

COMMUNITY BOARD 7 Manhattan

March 8, 2018

Honorable Margery Perlmutter
Chair
NYC Board of Standards and Appeals
250 Broadway, 29th Floor
New York, NY 10007

Re: 200 Amsterdam Avenue

Dear Chair Perlmutter and Commissioners:

We write to address, from a public policy perspective, the application before you to overturn the Department of Buildings ruling with respect to a purported zoning lot designation for 200 Amsterdam Avenue pursuant to which the developer of that site is proceeding to construct a "supertall" building. This letter will not address the technical zoning issues before you which are being fully aired by the parties. We do wish to make you aware, however, that it is the view of our Community Board, and the sentiment of everyone who has spoken at our public sessions on the issue, that the structure proposed to be erected on the site is inappropriate, as being grossly out of context with the surrounding neighborhood.

The claim by the developer that this building may be built in conformity with the Zoning Resolution results solely from the tortured cobbling together of barely contiguous slivers of "open space" that no rational person could view as comprising a single "lot." Moreover, it is our understanding that a significant portion of the "open space" claimed by the developer is, and would continue to be, unavailable to the public, but rather is designated exclusively for parking for residents of a neighboring building. We understand that DOB has drafted an opinion bearing directly on the legality of the proposed building, and we urge you to adopt the reasoning and conclusions in the opinion.

If common sense has any place in the interpretation of our Zoning Resolution, you should reject the gerrymandering of the neighbors' land, and spare the community this grotesque and ill-advised building.

Yours respectfully,


Roberta Seiner
CB7/ M Chair


Page Cowley and Richard Asche, Co-Chairs
CB7/M Land Use Committee Co-Chairpersons

Cc: Hon. Gale Brewer
Hon. Speaker Corey Johnson
Hon. Helen Rosenthal
Hon. Mark Levine

RESOLUTION

Date: March 6, 2018

Committee of Origin: Land Use

Re: Amending the Zoning Regulations to address oversight of tall buildings.

Full Board Vote: 33 In Favor 1 Against 1 Abstention 0 Present

The phenomenon of supertall buildings has spread from the 57th Street corridor to the Upper West Side and Upper East Side. Two supertall buildings — at 200 Amsterdam Avenue and at 50 West 66th Street-- are in progress in the CB7 board district. These buildings, as designed, and similar buildings that have sprung up within the past several years or are now under construction, are jarringly out of context, block light and air, cast shadows (including into Central Park), consume energy out of proportion to any reasonable need of residents, and may create wind tunnel effects. That a supertall building could be constructed in areas zoned for a maximum of 10 FAR has taken the community, and presumably the City Planning Commission, by surprise. Each supertall building that has been built or planned has used one or more novel tactics to evade and confound the intent of the Zoning Resolution, including:

- large “voids” as high as 100 feet that do not contain floor area for zoning purposes;
- “mechanical spaces” (frequently near ground level) that are radically taller than required for their functional purposes;
- apartment ceiling heights up to 20 feet;
- gerrymandering open space to create a single zoning lot;
- development rights transfers over long distances under rules governing affordable housing.

While it could be argued that increasing the available housing stock with new apartment construction generally provides a benefit, these artificial mechanisms used to increase building height, employed solely to may make the residences in the building more attractive to potential high-end buyers, do not add to the housing stock. People do not reside in voids or oversized mechanical spaces. 20-foot floor-to-ceiling heights do not translate to higher occupancy; rather they just waste energy derived from non-renewable resources. Accordingly, it is

RESOLVED, that Community Board 7/Manhattan urges the City Planning Commission to begin, at once, the process of amending the Zoning Resolution to address loopholes that have been exposed and exploited over the past several years, before more and more supertall buildings are imposed on our community. The future shape of our city and community depends on swift action to address the supertall phenomenon. And it is further

RESOLVED, that Community Board 7/Manhattan invites our elected officials to join in addressing supertalls as an urgent issue, because further delay would increase the community's peril.

RESOLUTION

Date: March 6, 2018

Committee of Origin: Housing

Re: NY State Assembly bill A4003 (sponsored by AM Linda Rosenthal) to eliminate the 4-year look back period on rent reduction orders filed through DHCR.

Full Board Vote: 35 In Favor 0 Against 1 Abstention 0 Present

The following facts and concerns were taken into consideration in arriving at our conclusions:

- i. In 1997, pursuant to an amendment to the NYC Rent Stabilization Law of 1969, DHCR adopted a four-year statute of limitations. Known as the “four-year look back rule”, this law prevents tenants from looking back further than four years when claiming illegal deregulation or other issues via a rent overcharge application. This policy is administrative in nature, but the courts have upheld it to date, so the only recourse is legislative.
- ii. Under the Rent Stabilization Law 26-516(a)(2) and CPLR 213-a, there are two aspects to the Four Year Rule: how far back a court can look to calculate the rent and how many years of overcharges a tenant can collect. No court has held that more than four years of overcharges can be collected, only that the rent history going back more than four years may be examined in some instances to determine the rent. (Itkowitz, M. *Illegally Deregulated Rent Stabilized Apartments in NYC. December 2015*)
- iii. Since 2003, at least 160,000 apartments have been taken out of rent stabilization using a combination of the following:
 - a. 20% vacancy allowance
 - b. 0.6% per year longevity increase for tenancy over 8 years
 - c. 1/60th of the cost of IAI (Individual Apartment Improvements)
 - d. High rent high income vacancy decontrol
- iv. The four-year look back rule is waived in rare exceptions where fraud can be proven, but otherwise restricts the number of deregulated apartments that can be reclaimed via a rent overcharge application contesting any of these issues.
- v. Two recent court decisions have preserved tenants’ rights in determining rent overcharge complaints. In *Cintron v. Calogero*, 15 N.Y. 3d 347 (2010), DHCR awarded rent reduction orders, however the landlord did not comply. When the tenant later filed a complaint the court looked past the statutory four-year period to determine the accurate amount that the tenant should pay. The case of *Grimm v. State of New York Div. of Housing & Community Renewal Office of Rent Admin.*, 15 N.Y.3d 358 (N.Y. 2010), similarly, dealt with the four-year statutory period, this time addressing the issue of a fraud complaint. The landlord concealed the fact that the apartment was rent stabilized and in assessing the amount the tenant should owe, the court looked back further than four years.



- vi. Bill A04003, sponsored by NY State Assembly Member Linda B. Rosenthal, (and co-sponsored by AM Richard Gottfried, AM Walter Mosley, AM Inez Baron, and AM Deborah Glick, and multi-sponsored by AM Nick Perry) proposes a repeal of the four-year look back, allowing for orders issued outside the four-year period of the complaint to be complied with and included in rental history.
- vii. Bill A04003, currently on its third reading in NY State Assembly, requires that:
 - a. an owner complies with an order issued outside the four-year period preceding the filing of a complaint, and that the order issued is imputed to any successor in interest of the housing accommodation provided such person or persons has actual notice of order; and
 - b. further requires that a complaint of fraud be reviewed by the state division of housing irrespective of whether such fraud occurred outside the four-year period preceding the filing of such complaint.

The Housing Committee of Community Board 7/Manhattan believes the 1997 legislation accelerates the loss of affordable housing units in our community and throughout the city. The repeal of the four-year look back will enable more equitable findings for tenants challenging rent overcharges and communities suffering from a flood of deregulation of its affordable housing units. We urge the expedient passing of this legislation.

The Housing Committee of Community Board 7/Manhattan applauds the efforts of NY State Assembly Members Rosenthal, Gottfried, Mosley, Barron, Glick and Perry for their tireless efforts on behalf of the residents of our district, in preserving, building and reclaiming affordable housing.

The Housing Committee of Community Board 7/Manhattan urges other Manhattan Community Boards to pass similar resolutions in support of this important legislation.

THEREFORE, BE IT RESOLVED THAT Community Board 7/Manhattan supports the efforts of our elected officials and urges expedient passage of NY State Assembly Bill A4003. We further urge the NY State Senate to expedite passage of legislation to repeal the four-year look back rule.

Committee: 5-0-0-0. Non-committee Board Members: 2-0-0-0.

RESOLUTION

Date: March 6, 2018

Committee of Origin: Transportation

Re: 50 West 77th Street (Columbus Avenue.)

Full Board Vote: 36 In Favor 0 Against 0 Abstentions 0 Present

Committee: 8-0-0-0. Non-committee Board Members: 2-0-0-0.

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** application to the Department of Transportation for a Revocable Consent by EQR 50 West 77th, LLC to construct, maintain and use a new ADA lift and steps.

RESOLUTION

Date: March 6, 2018

Committee of Origin: Transportation

Re: 25 West 94th Street (Central Park West.)

Full Board Vote: 36 In Favor 0 Against 0 Abstentions 0 Present

Committee: 8-0-0-0. Non-committee Board Members: 2-0-0-0.

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** application to the Department of Transportation for a Revocable Consent by Mark Mancuso for a fenced in area including a wheelchair accessible Ramp, trash receptacle and planter box.

RESOLUTION

Date: March 6, 2018

Committee of Origin: Parks & Environment

Proposed Reconstruction of West 90th Street (Safari) Playground, Central Park.

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

Committee: 5-0-0-0. Non-Committee Board Members: 1-0-0-0.

The following facts and concerns were taken into account in arriving at our conclusions:

The West 90th Street (Safari) Playground in Central Park does not meet current accessibility standards and is otherwise in need of substantial renovation. The Central Park Conservancy proposes renovations that include replicating the original but badly deteriorated fiberglass hippos, creating an accessible bypass to the current stairway entrance to the playground, adding more play features, installing an improved user-activated water feature, reducing fence height and otherwise opening the playground more to the surrounding landscape.

Community Board 7/Manhattan **approves** the proposed design for the reconstruction of the West 90th Street (Safari) Playground in Central Park.

CB7 further **urges** the Central Park Conservancy to explore additional play features that engage mobility and/or sensory-challenged children while also preserving the uncluttered feel of the playground space.

Community Board 7 further **commends** the Central Park Conservancy for its thoughtful design and presentation.

RESOLUTION

Date: March 6, 2018

Committee of Origin: Parks & Environment

Proposed Reconstruction of East 96th Street Playground, Central Park.

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

Committee: 4-0-0-0. Non-Committee Board Members: 1-0-0-0.

The following facts and concerns were taken into account in arriving at our conclusions:

The East 96th Street Playground in Central Park does not meet current accessibility standards and is otherwise in need of substantial renovation. The Central Park Conservancy proposes renovations that include reorganizing the interior space and adding new play equipment, opening the playground more to the surrounding landscape, installing a new user-activated water feature and changing pathways to make the playground accessible.

Community Board 7/Manhattan **approves** the proposed design for the reconstruction of the East 96th Street Playground in Central Park.

Community Board 7 further **commends** the Central Park Conservancy for its thoughtful design and presentation.

RESOLUTION

Date: March 6, 2018

Committee of Origin: Parks & Environment

Proposed Reconstruction of Southwest Corner/West 61st Street Comfort Station, Central Park.

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

Committee: 4-0-0-0. Non-Committee Board Members: 1-0-0-0.

The following facts and concerns were taken into account in arriving at our conclusions:

The West 61st Street comfort station in Central Park, at the southwest corner of the park, is not accessible, is not heated and thereby limited to seasonal use, and is otherwise in need of reconstruction. There is a substantial need for modern, functional, year-round and accessible comfort stations throughout Central Park, a need which continues to increase as more and more people enjoy Central Park in all seasons.

The Central Park Conservancy proposes an in-kind restoration of the exterior of the comfort station building. The project also includes making the interiors accessible, adding heating so that the comfort station may remain open year-round, doing other infrastructure and cosmetic work, and adding automatic irrigation for the southwest corner landscape of the park.

Community Board 7/Manhattan **approves** the proposed design for the reconstruction of the West 61st Street comfort station in Central Park.

Community Board 7 further **commends** the Central Park Conservancy for its thoughtful design and presentation.

RESOLUTION

Date: March 6, 2018

Committee of Origin: Preservation

Re: 2012 Broadway d/b/a T-Mobile (West 69th street.) Application to the Landmarks Preservation Commission for construction of new storefront, installation of mechanical system and installation of signage.

Full Board Vote: 25 In Favor 4 Against 0 Abstentions 0 Present

Committee: 4-1-0-0. Non-Committee Full Board Member: 0-0-1-0.

The following facts and concerns were taken into account in arriving at our conclusion:

- Two storefronts are being combined, one originally accessed from a corner entrance at the building's beveled corner façade, and the other from Broadway.
- The entrance to the new store will be centered on the new Broadway façade.
- While the original base of the building was limestone, there is no original limestone material remaining behind either old storefront façade.
- The new storefront façade design will begin include the beveled corner and extend south along Broadway.
- The façade will be clad in simulated stone tiles, with simply-shaped concrete trim: a flat base at the sidewalk, a shaped sill at the windows, and a shaped cornice band, capping the tile where the new tile meets the limestone cladding above.
- The tile color will be white with grey veining, and the concrete trim pieces will be gray.
- The aluminum storefront fenestration and doors will be black
- Fixed woven acrylic shed style awnings will be installed over the windows: a smaller individual unit over the corner window, and a single continuous unit extending over the two window groupings flanking the central recessed entrance on Broadway. The 2 foot tall awnings will project 3 feet from the building façade.
- Signage installed on the tile above the awnings will be black painted metal, 18" high, centered over the angled corner window and over the doorway recess on Broadway.
- The signage will be illuminated from above by natural color brushed aluminum finish gooseneck lighting fixtures.
- Illuminated window display boxes will sit within the corner window and at the center of the two larger storefront window openings.
- Along 69th Street façade, the building's limestone sheathing remains at the ground level, surrounding three existing window openings and a small recessed niche.
- New double-hung one-over-one aluminum windows, two with top-mounted mechanical louver panels will be installed at the three masonry openings and the niche recess, which will be converted to a window opening.
- The windows and grilles will be painted black, with black metal frames. They will contain opaque black metal interior panels.
- HVAC units will be installed on the building's roof, set back from the street and not visible from the public way.

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COMMUNITY BOARD 7



Manhattan

The Committee expressed concern about the detail at the eastern edge of the beveled corner where the new tile cladding meets the existing limestone facade on the 69th Street façade. The applicant agreed to add a simple vertical concrete trim piece at this joint, to vertically frame the tile cladding as it meets the limestone. A similar detail at the south end of the Broadway facade would help ease the transition to the design of the immediately adjacent storefront.

The Preservation Committee of Community Board 7/ Manhattan believes that with the addition of the vertical divider strips on the 69th Street façade and at the south end of the Broadway facade, the design of the design of the new storefront, new signage and the new mechanical system are all reasonably appropriate to the historic character of the building and the Historic District.

THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** the new storefront design as modified, signage and mechanical system.

RESOLUTION

Date: March 6, 2018

Committee of Origin: Preservation

Re: 505 West End Avenue (West 84th Street.) Application # 19-20380 to the Landmarks Preservation Commission to replace windows.

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

Committee: 5-0-0-0. Non-Committee Full Board Member: 1-0-0-0.

The following facts and concerns were taken into account in arriving at our conclusion:

- The proposal is to replace all 18 street-facing windows and one side court window visible from the street, which are all in poor condition.
- The existing windows are all one-over-one double-hung aluminum windows, all replaced in the 1980's as part of a building-wide replacement window program. None of the original wood six-over-one double hung windows remain.
- There is no building master plan for replacement windows.
- The new windows will be higher quality one-over-one double-hung aluminum thermal windows, bronze finish to match the existing windows throughout.
- Of the 18 street-facing windows, four will have architectural style linear grilles mounted at the top part of the upper sash. These are similar to several others already installed in the building and have been approved by LPC under a separate application.

The Preservation Committee of Community Board 7/ Manhattan believes that the design of the replacement windows is reasonably appropriate to the historic character of the building and the Historic District.

The Committee recommends that the building develop a replacement window Master Plan.

THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** the new replacement windows.

RESOLUTION

Date: March 6, 2018

Committee of Origin: Preservation

Re: 119 West 87th Street, Youngwood Residence (Columbus Avenue.) Application #19-15121 to the Landmarks Preservation Commission to enlarge an existing rear yard addition.

Full Board Vote: 29 In Favor 1 Against 2 Abstentions 0 Present

Committee: 4-1-0-0. Non-Committee Full Board Member: 1-0-0-0.

The following facts and concerns were taken into account in arriving at our conclusion:

- The existing three story, stepped full width rear yard addition was constructed twelve years ago.
- The master bedroom, which occupies the space behind the shallower upper portion of the stepped addition will be expanded by enclosing the existing 7 foot 9 inch deep terrace located above the lower two-story portion of the existing addition.
- The bedroom's existing full-width sliding door pair will be reused, reinstalled at the north edge of the terrace to create the north wall of the terrace enclosure. The existing glass railings will remain, now functioning as a Juliet balcony railing.
- The enclosure's side walls will be clad in masonry, vertically extending the existing masonry cladding of the side walls below.
- A pitched glass skylight will be installed at the terrace enclosure, and the existing opaque glass terrace floor will remain in order to continue to allow light to extend down to the lower floors of the building.

The Preservation Committee of Community Board 7/ Manhattan believes that the design of the second floor terrace enclosure is reasonably appropriate to the historic character of the building and the Historic District.

THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** the small horizontal addition to a second floor rear terrace.

RESOLUTION

Date: March 6, 2018

Committee of Origin: Business & Consumer Issues

Re: 146 West 72nd Street (Amsterdam Avenue)

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** new applications to the SLA for two-year liquor license by Akimoto Sushi Inc d/b/a To be Determined.

Committee: 6-0-0-0.



Date: March 6, 2018

Committee of Origin: Business & Consumer Issues

Re: 215 West 75th Street (Broadway)

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** new applications to the SLA for two-year liquor license by Owl Café 75 Corp. d/b/a To be Determined.

Committee: 6-0-0-0.

Date: March 6, 2018

Committee of Origin: Business & Consumer Issues

Re: 307 Amsterdam Avenue (West 75th Street)

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** new applications to the SLA for two-year liquor license by RuaDEE Inc d/b/a To be Determined.

Committee: 6-0-0-0.

Date: March 6, 2018

Committee of Origin: Business & Consumer Issues

Re: 951 Amsterdam Avenue (West 107th Street)

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** new applications to the SLA for two-year liquor license by Nobody Told Me LLC d/b/a To be Determined.

Committee: 6-0-0-0.

Date: March 6, 2018

Committee of Origin: Business & Consumer Issues

Re: 995 Amsterdam Avenue (West 109th Street)

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** new applications to the SLA for two-year liquor license by MJ 995 Inc. d/b/a Lion's Head Tavern.

Committee: 6-0-0-0.

Date: March 6, 2018

Committee of Origin: Business & Consumer Issues

Re: 1012 Amsterdam Avenue (West 110th Street)

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** new applications to the SLA for two-year liquor license by 1016 Amsterdam Ave LLC d/b/a To be Determined.

Committee: 6-0-0-0.

COMMUNITY BOARD 7 Manhattan

Date: March 6, 2018

Committee of Origin: Business & Consumer Issues

Re: 489 Columbus Avenue (West 83rd – 84th Streets.)

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

The applicant did not attend the meeting;

THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan **disapproves** renewal application #2053735-DCA to the Department of Consumer Affairs by Shivhari, Inc. d/b/a Ashoka, for a four-year consent to operate an unenclosed sidewalk café with 6 tables and 12 seats.

Committee: 6-0-0-0.

Date: March 6, 2018

Committee of Origin: Business & Consumer Issues

Re: 210 West 94th Street (Broadway – Amsterdam Avenue.)

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** renewal application #2024390-DCA to the Department of Consumer Affairs by Levantino, LLC d/b/a Vino Levantino, for a four-year consent to operate an unenclosed sidewalk café with 6 tables and 14 seats.

Committee: 6-0-0-0.

Date: March 6, 2018

Committee of Origin: Business & Consumer Issues

Re: 2130 Broadway (West 74th – 75th Streets.)

Full Board Vote: 32 In Favor 0 Against 0 Abstentions 0 Present

The applicant did not attend the meeting;

THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan **disapproves** new application #1116-2018-ASWC to the Department of Consumer Affairs by KDK, LLC d/b/a Viand Café, for a four-year consent to operate an unenclosed sidewalk café with 4 tables and 14 seats.

Committee: 6-0-0-0.