Borough President Recommendation

City Planning Commission
120 Broadway, 31st Floor, New York, NY 10271
Fax # (212) 720-3488

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.

Applications: C190253HAM

Docket Description:

IN THE MATTER OF a UDAAP/disposition for city-owned property at West 22nd St and 7th Avenue for the redevelopment of a mixed-use commercial and residential development

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

Gale A. Brewer

BOROUGH PRESIDENT

5/10/2019

DATE

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

1 Centre Street, 19th floor, New York, NY 10007
(212) 669-8300 p (212) 669-4306 f
431 West 125th Street, New York, NY 10027
(212) 531-1609 p (212) 531-4615 f
www.manhattanbp.nyc.gov

Gale A. Brewer, Borough President

May 10, 2019

Recommendation on Non-ULURP Application C190253HAM
201-207 7th Avenue
By New York City Department of Housing Preservation and Development

PROPOSED ACTIONS

The New York City Department of Housing Preservation and Development ("HPD" or the "Applicant") is seeking approval for an Urban Development Action Area ("UDAA") designation, Urban Development Action Area Project ("UDAAP") approval and disposition of a City-owned property ("Project Site"). The Project Site is currently comprised of four five-story buildings located at 201-207 7th Avenue in the Chelsea neighborhood of Manhattan Community District 4 (Block 797, Lots 80, 81, 82, and 83). The Applicant proposes to redevelop these four buildings to construct a single new building containing 26 affordable cooperative units and three commercial spaces along 7th Avenue ("Proposed Building").

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 entities 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 tax incentive provisions of the Urban Development Action 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 Action Area Act].

Additionally, § 197-c of the New York City Charter mandates that the disposition of all City-owned real property (other than the lease of office space) be subject to the Uniform Land Use Review Procedure ("ULURP"). While no specific findings need to be made to make a property eligible for disposition under Section 197-c, § 1802 (6) (j) of the City Charter limits HPD to the disposition of residential real property.

PROJECT DESCRIPTION

The Project Site is on the southeast corner of 7th Avenue and West 22nd Street in the Chelsea neighborhood of Manhattan (Block 797, Lots 80, 81, 82, and 83). The four lots contain a total of 3,700 square feet—a small site due in part to the fact that the four lots are only 50 feet deep. On the site there are currently four five-story residential walk-up buildings that contain a total of 14 residential units. As of the date of this recommendation, only one residential unit was occupied. The Project Site is also adjacent to infrastructure serving the 1/2/3 subway line.

Background

The four buildings were constructed in the late nineteenth century. In 1976, after years of neglect from the owner, the City acquired the buildings through foreclosure. Efforts to redevelop the properties began shortly thereafter, when the four buildings were entered into HPD's Tenant Interim Lease (TIL) Program in 1978. During the 1980s, the buildings left the TIL Program and became directly managed by HPD. In 1997, the buildings re-entered the TIL Program. Tenant relocation began in 2008.

The buildings were moved to HPD's Affordable Neighborhood Cooperative Program (ANCP), which redevelops city-owned properties into affordable cooperatives. ANCP designated a developer for the buildings in 2013. The temporary tenant relocation processes commenced shortly thereafter, at which point there were 3 households still living in the site. However, it was subsequently determined that the developer was not performing satisfactorily and they were removed from the project. In 2017, Asian Americans for Equality (AAFE) was chosen as the new developer for the site. AAFE resumed tenant relocation once again in 2018. The final tenant is expected to be relocated within the next 3 months.

Area Context

Chelsea traditionally housed manufacturing buildings in the waterfront area on the west, while the eastern part of the neighborhood contained non-contextual residential and commercial buildings. In 1996, Manhattan Community Board 4 published The Chelsea Plan, a 197-a plan which focused on the eastern portion of the neighborhood and sought to incentivize the creation of new "economically integrated housing" while still preserving the historic character of the neighborhood. That report informed a 1999 rezoning of the area which mapped contextual residential and commercial districts in the neighborhood.

The Proposed Building will be served well by public transit, including the 23rd Street 1 train subway station, which is one block to the north; the 23rd Street F/M/PATH subway station, which is two blocks away on West 23rd Street and 6th Avenue; and the 23rd Street C/E subway station, which is also two blocks away on West 23rd Street and 8th Avenue. The M7 bus provides uptown access on 6th Avenue, while the M20 bus provides downtown access on 7th Avenue and uptown access (to Lincoln Center) on 8th Avenue. Crosstown access is provided by the M23 bus, which runs along East/West 23rd Street.

Proposed Development

The Project Site is within an R8A/C2-5 zoning district, with an FAR of 6.02. There are 22,274 square feet that are developable as-of-right on the site. The Proposed Building will be 9 stories in height and contain 22,274 zoning square feet. In addition to 26 residential units that range in size from studios to three-bedrooms, there will be three commercial units on the ground floor along 7th Avenue. There will be a separate residential entrance on West 22nd Street.

The building will include an approximately 405 square foot courtyard as well as a roof garden above the 8th floor which will measure approximately 1,050 square feet and will be situated next to a recreation room. These spaces will all be accessible to building residents.

The Proposed Building will be a Housing Development Fund Corporation ("HDFC") Cooperative. Articles of Incorporation for the co-op will mandate the affordability requirements of the project as an HDFC incorporated pursuant to Article XI of the New York State Private Housing Finance Law and a Regulatory Agreement will detail the affordability levels and establish resale restrictions. An Article XI tax exemption will correspond to that Regulatory Agreement and will be granted to the building in exchange for the affordability and resale restrictions. That tax exemption will also be coterminous with the Regulatory Agreement. The Applicant proposes a Regulatory Agreement/tax exemption period of 40 years. At that point, the building would be eligible to obtain a new tax exemption in exchange for maintaining its resale restrictions.

Of the proposed 26 residential units, 5 will be occupied by returning households that have been temporarily relocated. The other 21 units will be posted on the HPD online housing portal and will be available to households earning up to 160% of the Area Median Income (AMI). Qualifying households will be chosen through a lottery process. Returning tenants will be able to purchase their units for $2,500. All other units will be priced as follows:

Table 1: Purchase and Maintenance Prices

Unit Size	Proposed Initial Purchase Price	Proposed Maintenance
Studio	$ 391,822	$ 688
1 Bedroom	$ 489,777	$ 860
2 Bedroom	$ 587,732	$ 1,033
3 Bedroom	$ 2,500[1]	$ 1,193

The units will have resale restrictions, with an Affordability Index Formula ensuring that the carrying costs (mortgage plus maintenance) are affordable to households earning up to 160% AMI. This Affordability Index Formula will not apply to initial purchase prices; those prices will be calculated based on the project's financial need and will partially finance the development. Resale of units would be subject to a standardized flip tax schedule which splits the proceeds of the sale between the co-op and the seller. The seller's portion increases over time in order to

[1] The two three bedroom units will be occupied by returning tenants.

incentivize long-term ownership and overall neighborhood stability. The chart below shows the flip tax for the first 15 years after purchase.

Table 2: Flip Tax Schedule

Years After Purchase	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Flip Tax (% of sale proceeds going to Co-op)	100 %	100 %	100 %	95%	90%	85%	80%	75%	70%	65%	60%	50%	40%	30%	20%

COMMUNITY BOARD RESOLUTION

On April 8, 2019, Manhattan Community Board 4 voted to recommend disapproval of the application unless a number of conditions were met. The Board listed among its conditions changes to some of the design elements and apartment layouts but also made recommendations regarding the housing program. Among those recommendations were:

- Extend affordability and resale restrictions to a minimum of 80 years
- Add a new income band for households earning up to 130% AMI
- Ensure that the HDFC manages all apartment resales
- Establish apartment resale caps and prevent "windfall profits" for both returning tenants and new purchasers

BOROUGH PRESIDENT'S COMMENTS

I am pleased to see that this site, which has awaited redevelopment for decades, will soon provide much-needed affordable housing. Nonetheless, I believe that the disposition of a City-owned property, particularly in the midst of a housing crisis, should be done on the condition that any housing constructed on that property is permanently affordable. Future generations of lower income New Yorkers need to have the opportunity to live in the Proposed Building. Neighborhoods across Manhattan—including Chelsea—have seen "affordable" co-ops selling at prices that are out of reach for most low income families. In some extreme cases, sales prices have surpassed $1,000,000. I appreciate the complexity of the HDFC co-op structure and the various mechanisms used to guarantee and incentivize affordability. I also appreciate the fact that there are laws that mandate how vacant units can be marketed to potential buyers, and that HPD is working to meet those requirements within the compliance period. However, I believe that HPD must extend the affordability of the Proposed Building permanently and ensure that the mission of providing housing for low income New Yorkers remains the primary goal of this Proposed Building.

In January 2018, HPD announced that it would begin using remainder interests as a legal tool to ensure permanent affordability on City-owned properties. Under this arrangement, the City has the right to regain ownership of the property once the regulatory period ends. However, the City can opt to keep the property in private ownership if said owner agrees to extend the length of the affordability[2]. HPD should make every effort to employ a similar mechanism that could be applied in the HDFC cooperative context—with the specific goal of ensuring that the Proposed Building remains affordable in perpetuity. Moreover, the agency should explore the use of such a mechanism for all ANCP projects.

I understand the Community Board's position that a portion of the units should be available and affordable to households earning up to 130% AMI. However, I also understand the financial constraints borne out of the Proposed Building's MTA adjacency, the relatively small size of the site, and the demolition and new construction costs (which are not typically incurred in ANCP projects). The Proposed Building will be financed, in part, by the sale of the new units. I believe that the AMI levels should remain as proposed but that the Applicant should also work to ensure that the initial sale prices start as low as possible in order to ensure permanent affordability. To the extent that there is a budget gap, the Applicant should look to other sources of funding—not raise the sale prices higher than they need to be in order to be to remain affordable. I also exhort the Applicant to look for opportunities to provide affordable homeownership options for lower income households within Community District 4.

BOROUGH PRESIDENT'S RECOMMENDATION

I therefore recommend **disapproval of application No. 190253HAM unless the Applicant meets the following conditions:**

1. Implement a mechanism similar to a remainder interest in order to ensure permanent affordability of the Proposed Building;
2. Extend the length of the Regulatory Agreement and Article XI tax exemption to the longest period possible;
3. Demonstrate that the Articles of Incorporation for the co-op mandate the HDFC to remain affordable in perpetuity[3];
4. Demonstrate that the Articles of Incorporation require the units to be sold back to the HDFC, and that unit sales are done by the HDFC in close coordination with the HPD housing portal and the monitoring agent—not the individual shareholders; and
5. Demonstrate that **both initial purchase and resale prices** are set at the minimum level that can be afforded by households earning up to 160% AMI.

Gale A. Brewer

Gale A. Brewer
Manhattan Borough President

---

[2] https://www1.nyc.gov/site/hpd/about/messages-from-the-commissioner/01-19-18.page
[3] Upon expiration of the first tax exemption, the co-op would have the opportunity to sign a new Regulatory Agreement in exchange for obtaining a new tax exemption.