CITY PLANNING COMMISSION

October 22, 2014, Calendar No. 2 N 140410 ZRM

IN THE MATTER OF an application submitted by 605 West 42nd St. Owner LLC pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 6 to amend Section 96-21 (Special Regulations for 42nd Street Perimeter Area) of the Special Clinton District to allow automobile showrooms or sales with automobile repair, storage, and preparation for delivery, Community District 4, Borough of Manhattan.

This application for an amendment of the Zoning Resolution relating to Article IX, Chapter 6 (Special Clinton District) was filed by 605 West 42nd St. Owner LLC on June 2, 2014. The requested zoning text amendment would facilitate automobile servicing and repairs affiliated with an automobile dealership within a mixed-use, approximately 936,000 square foot building with 1,174 residential units and ground-floor retail.

Background

605 West 42nd St. Owner LLC is proposing a zoning text amendment concerning Block 1090 which is bounded by Eleventh Avenue, Twelfth Avenue, West 42nd Street and West 43rd Street. The block is located in Subarea I of the 42nd Street Perimeter Area of the Special Clinton District (the "Project Area"). The amendment would allow automobile servicing, repair and preparation of automobiles for delivery in a proposed automobile dealership. While automobile showroom use and accessory vehicle storage (Use Group 9) are permitted as-of-right in the Project Area's C6-4 zoning district, automobile preparation, servicing, and repair are uses currently not permitted as-of-right in this district. The amendment is being sought to facilitate an as-of-right, approximately 936,000 square foot, mixed-use development at the eastern end of the block at 605 West 42nd Street.

Project Area and Surrounding Area

The Project Area is within Community District 4 and is predominantly developed with a mix of residential, automotive, retail, and industrial uses. Nearby uses include a full-block UPS warehouse on the block directly north of the Project Area and a two-tower, 58-story residential complex ("Silver Towers") on the block directly south. The MTA's Quill Bus Depot is located two blocks south of the Project Area and an NYPD open-air parking facility is a block further south, just north of the Jacob K. Javits Convention Center. Immediately to the west of the Project Area are Piers 81 and 83, which are dedicated to transportation and utility uses. On the block to the southeast there is a Consolidated Edison substation and a Fed-Ex vehicle storage facility. The surrounding area, particularly to the north along Eleventh Avenue, includes several automobile dealerships and other related motor vehicle uses.

Besides the development site, the Project Area includes a 46-floor, 478 dwelling unit, mixed-use tower to the west of the development site at 635 West 42nd Street (the "Atelier"), the Chinese Consulate at the western end of the Project Area at 520 West Street, and a small four-story mixed-use building with a restaurant on the ground level at 647 West 42nd Street between the Atelier and the Consulate. The applicable C6-4 zoning allows a maximum base FAR of 10.0, bonusable up to 12.0 FAR through the provision of inclusionary housing.

The block to the south of the Project Area is zoned C6-4, as are the blocks to the east of the Project Area. Immediately to the north of the Project Area is an M2-4 zoning district, and to the west is an M2-3 district. An M1-5 zoning district is located a block south of the Project Area, at the midpoint of West 41st Street. In all of these districts, the automobile servicing uses which are proposed to be permitted by the proposed text amendment are permitted as-of-right.

Proposed Development Site

The proposed development site is a lot with approximately 70,292 square feet and is located on the eastern portion of Block 1090 on Lots 23 & 29 at 605 West 42nd Street. The site is L-shaped with full block frontage along Eleventh Avenue, 250 feet of frontage along West 42nd

Street, and 450 feet of frontage along West 43rd Street. The development site is part of a zoning lot that includes the Atelier. The total area of the zoning lot is approximately 115,881 square feet.

The proposed development is a 60-story (685 feet tall) mixed-use building of approximately 936,000 zoning square feet. The building will contain approximately 1,174 dwelling units, 253 of them permanently affordable; 10,000 square feet of retail (to be located at the corner of West 42nd Street and Eleventh Avenue); 62,000 square feet of automobile showroom and accessory uses; a 39,000 square foot public fitness center (on portions of the cellar, ground, and third floors); and 301 spaces of accessory residential parking on the first, mezzanine, and second floors.

The proposed text amendment is being sought to facilitate the development a full-service automobile dealership. It would be located on portions of the first floor and cellar level of the building. On the first floor, the dealership is expected to include showroom space at the corner of West 43rd Street and Eleventh Avenue, with accessory offices behind the showroom and a ramp providing vehicular access to the dealership's cellar space. Below grade the proposed development would include 12 bays for on-site servicing, repair, and new vehicle preparation, as well as storage of approximately 60-70 new vehicles.

The automobile servicing, preparation and storage areas will be accessed via two curb cuts on the southern side of West 43rd Street. An existing 18-foot 8 inch curb cut, 51 feet from Eleventh Avenue, would allow primary access to the service area on the eastern end of the cellar level and a new 22- foot 9 inch wide curb cut approximately 413 feet west of Eleventh Avenue would allow access to the vehicle storage area on the western end of the cellar level. There would be two additional curb cuts on West 43rd Street including an existing 20- foot 8 inch wide entrance for accessory residential parking 234 feet from Eleventh Avenue and a smaller existing 13-foot 8 inch wide curb cut for loading access 111 feet from Eleventh Avenue. On West 42nd Street there would be two existing 20-foot curb cuts that would provide drop-off access to residents.

New cars to be displayed would be delivered via trucks that would park on West 43rd Street and unload. The automotive dealership's staff would drive the cars down the entrance ramp into the cellar and the new cars would be kept in the western storage area pending sale or display. Within the cellar level it would be possible for the cars to be driven to the east of the level where the servicing and repairs would take place. Recently sold cars could be driven out from the easternmost egress. Cars approaching the site for servicing would be driven into the easternmost entrance and down the ramp where they would be serviced on the cellar level.

Land Use Actions Requested

Under current C6-4 zoning, a Use Group 9 automobile dealership with a showroom, including vehicle storage accessory to the dealership, may be developed as-of-right; however, the automobile servicing, repair and new vehicle preparation components of the dealership are not permitted. To allow these uses the applicant proposes the text amendment to Section 96-21 (Special Regulations for 42nd Street Perimeter Area) of the Special Clinton District. The text amendment would allow automobile servicing and repair, and preparation of automobiles for delivery, below the level of any floor occupied by dwelling units within an enclosed building on the Project Site, subject to the following restrictions:

- access to portions of the building to be used for automobile storage, preparation for delivery, and repairs must be on West 43rd Street
- areas in the building used for automobile storage, preparation for delivery, or repairs shall not be used for accessory parking
- areas in the building used for the preparation for delivery and repair of automobiles must be located entirely in the cellar.

ENVIRONMENTAL REVIEW

This application 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 14DCP184M. The lead is the City Planning Commission.

After a study of the potential impact of the proposed action, a Negative Declaration was issued on July 7, 2014.

PUBLIC REVIEW

This application was referred to Community Board 4 and the Manhattan Borough President by the Department of City Planning for information and review on July 7, 2014 in accordance with the procedures for non-ULURP matters.

Community Board Recommendation

Community Board 4 held a public meeting on July 23, 2014 and voted to approve the proposal with conditions with 34 in favor, 0 opposed, and 1 abstaining. In a letter dated August 1st, 2014, the Board expressed several concerns regarding the proposal, including:

- That since the delivery trucks would not fit within the building cars to be sold would be unloaded on the street during the late-night hours
- That cars to be sold would be parked on the sidewalk
- That dealerships with below-level uses (such as this) need large HVAC systems to meet ventilation requirements and these systems can be very noisy
- That the signage and lighting would be left on all night and the light entering into neighboring resident's homes would cause serious quality-of-life concerns

The Board also had concerns regarding where the proposed text would be located in the Special Clinton District text. The Board stated that it strongly believed that the proposed text should be located within the text applying to the Other Area of the Special Clinton District where a recent text amendment applicable to 606 West 57th Street (N 130337 ZRM) had placed language allowing automobile servicing and repair in Subarea C1-1 of the Other Area.

Borough President Recommendation

This application was considered by the Manhattan Borough President's Office, which issued a letter on September 9, 2014 recommending approval of the application with conditions. The

letter noted that the applicant had already agreed to the requests of the Community Board and added that the applicant had also agreed to a request by the MBPO to restrict the delivery of new cars between the hours of 11 PM and 6 AM. The MBPO disagreed with the Community Board that the proposed text should reside in the Other Area section of the Special Clinton District text but did note that it might be more appropriate for the Department of City Planning to reorganize the Clinton District by placing all of the automotive uses in a section of the text that applies generally to the District.

City Planning Commission Public Hearing

On September 3, 2014 (Calendar No. 1) the City Planning Commission scheduled September 17, 2014 for a public hearing on this application. The hearing was duly held on September 17, 2014 (Calendar No. 7). There were two speakers: The applicant's representative explained why the text amendment was needed, how it would facilitate the operations of the automobile dealership, and why it was reasonable in this area of Manhattan. A representative of the Manhattan Borough President's Office also testified and reiterated the MBPO's approval of the proposal and its reasoning for that approval.

There were no other speakers and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 22, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 14-070.

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

CONSIDERATION

The Commission believes that the application for the text amendment is appropriate.

The Commission believes that the proposed uses to be allowed by the text amendment are appropriate for this proposed development and at this location of the City. The Commission notes that an automobile dealership with a showroom, including vehicle storage accessory to the dealership showroom (Use Group 9) is permitted as-of-right by the underlying zoning. The proposed text amendment would merely facilitate the operation of this use by permitting the servicing and repair of automobiles as well as the preparation of vehicles for delivery, uses that would greatly complement the showroom use. The Commission believes that it would be logistically very difficult and cost-prohibitive to operate a fully-functional stand-alone dealership at this location without the operations that the text amendment would allow.

The Commission acknowledges that the area near the proposed development site, particularly between West 59th Street and West 37th Street on both sides of Eleventh Avenue, has historically constituted a cluster of automotive dealerships and automotive services (sometimes referred to as "Automobile Row"). Although this dealership would be several blocks farther south than the currently farthest south dealership (at the northwest corner of West 47th & Eleventh Avenue), the Commission notes that sites used for automobile services are found as far south as West 38th Street and thus the proposed uses would fit well into the commercial context of the area. The Commission further acknowledges that these uses are allowed as-of-right by the underlying zoning on the block immediately north of the Project Area.

The Commission notes that this amendment is similar to previously approved amendments allowing for both automobile sales and repairs within mixed-use developments along Eleventh Avenue in the Special Clinton District, such as at 770 Eleventh Avenue (Mercedes House)(N 080009 ZRM) and 606 West 57th Street (N 130337 ZRM) and believes the co-location of such uses is appropriate.

The Commission believes that the proposed text contains zoning regulations that would aid in the smooth operation of the dealership and in traffic flows in the vicinity of the building. To ensure that the traffic on the major thoroughfare of West 42nd Street is minimally affected by the operations and to ensure that entry and egress to and from the dealership is minimally affected by the traffic on West 42nd Street, the text requires the entrance to the dealership use be on the much less trafficked West 43rd Street. To ensure that there are no entry/egress conflicts between the dealership operations and the operations of the accessory parking facility, the text requires that space in the building used for vehicle storage, preparation of vehicles for delivery and repairs shall not be used for accessory parking. Finally, to ensure that the uses permitted by this text amendment do not interfere with the commercial and residential uses in the building, the text restricts such uses to below the level of the lowest level of dwelling units and requires that portions of the building used for the preparation of automobiles for delivery and repair be located in the cellar.

The Commission is pleased that the applicant has responded to each of the Community Board's and the Manhattan Borough President Office's conditions for approval by indicating in writing in letters dated July 22, 2014 and September 9, 2014, respectively, that it agrees to put into the lease for the future dealership requirements to reduce or eliminate lighting glare, sidewalk parking, late-night deliveries, and to keep ventilation noise within legally compliant parameters.

The Commission also acknowledges the Community Board's and Manhattan Borough President Office's comments on the location of the proposed text in the Special Clinton District. The Commission believes that the text should remain in the Perimeter Area section of the Special Clinton District versus the Other Area as one looking for the rules of a site in the 42nd Street Perimeter Area would naturally look to rules for that Area rather than to the text containing the rules of the another Area. Also, while this proposed text has some similarities with the current text applicable to Subarea C1-1 in the Other Area (the result of N 130337 ZRM), it has other provisions that distinguish it from the Other Area text, specifically with regards to the location of the entrance and that the access to the automotive uses and the accessory parking cannot be in the same location in the building.

The Commission believes that the text amendment will be effective in facilitating the operations of the proposed automotive showroom, would permit uses that are consistent with those already existing on this portion of Eleventh Avenue, and contains language to help ensure that the operations of the automobile showroom do not impact the surrounding traffic network.

RESOLUTION

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

RESOLVED that the City Planning Commission, in its capacity as the City Coastal Commission, the City Coastal Commission, having reviewed the waterfront aspects of this action finds that the action will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies; and be it further

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

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

Article IX - Special Purpose Districts

* * *

Chapter 6
Special Clinton District

* * *

96-20
PERIMETER AREA

* * *

96-21
Special Regulations for 42nd Street Perimeter Area

The provisions of this Section shall apply in all #Commercial Districts# within the area bounded by the following:

Starting 150 feet west of Eighth Avenue, south to the southern boundary of West 41st Street, west to the east side of Twelfth Avenue, north along the eastern border of Twelfth Avenue to 43rd Street, east on West 43rd Street to the eastern side of Tenth Avenue, south along Tenth Avenue to the southern boundary of West 42nd Street, east on West 42nd Street to Ninth Avenue, north along the western boundary of Ninth Avenue to the midblock of 42nd/43rd Street, east to a point 150 feet west of Eighth Avenue, south to the southerly boundary of 41st Street.

(a) Special #use# regulations ~~for office #use#~~

In the 42nd Street Perimeter Area, as shown in Appendix A of this Chapter, ~~any~~ the following special #use# regulations shall apply:

(1) Offices

Any #development# or #enlargement# that includes Use Group 6B offices #developed# or #enlarged# after January 19, 2005, shall be permitted only pursuant to Section 93-13 (Special Office Use Regulations).

(2) Automobile showrooms and repairs

In Subarea 1, on the #block# bounded by Twelfth Avenue, West 43rd Street, Eleventh Avenue and West 42nd Street , automobile showrooms or sales, with vehicle storage, preparation of automobiles for delivery, and automobile repairs, may be permitted within a #completely enclosed building#, below the level of any floor occupied by #dwelling units#, provided that:

(i) access for automobiles to the portions of the #building# to be used for vehicle storage, preparation of automobiles for delivery and automobile repairs shall be located on West 43rd Street;

(ii) areas within the #building# used for vehicle storage, preparation of automobiles for delivery, or automobile repairs shall not be used for #accessory parking# for other uses on the #zoning lot#; except that such areas may be accessed from a curb cut, vehicular ramp, or vehicle elevator that also serves an #accessory group parking facility#; and

(iii) the portion of the #building# used for the preparation of automobiles for delivery and automobile repairs shall be located entirely in a #cellar# level.

* * *

The above resolution, duly adopted by the City Planning Commission on October 22, 2014 (Calendar No. 2), 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.

CARL WEISBROD, *Chairman*
KENNETH J. KNUCKLES, *Esq., Vice-Chairman*
RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III, MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY, CHERYL COHEN EFFRON, BOMEE JUNG, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ, *Commissioners*

CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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CHRISTINE BERTHET
Chair

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

August 1, 2014

Carl Weisbrod
Director
Department of City Planning
22 Reade Street, 2nd Floor
New York, NY 10007

Re: West 42nd Street Auto Showroom Text

Dear Director Weisbrod:

At the recommendation of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board 4 recommends **approval** of the proposed text amendment to the Special Clinton District (SCD), §96-21, that would allow automobile servicing and repair, and preparation of automobiles for delivery pursuant to Use Group 16 as-of-right in the Perimeter Area, below the level of any floor occupied by dwelling units within an enclosed building subject to additional access restriction, **with certain conditions**. The Board voted unanimously.

The Development Site is owned by the Moinian Group (Applicant) and is located at 605 West 42nd Street within an area of approximately 70,292 square feet. The L-shaped Development Site has frontage on three streets, including 200 feet, 10 inches along Eleventh Avenue (occupying the full block frontage between West 42nd Street and West 43rd Street), 250 feet along West 42nd Street, and 450 feet along West 43rd Street. The Development Site is part of a zoning lot that also include Lot 7501 (location of the existing Atelier condo).

The project is currently under construction on an as-of-right basis and is expected to be completed in 2015. It will be, when completed, a new 60-story mixed-use building at approximately 658 feet tall and will include one cellar level. The building will contain approximately 1,174 dwelling units of the fourth through sixtieth floor, including approximately 235 affordable units, and accessory residential parking with 301 spaces on portions of the first, mezzanine, and second floor.

The Applicant proposed to dedicate approximately 62,000 square feet of floor space in the building to use as an automobile dealership. The proposed text amendment is to facilitate the development of that dealership. At present an automobile dealership with a showroom, including vehicle storage accessory to the showroom, may be developed as-of-right, however, the automobile servicing, repair and new vehicle preparation component of the dealership are not permitted.
We agree with the Applicant's contention that a full-service dealership would be consistent with similar uses in the area and would complement the existing automotive-related uses along Eleventh Avenue, what the Applicant refers to as "Automobile Row." However, we believe the mechanism used for the TF Cornerstone Development Site on West 57th Street is a more appropriate mechanism than the text amendment proposed here. Plus, we have four (4) quality-of-life conditions.

1. Auto Showroom Text. The present proposal is to amend §96-21 of the SCD (Special Regulations for 42nd Street Perimeter Area). However, earlier this year this Board recommended approval and City Planning approved the amendment to §96-34(B)(1) to allow automobile servicing, repair and new vehicle preparation in Area C1-1 within northern subarea C1. Rather than have multiple sections in the SCD allow such uses we strongly believe §96-34(B)(1) should be amended to include the 42nd Street Perimeter Area. The applicant at the July 9th, 2014 Clinton/Hell's Kitchen Land Use Committee openly voiced no objection to achieving the same goal through the Board's preferred mechanism.

2. Provisos in the Lease. The Board has learned through experience that automobile dealerships can cause a host of quality-of-life issues. Thus we have asked for and received (see attached) a commitment in writing from the applicant on four items that need to be addressed. These are:

a). We understand that the entrance to the showroom will not be able to fit a delivery truck. This means the cars will be dropped off the delivery truck on the public street and driven into the dealership. These deliveries have been known to occur in the late hours of the night or very early morning and disrupt the residential community. There needs to be a commitment in the lease that deliveries will occur during business hours.

b). In the past we have experienced the parking of vehicles on the sidewalk. There needs to be a commitment in the lease that there will be no vehicles parked on the sidewalk.

c). Dealerships with below level uses need large HVAC systems to meet ventilation requirement. These systems need a lot of power and can be very noisy. This could lead to noise issues in the community and possibly even noise code violations (such issues have occurred in the past with other dealerships). We need assurances that the system will be muffled.

d). Signage and lighting is always a concern with auto showrooms. There is a tendency to leave them on all night and the lights enter into neighboring resident's homes and cause serious quality-of-life concerns. We need a commitment that the lease will require that the tenant minimize all lights and illuminated or flashing signage.

We look for to your consideration and future discussions.

Sincerely,

Christine Berthet
Chair

Jean-Daniel Noland
Chair, Clinton / Hell's Kitchen Land Use Committee

cc: Manhattan Borough President Office, Michael Sandler
NYC Councilmember Corey Johnson
NYS Senator Brad Hoylman
NYS Senator Adriano Espaillat
NYS Assemblymember Linda Rosenthal
Congressman Jerrold Nadler

Hon. Christine Berthet, Chair of Community Board 4; Hon. Jean-Daniel Noland, Chair of Clinton / Hell's Kitchen Land Use Committee
Manhattan Community Board 4
330 West 42nd Street, 26th Floor
New York, NY 10036

Re: West 42nd Street Automobile Showroom Text Amendment
ULURP No. N 140410 ZRM

July 22, 2014

Dear Ms. Berthet, Mr. Noland and Committee Members:

Thank you for your consideration of our proposed text amendment to allow for automobile servicing, repair and new vehicle preparation in connection with an as-of-right automobile showroom use. As discussed, the proposed controls, which would be applicable on one block in Subarea I of the 42nd Street Perimeter, are based on existing text in Northern Subarea C1 of the Special Clinton District, with additional restrictions on the location of automobile servicing, repair and preparation uses.

The proposed text amendment would facilitate the location of a full-service dealership (the "Facility") in a portion of a mixed-use development that we are currently constructing at 605 West 42nd Street, which will contain approximately 1,174 residential units, including approximately 235 affordable units.

We are writing to confirm our commitments made at the July 9th meeting of the Clinton/Hell's Kitchen Land Use Committee with respect to the operation of the Facility, as follows:

1. **Lighting and Signage**

   All signage accessory to the automobile dealership will abide by applicable zoning regulations. We further agree to include in our lease with the operator of the Facility requirements that lighting be designed so as to minimize glare into surrounding dwelling units and to minimize motion or flashing.

2. **Sidewalk Parking**

   We agree to include in the lease with the operator of the Facility provisions explicitly prohibiting the parking or queuing of vehicles on the sidewalk, and giving the landlord the right to impose penalties for infractions.

3. **Ventilation**

   The ventilation fans for the Facility will be located on the West 43rd Street façade of the building, facing the UPS facility. The fans will operate in full compliance with noise code. We also wish to highlight that the proposed Facility will be significantly smaller than the dealership that was identified by the Committee as having excessive noise, and ventilation systems will therefore be substantially smaller.

4. **New Car Delivery**

   We agree to include in the lease with the operator of the Facility restrictions on the hours for delivery of new vehicles so as not to create noise disturbance to area residents.

Again, we thank you for the Committee's consideration of the proposed text amendment, and look forward to continuing to work with Community Board 4 as this project moves forward. Please do not hesitate to contact me with any questions regarding the information contained in this letter.

Sincerely,

Oskar Brecher
Executive Vice President
The Moinian Group

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Gale A. Brewer, Borough President

September 9, 2014

Carl Weisbrod, Chair
City Planning Commission
22 Reade Street
New York, NY 10007

Re: 42nd Street Auto Showroom Text, N 140410 ZRM

Dear Chair Weisbrod:

I write in support of the application by 605 W 42nd Owner LLC[1] for an amendment to Section 96-21 (Special Regulations for 42nd Street Perimeter Area) of the Zoning Resolution ("ZR") to allow automobile servicing, repair, and preparation of automobiles for delivery within a portion of Subarea 1 of the 42nd Street Perimeter Area of the Special Clinton District. The proposed automotive use is consistent with uses in the area and will be configured so as to minimize any adverse effects on the surrounding area.

The development site is located at 605 West 42nd Street, on an L-shaped lot with frontage on West 42nd and West 43rd Streets and Eleventh Avenue. The project sits in a C6-4 zoning district within the Special Clinton District ("CL"), which allows a range of residential, community facility, and commercial uses. The project is currently under construction and is expected to be completed in 2015. Regardless of the proposed action, the development will be a 60-story mixed-use building of approximately 936,019 zoning square feet. The building will be approximately 658 feet tall, with one level below grade. The building will contain approximately 1,174 residential units, of which 235 will be affordable for households earning less than 60 percent of the Area Median Income. The affordable units are being built through the City's Inclusionary Housing Program. There will additionally be a parking garage, accessed by a curb cut on West 43rd Street, with 301 spaces on portions of the first, mezzanine, and second floors of the building and a public fitness center on portions of the cellar, ground, and third floors.

The applicant proposed a full-service automobile dealership on portions of the first floor and cellar of the building, with associated retail frontage on Eleventh Avenue and two driveways accessed on West 43rd Street. There are a total of four curb cuts proposed along West 43rd Street: two to access both the dealership and repair area and two for the residential parking and loading areas. A full-service automobile dealership includes on-site servicing and repair and new vehicle

[1] 605 W 42nd Owner LLC. is a subsidiary of the Moinian Group, which is managed by Joseph Moinian, Chief Executive Officer.

preparation. Under current C6-4 (CL) zoning, a Use Group 9 automobile showroom, including accessory vehicle storage, is allowed as of right. However, servicing, repair, and new vehicle preparation are not permitted under the current zoning text. This proposed text amendment would allow these uses on the development site.

The proposed full-service dealership is consistent with uses in the area. The Eleventh Avenue corridor in the West 40s and 50s is often referred to as "Automobile Row" due to the proliferation of automobile dealerships and related facilities. Between West 37th Street and West 50th Street there are at least 14 other auto dealerships, as well as a wide range of other motor vehicle-related uses. The close access to the Lincoln Tunnel Route 9A, a variety of commercial and industrial zoning districts, and its location near Midtown make the corridor an ideal spot for automotive uses.

At its Full Board Meeting on July 23, 2014, Manhattan Community Board 4 ("CB4") voted unanimously in favor of a letter recommending approval of the proposed action, with conditions. The letter noted that the proposed use is appropriate for the area. The letter also requested a change to the location of the proposed zoning text and for four quality of life provisions to be included in any future lease. CB4 noted that earlier this year the City Planning Commission ("CPC") approved an amendment to ZR § 96-34(B)(1) (Special Regulations in Northern Subarea C1) allowing automobile servicing, repair and new vehicle preparation in Area C1-1 within northern subarea C1 of the Special Clinton District. Rather than have a separate section of the Special Clinton District enable this use, the Board recommends that the CPC amend § 96-34(B)(1) to include the 42nd Street Perimeter Area. The Community Board further requested that any delivery of vehicles take place during business hours, no vehicles be parked on the sidewalk, the heating and cooling system for the below-grade facility be designed so as to reduce noise, and lighted and flashing signage be minimized.

In a letter to Community Board 4 dated July 22, 2014, the applicant committed that (1) lighting will be designed to minimize glare into surrounding residential units and to minimize motion or flashing; (2) the automobile dealership will be expressly prohibited from parking or queuing vehicles on the sidewalk; (3) ventilation fans will operate in full compliance with the noise code;[2] and (4) the dealership will have lease provisions restricting the hours for new car delivery. A pledge was requested by the Manhattan Borough President's Office to further restrict new car delivery between the hours of 11 PM and 6 AM. The Moinian Group sent a letter dated September 9, 2014, which is enclosed with this recommendation, restating their commitments to the board and agreeing to the proposed hours.

The Community Board's recommendations regarding placement of the proposed text seek to make the zoning text for the Special Clinton District as clear and concise as possible. This is an important goal—codes that are not repetitive or redundant are more easily understood and leave less room for error from City agencies, property owners, and community groups. The specific suggestions of the Community Board should be examined by the City Planning Commission. In this case, amending § 96-34(B)(1) to include the 42nd Street Perimeter Area may not serve the purpose of clarity, as one would not instinctually think to look in the Special Regulations in

[2] The letter further notes that the size of this facility is significantly smaller than other dealerships with noisy ventilation systems.

Northern Subarea C1 to find rules for the 42nd Street area. To achieve the goals of the Community Board, it may be more appropriate for City Planning to consider reorganizing, as a corrective text action, all special rules for accessory automotive uses since these same rules now apply to multiple subdistricts.

Considering the commitments from the applicant to mitigate the harmful impacts of this use on the community, this project will be beneficial to the community. Full service dealerships not only provide additional services, they employ significantly more people. These additional jobs in the neighborhood help support other daytime uses and help to create a diverse community. I urge the City Planning Commission to approve this application with the above referenced reorganization of the zoning text.

Sincerely,

Gale A. Brewer

Hon. Gale A. Brewer
Manhattan Borough President
One Centre Street, 19th Floor
New York, NY 10007

September 9, 2014

Re: West 42nd Street Automobile Showroom Text Amendment
ULURP No. N 140410 ZRM

Dear Borough President Brewer:

Thank you for your consideration of our application for a text amendment to allow for automobile servicing, repair and new vehicle preparation in connection with an as-of-right automobile showroom use. The proposed text amendment would facilitate the location of a full-service automobile dealership in a portion of a mixed-use development that we are currently constructing at 605 West 42nd Street.

We are writing to confirm our commitments made to Community Board 4 by letter dated July 22, 2014 with respect to limitations on lighting and signage, prohibition of sidewalk parking, control of ventilation noise, and restriction of hours for new car delivery.

In response to your request for an additional level of commitment from us with respect to hours for new car delivery, we agree to include in the lease with the operator of the dealership a restriction against the delivery of new vehicles between the hours of 11pm and 6am.

We look forward to working with you and the community as the building is completed.

Sincerely,

Oskar Brecher
Executive Vice President
The Moinian Group

THE MOINIAN GROUP
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