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**Gale A. Brewer, Borough President**

April 26, 2021

**Recommendation on the ULURP Application No. C200352 ZSM  
314 West 43<sup>rd</sup> Street Clinton Special Permit  
by 311 West 42<sup>nd</sup> Street Associates LLC**

**PROPOSED ACTION**

311 West 42<sup>nd</sup> Street Associates LLC (the “Applicant”) is seeking an approval for a special permit pursuant to Section § 96-104 of the Zoning Resolution (ZR § 96-104) to allow a portion of the building at 314 West 43<sup>rd</sup> Street (the “Proposed Building”) to have a height beyond what is permitted in the Preservation Area of the Special Clinton District. The Proposed Building would be located in the Clinton/Hell’s Kitchen neighborhood of Manhattan Community District 4.

ZR § 96-104 states the following:

[T]he City Planning Commission, by special permit, may modify the special height and setback regulations set forth in this Section. In order to grant such special permit, the Commission shall find that the distribution of bulk permits adequate access of light and air to surrounding streets and properties and that the maximum height does not exceed 99 feet beyond 100 feet of a wide street, and 115 feet within 100 feet of a wide street.

The Commission may prescribe appropriate conditions and safeguards to protect and minimize any adverse effects on the character of the surrounding area.

**BACKGROUND**

**Special Clinton District**

The Special Clinton District was created in 1974 with the purpose of preserving the residential character of the Clinton/Hell’s Kitchen neighborhood. That action was in part a response to the westward growth of the Midtown business district. The Special District includes provisions that outline streetwall, height and bulk requirements. At the core of the Special District is a Preservation Area that is generally bound by West 43<sup>rd</sup> and West 56<sup>th</sup> Streets between 150 feet west of Eighth Avenue and Tenth and Eleventh Avenues. Owners of residential properties within the Preservation Area must obtain a special permit from the City Planning Commission prior to commencing the demolition of more than 20 percent of a building’s residential floor area.

ZR § 96-104 requires that streetwall heights within the Preservation Area be between 50 and 66 feet in height. Setbacks are required to have a minimum depth of 15 feet if they are located on a narrow street. This section of the zoning resolution, however, allows streetwalls to rise up to a height of 99 feet via a City Planning Commission special permit.

## PROPOSED DEVELOPMENT

### Area Context

The Proposed Building is situated between the Clinton/Hell's Kitchen neighborhood and Times Square/Midtown. Clinton/Hell's Kitchen is a residential neighborhood located west of Eighth Avenue. The blocks west of the Proposed Building site are zoned R8 with C1-5 and C2-5 overlays. Times Square and Midtown are east of Eighth Avenue and are characterized by larger commercial developments. That area is largely zoned C5 and C6. A C6-4 zoning district is generally mapped along West 41<sup>st</sup> and West 43<sup>rd</sup> Streets between Eighth and Twelfth Avenues.

The area is well served by both train and bus routes, including the 42<sup>nd</sup> Street Times Square Station, which is located less than a block from the Proposed Building and provides service to the 1, 2, 3, 7, A, C, E, N, Q, R, W and crosstown shuttle trains. The M42 bus provides crosstown service while the M11, M12, and M104 buses provide the area north/south service. The Port Authority Bus Terminal, which is a hub for many inter-city bus lines, is located one block south of the Proposed Building.

### Site Description



■ Proposed Building Site

The development site that will contain the Proposed Building is comprised of three lots as shown above. The development site is zoned C6-2 and C6-4. Lot 41 contains a 102 space through-block surface parking lot. Lot 25, which is also a through-block lot, contains a 13-story office building that was occupied by 1199 SEIU until July 2020. The union has relocated to an office building in

Times Square. Lot 22 contains a 5-story tenement building that includes 14 dwelling units and a ground floor commercial space.

### **Project Description**

The Proposed Building would be built on Lots 25 and 41. The residential building on Lot 22 would be preserved and provide 20,923 square feet of development rights to the Proposed Building. The building would contain 330 dwelling units, of which 83 would be affordable. The Applicant plans to provide 14 units affordable at 40% AMI through the City's Voluntary Inclusionary Housing Program (VIH), and in exchange would be able to build an additional 40,166 square feet of residential space. The remaining 69 affordable units (19 at 40% AMI, 33 at 60% AMI, and 17 at 120% AMI) would be provided through the State's Affordable New York Program (formerly known as 421-a), thus enabling the developer to receive a property tax abatement. The 14 units provided through VIH would be permanently affordable, while the remaining 69 units would have a proposed length of affordability of 40 years.

The Proposed Building would have a northern and southern portion, which would be separated by a landscaped garden to meet the rear yard requirement. The northern portion, which is the subject of the Application, would rise to 7 stories and range in height from 66 feet to 89 feet. The easternmost segment of the northern portion is within the Special Midtown District and would include a setback in order to comply with sidewalk widening requirements. The southern portion would be 31 stories and would rise to an approximate height of 399 feet.

The additional height allowed by the special permit would accommodate an additional floor of residential use, thus enabling the Applicant to use all of the development rights from Lot 22. The action would also allow more generous floor-to-ceiling heights (approximately 17 feet for the ground floor retail space, and 10 feet 8 inches for the residential floors).

### **COMMUNITY BOARD RECOMMENDATION**

Manhattan Community Board 4 held a hearing on the application on February 10, 2021. At its March 3, 2021 Full Board meeting, the Board voted to recommend approval of the application but outlined several conditions for approval, including the removal of the recess at the northern portion of the Proposed Building, which members of the Board noted could be used for drug activity. The Board also requested that the Applicant work on an art installation to commemorate 1199 SEIU's history at the site and that they present their affordable housing plan to its Housing, Health and Human Services Committee.

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

The Applicant's proposed use of the Special Permit would facilitate a better development that maximizes the amount of housing on their development site. I also believe that the additional height is harmonious with the surrounding area. However, when I met with the Applicant, I made it clear that my primary concern was the expiring affordability of the 69 residential units that

would be provided through the Affordable New York Program. I have seen scores of residents displaced from the Normandie Court on the Upper East Side as a result of such expirations. I understand that since 2017, the program requires that any affordable units remain rent stabilized until permanently vacated by the resident. The Applicant has committed to return to Manhattan Community Board 4 this spring to present its affordable housing plan and I urge them to work with the Board to arrive at a plan that provides the greatest length of affordability and protection for residents.

I also share Manhattan Community Board 4's concern regarding the recess at the northern portion of the Proposed Building, especially given the potential for that portion of the site to attract illicit activity. I urge the Applicant to design a building that eliminates features that might contribute to concerns about public safety.

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

Therefore, the Manhattan Borough President recommends **approval** of ULURP Application No. C200352 ZSM if the applicant meets the following conditions:

1. Work with Manhattan Community Board 4 to develop an appropriate affordable housing plan;
2. Work with the Department of City Planning and Manhattan Community Board 4 to improve the design of the eastern portion of the Proposed Building; and
3. Work with 1199 SEIU and Manhattan Community Board 4 to include an art installation in the Proposed Building.

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, flowing style.

Gale A. Brewer  
Manhattan Borough President