



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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June 18, 2012

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

**Re: ULURP Applications Nos. N 120142 ZRM and C 120143 ZMM
75 Ninth Avenue
Chelsea Market Expansion**

Dear Chair Burden:

On April 16, 2012 and May 31, 2012, Manhattan Community Board 4's ("CB4") Chelsea Preservation and Planning Committee ("CP&P") reviewed Uniform Land Use Review Procedure ("ULURP") applications N 120142 ZRM and C 120143 ZMM for zoning map and text amendments (the "Applications"). The Applications relate to a proposal by Jamestown Premier Chelsea Market, LP, owner of Chelsea Market, (the "Applicant") to construct office and hotel space on top of the existing Chelsea Market building (the "Proposed Project"). On May 2, 2012, CB4 held a public hearing on the Applications.

At its regularly scheduled Full Board Meeting on June 6, 2012, Manhattan Community Board 4, on the recommendation of its Chelsea Preservation and Planning Committee and following a duly noticed public hearing, voted by roll call 26 for, 14 against, 0 abstaining and 0 present not eligible:

- **If, and only if, the affordable housing mitigation is produced, CB4 recommends denial of the Applications unless the further conditions enumerated below in Sections VI, VII and VIII are met.**
- **If the affordable housing mitigation is not produced, then CB4 cannot support these Applications and recommends denial.**

I. Background

Chelsea Market is located on the block bounded by West 15th and West 16th Streets and Ninth and Tenth Avenues. It is an amalgamation of 17 or 18 individual buildings, depending on definition, and is located on a single zoning lot comprising the entirety of Manhattan Block 713. The lot is zoned M1-5 with a maximum Floor Area Ratio (FAR) of 5.0; the built FAR is slightly greater than currently permitted.

Use

The Chelsea Market building was originally constructed as factories and office space for the National Biscuit Company (“Nabisco”). However, the building struggled financially after Nabisco closed its factories in the mid-1940s and was never again able to attract major industrial or manufacturing users.

In the 1990s, a plan was conceived to redevelop the ground floor concourse of Chelsea Market as an alternative location for the City's flower district. However, that idea never took hold and the concourse was instead redeveloped as a home for a series of food-related businesses such as Manhattan Fruit Exchange and The Lobster Place. The businesses moved into the ground floor of Chelsea Market and were set up with their wholesale operations facing outward to the streets and their retail operations facing inward toward the concourse. The retail food operations proved immensely popular and have gradually expanded, overtaking wholesale operations. Some tenants, including Amy’s Bread and The Lobster Place, have been so successful in Chelsea Market that they have relocated their production and wholesale components to larger locations in the outer boroughs. The upper floors of Chelsea Market have been occupied by a variety of businesses, with media, arts and high-tech commercial operations currently predominating.

Rezoning

During the public process that culminated in the June 2005 West Chelsea rezoning, CB4 requested that the Chelsea Market block be included in the Special West Chelsea District (“SWCD”) that was being created by the rezoning. However, the prior owner of Chelsea Market did not support that request and the Department of City Planning (“DCP”) declined to include the Chelsea Market block in the SWCD.

Over the years, several informal proposals for the enlargement of Chelsea Market have been presented to CB4, including six presentations to CB4’s CP&P Committee between 2007 and 2012. In addition to the proposed changes to the building itself, the discussions have focused on the impact of the changes on the community and potential community benefits to mitigate the impact of any addition.

II. The Current Proposal: Community Response and Controversy

The Proposed Project was first presented informally to the Board at the March 2011 CP&P meeting. This version included both an extremely large, non-contextual addition to the Tenth

Avenue building and a hotel on Ninth Avenue. The community vigorously condemned the scale and design of the Tenth Avenue addition and the proposed hotel use, and organized a broad campaign to oppose the Proposed Project. The Save Chelsea organization mobilized block associations and community stakeholders to attend meetings and forums; multiple community organizations took written positions against the project; and Chelsea Now covered the issue extensively.

During the course of the community debate, several themes emerged, including:

- The rate of change in the Chelsea community is overwhelming;
- New development in the SWCD has changed the physical look and feel of the community;
- The production of primarily luxury housing is a threat to the community's diversity; and
- The High Line is no longer a community park, but a crowded, international tourist destination.

The proposed Chelsea Market expansion is more of the same and exacerbates these trends.

Community Benefits: For the Chelsea Community?

The Proposed Project will create benefits for the city in the form of additional tax revenue and the creation of temporary and permanent jobs, and for the Applicant in the form of an increase in Chelsea Market's property value.

For the surrounding community, however, the Proposed Project will increase foot and vehicle congestion and demand on public space; it will accelerate gentrification with its accompanying effects on socioeconomic conditions, community character and indirect residential displacement. The Proposed Project also will create shadows on, and limit the views from, the High Line.

Despite the serious impacts of the Proposed Project on the surrounding community, the only community benefits from the project accrue to the High Line. This is in stark contrast to the original SWCD plan where, in addition to High Line benefits, affordable housing was provided for through both zoning mechanisms and agreements for development of public land and the preservation of existing housing.

While CB4 is pleased that discussions with the Applicant have led to revisions of the Proposed Project's uses and design, it is unacceptable that there have been no proposed changes to the community benefits. CB4 has been an enthusiastic supporter of the High Line from its first emergence as an idea, but the High Line should not and cannot be the sole beneficiary of the Proposed Project.

An Unprecedented Position for CB4

CB4 has a long and successful record of maximizing its influence during charter-mandated ULURP reviews. The Board's thoughtful and comprehensive positions, letters and resolutions have led to major beneficial changes to past proposals.

The Proposed Project has been particularly divisive, threatening the community-wide consensus building that has long characterized CB4's approach to negotiated agreements and settlements with both the private and the public sectors. As a result, CB4 must take the unprecedented step of creating a threshold condition; if, and only if, this threshold condition is met will the Board consider its normal recommendation of a denial unless fundamental conditions are met.

- **If, and only if, the affordable housing mitigation is produced, CB4 recommends denial of the Applications unless the further conditions enumerated below are met.**
- **If the affordable housing mitigation is not produced, then CB4 cannot support these Applications and recommends denial.**

Reasons for this position are detailed in Sections V, VI and VII of this resolution.

III. Requested Actions

Proposed Zoning Map Change

The proposed zoning map change would rezone Block 713 to include it as a newly created Subarea J in the SWCD, with the maximum permitted FAR increased from 5.0 to 7.5 while retaining the M1-5 zoning (the "Proposed Zoning Map Change").

Proposed Zoning Text Amendment

In coordination with the Proposed Zoning Map Change, the proposed zoning text amendment would amend certain sections of the SWCD text, including the designating of a new Subarea J with height, setback and other building envelope controls. This new Subarea J would also include text specifying required High Line amenities to be provided by the Applicant such as restrooms, a freight elevator and support space and make the block subject to a required contribution to the existing High Line Improvement Fund (the "Proposed Zoning Text Amendment").

IV. Overview of the Proposed Project

On April 9, 2012, the Applications to permit the expansion of Chelsea Market were certified by DCP. The Proposed Project, as originally certified, proposed the construction of approximately 240,000 square feet of office space in a new structure along Tenth Avenue (the "Proposed Tenth Avenue Addition") and approximately 90,000 square feet of hotel space in a new structure at the corner of Ninth Avenue and West 16th Street (the "Proposed Ninth Avenue Addition"). The Applicant proposed to retain the M1-5 zoning on the Chelsea Market block but to include the entire block within the SWCD. Inclusion of the block in the SWCD requires both a contribution

to the High Line Improvement Fund and provision of certain High Line amenities. The Applicant further proposed to increase the permitted FAR from 5.0 to 7.5.

Tenth Avenue Office Addition

The Applicant's Proposed Tenth Avenue Addition, on the westernmost part of the Chelsea Market block facing Tenth Avenue above the High Line, is a nine story, approximately 240,000 square foot, office building with a maximum height of 230 feet, as set by the Proposed Zoning Text Amendment. The design of the proposed addition as originally presented by the Applicant is strikingly modern and distinctly out of character with the surrounding buildings. The Proposed Tenth Avenue Addition is differentiated from the existing building on which it sits by a one-story separation gap.

Ninth Avenue Hotel Addition

The Applicant's Proposed Ninth Avenue Addition includes the addition of an eleven story, approximately 90,000 square foot, hotel at the corner of Ninth Avenue and West 16th Street. The Proposed Ninth Avenue Addition is designed to infill the northeast corner of the Chelsea Market block over the existing one- and three-story buildings. The Proposed Ninth Avenue Addition would have a maximum height of 160 feet, as set by the Proposed Zoning Text Amendment. The Applicant's design for the Proposed Ninth Avenue Addition is considerably less modern than the Proposed Tenth Avenue Addition and is more in keeping with the industrial look of the surrounding neighborhood.

High Line Improvement Fund and Amenities

By including the Chelsea Market block in the SWCD, the Applicant will be required to make a contribution to the High Line Improvement Fund. SWCD zoning currently sets the contribution at \$58.08 per square foot of additional floor area, which for the Applications would be approximately \$17.2 million. Additionally, the proposed changes to the SWCD zoning text would require the Applicant to provide High Line amenities including a public restroom, 3,000 square feet of support space adjacent to the High Line and within Chelsea Market, 1,000 square feet of storage space in the cellar of Chelsea Market, and a dedicated freight elevator to enable the City to transport materials to the High Line from the street level.

In addition, the Applicant, at its sole option, may elect to dedicate to the City up to 7,500 additional square feet of space adjacent to the High Line for High Line support. If this option is exercised, the Applicant may decrease the required contribution to the High Line Improvement fund by the appraised value of that space, subject to the City's agreement.

V. Primary Community Concern: Affordable Housing Mitigation

It is widely recognized that one of the overwhelming problems facing New York City is a long-term housing shortage, particularly permanently affordable housing for low, moderate and middle income families. The preservation and expansion of affordable housing has long been a

major CB4 priority. Affordable housing helps to ensure the continued economic and ethnic diversity within Manhattan Community District 4 (“CD4”) as development proceeds along the west side of Manhattan.

Chelsea has traditionally been distinguished by its diversity: families with a wide range of incomes live side by side; fifty-year residents and newcomers co-exist; and buildings old and new, large and small line its streets. It is this very diversity that gives the area its essential character. Diversity is the character of Chelsea, defining its heart and soul.

The Board's request for the provision of affordable housing, irrespective of what mechanism is employed, is central to the community's desire to maintain its identity even as its physical environment has become increasingly unrecognizable. In an area with low-income, rent-stabilized apartments, New York City Housing Authority complexes and the large, middle income-restricted co-op of Penn South, the West Chelsea rezoning has produced not only the High Line Park, but also a new luxury housing district with condominiums selling at over \$2,000 per square foot and studio apartments with rents starting at \$2,900 per month.

Any further rezoning, residential or commercial, must take into account that such action will only exacerbate the trends toward a luxury community and thus must mitigate the effect by creating affordable housing in Chelsea. ***In keeping with CB4's original 2005 response to the rezoning that created the SWCD, the Board's fundamental position on the Applications is that they cannot be approved unless accompanied by the creation of affordable housing with a floor area equal to 27% of the increase in floor area of any additions to the Chelsea Market buildings.***

Any affordable housing created by the Proposed Project must be permanently affordable. It should be located in Chelsea, but it must be located within CD4. Consistent with New York City Department of Housing Preservation and Development marketing regulations, Chelsea and CD4 residents should be given 50% preference for the affordable housing.

Without limiting the possible approaches to be considered to ensure that this affordable housing provision is implemented, CB4 suggests that the following options be explored thoroughly:

- Include text to map Inclusionary Housing provisions to cover the proposed Subarea J of the SWCD;
- Include text to expand the Special West Chelsea Affordable Housing Fund (ZR section 98-262(c)) to cover the proposed Subarea J of the SWCD (see Appendix I);
- Identify a privately-owned site for development and assist in its development as affordable housing;
- Identify a publicly-owned site for development and assist in its development as affordable housing;
- Identify a publicly- or privately-owned site for development and assist in its development as affordable housing by partnering with state or city government; or
- Preserve privately-owned buildings for continued use as affordable housing.

VI. Other Community Concerns and Project Revisions Agreed to by the Applicant

Extensive and on-going discussions with the Applicant have led to an agreement on several modifications to elements of the Applications. At both the April 16, 2012 and May 31, 2012 CP&P Committee meetings, the Applicant presented revised proposals for the Proposed Project. The Board will require the following future amendments to the Applications, some of which the Applicant has already agreed to in writing (see Appendix II), as conditions of its recommendation.

Proposed Tenth Avenue Addition: Height, Setback, Bulk and Façade

No aspect of the Proposed Project has generated more community opposition than the height, bulk and façade of the Proposed Tenth Avenue Addition.

Height and Bulk

The Proposed Tenth Avenue Addition is a 240,000 square foot building expansion that would add nine stories to the existing Chelsea Market building, resulting in a building that is 226 feet in height. This height and bulk has raised two primary issues:

Shadows, Light and Views

As indicated in the Applicant's Environmental Assessment Statement (see Appendix III, Figure 1), the existing Chelsea Market building and other surrounding buildings currently cast shadows on the High Line. The Proposed Tenth Avenue Addition would cast additional shadows on the High Line in both May and December, detracting from users' enjoyment of the park. The Proposed Tenth Avenue Addition would also block the open view of the sky above the existing Chelsea Market building so that the park users walking both north and south would experience a less expansive view.

Compatibility with Nearby Buildings

The buildings near the Proposed Tenth Avenue Addition vary widely in height:

- 85 Tenth Avenue, directly across Tenth Avenue and a part of the original Nabisco complex, is 180 feet high, 46 feet lower than the proposed addition;
- 99 Tenth Avenue, the Merchants Refrigeration Company Warehouse, is 160 feet high, 66 feet lower than the proposed addition;
- The Caledonia, 450 West 17th, directly north of the proposed addition, is 250 feet high, 24 feet taller than the proposed addition;
- The tallest buildings at the Fulton Houses, an 11-building New York City Housing Authority complex between West 16th and West 19th Streets, are 220 feet high, six feet lower than the proposed addition; and
- The many smaller, older buildings on the block just south of Chelsea Market, between Ninth and Tenth Avenues and West 14th and 15th Streets, are 5 to 9 stories high.

Recommendation for Tenth Avenue Addition - Height, Setback, and Bulk

CB4 recommends that the Proposed Tenth Avenue Addition:

- Be limited to a maximum height of 184 feet with a 35 foot setback at 170 feet.

This building limitation would result in:

- A five story addition to the existing Chelsea Market building;
- Lesser shadows being cast on the High Line;
- Better light and views from the High Line; and
- Increased compatibility with the heights of the adjacent 85 and 99 Tenth Avenue buildings.

[See Appendix III, Figure 2]

In order to implement this revision, the proposed text change for New York City Zoning Resolution (ZR) Section 98-421(g)(i) would have to be revised to state in part:

The Tenth Avenue Zone shall be that portion of a #zoning lot# within 200 feet of the Tenth Avenue #street line#. Within the Tenth Avenue Zone, any portion of a #building# shall have a maximum #street wall# height of ~~185~~ 170 feet before setback and a maximum #building# height of 184 feet. Any portion of a #building# located above a height of ~~185~~ 170 feet shall be setback at least ~~40~~ 35 feet from the #street line#.

Originally Proposed Façade

The community has widely derided the façade of the Proposed Tenth Avenue Addition, likening it to both a spaceship and the Port Authority Bus Terminal. The originally proposed facade is completely at odds with the existing Chelsea Market building and the neighboring older brick buildings, particularly 85 and 99 Tenth Avenue (see Appendix III, Figure 3).

While CB4 understands that the Proposed Tenth Avenue Addition must take into account the structural limitations of the existing Chelsea Market building and that the Landmarks Preservation Commission has requested that the Applicant distinguish the addition from the older structure below, the proposed metal diagonal supports and grid in front of the windows create a look incompatible with nearby buildings. Furthermore, the connection between the existing building and the proposed addition results in the addition appearing to hover over the existing building. The radical difference between the Proposed Tenth Avenue Addition and both the existing Chelsea Market structure and the surrounding buildings is jarring and arrogant.

Design Changes to the Façade

CB4 recommends the façade of the Proposed Tenth Avenue Addition include masonry or terra-cotta and smaller scale design elements that are more compatible with the neighborhood context.

Two recent examples of new buildings constructed in Chelsea with this type of façade treatment are Chelsea Enclave at 177 Ninth Avenue and 456 West 19th Street (see Appendix III, Figure 4).

At the May 31, 2012 CP&P Committee meeting, the Applicant presented a major revision to the façade treatment of the Proposed Tenth Avenue Addition. The revised design:

- Moves the diagonal structural elements inward to make them less visible;
- Moves the window openings to the exterior of the diagonal structural supports, making the supports less visible;
- Makes the window openings spaced at regular intervals to relate to the surrounding buildings; and
- Uses brick-colored terra-cotta louvers to create the window openings and to tie the addition visually to the existing building.

[See Appendix III, Figure 5]

Recommendation for Façade

The Applicant should rework the building design to lessen the effect of the float between the existing Chelsea Market building and the Proposed Tenth Avenue Addition. The most recent design does begin to address this condition by placing panels in the gap, some of which are in line with the façade and some with the setback, thereby creating a connection between the two portions of the building, but more must be done. Specifically:

- CB4 requests additional panels at the north and south corners to better ground the Proposed Tenth Avenue Addition to the existing Chelsea Market building.

These changes will require further changes to the Proposed Zoning Text Amendment which only allows those obstructions in the gap that are permitted pursuant to ZR Section 33-42. In order to implement this revision the proposed text change for that would have to be revised to state in part:

In Subarea J of the SWCD the proposed text amendment would have to include language allowing such proposed obstructions (e.g., panels) connecting the two buildings and being of dimensions equal to the piers below.

CB4 believes that the changes already made by the Applicant to the façade of the Proposed Tenth Avenue Addition are significant improvements to the original design and recommends that the Applicant continue working in this direction, consulting with CB4 prior to City Planning Commission review.

Proposed Ninth Avenue Addition

Height and Setback

The Proposed Zoning Text Amendment would allow the Proposed Ninth Avenue Addition to have a street wall of 130 feet before setback and a maximum building height of 160 feet, with proposed setbacks of at least 5 feet from Ninth Avenue and 15 feet from West 15th and West 16th Streets. The Proposed Ninth Avenue Addition would be approximately eleven stories tall and 90,930 gross square feet.

Recommendation for Height and Setback

CB4 has requested, and the Applicant has agreed to, the following:

- The Proposed Ninth Avenue Addition will have a maximum height of 135 feet with a maximum street wall of 123 feet, and will be setback at least 5 feet from Ninth Avenue and 15 feet from West 15th and West 16th Streets;
- The Proposed Ninth Avenue Addition will be reduced from an eleven story building to a seven story building with approximately 77,240 gross square feet;
- The new window openings will align with the existing openings in the Ninth Avenue façade; and
- The window mullions will be of a smaller scale.

[See Appendix III, Figure 6]

In order to implement this revision, the Proposed Zoning Text Change for ZR Section 98-421(g)(ii) would have to be revised to state in part:

The Ninth Avenue Zone shall be that portion of Subarea J located within 150 feet of the Ninth Avenue #street line#. Within the Ninth Avenue Zone, any portion of a #building# shall have a maximum #street wall# height of 123 feet before setback and a maximum #building# height of 160 135 feet. Any portion of a #building# located above a height of 123 feet shall be setback at least 5 feet from a #wide street# and at least 15 feet from a #narrow street#.

Recommendation for Hotel Use and Outdoor Eating and Drinking Establishments

CB4 has requested, and the Applicant has agreed to the following:

- The use of the Proposed Ninth Avenue Addition will be office use, not hotel use; and
- There will be no outdoor eating or drinking establishments on the rooftop, setback or any other locations on Block 713 except for approved unenclosed sidewalk cafes.

Midblock Zone

The midblock zone of the Chelsea Market block is that area more than 150 feet west of Ninth Avenue and more than 200 feet east of Tenth Avenue. For the midblock zone, the Applications include a proposed maximum street wall height of 130 feet and a maximum building height of 150 feet with a 20 foot setback.

Recommendation for Midblock Zone

CB4 has requested, and the Applicant has agreed to, the following:

- Midblock street wall height limited to 110 feet with a 20 foot setback and a maximum building height of 130 feet.

In order to implement this revision, the Proposed Zoning Text Change for ZR Section 98-421(g)(i) would have to be revised to state in part:

The Midblock Zone shall be that portion of Subarea J located more than 150 feet west of the Ninth Avenue #street line# and more than 200 feet east of the Tenth Avenue #street line#. Within the Midblock Zone a #building# shall have a maximum #street wall# height before setback of ~~130~~ 110 feet, and shall have a maximum #building# height of ~~150~~ 130 feet.

The two proposed changes to ZR Section 98-423(g) also require appropriate modification of the proposed chart in ZR Section 98-421(g).

SWCD Receiving Sites

Since the proposed SWCD Subarea J will not be a receiving site as defined in ZR Section 98-33, this section should be amended to add Subarea J to the list of excluded subareas, reading in part:

A "receiving site" shall mean a #zoning lot#, or portion thereof, in any subarea other than Subareas F, H and J.

Continuance of Food Related Uses

In the mid-1990s Chelsea Market was converted to its current mix of uses, including the successful and popular food production and marketplace on the ground floor concourse. These food-related uses are an important resource for the community, making fresh fruit, seafood and baked goods conveniently accessible. CB4 desires to ensure such uses continue to exist after the Chelsea Market expansion.

The Applicant has agreed to a restrictive declaration requiring:

- 50% of the area of the ground floor along the interior concourse (excluding the four street corners) be restricted to food related uses; and

- 50% of the retail frontage along the interior concourse be reserved for food related uses.

CB4 Recommendation for Food Related Uses

Because restaurants are included in the definition of food related uses, CB4 requests:

- The restrictive declaration require 60% of the ground floor, both by square footage and by frontage on the interior concourse, but excluding the four street corners, be restricted to food related uses in order to encourage a diversity of food related uses; and
- Food-related regional or national chain stores and restaurants be prohibited.

Technology Job Training for Chelsea Residents and Job Training

The Applicant estimates that the Proposed Project will bring more than 1,000 permanent jobs to the neighborhood. Many of Chelsea Market's existing commercial tenants are technology-oriented businesses such as Google, MLB.com and Yelp, and the Applicant anticipates that the Proposed Project will primarily house similar businesses.

It is expected that most of the employment opportunities will be in three growing industries: media, technology, and dining and culinary arts. According to a 2011 Applesseed report entitled "The Economic Impact of the Proposed Chelsea Market Expansion," the new space would be occupied in part by internet publishing and broadcasting businesses (30%) and by Internet Service Providers, search and other data services (30%).

CB4 Recommendation for Technology Job Training for Chelsea Residents

Given the specific education and training required for employment with the anticipated new tenants in the expanded Chelsea Market, CB4 requests:

- The Applicant fund a technology training lab for neighborhood residents located within the Chelsea Market complex as a free service to the community to prepare neighborhood residents for newly created jobs. The preferred location for this lab would be the 7,500 square foot optional High Line space within Chelsea Market. The Applicant should utilize a non-profit organization for this effort; and
- The Applicant works with local public schools to explore what other aid they might provide to them and provides at least ten internships each year with technology firms located in Chelsea Market.

CB4 believes that this support will help prepare neighborhood youth for the new technology jobs that will become available in the expanded Chelsea Market development and that the technology businesses in Chelsea Market would benefit from this type of focused community service. Consultation with CB4 and other community groups in the development and monitoring of this effort is essential to the success of this effort.

In addition, we ask that Chelsea Market agree to support a Jobs Program for Chelsea Market and to work with CB4 in its implementation. Specifically, that Chelsea Market agree to place a link

to job openings on the CB4 website, to hold periodic job fairs in coordination with CB4 and to work with its current and future tenants on a best efforts basis to identify and hire employees from within Community District 4.

Environmental Issues

The Board is concerned about the potential environmental impacts the construction of the Proposed Project may create.

CB4 Recommendation on LEED Certification

The Board has requested, and the Applicant has agreed, that:

- Both the Proposed Ninth Avenue Addition and the Proposed Tenth Avenue Addition will be constructed so as to achieve, at minimum, LEED Silver certification, with best efforts to achieve Gold or Platinum certification.

Additionally, CB4 requests that:

- When the existing structure is retrofitted, that construction also achieve a minimum of LEED Silver certification.

CB4 Recommendation on Storm Water Management

The Applicant should:

- At minimum, comply with the City's Department of Environmental Protection (DEP) Draft Rule to detain storm water, releasing it at a rate of 0.25 cubic feet per second per acre on the entire site.

However, the Board requests that:

- The Proposed Project go significantly further and retain storm water for at least 1 inch of rainfall over the entire site. Retention allows storm water to be used as a resource rather than being simply a waste product that places additional burden on the combined storm water sewage system.

VII. Further Considerations Not Yet Agreed to by Applicant

Landmark Status

CB4 is concerned that there are no protections in place to preserve the Chelsea Market building's exterior and the related unique pedestrian bridges. These are important remnants of the area's industrial past, illustrating the Nabisco bakery complex and its relationship with rail distribution and the West Side Improvement Project. The Chelsea Market site is part of the

State/National Gansevoort Historic District. It also was determined to be landmark-eligible in the Special West Chelsea District Rezoning and High Line Open Space Final Environmental Impact Statement (2005).

CB4's Recommendation on Landmarking

CB4 requests the Applicant not oppose efforts to have the Chelsea Market building's exterior and related bridges landmarked. The Applicant has listed the following qualifications, including:

- The Proposed Ninth Avenue Addition and the Proposed Tenth Avenue Addition will be approved by the Department of Buildings prior to Landmarks Preservation Commission (LPC) review;
- A master plan for window replacement be approved by LPC;
- A master plan for conversion of the loading bays along the perimeter of the complex to retail storefronts be approved by LPC;
- A master plan for mechanical equipment to service the technology and television industries be approved by LPC; and
- Restoration of the Ninth Avenue façade via continued removal of the copper basket weaves be allowed by LPC.

VIII. Further Considerations For Action by the City of New York

CB4 believes that the extension of the Gansevoort Historic District and the expansion of the SWCD are important, complementary actions to the Applications. Implementation of these, however, rests with the City, not the Applicant. Thus, CB4 requests that the City consider:

Extension of the Gansevoort Historic District

There are historically significant buildings affected by the Proposed Project that are not currently protected from demolition or alteration.

CB4 Recommendation on Landmarking

CB4 recommends that the City expand the Gansevoort District to include:

- The Chelsea Market block and the related bridges;
- 85 Tenth Avenue, part of the original Nabisco Complex; and
- 99 Tenth Avenue, the Merchants Refrigeration Company Warehouse, which is listed on the State/National Register.

[See Appendix III, Figure 7]

Expansion of the Special West Chelsea District

Seven years after its creation, the general purposes for which the SWCD was created are being fulfilled. West Chelsea is a dynamic, mixed-use neighborhood. Residential development is vibrant, the arts community is flourishing and the second section of the High Line has opened to enthusiastic reviews and large crowds. It now is time for the City to follow through with promises made during the creation of the SWCD, and to examine unforeseen problems that have arisen.

Since 2007, CB4 has included a request in our annual Statement of District Needs for a study by DCP of the areas west and south of the SWCD with an eye toward future actions appropriate for the neighborhood. CB4 has proposed that the study examine:

- The areas between Eleventh and Twelfth Avenues between West 27th and 30th Streets;
- The Chelsea Market block;
- 85 and 99 Tenth Avenue; and
- The south side of West 15th Street between Ninth and Tenth Avenues.

The study would explore the options for inclusion of those areas in an expanded SWCD and to make other appropriate changes designed to preserve neighborhood character in this portion of West Chelsea. The inclusion of these areas would provide specific height, setback, street wall and use controls. The Board believes it is unfortunate that the Chelsea Market building proposal is proceeding through ULURP without consideration of the nearby areas.

CB4 Recommendation on Expansion of the SWCD

CB4 requests a commitment from the City to complete the promised study and initiate the rezoning of the area.

NOW, THEREFORE, BE IT RESOLVED that:

1. Manhattan Community Board 4 recommends denial of ULURP Applications No. N 120142 ZRM and 120143 ZMM unless the Proposed Project is accompanied by the creation of affordable housing with a floor area equal to 27% of the increase in floor area of any enlargement of the Chelsea Market building.

2. If and only if the first condition is met, Manhattan Community Board 4 recommends denial of ULURP Applications No. N 120142 ZRM and 120143 ZMM unless the following conditions are met:

a) The proposed text change is amended in the Ninth Avenue Zone to reflect that the maximum building height is 123 feet before setback and that the maximum building height is 135 feet with a setback of 5 feet from Ninth Avenue and 15 feet from West 15th and West 16th Streets;

b) The proposed text change is amended in the Tenth Avenue Zone to reflect that the maximum building height before setback is 170 feet and the maximum building height is 184 feet with a 35 foot setback;

c) The proposed text change is amended in the Tenth Avenue Zone to reflect that obstructions other than those in ZR section 33-42 are allowed to mitigate the effect of “the float”. For example, a series of panels would be allowed throughout and at each corner (some setback) to connect the new building with the old building and have dimensions equal to the piers below;

d) The Applicant provides a written commitment that discussions continue for a more contextual façade and a less observable gap between the addition and the existing Tenth Avenue building;

e) The proposed text change is amended in the Midblock Zone to reflect that the maximum building height before the setback is 110 feet and that the maximum height of building at midblock is 130 feet with a setback of 20 feet;

f) The Applicant agrees to a restrictive declaration that 60% of the ground floor space, excluding the four corners, be for food-related uses;

g) The Applicant agrees to a restrictive declaration that there will be no hotel use allowed and no outdoor eating and drinking establishment, excluding approved unenclosed sidewalk cafes, on the Chelsea Market block, Block 713;

h) The Applicant agrees to not oppose efforts to landmark the building, provided their qualifications are met;

i) The Applicant agrees to use best efforts to conform to, at minimum, LEED Silver standards when constructing the proposed expansions;

j) The Applicant agrees to comply with the DEP Draft Rule to detain storm water and to use best efforts to retain storm water for at least one inch of rainfall over the entire site.

k) The Applicant agrees to form a Construction Task Force prior to the commencement of construction that will meet with the community regularly during construction;

l) The Applicant agrees to fund a Technology Jobs Training Center for neighborhood residents located within the Chelsea Market complex as a free service to the community. The preferred location for this lab would be the 7,500 square feet of optional High Line space within Chelsea Market. The Applicant agrees to utilize a non-profit organization for this effort, and to work with local public schools to provide aid and at least ten internships each year with technology firms located in Chelsea Market; and

m) The Applicant agrees to support a Jobs Program for Chelsea Market and to work with CB4 in its implementation. Specifically, The Applicant agrees to place a link to its job openings on the CB4 website, to hold periodic job fairs in coordination with CB4, and to work with its

current and future tenants on a best efforts basis to identify and hire employees from within Community District 4.

AND FURTHER RESOLVED that CB4's recommendation of this proposal arises out of the unique circumstances of this project and this site, and must not be interpreted as precedent-setting for, or a change in any of our stated positions concerning, the rezoning of other areas in the SWCD including, in particular, the south side of West 15th Street. If anything, this recommendation renews CB4's determination to complete the rezoning of the SWCD and implement our previously-articulated planning priorities.

Sincerely,



Corey Johnson, Chair
Manhattan Community Board 4



J. Lee Compton, Co-Chair
Chelsea Preservation & Planning



Brett Firfer, Co-Chair
Chelsea Preservation and Planning

cc: DCP Calendar Office
DCP – Edith Hsu-Chen, Erika Sellke
Jamestown Properties – Michael Phillips, Ben Gainey
Fried Frank – Melanie Meyers, Esq., Tal Golomb, Esq.
MBPO – Brian Cook, Karolina Grebowiec-Hall
Speaker Quinn's Office –Melanie La Rocca, Michaela Miller
City Council Land Use Division –Danielle DeCerbo
Congressman Jerrold Nadler
NYS Senator Thomas Duane
NYS Assemblyman Richard Gottfried

Appendix I

Affordable Housing through the SWCD Affordable Housing Fund

Section 98-262 (c) of the Zoning Resolution establishes an Affordable Housing Fund as part of the SWCD. This provides one potential mechanism for meeting CB4's affordable housing requirement. Contributions by the applicant into this fund would require the following modifications to the SWCD text:

**98-22
Maximum Floor Area Ratio and Lot Coverage in Subareas**

Sub-area	Basic #floor area ratio# (max)	Increase in FAR from #High Line Transfer Corridor# (98-30)	Increase in FAR with #High Line# Improvement Bonuses (98-25)	<u>Increase in FAR with Contribution to West Chelsea Affordable Housing Fund</u>	Inclusionary Housing		Permitted #floor area ratio# (max)
					FAR required to be transferred (minimum)	Increase in FAR for Inclusionary Housing Program (98-26)	
J	5.0	NA	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>7.5</u>

**98-25
High Line Improvement Bonus**

(a) Prior to issuing a building permit for any #development# ...

(2) a contribution has been deposited into the West Chelsea Affordable Housing Fund...

**98-26
Modifications of Inclusionary Housing Program**

Within the #Special West Chelsea District#, C6-3 and C6-4 Districts within Subareas A through D, and I, and MI-5 Districts within Subarea J, shall be #Inclusionary Housing designated areas# ...

**98-262
Floor area increase**

For #developments# or #enlargements# that have increased their permitted #floor area# through the transfer of development rights from the #High Line Transfer Corridor# by the minimum amount specified in the table in Section 98-22 (Maximum Floor Area Ratio and Lot Coverage in Subareas), and for #conversions# of non-#residential floor area# to #dwelling units# where the total #residential floor area# on the #zoning lot# will exceed the applicable basic maximum #floor area ratio# specified in the table in Section 98-22, and for #enlargements# in Subarea J, such maximum permitted #floor area# may be increased through the provision of #affordable

housing# pursuant to the Inclusionary Housing Program Section 98-26, inclusive, to the maximum amount specified in the table in Section 98-22, provided that:

(a) In C6-4 Districts:

(b) In C6-3 Districts:

(c) In MI-5 Districts

(d) #Affordable Housing# Fund

Where the Chairperson of the City Planning Commission determines that more than 90 percent of the #floor area# eligible for transfer through the provisions of Section 98- 30 have been transferred in accordance with such provisions, or, in Subarea J, the Chairperson shall allow, by certification, an increase in #floor area# on any receiving site as specified in Section 98-33 (Transfer of Development Rights From the High Line Transfer Corridor), up to the amount that otherwise would have been permitted for such receiving site pursuant to Section 98-30, provided that instruments in a form acceptable to the City are executed ensuring that a contribution be deposited in the West Chelsea Affordable Housing Fund.

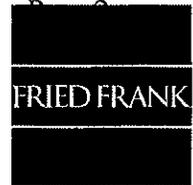
Appendix F
Special Regulations for Zoning Lots Utilizing the High Line Improvement Bonus and Located Within Subarea J

(a) Requirements for Issuance of Building Permit Pursuant To Paragraph (a) of Section 98-25

- (1) As a condition of certification:
 - (i) Owner shall, subject to a deduction pursuant to the other provisions of this Appendix F, deposit into the #High Line# Improvement Fund...
 - (ii) All parties-in-interest shall execute a restrictive declaration including easements to the City in a form acceptable to the City providing for the #High Line# Support Easement Volumes...
- (iii) Owner shall deposit into the West Chelsea Affordable Housing Fund...

Appendix II

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Fax: +1.212.859.4000
www.friedfrank.com



Direct Line: 212-859-8785
Fax: 859-4000
Melanie.Meyers@friedfrank.com

June 6, 2012

Corey Johnson, Chair, Manhattan Community Board #4
J. Lee Compton, Co-Chair, Chelsea Preservation and Planning Committee
Brett Firfer, Co-Chair, Chelsea Preservation and Planning Committee
Members, Community Board #4

**Re: Chelsea Market Expansion
CPC# C120143ZMM; N120142ZRM**

Dear Chairs and Members of Community Board #4

Thank you for your consideration of the Chelsea Market project. In addition to our correspondence of May 30 2012 outlining the goals and land use justifications for the project, we wanted to take this opportunity to reiterate the applicant Jamestown Premier Chelsea Market, L.P.'s (Jamestown's) amenability to a number of modifications and refinements to the Chelsea Market expansion project as part of the ULURP process. In particular, Jamestown has agreed that it would accept, if included as conditions to the Community Board's recommendation, modifications to the project that would:

- Lower the maximum permitted building height of Ninth Avenue
- Impose a binding prohibition on hotels and on open air eating and drinking establishments within the meaning of the Zoning Resolution, other than sidewalk cafes
- Lower the maximum permitted street wall height and maximum building height in the midblock
- Impose a binding requirement that as part of the project, at least 50% of the retail establishments fronting only on the concourse be dedicated to food-related uses, with the 50% measured both in terms of rentable square feet and linear frontage of retail along the concourse.

In addition, Jamestown will agree to pursue a design for both the Ninth Avenue and Tenth Avenue enlargements in the direction of the images presented by Studios Architects at the May 31st Committee meeting.

Jamestown also intends to include environmentally sustainable measures in the project so that the enlargements will meet LEEDs silver standards including storm water control measures.

With regards to the Chelsea Preservation and Planning Committee's recommendation that Chelsea Market be landmarked and/or included in an historic district, we have indicated that if a designation can be devised to protect the right to proceed with the proposed project and that would allow for the types of changes that have been made to Chelsea Market in the recent past, including rooftop equipment and studio space, ground floor storefronts, and window replacement, Jamestown would not object to designation. Jamestown has also indicated that it is willing to consider other mechanisms for protecting building elements that are important to the built fabric of Chelsea Market.

Jamestown appreciates and supports the goals expressed in the resolution adopted by the Chelsea Preservation and Planning Committee to make affordable housing a principal land use policy for all zoning actions within Community Board #4, and understands that this is a fundamental, threshold requirement for the Community Board. We agree to continue to work with the Community Board, City Planning, and the local elected officials to develop an appropriate mechanism for achieving this goal in the context of the Chelsea Market proposal.

Finally, Jamestown supports the idea of developing a technology laboratory or training program as part of the project, and would look to develop the parameters of the program through the ULURP process.

Thank you for your consideration.

Sincerely,



Melanie Meyers

Cc: Honorable Christine C. Quinn
Honorable Scott M. Stringer
Honorable Amanda M. Burden
Michael Phillips, Jamestown Properties
J. Ben Gainey, Jamestown Properties

Benfatto, Robert

From: Meyers, Melanie [Melanie.Meyers@friedfrank.com] **Sent:** Thu 6/7/2012 4:22 PM
To: Benfatto, Robert
Cc:
Subject: Chelsea Market Expansion: CPC #C120143ZMM; N120142ZRM
Attachments:

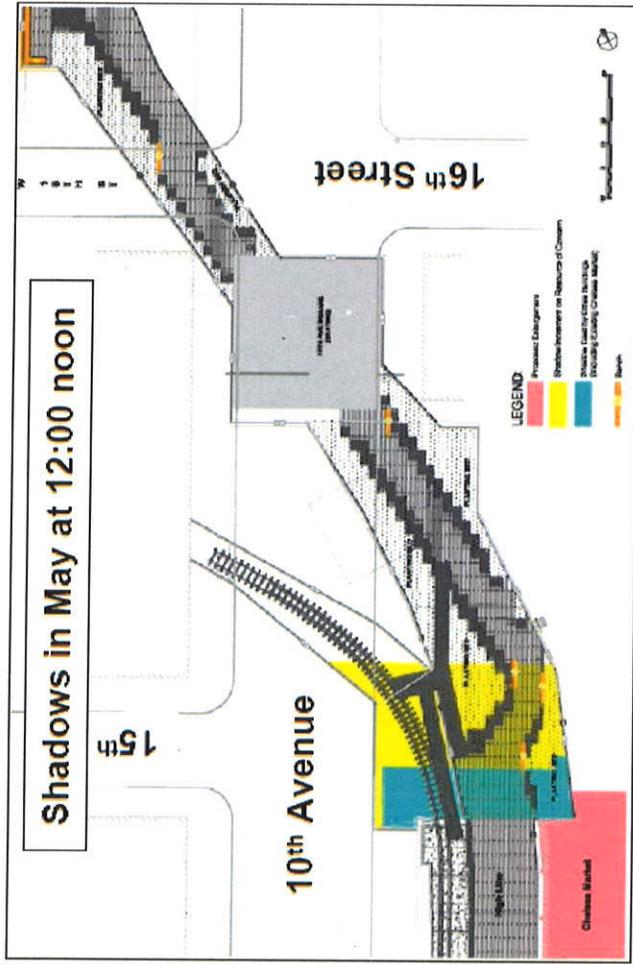
In follow up to my letter of June 6, 2012, I wanted to confirm that the applicant for the above referenced project has agreed to accept modifications to the Chelsea Market expansion project to (i) reduce the maximum permitted building height along Ninth Avenue to 140 feet, and (ii) reduce the maximum streetwall and building height of the midblock to 110 feet and 130 feet respectively.

Thank you for your attention to this matter.

Confidentiality Notice: The information contained in this e-mail and any attachments may be legally privileged and confidential. If you are not an intended recipient, you are hereby notified that any dissemination, distribution or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please notify the sender and permanently delete the e-mail and any attachments immediately. You should not retain, copy or use this e-mail or any attachment for any purpose, nor disclose all or any part of the contents to any other person. Thank you.

Appendix III

Figure 1



Yellow Indicates New Shadows

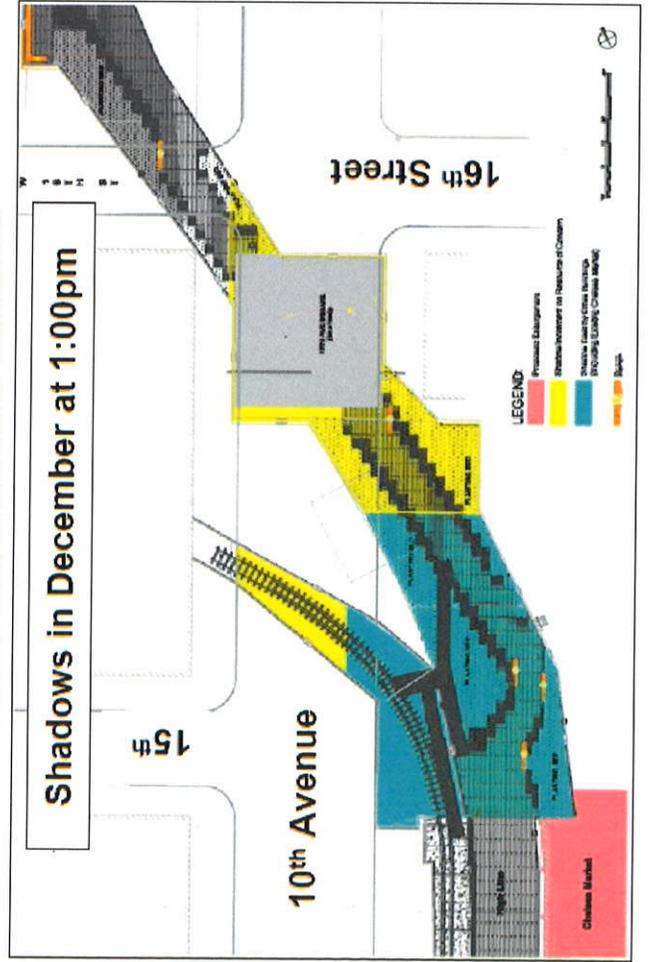
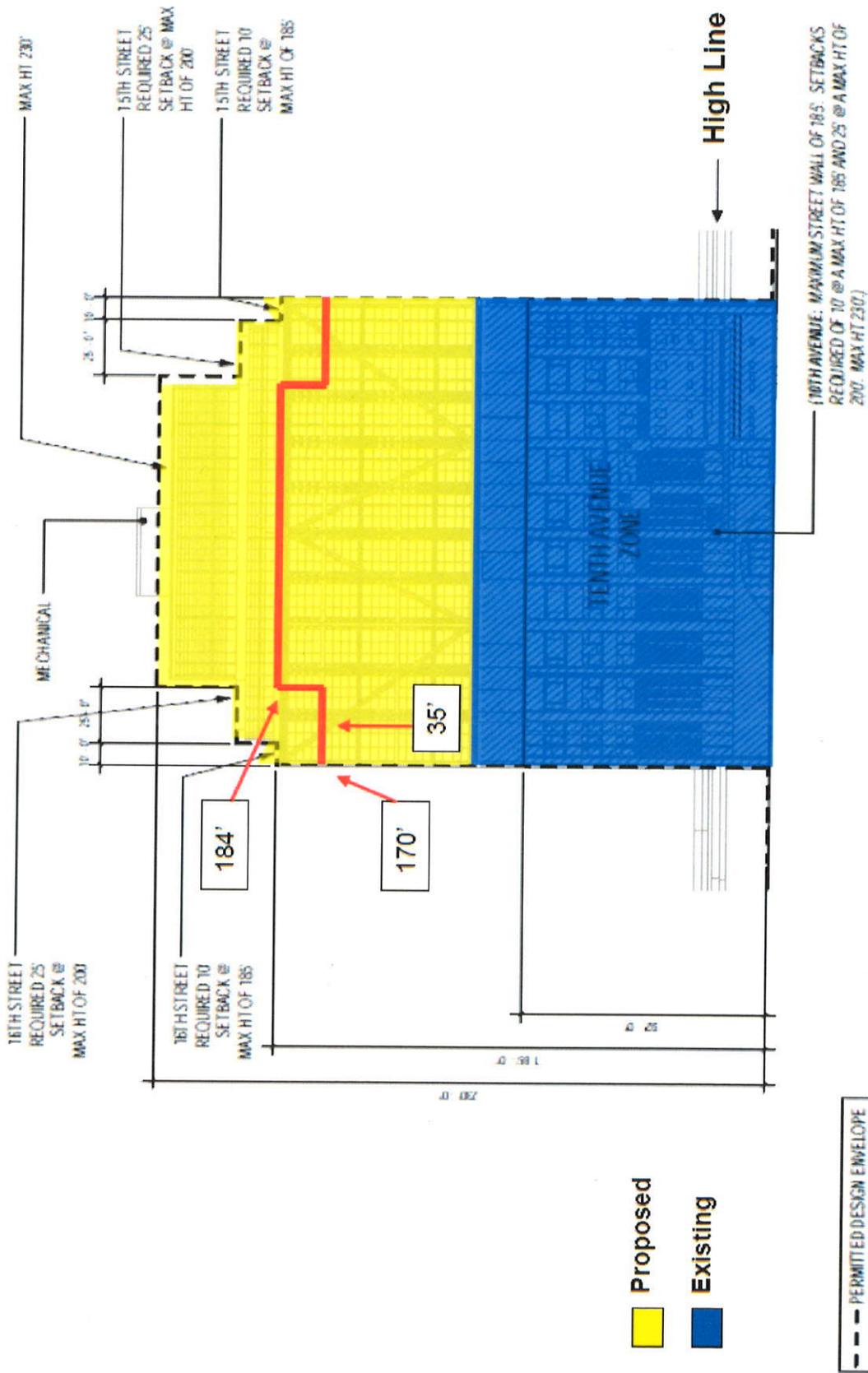


Figure 2

35' Setback at 170', 184' Height Limit



Source: Jamestown Chelsea Market Proposal w/CB4 edits

Figure 3



Proposed 10th Avenue Building above Chelsea Market

Source: Jamestown Chelsea Market Slideshow (December 2011)

Figure 4

Examples of New Buildings that are Compatible with the Neighborhood Context



Chelsea Enclave at 177 9th Avenue



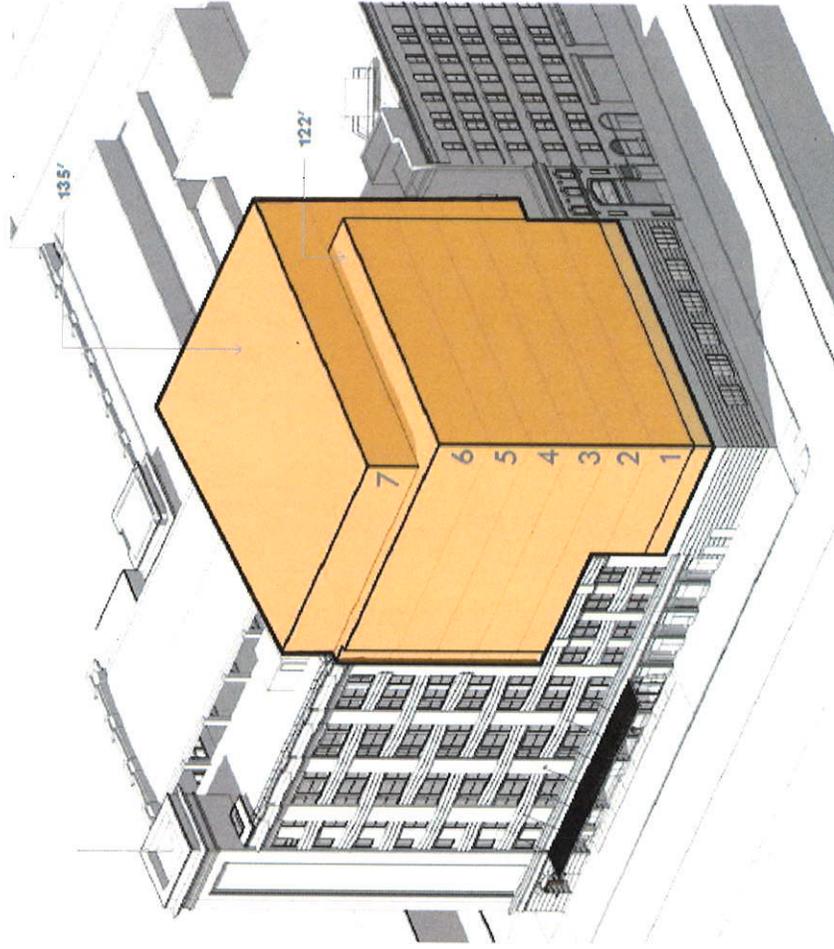
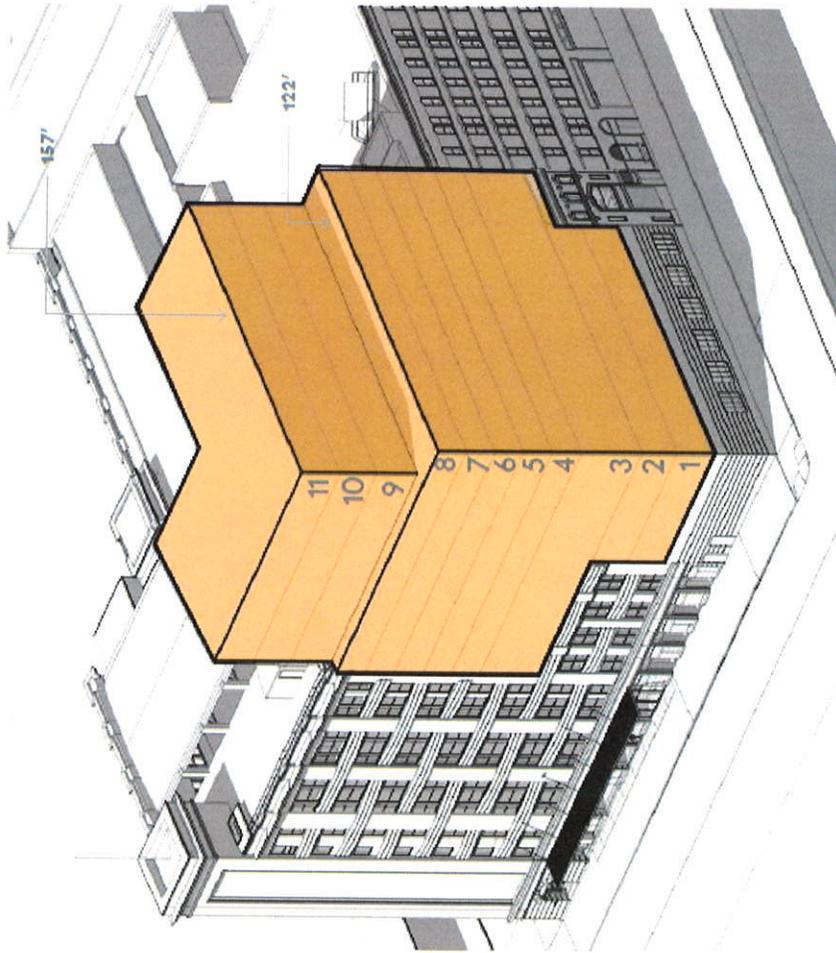
456 West 19th Street

Figure 5



VIEW FROM SOUTHWEST - REVISED
CHELSEA MARKET

Figure 6



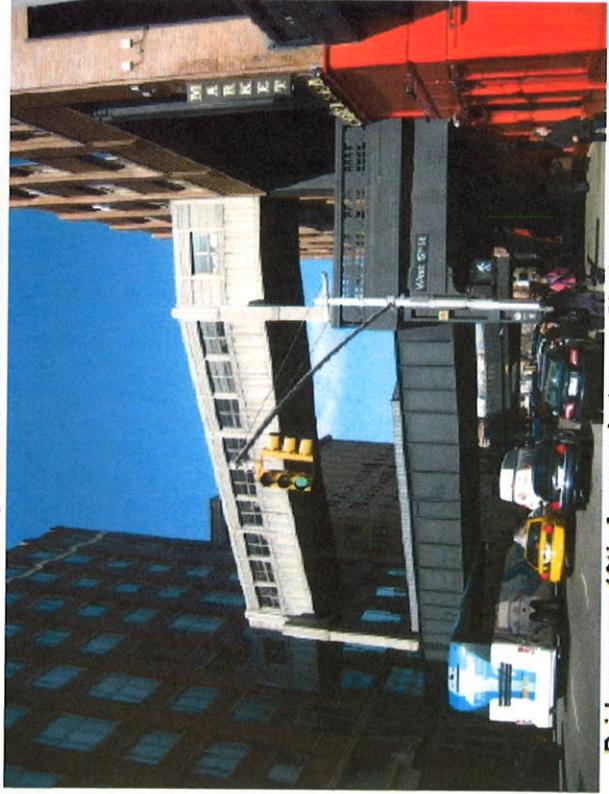
**9TH AVENUE MASSING CHANGES
CHELSEA MARKET**

April 16, 2012

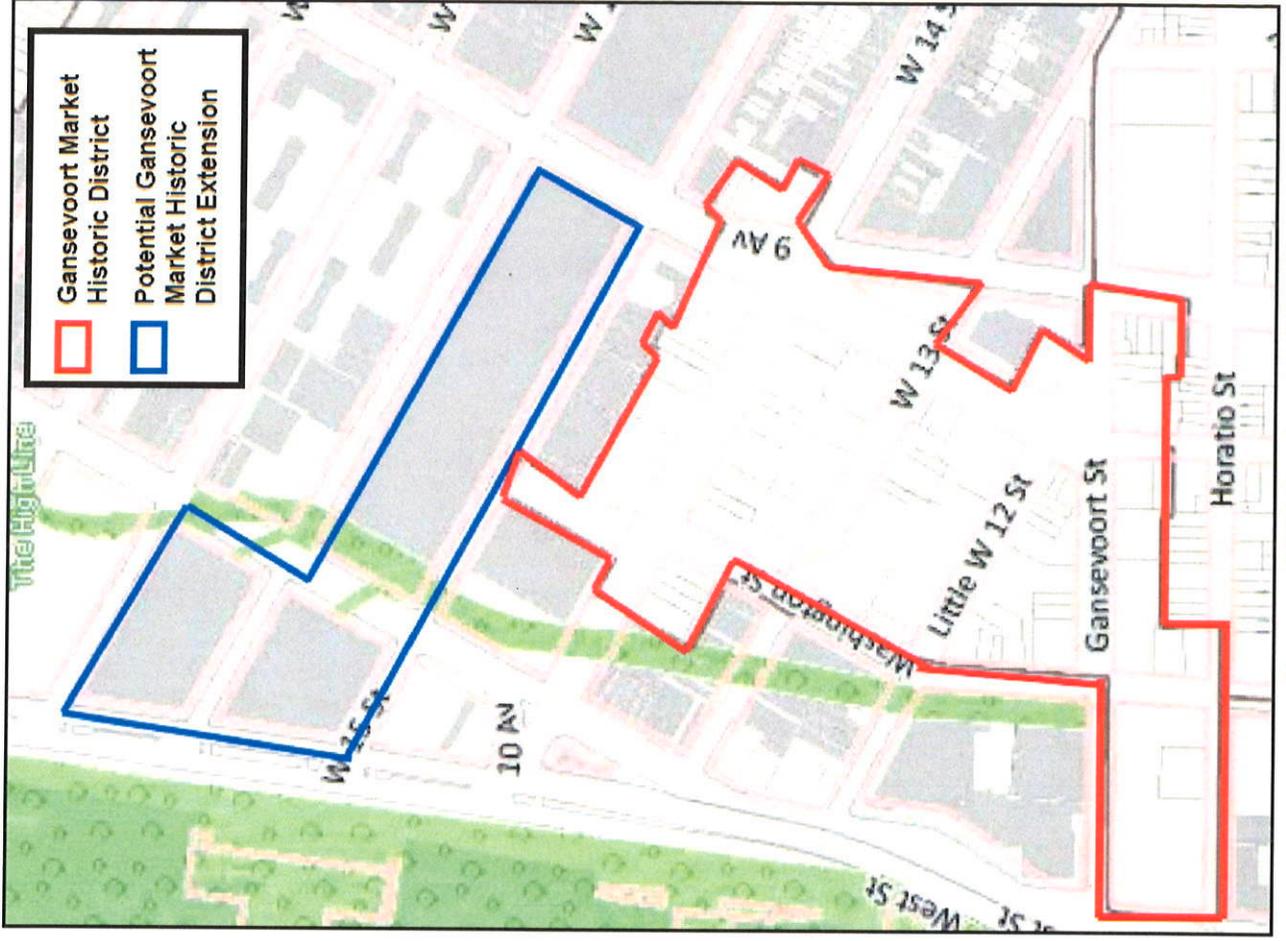
Figure 7



Bridge over West 15th Street between 9th and 10th Avenues, Chelsea Market on left side



Bridges over 10th Avenue between Chelsea Market and 85 10th Avenue



Source: NYC Oasis w/ CB4 edits