clinton neighborhood and was the original community sponsor for the Clinton Urban Renewal Area. Its development partner for this project, Monadnock Construction, has also developed numerous affordable residential developments in the City, including in Community District 4. Both organizations should be commended for their consistent responsiveness to interests and concerns raised by the community board during the development of this proposal.

#### **BOROUGH PRESIDENT'S RECOMMENDATION**

The proposed development meets the required findings for UDAA and UDAAP designation and is an appropriate disposition of City-owned property. In addition, the proposed zoning map amendment is both necessary to meet the community's and the City's affordable housing goals and consistent with the uses, size, and scale of developments in the neighborhood. However, as the commercial overlay no longer appears necessary for the development plan and extends unusually deep into the midblock, it should be withdrawn from the application.

**The Manhattan Borough President therefore recommends approval of ULURP Application Nos. C 110125 ZMM and C 110126 HAM.**



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Scott M. Stringer  
Manhattan Borough President