



**CITY PLANNING COMMISSION**

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October 7, 2008/Calendar No. 17

C 080400 ZSM

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**IN THE MATTER OF** an application submitted by the New York City Housing Authority pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant Section 78-312(d) of the Zoning Resolution to allow modifications of the front height and setback regulations on the periphery of a Large-Scale Residential Development (Block 1083, Lots 1 & 15, and Block 1084, Lot 9) in connection with the development of two residential buildings on property located at 513 West 55th Street and 520 West 56<sup>th</sup> Street (Block 1084, p/o Lot 9), within the Clinton Urban Renewal Area, in an R8 District, Borough of Manhattan, Community District 4.

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The application was filed by the New York City Housing Authority (NYCHA) on April 28, 2008, for a special permit pursuant to Section 78-312(d) of the Zoning Resolution to allow for the modification of height and setback regulations on the periphery of a residential large scale development, on a property located at the mid-block between Tenth Avenue and Eleventh Avenue, and between West 55<sup>th</sup> Street and West 56<sup>th</sup> Street in the Special Clinton District Excluded Area, within the Clinton Urban Renewal Area.

**RELATED ACTIONS**

In addition to the application for the special permit which is the subject of this report (C 080400 ZSM), implementation of the proposed development also requires action by the City Planning Commission (CPC) on the following applications which are considered concurrently with this application:

- C 080401 ZSM:** Special Permit to allow for development over a railroad right-of-way;
- N 080402 ZAM:** Authorizations to distribute floor area, dwelling units and open space without regard to zoning lot lines, to modify height and setback regulations;
- N 080403 ZAM:** Authorization to relocate existing required accessory parking spaces; and
- M 080405 ZAM:** Minor modification to the existing Large Scale Residential Development site plan.

## **BACKGROUND**

The proposed actions would facilitate the development of two new residential buildings on property that is currently owned by the New York City Housing Authority (NYCHA) and is subject to a previously-approved Large-Scale Residential Development (LSRD) site plan approved by the CPC in 1972 (CP-22119). The buildings as proposed at certification would contain approximately 342 units total, including approximately 220 affordable units. The proposed development is the result of a series of collaborative efforts between New York City Department of Housing Preservation and Development (HPD) and NYCHA to develop affordable housing pursuant to a “Points of Agreement” between the Administration and the City Council and community at the time of the Hudson Yards Rezoning in 2005. The Points of Agreement called for this site to hold a minimum of 155 permanently affordable units, including 63 low-income units (up to 60% of AMI), 46 moderate income units (up to 135% AMI) and 46 middle income units (up to 165% of AMI).

The proposed site is a 34,282 square foot through block parcel between West 55<sup>th</sup> and 56<sup>th</sup> streets, between Tenth and Eleventh avenues. The site is located within the Clinton Urban Renewal Area and the Excluded Area of the Special Clinton District Current, and is within an R8 district. The project site is currently part of Harborview Terrace, a NYCHA-owned development, on land that is presently used as a parking lot for 37 cars and a basketball court. The LSRD is comprised of three lots; one lot between West 55<sup>th</sup> and West 56<sup>th</sup> streets (on which the project site is located) (Block 1084, Lot 9), and two lots between West 54<sup>th</sup> and West 55<sup>th</sup> streets (Block 1083, Lots 1 and 15). Land uses on the LSRD include a 15-story residential building to the east of the project site, a 15-story residential building to the south of the project site between West 54<sup>th</sup> Street and West 55<sup>th</sup> Street, and a 39-story residential building fronting on Eleventh Avenue between West 54<sup>th</sup> Street and West 55<sup>th</sup> Street. An Amtrak railroad right-of-way runs below grade under these blocks, and is directly beneath the project site.

Land uses around the project site include a mix of residential, community facility and commercial uses. The block immediately to the south contains the second building in the Harborview complex, the 39-story Clinton Towers, the Centro Maria Church, apartment buildings, a theater and a television production studio. The eastern frontage of Tenth Avenue is

characterized by six-story apartment buildings with Independence High School located in a four-story building between West 55<sup>th</sup> and 56<sup>th</sup> Streets. The block to the north of the site is predominantly occupied by the CBS Television broadcasting facilities. With the exception of Clinton Towers, Eleventh Avenue is primarily a commercial street with a number of automobile showrooms. DeWitt Clinton Park is located northwest of the Site on the block bounded by West 52<sup>nd</sup> and West 54<sup>th</sup> Streets, and Eleventh and Twelfth Avenues.

### Proposed Development

The proposed development consists of a 14-story building on the West 56<sup>th</sup> Street frontage (the North Building) and a 15-story building on the West 55<sup>th</sup> Street frontage (the South Building). Each building would be set back from the street line (8 feet for the South Building and 10 feet for the North Building) to allow ventilation as well as access by Amtrak to the railroad right-of-way and by the New York City Department of Transportation to the street bridges over the railroad right-of-way. A 47-space parking garage is proposed for the ground floors of both buildings. Access and egress to the garage would be provided on both West 55<sup>th</sup> and 56<sup>th</sup> streets.

The project as proposed at certification would have a total of approximately 342 units, and approximately 220 of these units would be affordable. The affordable component would consist of 148 low-income units (60% to 80% AMI) for seniors, 46 moderate income units (up to 135% AMI) and 25 middle income units (up to 165% AMI).

### Requested Actions

#### **Special Permit pursuant to Section 78-312 (C 080400 ZSM)**

Pursuant to Section 78-312(c), the CPC may allow variations in the front height and setback regulations on the periphery of the LSRD. This action would modify the regulations of Section 23-632 to allow the street wall of the North Building facing West 56<sup>th</sup> Street to exceed the maximum permitted height of 85 feet within 20 feet of the street line. The proposed North Building would rise to a height of 10 stories, or 98.46 feet before setting back 20 feet from the street line.

**Special Permit pursuant to Section 74-681 (C 080401 ZSM)**

The site is located partially over a railroad right-of-way that is used by Amtrak. Pursuant to Section 74-681, any development or enlargement over a railroad right-of-way requires a special permit. On April 1, 2008, Amtrak issued a “No Exception Letter” stating that Amtrak “takes no exception to the concept embodied in the development.”

**Authorizations pursuant to Section 78-311 (N 080402 ZAM)**

These authorizations would permit the distribution of floor area, dwelling units and open space within the LSRD without regard to zoning lot lines, and allow for the modification of height and setback regulations, including rear yard setback regulations.

*Floor Area Distribution:* Pursuant to Sections 78-311(a), the City Planning Commission may allow floor area to be distributed within a LSRD without regard to zoning lot lines. The new buildings would have a total floor area of 260,057 square feet, which exceeds the maximum permitted floor area for the zoning lot of 199,178.42 square feet. Approval of this application would allow 60,878.58 square feet of unused, existing floor area to be transferred from other zoning lots in the LSRD. After completion of the proposed transfer, the LSRD would contain a total of 1,033,369 square feet of residential floor area which is less than the 1,080,102.52 square feet of residential floor area permitted on the LSRD.

*Dwelling Unit Distribution:* Pursuant to Sections 78-311(a), the City Planning Commission may also allow dwelling units to be distributed within a LSRD without regard to zoning lot lines. The new buildings would have a maximum of 342 residential units, which exceeds the maximum permitted number of 269 units. Approval of this application would allow 73 dwelling units to be transferred from other zoning lots in the LSRD. After completion of the proposed transfer, the LSRD would contain 1,115 dwelling units which is less than the 1,460 dwelling units permitted on the LSRD.

*Open Space Distribution:* Pursuant to Section 78-311(b), the City Planning Commission may allow open space to be distributed within a LSRD without regard to zoning lot lines. The site would provide 14,167 square feet of open space, which is less than the 24,705.42 square feet required. Approval of this application would allow 10,538.42 square feet of open space to be

transferred from other zoning lots in the LSRD. After completion of the proposed transfer, the LSRD will contain 102,165 square feet of open space which is more than the 92,743.63 square feet required.

*Height and Setback:* Pursuant to Section 78-311(e), the City Planning Commission may authorize the location of the buildings without regard for the height and setback regulations which would otherwise apply along portions of streets wholly within the LSRD. Section 23-632 requires an initial setback distance of 20 feet on a narrow street at 85 feet or 9 stories, whichever is less and a sky exposure plane of 2.7:1 above the initial setback height. The South Building, which is located on West 55<sup>th</sup> Street, a street wholly within the development, is proposed to rise 12 floors or 124.46 feet without setback and then setback 12 additional feet (for a total of 20 feet) above that height. Further, portions of the 14<sup>th</sup> and 15<sup>th</sup> floors and the mechanical bulkhead of the South Building are proposed to penetrate the sky exposure plane.

*Rear Yard Setback:* Pursuant to Section 78-311(e), the City Planning Commission may authorize the location of the buildings without regard for the height and setback regulations which would otherwise apply. Section 23-663 requires that a building in an R8 district be set back at least 20 feet from a rear yard line above a height of 125 feet. Both the North Building and the South Building do not provide this required setback.

**Authorization pursuant to Section 78-41 (N 080403 ZAM)**

Pursuant to the LSRD plan approved in 1972 (CP-22119), the block bounded by West 55<sup>th</sup> Street, Eleventh Avenue, West 56<sup>th</sup> Street and Tenth Avenue contained one zoning lot (Parcel 1) within the LSRD on which one residential building was constructed. Pursuant to the parking regulations that were in effect at the time, 30 accessory residential parking spaces were required. As certified in this application, Parcel 1 would be divided into two zoning lots: Parcel 1A would be developed with the new buildings and Parcel 1B would contain the existing NYCHA building. Of the 30 accessory parking spaces required for the existing NYCHA building, 22 spaces are presently located in a parking lot on Parcel 1A and eight spaces are located on Parcel 1B. As proposed, the ground floor of the new buildings would contain an accessory parking garage with 47 accessory spaces (including the 22 required spaces). Because Parcel 1 would be

divided into two zoning lots (Parcels 1A and 1B), these 22 spaces would no longer be located on the same zoning lot as the existing NYCHA building. This authorization would therefore permit 22 of the 30 required parking spaces for the zoning lot containing the existing NYCHA building on Parcel 1B to be located on the Parcel 1A zoning lot containing the new buildings. The remaining 8 required spaces would remain on the existing NYCHA building zoning lot (Parcel 1B).

**Minor Modification to Existing Large Scale Residential Development Plan (CP-22119) (M 080405 ZAM)**

On October 11, 1972, the CPC approved a site plan for the LSRD located on the two blocks bounded by West 54<sup>th</sup> and West 56<sup>th</sup> Streets, and Tenth and Eleventh Avenues. The proposed minor modification would update the site plan to reflect the development of the new buildings.

**ENVIRONMENTAL REVIEW**

This application (C 080400 ZSM) 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 City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 07CHA007M. The lead agency is the New York City Housing Authority.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on April 22, 2008.

**UNIFORM LAND USE REVIEW**

This application (C 080400 ZSM), in conjunction with the related application (C 080401 ZSM), was certified as complete by the Department of City Planning on May 5, 2008, and was duly referred to Community Board 4 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the applications for the related actions (N 080402 ZAM, N 080403 ZAM and M 080405 ZAM), which were referred to

Manhattan Community Board 4 and the Manhattan Borough President in accordance with the procedure for referring non-ULURP matters.

### **Community Board Public Hearing**

Community Board 4 held a public hearing on this application (C 080401 ZSM), in conjunction with the related actions (C 080400 ZSM, N 080402 ZAM, N 080403 ZAM and M 080405 ZAM), on June 4, 2008, and on that date, adopted a resolution recommending the following:

1. Disapproval of the authorizations to waive height and setback regulations for buildings wholly within the Large Scale Development and the distribution of floor area, dwelling units, and open space without regard for zoning lot lines and the special permit to modify height and setback regulations for buildings on the periphery of the Residential Large-Scale Development unless the following conditions are met:
  - Housing Program
    - Both buildings are developed as predominantly family buildings for moderate and middle income families earning between 125% and 165% AMI. The allocation between the income groups is flexible, depending on financing considerations. The community is willing to consider one of the buildings as a moderate and middle income cooperative, provided resale restrictions are put in place to eliminate windfall profits and maintain permanent affordability through deed restrictions.
    - If a senior housing component is required for financing or sponsor purposes, it is to be limited to no more than 20% of the units in one building and be fully integrated throughout that building.
    - The project does not create Inclusionary Housing development rights to be used within the Special Clinton Zoning District
  - Permanence of the agreed levels of affordability is assured by deed restriction;
  - All residential units in the proposed development have the same finishes and access to building amenities and affordable units are evenly distributed throughout each building;
  - A deed restriction, specifying the number of permanently affordable units, by unit size and income band, is a condition of the property disposition;
  - Apartments are made available through lottery, with a 50% community preference;
  - The open space is made accessible to all LSRD residents;
  - Plans for relocation of the playground and for landscaping, lighting and improving the areas between the development site and the existing Harborview Terrace building have been developed in consultation with this board and the residents of Harborview Terrace;
  - The development uses design and construction methods and methods of operation that will achieve a high degree of environmental sustainability, including meeting

- or exceeding the standards for U.S. Green Building Council's Leadership in Energy Design (LEED) Silver certification; and
- Plans for temporary relocation of parking to Parcel 4 during construction and a restoration plan for Parcel 4 open space after construction have been developed in consultation with this board and the residents of Harborview Terrace.
2. Approval of the authorization to distribute required parking spaces without regard to zoning lot lines with the following conditions:
    - The garage must be made safe and secure for the residents of Harborview Terrace as well as residents of the new buildings.
    - Garbage must be stored and handled so as to minimize adverse effects in the parking areas.
    - Thirty spaces must be permanently reserved by deed restriction for the residents of Harborview Terrace.
  3. Disapproval of the minor modification to the existing Large Scale Residential Development unless the following conditions are met:
    - It is determined what the existing site plan is.
    - The requested modification is graphically presented.
    - The conditions set forth above with respect to the resolution for applications 1 and 2 are met.
  4. Approval of the special permit to allow development over a railroad right-of-way.

### **Borough President Recommendation**

This application (C 080401 ZSM), in conjunction with the related actions (C 080400 ZSM, N 080402 ZAM, N 080403 ZAM and M 080405 ZAM), was considered by the Manhattan Borough President, who issued a recommendation to approve the applications on August 13, 2008, with the following conditions:

- Missing information and documentation identified by the Community Board is provided and reviewed.
- The accessibility of open space is maximized for the use by all LSRD residents.
- Plans for relocation of the playground and for landscaping, lighting and improving the areas between the development site and the existing Harborview Terrace building are developed in consultation with the Community Board and the residents of Harborview Terrace.

### **City Planning Commission Public Hearing**

On August 27, 2008, Cal. No. 10, the Commission scheduled September 10, 2008 for a public hearing. The hearing was duly held on September 10, 2008, (Cal. No. 27) in conjunction with



the hearing for the related action (C 080401 ZSM). There were nine speakers in favor and seventeen speakers in opposition.

The General Manager of NYCHA described NYCHA's role in the project. He stated that these sites are a component of the Mayor's expanded New Housing Marketplace Plan to create and preserve 165,000 units of affordable housing by 2013. As part of this plan, HPD and NYCHA have begun work on placing nearly 6,000 units of housing on NYCHA-owned land. HPD is currently working with NYCHA on the development of up to 435 units targeted to middle class families on the West Side of Manhattan. He also stated that the federal, state and city funding of NYCHA is the lowest it has been in years, leaving NYCHA to find other means by which to fund budget gaps. Regarding the market-rate component of the project, the General Manager said that NYCHA statutes permit market rate units on NYCHA land subject to HUD approval. He stressed the need for senior housing on the site so NYCHA can move seniors currently residing in family-sized units to smaller units, but said that the developer will work with the community to add more family-sized units to the senior building.

The Deputy General Manager of NYCHA stated that this site is very expensive to build on because it runs over the Amtrak rail line, which requires the developer to build a deck over the railroad right-of-way.

Two representatives from HPD explained that this site will serve income levels not served by other programs and that the Inclusionary Housing Bonus and market rate units are critical to the funding of the overall project.

The developer of the project site explained the costs of developing the site. In response to the community board's comments on the application, he told the Commission that he has looked at a scenario that would reduce the height of the north building (the senior building) to ten stories, and increase the number of family units in the building.

The architect for the project discussed the open space to the east of the property that will be shared by all residents of the Harborview site.

The Director of the Manhattan Borough Presidents Land Use Division reiterated the Borough President's position, and requested the Commission not approve the ULURP applications until the housing program is changed.

The 17 speakers in opposition to the applications included community residents, the President of Harborview's Tenant Association, member of Community Board 4, the City Councilmember for the 7<sup>th</sup> District and the State Assemblymember for the 67<sup>th</sup> District. Those who spoke in opposition predominantly commented on the housing program of the two proposed buildings.

Twelve community members spoke separately against the project because it did not provide enough moderate and middle-income units and because it proposes placing market rate units on NYCHA property. They stressed the importance of having a middle-class community in this neighborhood and in Manhattan, and also stated that they did not believe the commitment made under the Hudson Yards Points of Agreement had been met.

The President of Harborview's Tenant Association explained that she represents 300 families, and that she had to work hard to convince the residents to give up their open space for affordable housing, but now she believes they are not getting what was promised to them. She is also concerned about the open space left after the development, and would like it to be improved. She went on to explain that she believes seniors in her development can not afford rent in the 60% to 80% AML, and that NYCHA has the opportunity now to move seniors out of large units, but is not doing so.

A representative from Community Board 4 stated that this site is in the Clinton Urban Renewal Area, indicating that this site was condemned for affordable housing in 1969. She believes this development to be precedent-setting, in that it is placing market-rate units on NYCHA property and because it is generating an Inclusionary Housing Bonus.

A second representative of Community Board 4 stated that the current housing proposal doesn't meet the Hudson Yards Points of Agreement or the RFP. She also explained that, by generating

400,000 square feet of Inclusionary Housing Bonus, she believes the developer could make a great deal of money on this project, and that NYCHA should share in those profits.

A representative of Clinton Housing Development Company and Community Board 4 explained that putting affordable housing on this site was part of the Hudson Yards rezoning mitigation, and he doesn't believe that Inclusionary Housing Bonuses should be used on the site as well. He distributed to the Commissioners an advertisement for the sale of the 400,000 square feet of Inclusionary Housing Bonus from this site at \$225 per square foot, or \$90 million total. Overall, he stated that there was not enough discussion between the community board and HPD and NYCHA, and that the community board would accept some market rate housing on the site, if they could reach an agreement on the affordable housing components of the program. Overall, he believes that the subsidy per apartment by HPD is not high enough.

The Council Member from the 7<sup>th</sup> District stated that she believes the housing program has major defects. She would like to see HPD subsidize more per unit for the development. She also explained that a similar senior housing building developed at West 61<sup>st</sup> Street and West End Avenue by Atlantic Development took a full year to rent, because, she believes, seniors did not reach the minimum income requirements.

A representative of the New York State Assemblymember representing the 67<sup>th</sup> District stated that the Assemblymember supports the community board's position and urged the Commission and other parties to look at the disposition of NYCHA-owned land as carefully as one would look at a City-owned land disposition.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the applications for special permits (C 080400 ZSM and C 080401 ZSM), authorizations (N 080402 ZAM and N 080403), and minor modification (M 080405 ZAM) are appropriate.

The proposed actions would facilitate the development of two new residential buildings on property that is currently owned by the New York City Housing Authority (NYCHA) and is subject to a previously-approved Large-Scale Residential Development (LSRD) site plan.

**Special permit for height and setback modifications (C 080400 ZSM)**

The Commission believes that the special permit to allow for the modification of height and setback regulations for the North Building on the periphery of the LSRD is appropriate. The Commission believes that the special permit would allow for new development that is consistent in bulk and character with existing buildings on adjacent blocks and would result in a better site plan than would otherwise be possible.

The Commission notes that the requested special permit would permit waivers of height and setback regulations that would ordinarily limit the base height to 85 feet or nine stores, whichever is less, and would require the portion of the building above the required setback to not penetrate a sky exposure plane. The Commission believes that these underlying R8 regulations would unduly limit design flexibility and would inhibit the optimal massing of development on the project site. The envelope design would provide a street wall along the mid-block of West 56<sup>th</sup> Street, and match the building heights of the existing two Harborview Terrace buildings. Providing the flexibility to increase the maximum base height of the north tower from 85 feet to 98.46 feet ensures that the West 56<sup>th</sup> Street street wall and building height can be developed in a contextual manner, while providing a 10-foot setback for access to the railroad right-of-way under the development.

The Commission believes that the streets providing access to the proposed development will be adequate to handle the traffic generated. Because the project site is located on a through-lot, it is served by two streets, West 55<sup>th</sup> Street and West 56<sup>th</sup> Street. The Commission recognizes that an exit and entrance to the accessory, 47-space garage is located on each street frontage in an effort to distribute vehicular traffic among the streets serving the project. Moreover, the Commission recognizes that the Environmental Assessment Statement (EAS) prepared for this project found that the proposed development would generate a maximum of 40 vehicular trips in

any peak period, below the 50 vehicle trip threshold. Therefore, the proposed development will not result in undue pedestrian or traffic congestion.

**Special permit for development over a railroad right-of-way (C 080401 ZSM)**

The Commission believes that the special permit to allow portions of the Amtrak railroad right-of-way to be covered by a platform and to allow the platform to be included in the lot area for the development is appropriate.

As stated above, the Commission believes that the streets providing access to the proposed development will be adequate to handle the traffic generated. The platform would be located on a through-block site between West 55<sup>th</sup> Street, a one-way, west-bound street, and West 56<sup>th</sup> Street, a one-way, east-bound street. Eleventh Avenue, a major north- and south-bound avenue is located to the west of the site, and Tenth Avenue, a major north-bound avenue is located to the east. Because the project site would be developed with two residential buildings with entrances on both West 55<sup>th</sup> Street and West 56<sup>th</sup> Street, the traffic generated by the development will be not be unduly concentrated on any one street and will not compromise the ability of surrounding streets to operate at acceptable levels of service.

The Commission also believes that the development will not result in floor area or dwelling units being unduly concentrated on any one portion of the project site. The proposal includes the platforming over the Amtrak railroad cut on the through-block parcel, which would permit for a more even distribution of floor area across the project site in two residential buildings. Additionally, other floor area modifications would permit the distribution of floor area across zoning lot and street lines, effectively balancing the amount of floor area provided in the LSRD.

The Commission recognizes that the design of the development is being undertaken in close consultation with Amtrak to ensure that the various proposed uses on the project site do not conflict with one another and that rail traffic will continue unaffected. The Commission is in receipt of a conceptual letter of approval of the project from Amtrak dated April 1, 2008 and acknowledges that Amtrak will continue to fully review all plans for the development to ensure consistency with its rail service operations. Moreover, the Commission notes that the applicant

will provide access through the project site to track level for purposes of inspection, maintenance and repair. The Commission believes that the close consultation with Amtrak, together with the provision of maintenance and repair access, will ensure that the various uses on the project site will not adversely affect one another and that the development will not impede use of the rail line.

**Authorizations for bulk modifications (N 080402 ZAM)**

The Commission believes that the authorizations to allow for the distribution of floor area, dwelling units and open space without regard for zoning lot lines and for modification of height and setback regulations for the south building front West 55<sup>th</sup> Street is appropriate. The Commission believes that the authorizations would allow for new development that is consistent in bulk and character with existing buildings on adjacent blocks and would result in a better site plan than would otherwise be possible. The Commission also understands that the streetwall of the south building must be setback 8 feet to provide access to the railroad right-of-way below the development.

The Commission believes that the distribution of floor area, open space, dwelling units and the locations of buildings will result in a better site plan. The Commission notes that the requested authorizations would permit waivers of height and setback regulations that would ordinarily limit the base height to 85 feet or nine stories, whichever is less, and would require the portion of the building above the required setback to not penetrate a sky exposure plane. Regulations also require that a building setback 20 feet from the rear yard above a height of 125 feet. The Commission believes that these underlying R8 regulations would unduly limit design flexibility and would inhibit the optimal massing of development on the project site. The envelope design would provide a streetwall along the mid-block of West 55<sup>th</sup> Street, and match the building heights of the existing two Harborview Terrace buildings. Providing the flexibility to increase the maximum base height of the north tower from 85 feet to 124.46 feet, to penetrate the sky exposure plane and to waive the 20-foot rear yard setback ensures that the West 55<sup>th</sup> Street streetwall and building height can be developed in a contextual manner, while providing a 8-foot setback for access to the railroad right-of-way under the development.

The Commission believes it is appropriate to distribute floor area, dwelling units and open space from the south and east parcels of the LSRD to the project site. The Commission believes that this modification would not result in an undue increase in the bulk of buildings on any one block. Instead, the flexibility accorded by this waiver will permit an underutilized portion of the LSRD to be developed with two residential buildings containing predominantly affordable units.

As stated above, the Commission believes that the streets providing access to the proposed development will be adequate to handle the traffic generated. Because the project site would be developed with two residential buildings with entrances on both West 55<sup>th</sup> Street and West 56<sup>th</sup> Street, the traffic generated by the development will be not be unduly concentrated on any one street and will not compromise the ability of surrounding streets to operate at acceptable levels of service.

**Authorization for relocating existing parking spaces (N 080403 ZAM)**

The Commission understands the northern block of the LSRD is one zoning lot (Parcel 1) and, pursuant to the parking regulations that were in effect at the time, 30 accessory residential parking spaces were required for that zoning lot. The Commission understands that Parcel 1 will be divided into two zoning lots, and the required spaces will now be divided on two separate zoning lots.

The Commission believes the required spaces will be conveniently located and permit better site planning, as they will be located adjacent to the existing Harborview Terrace residential building, in approximately the same location they are now located. The Commission understands that the number of required spaces will not increase, so the spaces would not adversely affect traffic conditions in the surrounding area.

**Minor modification of the existing LSRD site plan (M 080405 ZAM)**

The Commission understands the minor modification would update the site plan originally approved by the Commission on October 11, 1972 (CP-22119) to reflect the development of the new buildings.

The Commission is pleased to note, in response to comments from the community board, elected officials, and others, HPD and NYCHA, as stated in a letter dated October 2, 2008, will be modifying the housing program to more closely match the program described in the Hudson Yards Points of Agreement of 2005. The modified program would include the inclusion of permanently affordable family-sized units in the senior building with approximately 48 units for families, and 68 units for seniors. Also in response to comments, a broader income band will be permitted for the low-income units for seniors (50% to 80% AMI). This band will also apply to the family units in the senior building. Finally, 10 additional middle income units, for a total of 35 middle-income units (up to 165% AMI) will be included in the project.

The Commission is also pleased to note that HPD, NYCHA and the developer will continue to work in consultation with the stakeholders to continue to address project-related issues, including the upgrading of the open space to the east of the proposed development between West 55<sup>th</sup> Street and West 56<sup>th</sup> Street.

Finally, the Commission notes that this is the first instance in which NYCHA would sell under-used land to a private entity for a mixed-income development. It appreciates NYCHA's articulation of policies relating to the use of its land, including NYCHA development priorities, the relationship to the Mayor's New Housing Marketplace Plan, and its strategy to preserve public housing. Though it is not the subject of this report, the Commission looks forward to learning more of NYCHA's strategy for developing under-used land to meet future needs.

## **FINDINGS**

The City Planning Commission hereby makes the findings pursuant to Sections 78-311 (Authorizations by the City Planning Commission), 78-312 (Special permits by the City Planning Commission), and 78-41 (Location of Accessory Parking Spaces) of the Zoning Resolution:

### Sections 78-311 and 78-312

- (a) that such modifications will aid in achieving the general purposes and intent of this Chapter as set forth in Section 78-01 (General Purposes);



- (b) that such distribution of floor area, dwelling units, rooming units, open spaces, locations of buildings, or location of primary business entrances, show windows or signs will permit better site planning and will thus benefit both the residents of the development and the City as a whole;
- (c) that such distribution or location will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks;
- (d) that such distribution or location will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion;
- (e) not applicable;
- (f) not applicable; and
- (g) the modification of height and setback will not impair the essential character of the surrounding area and will not have adverse effects upon the access to light, air and privacy of adjacent properties.

Section 78-41

- (a) that such off-street parking spaces will be conveniently located in relation to the use or uses to which such spaces are accessory;
- (b) that such location of the off-street parking spaces will permit better site planning and will thus benefit both the owners, occupants, employees, customers, residents or visitors of the development and the City as a whole; and
- (c) that such location of the off-street parking spaces will not increase the number of spaces in any single block or the traffic drawn through any one or more of the nearby local

streets in such measure as to affect adversely other zoning lots outside the development or traffic conditions in the surrounding area.

**RESOLUTION**

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

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 201 of the New York Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by the New York City Housing Authority and the Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant Section 78-312(d) of the Zoning Resolution to allow modifications of the front height and setback regulations on the periphery of a Large-Scale Residential Development (Block 1083, Lots 1 & 15, and Block 1084, Lot 9) in connection with the development of two residential buildings on property located at 513 West 55th Street and 520 West 56<sup>th</sup> Street (Block 1084, p/o Lot 9), within the Clinton Urban Renewal Area, in an R8 District, Borough of Manhattan, Community District 4 is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 080400 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by prepared by Ismael Leyva Architects, P.C., filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
CPC-02	Large-Scale Residential Development Plan	04/24/08
CPC-05	Site Plan	04/24/08
CPC-06	Zoning Calculations	04/24/08
CPC-07	Encroachment Plan	04/24/08
CPC-13	Section 1	04/24/08
CPC-14	Section 2	04/24/08

- 2) Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
- 3) Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
- 4) All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
- 5) Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution and the attached restrictive declaration whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the attached restrictive declaration.
- 6) Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution, duly adopted by the City Planning Commission of October 7, 2008 (Calendar No. 17), is filed with the Office of the Speaker, City Council, and Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, AICP Chair**  
**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E.,**  
**ANGELA R. CAVALUZZI, AIA, ALFRED C. CERULLO, III, BETTY Y. CHEN,**  
**MARIA M. DEL TORO, RICHARD W. EADDY, NATHAN LEVENTHAL,**  
**SHIRLEY A. MCRAE, JOHN MEROLO, Commissioners**

**KENNETH J. KNUCKLES, Esq., Vice Chairman, Recused**



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**JEAN-DANIEL NOLAND**  
Chair

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

July 11, 2008

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

**Re: Harborview Affordable Housing Development – 513 West 55<sup>th</sup> Street and 520 West 56<sup>th</sup> Street - Application Numbers C080400ZSM, C080401ZSM, N080402ZAM, N080403ZAM, M080404HDM, M080405ZAM<sup>1</sup>**

Dear Chair Burden:

At its regular monthly meeting on June 4, 2008, Manhattan Community Board No. 4 held a duly noticed public hearing on the six applications referenced above. The following comments and resolutions were approved by a roll call vote of 38 in favor, 0 opposed, 0 abstentions and 1 present but not eligible to vote. (Our resolutions on the individual applications begin on page 9.)

The applications relate to development of affordable housing on the “NYCHA Harborview Site” pursuant to the Hudson Yards Points of Agreement and the West Side Sites Request for Proposals issued by the Department of Housing Preservation and Development (“HPD”) and the New York City Housing Authority (“NYCHA”) on December 7, 2006.

#### **SUMMARY ULURP RESPONSE**

As discussed in detail below, we recommend disapproval of four of these applications because of fundamental defects in the proposed affordable housing development program:

- The commitment to the Clinton/Hell’s Kitchen community was that this site would be used primarily for permanently affordable housing for moderate and middle income families. That commitment is not being kept.

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<sup>1</sup> It is impossible to tell from the Land Use Review Application form which number goes with which requested action.

- Market-rate units should not be built on land acquired by NYCHA for affordable housing.
- The proposed use of the inclusionary housing bonus is inappropriate.

## **THE ULURP APPLICATIONS ARE PREMATURE**

For the first time since 1982, this Board finds itself in sharp disagreement with HPD over an affordable housing development. Unfortunately, there has been very little engagement with the Board about the developer's response to the RFP and no opportunity to resolve these differences. We have a long public record of support for a wide variety of affordable housing developments. We welcome well-sited affordable housing developments, by responsive developers, including housing for homeless and special needs populations, which are often contentious and rejected by other communities. But successful development must be planned carefully, in consultation with all stakeholders.

We are baffled that these applications are proceeding through ULURP at this time. The proposed development was first presented to our Housing Health and Human Services Committee on March 18, 2008. At that meeting, substantial questions were raised about the project's affordable housing program, which is dramatically different from the program we expected based on the affordable housing commitments made in connection with the Hudson Yards rezoning. We specifically requested that the ULURP process not begin until there had been further consideration of the housing program. Holly Leicht, Deputy Commissioner of Development for the Department of Housing Preservation and Development indicated, at the end of the meeting, that HPD and NYCHA would pursue further discussions with CB4 regarding the affordable housing program before certification of the ULURP applications. Our concerns were then summarized in our letter to you, HPD and NYCHA dated April 2, 2008. In contacting HPD subsequently, the Board was informed that continuing discussions between HPD and NYCHA were underway. We were therefore flabbergasted to learn on May 5<sup>th</sup> that the applications were being certified that very day, having been filed with DCP on April 28<sup>th</sup>, only 7 days earlier.

The applications reveal the haste in which they were filed and are incomplete and lacking in necessary detail. Supporting documentation is missing. We have received notices that 3 of the applications have been certified<sup>2</sup>, but have not received any communication from DCP about public review of the other 3 applications, even though they are all contained in the same Land Use Review Application.

Negotiations have now begun in earnest between this Board, HPD, NYCHA and the developer, -- a process that should have begun months ago, and that has been this Board's and HPD's tried and true process. The applications should be withdrawn due to the incomplete and inaccurate information, and resubmitted only after an agreement is reached on a housing development plan that is more consistent with prior and often stated community needs.

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<sup>2</sup> We have received Notices of Certification for C080400ZSM, C080401ZSM and C080404HDM (sic). On the application form this last application number is M080404HDM

However, having received the 3 Notices of Certification, we feel compelled to respond to all of the applications so as not to forfeit our opportunity to provide public comment.

## **PROJECT DESCRIPTION**

These applications request six actions to facilitate the development of two new residential buildings with a total of 342 residential units on property in the Clinton Urban Renewal Area (“CURA”) that is currently owned by NYCHA and is subject to a Large Scale Residential Development Plan (LSRD) that was approved by the Board of Estimate in 1972. The developer selected by NYCHA for this project is Atlantic Development Group.

The proposed site is a through-block parcel over the Amtrak cut between West 55<sup>th</sup> and 56<sup>th</sup> Streets and Tenth and Eleventh Avenues. It is currently part of Harborview Terrace, and was intended in the LSRD to be developed with a 10 story turnkey public housing project containing 67 units. The site is now used as a parking lot for tenants of Harborview Terrace, 2 basketball courts and a passive recreation area.

The North Building, on 56<sup>th</sup> Street, would be 14 stories tall and would include approximately 148 units for low-income senior citizens with incomes between 61% and 80% of Area Median Income, developed under the City’s Inclusionary Housing Program. As such, it would generate more than 400,000 square feet of bonus development rights for use elsewhere in the Special Clinton District.

The South Building, on 55<sup>th</sup> Street, would be 15 stories tall and would, according to information presented by Atlantic, include 122 market rate units and 72 moderate- and middle-income units for households making between 81% and 165% of Area Median Income.

A 47-space accessory parking garage is proposed for the ground floors of both buildings, with 22 spaces permanently reserved for the residents of Harborview Terrace, to replace the spaces now in the parking lot. The roof of the garage between the two new buildings would be landscaped open space for the exclusive use of the tenants of the new buildings.

To summarize, the proposed affordable housing development program consists of:

148 low income units (inclusionary housing units)

72 moderate and middle income units

122 market rate units

342 total units

## **THE AFFORDABLE HOUSING PROGRAM – Site History, the Hudson Yards Affordable Housing Negotiations and the Board’s Position**

### **History of the Site**

The project site was condemned by the City in 1969, when the CURA was created, for use as affordable housing. Pursuant to the August 1972 LSRD application, two turnkey public housing projects “consisting of large family units” were planned for parcel 1 (which includes the project site) – a 19 story (234 unit) building and a separate 10 story (67 unit) building. One NYCHA building on parcel 1 was completed, but the 10 story public housing development was never developed. The entire parcel was transferred by the City to a turnkey developer, Neighborhood Developers Inc. on April 24, 1975 and by Neighborhood Developers, Inc. to NYCHA on June 23, 1977, when construction was complete. A Land Disposition Agreement recorded with the deed on April 24, 1975 restricts the use of the site “to and only to and in accordance with the uses specified in the Urban Renewal Plan.”

In 1985, the site was identified as part the Clinton Preservation Local Development Corporation’s master plan for CURA as a site for development of family housing. The Board supported that plan. In 1999, when a broad coalition of community groups came together to advance affordable housing development in the CURA, the site was again identified for the development of family housing.

### **Hudson Yards Affordable Housing Negotiations – the Points of Agreement and the Request for Proposals**

The creation of affordable housing was our top priority for the Hell’s Kitchen/Hudson Yards rezoning. From 2002 to 2005, the Board actively negotiated with the Mayor’s office regarding the number of mitigation measures. The most complex and difficult negotiations centered around affordable housing. The end result was a package that allowed the Mayor and the City Council to declare that 28% of the total number of planned housing units for Hudson Yards would be affordable. The package included zoning mechanisms for development by the private sector, and commitments by the public sector of public land and public funding. The NYCHA Harborview Site was one of 13 public sites identified by the Board as possible locations for affordable housing. After lengthy negotiation with HPD, and HPD in turn with NYCHA, the project site was included as one of 3 public sites in the Hudson Yards affordable housing package.<sup>3</sup>

The Board had initially proposed that the public sites be used for the lowest income housing. But we soon realized that the zoning mechanisms being proposed for the private sector (Inclusionary Housing coupled with enhancement of the 80/20 financing program) would produce an abundance of low income housing on privately owed sites. It was therefore agreed, somewhat counter-intuitively, that the public sites would be

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<sup>3</sup> The other sites are “Site M” on the west side of Tenth Avenue between 40<sup>th</sup> and 41<sup>st</sup> Streets and the “Studio City/PS 51 Site” between 44<sup>th</sup> and 45<sup>th</sup> Streets and Tenth and Eleventh Avenues



reserved for moderate and middle income housing. The City would provide the land and a public subsidy and a private developer would be chosen through a competitive process.

The City's commitments for affordable housing were embodied in the "Points of Agreement" between the Administration and the City Council in January 2005. The Points of Agreement anticipate that the NYCHA Harborview Site will generate 155 permanently affordable units, including 63 low income units (up to 60% of AMI), 46 moderate income units (up to 135% AMI) and 46 middle income units (up to 165% of AMI).

The NYCHA Harborview Site was included in HPD's West Side Sites Request for Proposals, issued on December 7, 2006<sup>4</sup>. As the RFP was being prepared, the Board held a series of public meetings, which were attended by representatives of HPD and NYCHA, to develop community consensus on the programs for each of the sites. In those meetings, the community's overall concern was to maximize the production of housing for moderate- and middle-income **families**, since the market was producing low-income studios and one-bedroom units throughout CD4.

We understand that Atlantic Development Group was selected as the developer for the NYCHA Harborview site in the late summer or fall of 2007, but Atlantic's proposal was not presented to the community until the meeting of our Housing Health and Human Services Committee on March 18, 2008. The community's opposition to the proposal, summarized in our letter to you dated April 2, 2008, was resounding. Despite public assurances from HPD that differences would be worked out prior to filing, there was no further discussion of Atlantic's affordable housing proposal before the ULURP applications were filed and certified.

Until this point, the Board has considered itself a partner with HPD in identifying, conceiving and bringing this project to fruition. It is an affordable housing development the Board wants to see realized, but not in this manner.

#### **The Board's Position on the Proposed Harborview Affordable Housing Program**

The proposed affordable housing program presented to the joint meeting of CB4's Clinton/Hell's Kitchen Land Use and Zoning and the Housing, Health and Human Services committees on May 14, 2008, does not meet the Board's affordable housing goals, fails to meet the requirements of the Points of Agreement and is not consistent with the 1975 Land Disposition Agreement deed restriction, as follows:

- **Minimal Production of Moderate and Middle Income Housing for Families --**  
Under the Points of Agreement, the City committed to create predominantly moderate and middle income units on this site, with a minimum of 155 units. The project as proposed generates only 72 moderate and middle income units. The Harborview site must maximize not minimize the number of moderate and middle

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<sup>4</sup> The two other sites in the RFP resulted from the affordable housing commitments in the West Chelsea rezoning.

income units. In addition, the majority of the proposed affordable housing units are studios and one bedroom apartments. Those unit sizes are already being produced in disproportionate amounts by the private sector through the Inclusionary Housing and 80/20 programs. The consistently-stated community need for family-size units must be a base requirement at this site.

- **Building Market-Rate Units on NYCHA Land is a Slippery Slope** – Market-rate units should not be built on NYCHA owned land. The stated reason for production of market-rate units is the need to produce revenue for NYCHA’s operating purposes. This policy shift, in the name of preserving public housing, is a slippery slope at best. The sale of scarce resource, publicly owned land, whether or not controlled by a public authority, to fund operating deficits does not make financial sense. It is quick one-time fix in an attempt to remedy a structural financial problem. Decisions made for Harborview, to include market-rate units, will be precedent setting for the entire NYCHA housing inventory citywide.

In the case of this particular site, on the CURA, the project will not conform to the requirements of the 1975 Land Disposition Agreement. The project site was condemned for affordable housing. The deed restriction requires that any use be in compliance with the Clinton Urban Renewal Plan. The plan specifies that “approximately one third of the new apartments will be for low income families with the *remaining* units for families of moderate income (emphasis added).” The covenant is still in effect and does not expire until October 24, 2009. Market-rate units are simply not appropriate on this public site, in a neighborhood where the private sector is producing market units at a rapid pace.

- **Housing mitigation for Hudson Yards should not produce more density and less affordable housing in the Special Clinton District** -- The commitment for affordable housing offsite from the Hudson Yards rezoning area was to mitigate the impact on the Clinton/Hell’s Kitchen community of the enormous bulk to be developed in the Hudson Yards, the densest zoning district in the City. The use of the public sites for affordable housing would help maintain the economic diversity of the community and to offset the anticipated large number of new market-rate units to be developed Hudson Yards.

The linchpin of the proposed project’s financing is the sale of Inclusionary Housing development rights, which will generate 400,000 square feet of new development in the Special Clinton District. That choice raises the following issues:

- How can a development meant to mitigate bulk resulting from the Hudson Yards rezoning generate bulk equivalent to the Victory Tower on 41<sup>st</sup> Street and 10<sup>th</sup> Avenue?
- Why are we using the Harborview public site to replace private sites which the private market would have had to acquire to produce

Inclusionary Housing needed for bonusing market rate housing? In fact, why subsidize the private Inclusionary Housing market with a public site?

- Why concentrate Inclusionary Housing next to other affordable housing in the CURA? Why not let it be included throughout the community, whether within the market rate buildings developed, or on scattered sites acquired by market rate developers?
- Don't we have a net loss of production of affordable housing by using Harborview for Inclusionary Housing? If Harborview were developed without Inclusionary Housing, the private sector would meet its Inclusionary need on other private sites, thus increasing the total supply of affordable housing.

The Board simply cannot support the use of the Harborview site for Inclusionary Housing. It is not double dipping, but triple dipping for the same site—Hudson Yards mitigation, use of scarce public site for affordable housing, and creating development rights to benefit several other sites in the Special Clinton Zoning District.

- **Senior Housing is a Right Choice on the Wrong Site**--The Clinton/Hell's Kitchen and Chelsea community welcomes senior housing. Indeed, we recently celebrated completion of the Encore Senior Residence at 755 10<sup>th</sup> Avenue with 84 units for low income seniors – a development on the CURA for which this Board advocated for years. One of the existing Harborview buildings in the LSRD has 195 units of low-income senior housing across 55<sup>th</sup> Street from the proposed development. The proposed developer has attempted to portray the Board and the Clinton/Hell's Kitchen and Chelsea community as opposed to senior housing. Given the Board's 30-year record of supporting all types of affordable housing, we can only conclude that their due diligence on the community's goals and concerns, was inadequate.

Senior housing, like all other affordable housing, must be integrated throughout the community, not built on a site reserved for moderate and middle income family housing.

Further, the income band for the proposed senior housing is at 80% AMI, an income band that most of our seniors fall well below. A project with the same financing structure and income bands was developed by this developer on West End Avenue and 61<sup>st</sup> Street. We understand that that project experienced severe delays in rent up, because of a lack of income-eligible seniors, notwithstanding a citywide lottery.

## DEFECTIVE ULURP DOCUMENTATION

The application materials received from the Department of City Planning reveal a number of apparent defects. We are surprised that the applications were certified in this form.

1. Agency Co-Applicants--The application is signed by HPD as co-applicant, but HPD is not listed as a co-applicant in Item 1. Is HPD a co-applicant or not?
2. Disposition of Property--The application form indicates that disposition of real property is one of the requested actions, yet that action is not described in the Project Description. The Property Disposition section of the application form indicates that the intended disposition is from HPD to NYCHA, but NYCHA already owns the property. More importantly, the application does not explain how the property will be disposed of to the selected developer. Isn't ULURP required for this action?
3. Detailed Program for Relocation and Improvement to Common Open Space--The Negative Declaration states that the selected developer has agreed to relocate the existing playground to a location specified by NYCHA and to landscape and improve the existing walkway between the proposed development and the existing Harborview Terrace building for use by NYCHA through a permanent easement, yet no information is provided about implementation of these commitments. Plans for relocation of the playground and for landscaping, lighting and improving the areas between the development site and the existing Harborview Terrace building must be developed in consultation with this board and the residents of Harborview Terrace before construction begins. Those plans must include more than just relocating the existing playground and landscaping the walkway; care must be taken to integrate and modernize all of the open space, especially considering that the development will permanently displace a large amount of open recreational space.
4. Existing and Proposed Site Plans for the LSRD--The current LSRD is proposed to be updated to reflect development of the new buildings, but neither the current LSRD nor the proposed change is provided. What we have is a letter from the City's Housing and Development Administration to the City Planning Commission dated August 3, 1972 transmitting the LSRD and requesting CPC's "expeditious action." The application indicates that the LSRD was approved by the CPC on October 11, 1972. The transmittal letter is file-stamped to indicate it was subject to approval by the Board of Estimate. Since changes may have been made in the LSRD between its transmittal to CPC and approval by the Board of Estimate, the LSRD approved by the Board of Estimate must be provided.<sup>5</sup> In addition, the proposed change in the LSRD must be provided in graphic form.

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<sup>5</sup> HPD did provide us with a copy of a Board of Estimate resolution which, upon examination, is the resolution for the zoning actions required for the adjacent Clinton Towers development based on CP-22119. The resolution concerning the LSRD is based on CP-22113.

5. Zoning Lot Subdivision Requirements Under 78-50--The application makes no reference to ZR Section 78-50 concerning subdivision of large-scale residential developments. Parcel 1 of the LSRD is proposed to be subdivided into two zoning lots, and the requirements of Section 78-50 must be met.
6. Modification of 1975 Disposition Authorization--The 1975 authorization by the Board of Estimate for disposition of Parcels 1 and 4 pursuant to the Clinton Urban Renewal Plan is proposed to be modified, but neither the authorization nor the proposed modification is provided.
7. Inclusion of Clinton Towers as part of the LSRD--The August 1972 application for the LSRD, which is purported to be the application approved by the Board of Estimate on October 11, 1972, included 4 parcels on the northern portion of the Clinton Urban Renewal Area. A portion of the 7 story extension of the existing Clinton Towers development on block 1083, lot 1, falls within the boundary of the LSRD; however the property owner, Clinton Towers Housing Co. is not included as a co-applicant, nor are the details of that development, including the number of dwelling units, development s.f. and open space s.f. specified in the application. Without this information, it is not possible to assess the modifications requested to the LSRD. We also believe that Clinton Towers Housing Co. must approve the applications, yet there is no indication that such approval has been obtained.

## THE APPLICATIONS

With the ULURP clock running, CB4 has nonetheless carefully reviewed the six land use applications in light of the concerns expressed above and based on the development program described in the application. Our recommendations are as follows:

- 1. Authorizations pursuant to ZR Section 78-311 to distribute floor area, dwelling units and open space without regard to zoning lot lines and to modify height and setback regulations within the LSRD.**
- 2. Special permit pursuant to ZR Section 78-312 to modify height and setback regulations on the periphery of the LSRD.**

The proposed development site is part of Parcel 1 in the LSRD. The balance of Parcel 1 is occupied by the existing Harborview Terrace NYCHA building. The LSRD includes two other parcels: Parcel 4, which is also owned by NYCHA and is occupied by the Harborview Terrace senior building, and Parcel 3, which is owned by Clinton Towers Housing Co.

When Parcel 1 is subdivided, as planned, into two zoning lots, the proposed development on Parcel 1A would place 31% more floor area and 27% more dwelling units on the development site than are allowed by zoning, and would provide 57% less open space than is required. The requested authorizations would allow those differences because the other parcels in the LSRD have "leftovers." Specifically, 60,878.58 square feet of floor

area would be reallocated from Parcels 1B and 4; Parcel 1B has 188 fewer dwelling units than zoning allows and 73 of those would be allocated to Parcel 1A; and Parcels 1B and 4 together have 22,524 more square feet of open space than is required and 10,538 square feet of that open space would “count toward” the open space requirement on Parcel 1A. As noted above, it still must be confirmed that these numbers accurately reflect the built conditions of the existing Harborview Terrace and Clinton Towers buildings.

Modest modifications are requested for the setbacks required along the street and the rear yard, and for the sky exposure plane.

If the proposed buildings were to contain an acceptable affordable housing program, the numbers are confirmed to be accurate, and the remaining open space is carefully planned, the proposed distributions and modifications could be justified and the required findings could be made. The proposed distributions and modifications result in buildings that exceed the requirements and limitations by a small amount, and the scale and shape of the proposed buildings are not overwhelming. However, since the affordable housing program is so far from what we consider acceptable and, the project, as presented, will generate an additional 400,000 s.f of bulk elsewhere in the Special Clinton District, we cannot recommend approval of the authorizations for the proposed development.

In addition, we note that the open space in the LSRD is now generally available to all residents. The proposed application restricts the use of the open space to residents of the new development and circumvents the intent of the LSRD to share open space over a larger area. The proposed open space should be accessible to all LSRD residents.

Finally, we are pleased to note that the exposed eastern ends of both new buildings would be entirely finished with brick. We request that similar treatment be given to the western ends of the buildings, since they will rise above the 5 story adjacent building.

**Now, therefore, be it resolved that CB4 recommends disapproval of the authorizations pursuant to ZR Section 78-311 and the special permit pursuant to ZR Section 78-312 unless the following conditions are met:**

- Housing Program
  - Both buildings are developed as predominantly family buildings for moderate and middle income families earning between 125% and 165% AMI. The allocation between the income groups is flexible, depending on financing considerations. The community is willing to consider one of the buildings as a moderate and middle income cooperative, provided resale restrictions are put in place to eliminate windfall profits and maintain permanent affordability through deed restrictions.
  - If a senior housing component is required for financing or sponsor purposes, it is limited to no more than 20% of the units in one building and be fully integrated throughout that building.

- The project does not create Inclusionary Housing development rights to be used within the Special Clinton Zoning District
- Permanence of the agreed levels of affordability is assured by deed restriction;
- All residential units in the proposed development have the same finishes and access to building amenities and affordable units are evenly distributed throughout each building;
- A deed restriction, specifying the number of permanently affordable units, by unit size and income band, is a condition of the property disposition;
- Apartments are made available through lottery, with a 50% community preference;
- The open space is made accessible to all LSRD residents;
- Plans for relocation of the playground and for landscaping, lighting and improving the areas between the development site and the existing Harborview Terrace building have been developed in consultation with this board and the residents of Harborview Terrace;
- The development uses design and construction methods and methods of operation that will achieve a high degree of environmental sustainability, including meeting or exceeding the standards for U.S. Green Building Council's Leadership in Energy Design (LEED) Silver certification; and
- Plans for temporary relocation of parking to Parcel 4 during construction and a restoration plan for Parcel 4 open space after construction have been developed in consultation with this board and the residents of Harborview Terrace.

**3. Authorization pursuant to ZR Section 78-41 to relocate existing required accessory parking spaces.**

The ground floor of the proposed new buildings would contain a parking garage with 47 accessory parking spaces, accessible from entrances on 55<sup>th</sup> and 56<sup>th</sup> streets. The garage would be unattended, accessible by residents using a card key and monitored from the front desks of the new buildings by camera. The application states that 22 of the parking spaces will be permanently reserved for residents of Harborview Terrace and that 8 of the required 30 spaces are on Parcel 1B and will not be affected by the proposed development. This information is incorrect. All of the existing spaces are currently located on Parcel 1A. The application must be modified to request authorization to locate all 30 required spaces on Parcel 1A to ensure compliance with NYCHA's requirement that Harborview Terrace have 30 parking spaces.

Harborview Terrace residents have expressed concern about two aspects of this parking plan: security in an unattended enclosed garage, especially at night, and the fact that residential garbage will be collected and stored in the garage, attracting vermin. Both of these concerns must be addressed.

Because the site is in the Clinton Urban Renewal Area, which is excluded from the Special Clinton District, the accessory parking is as-of-right and does not require the special permit required for accessory parking in the Special Clinton District.

When Parcel 1 of the LSRD is subdivided, as planned, into two zoning lots, the parking spaces for Harborview Terrace will be on a different zoning lot, authorization for which is required by ZR Section 78-41. We have reviewed and do not disagree with the application's statement of the findings required for this authorization.

**Now, therefore, be it resolved that CB4 recommends approval of the authorization pursuant to ZR Section 78-41, with the following conditions:**

- The garage must be made safe and secure for the residents of Harborview Terrace as well as for the residents of the new buildings;
- Garbage must be stored and handled so as to minimize adverse effects in the parking areas; and
- 30 spaces must be permanently reserved by deed restriction for the residents of Harborview Terrace.

#### **4. Minor modification to the existing LSRD site plan**

As noted above, the application contains no detail about the requested modification, noting only that it "would update the site plan to reflect the development of the New Buildings."

The modification should be made only for a development that conforms to the requirements of the LSRD (which specifies that Parcel 1 is to be developed with large family units) and provides an acceptable affordable housing program, as discussed above.

**Now, therefore, be it resolved that CB4 recommends disapproval of the modification to the existing LSRD site plan unless the following conditions are met:**

- It is determined what the existing site plan is;
- The requested modification is graphically presented; and
- The conditions set forth above with respect to the resolution for applications 1 and 2 are met.



**5. Special permit pursuant to ZR Section 74-681 to allow for development over the Amtrak right-of-way**

The Amtrak right-of-way runs through the development site and is already covered by a permanent platform. Development above this platform requires a special permit pursuant to ZR Section 78-41. We have reviewed and do not disagree with the application's statement of the findings required for this authorization.

**Now, therefore, be it resolved that CB4 recommends approval of the authorization pursuant to ZR Section 78-41.**

**6. Modification of prior disposition pursuant to the Clinton Urban Renewal Plan**

As noted above, the application contains no detail about the requested modification, noting only that it "would modify the 1975 approval to reflect the parcels as constructed and to authorize the development of the New Buildings."

The modification should be made only for a development that conforms to the requirements of the LSRD (which specifies that Parcel 1 is to be developed with large family units) and provides an acceptable affordable housing program, as discussed above.

**Now, therefore, be it resolved that CB4 recommends disapproval of the modification of the prior disposition unless the following conditions are met:**

- The requested modification is presented in writing; and
- The conditions set forth above with respect to the resolution for applications 1 and 2 are met.

Thank you for considering our comments. Despite our profound concerns about the current development proposal, we are hopeful that through continued discussions with HPD and NYCHA the proposal can be modified to meet the needs of the community and the other stakeholders. We look forward to continuing the ULURP process with a project we can support.

Sincerely,



Jean-Daniel Noland  
Chair



Anna Hayes Levin, Chair  
Clinton/Hell's Kitchen Land Use Committee

[signed on July 11, 2008]

Sarah Desmond  
Co-Chair Housing, Health &  
Human Services Committee



Joe Restuccia  
Co-Chair Housing, Health &  
Human Services Committee

cc: NYCHA – Ilene Popkin  
HPD – Holly Leicht, Ruth Anne Viznauskas  
DCP – Erika Selke  
Atlantic Development – Marc Altheim, Charles Brass  
Council Speaker Christine Quinn  
Councilmember Gale Brewer  
City Council Land Use Division – Danielle DeCerbo  
Congressman Jerrold Nadler  
Senator Thomas Duane  
Assemblymember Linda Rosenthal  
Manhattan Borough President Scott M. Stringer  
Manhattan Borough President’s Office – Mike Kent  
Clinton Towers Housing Co. – Mary D’Elia



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

SCOTT STRINGER  
BOROUGH PRESIDENT

August 13, 2008

**Recommendation on**  
**ULURP Application Nos. C 080400 ZSM, C 080401 ZSM, N 080402 ZAM,**  
**N 080403 HAM, and M 080405 ZAM – Harborview**  
**by the New York City Housing Authority and**  
**the Department of Housing Preservation and Development**

**PROPOSED ACTIONS**

In connection with the development of two residential buildings on property located at 513 West 55<sup>th</sup> Street and 520 West 56<sup>th</sup> Street (Block 1084, portion of Lot 9) in a Large-Scale Residential Development (“LSRD”) (Block 1083, Lots 1 and 15, and Block 1084, Lot 9) within the Clinton Urban Renewal Area in an R8 District in Manhattan Community District 4, the **New York City Housing Authority and Department of Housing Preservation and Development** (“the applicants”) seek:

- a **Special Permit (C 080400 ZSM)** pursuant to § 74-312(d) of the Zoning Resolution (“ZR”) to allow modifications of the front height and setback regulations on the periphery of the LSRD;
- a **Special Permit (C 080401 ZSM)** pursuant to ZR § 74-681(a)(1) to allow the portion of the railroad or transit right-of-way which will be completely covered by a permanent platform to be included in the lot area in connection with the development of two residential buildings;
- an **authorization (N 080402 ZAM)** pursuant to ZR § 78-311(a) to distribute floor area and dwelling units without regard to zoning lot lines; an **authorization pursuant to ZR § 78-311(b)** to distribute open space without regard to zoning lot lines; and an **authorization pursuant to ZR § 78-311(e)** to modify height and setback regulations on portions of streets wholly within the LSRD;
- an **authorization (N 080403 ZAM)** pursuant to ZR § 78-41 to relocate existing required accessory parking spaces within the LSRD; and
- a **minor modification (M 080405 ZAM)** to the existing LSRD site plan to reflect the current proposal.

The applicants have withdrawn a related application (**M 080404 HDM**) for a modification of a prior disposition pursuant to the Clinton Urban Renewal Plan.

In order to grant the authorizations pursuant to ZR § 78-311(a), (b) and (e) and the Special Permit pursuant to ZR § 78-312(d), the City Planning Commission (“the Commission”) must find that the modification will aid and achieve the general purposes and intent of ZR § 78; that the distribution of floor area, dwelling and rooming units, open spaces, locations of buildings or primary business entrances, show windows or signs will permit better site planning and thus benefit residents of the development and the City as a whole, will not unduly increase bulk, population density or intensity of use in any block to the detriment of occupants of the buildings in the block or nearby blocks, and will neither restrict neighboring zoning lots’ access to light and air nor create traffic congestion; that the required open space will have common areas that permit the realization of full community service; suitable private access will be provided to mapped streets; and that height and setback modifications will neither impair the essential character of the surrounding area nor have adverse effects upon the access to light, air and privacy of adjacent properties.

In order to grant the Special Permit pursuant to ZR § 74-681(a)(1) to allow redevelopment over a railroad right-of-way, the Commission must find that the streets providing access are adequate to handle resulting traffic; that the distribution of floor area and the number of dwelling units does not adversely affect the character of the surrounding area by being unduly concentrated in any portion of such development or enlargement, including any portion located beyond the boundaries of such railroad or transit right-of-way or yard; that all uses, developments or enlargements located on the zoning lot or below a platform do not adversely affect one another; and that if such railroad or transit right-of-way or yard is deemed appropriate for future transportation use, the site plan and structural design of the development does not preclude future use of, or improvements to, the right-of-way for such transportation use.

In order to grant the authorization pursuant to ZR § 78-41 to relocate existing accessory parking spaces within the LSRD, the Commission must find that the location of off-street parking spaces will be conveniently located to the accessory use(s); will permit better site planning and thus benefit owners, occupants, employees, customers, residents or visitors of the development and the City as a whole; and will not increase the number of spaces in any single block or the traffic drawn through any one or more of the nearby local streets in such measure as to adversely affect other zoning lots outside the development or traffic conditions in the surrounding area.

## **PROJECT DESCRIPTION**

The applicants seek a series of approvals that would facilitate the development of two residential buildings at the Harborview Terrace public housing development, a property owned by the New York City Housing Authority. As originally proposed, the proposed “North Building” would be 14 stories and contain 148 units, a mix of studios and one-bedroom apartments exclusively for seniors earning between 60% and 80% of the area median income (AMI). The “South Building” would be 15 stories and contain 194 units, a mix of 13 studios, 11 one-bedroom apartments, 42 two-bedroom apartments and six three-bedroom apartments for households earning between 80% and 165% AMI, divided between five income bands, and 122 market-rate units. Of the

affordable housing provided, 148 units (68%) would be reserved for households earning between 60% and 80% AMI; 49 units (22%) for households earning between 80% and 135% AMI; and 23 units (10%) for households earning between 135% and 165% AMI. The project would include a 47-space accessory parking garage, located on the ground floor of both buildings, to accommodate both the relocated existing spaces and the new residential development. The project would serve as an off-site location for affordable housing through the City's inclusionary housing program, generating development credits to be purchased and realized at a location within the Community District or nearby.

The project site is identified in a Points of Agreement document from 2005, negotiated between the Administration and the City Council at the time of the Hudson Yards rezoning, as a location for the development of affordable housing. In the agreement, the Mayor's Office anticipated that the site would generate 155 units of affordable housing, including 63 low-income units (up to 60% of the AMI), 46 moderate-income units (up to 135% of the AMI), and 46 middle income units (up to 165% of the AMI).

The affordability requirements outlined in the Request for Proposals (RFP), issued by NYCHA and HPD, called for 155 permanently affordable units, but with different guidelines and income bands. The RFP required that proposals include at least 210 total units, leaving open the possibility that some would not be permanently affordable. The RFP also mandated that at least 20% of the affordable units be for households earning between 61% and 80% AMI; at least 30% of the affordable units be for households earning between 80% and 130% AMI; and the remaining affordable units be reserved for households earning between 131% and 165% AMI.

## **COMMUNITY BOARD RECOMMENDATION**

At its Full Board meeting on June 4, 2008, Manhattan Community Board 4 voted 38 in favor, 0 opposed, 0 in abstention and 1 present but not eligible to vote to adopt a resolution addressing each of the requested actions.

The board recommends conditional disapproval of the authorizations pursuant to ZR § 78-311 and the special permit pursuant to ZR § 78-312 unless both buildings are developed as predominantly family buildings for moderate- and middle-income households earning between 125% and 165% AMI; senior housing, if needed, is limited to 20% of the units in one building and is fully integrated; and no portion of the development enables the use of inclusionary housing development rights within the Special Clinton District. The board further called for a deed restriction ensuring permanent affordability levels; consistent finishes and access to building amenities; even distribution of affordable units; a housing lottery with 50% community preference; open space accessible to all LSRD residents; and meeting or exceeding the standards for U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Silver Certification; and consultation with the board and Harborview Terrace residents regarding playground relocation plans, improving the open space between the existing building and those proposed, and the use of Parcel 4 as a temporary parking site and later as open space.

The board recommends conditional approval of the authorization pursuant to ZR § 78-41, with the conditions that the garage be safe and secure for residents of both the existing Harborview

Terrace and the new buildings, that garbage be stored and handled to minimize adverse effects in the parking areas; and that 30 spaces be permanently reserved by deed restriction for Harborview Terrace residents.

The board recommends conditional disapproval of the modification to the LSRD site plan unless it meets the conditions that the existing site plan is determined and that the modification is graphically presented. The board also holds this modification to the conditions stated previously for the authorization pursuant to ZR § 78-311 and the Special Permit pursuant to ZR § 78-312.

The board recommends approval of the Special Permit pursuant to ZR § 78-681 to allow development over the Amtrak right-of-way.

The board recommends conditional disapproval of the modification of the prior disposition to the CURP with the condition that the requested modification is presented in writing, in addition to those stated previously for the authorization pursuant to ZR § 78-311 and the Special Permit pursuant to ZR § 78-312. The applicants withdrew this application.

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

Developing new affordable housing on publicly owned land allows the City to retain livable, economically diverse communities. Such projects should be developed in close consultation with the affected tenants and must not compromise the long-term goals of the neighborhood and the City at large, but are important components of the City's overall affordable strategy. The respondents to the City's RFP have done a commendable job of responding to the City's RFP and have proposed a development that will meet the affordable housing needs of many New Yorkers.

Several technical flaws with the applications, identified by the Community Board, remain. HPD is not listed as a co-applicant in the Notice of Certification for C 080404 HDM, and it must be determined whether NYCHA and HPD are co-applicants on each application. Notices of Certification were not been provided for three of the six requested actions (although one of the three was subsequently withdrawn). The applicants did not provide a copy of the current site plan for the LSRD or the proposed changes in writing, but only provided the proposed new site plan (NYCHA representatives have stated that the 10-story building envisioned in the 1975 disposition was never built and that the change would be to remove the 10-story building from the LSRD and to include the two proposed buildings). The Zoning Lot subdivision of Parcel I would require that the applicant meet the findings of ZR § 78-50, but no demonstration has been made that these requirements have been met.

These flaws should be corrected before the applications are approved.

#### **Land Use Actions**

The requested land use actions are required generally to deal with urban design issues relating to the proposed buildings. The applicants have worked closely, and successfully, with the local community to design appropriately sized and designed buildings for the site.

The proposed development does not comply with front height and setback regulations on the periphery of the LSRD, thus requiring a Special Permit pursuant to ZR § 74-312(d). The proposed North Building's streetwall sets back at a height in excess of what is permitted by zoning. Logistical challenges related to the rail cut force both buildings to set back from the street line, and the requested departure from front height and setback regulations will produce shorter buildings. The proposed modification meets the findings for this Special Permit.

Three requested authorizations permit the distribution of floor area, dwelling units and open space without regard to zoning lot lines and to modify height and setback regulations on portions of streets wholly within the LSRD. The subject zoning lot would contain more residential floor area and dwelling units than permitted under current zoning. The applicants therefore proposed to utilize both floor area and unbuilt dwelling units from other zoning lots within the LSRD. The subject zoning lot's proposed open space would be less than what zoning requires. The applicants therefore proposed to transfer the difference from other zoning lots in the LSRD. The South Building's proposed streetwall height would exceed what zoning requires, and its 14<sup>th</sup> and 15<sup>th</sup> floors would penetrate the sky exposure plane. The buildings would not set back the mandated 20 ft. from the rear yard line above 125 ft. in height, as required in R8 zoning districts. Each of the proposed authorizations meets the findings. However, as access to proposed open space is complicated by some of it being located on a deck above the garage, the applicants should make every effort to maximize access for all LSRD residents.

The proposed development would be located partially on the site of the existing Harborview Terrace parking lot, which contains required accessory parking spaces. The joint applicants therefore require Commission authorization to relocate the existing required spaces into the ground floor of the new development. The application meets the findings for the authorization, and meets an important commitment to current tenants – the retention of existing parking.

The proposed development requires the minor modification of the LSRD, which was approved by the Commission on October 11, 1972, and subsequently amended. The joint applicants have submitted a LSRD plan that included the proposed buildings.

### **Low-Income Housing Plan**

The most significant community concerns regarding the current project relate not to the requested land use actions but rather to the low-income housing plan and previous agreements for the future of this site. While not formally before the ULURP participants for review at this time, the low-income housing plan is integral to the overall development.

The developers have proposed a high-quality development that generally responds to the requirements of the RFP and will provide important affordable housing opportunities for many New Yorkers, including seniors. However, the currently proposed low-income housing plan does not meet the specific income levels anticipated by the community. Middle- and moderate-income housing opportunities are difficult to target with existing programs, and publicly-owned land provides unique opportunity to meet those specific housing goals. In addition, the affordable housing plan for this site was originally intended as mitigation for new development

approved in area as part of the Hudson Yards plan, setting a high bar for public benefit on this public property.

However, considering the speed with which this application proceeded through certification, the proposal has come a long way during public review. During the Borough President's review period, the developers of the project have agreed to change the current housing plan to devote half of the North Building to low-income family housing, and to explore reducing the amount of inclusionary housing density credits enabled by the project. This brings the project closer to meeting community priorities, though it does not yet completely meet the community's original goals.

This application demonstrates the inherent difficulties in disposing of a long-term asset outside of the context of a long-term strategic plan. There is an understandable tension between the City's goal of developing as much affordable housing as possible on publicly owned land, and NYCHA's very real budget needs. In a recent report, the Manhattan Borough President's office documented the overall development potential of NYCHA properties, and recommended that the agency create a full inventory of all its available air rights and develop a strategic plan, subject for public review, for how it will balance the agency's fiscal needs with its affordable housing mission. If some portion of NYCHA's air rights are devoted to market-rate housing, as it is in this project, it should be as part of a long-term plan to meet specific budget needs, and not for a short-term infusion of cash. In addition, NYCHA should explore financing options at the site that give it a long-term revenue stream, rather than an outright sale.

The sale is still subject to review by the NYCHA Board of Directors and the United States Department of Housing and Urban Development, and the low-income housing plan for the project will also be reviewed at a later date. While the developers have proposed a commendable project that meets important affordable housing goals and meets the required land use findings, NYCHA and HPD should continue to work with the community to develop an affordable housing plan closer to the community's specific goals and in keeping with the City's long-term affordable housing strategy.

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

**Therefore, the Manhattan Borough President recommends conditional approval of C 080400 ZSM, C 080401 ZSM, N 080402 ZAM, N 080403 ZAM and M 080405, conditional upon the following:**

- Missing information and documentation identified by the Community Board is provided and reviewed.
- The accessibility of open space is maximized for the use by all LSRD residents;
- Plans for relocation of the playground and for landscaping, lighting and improving the areas between the development site and the existing Harborview Terrace building are developed in consultation with the Community Board and the residents of Harborview Terrace;



- Plans for temporary relocation of parking to Parcel 4 during construction and a restoration plan for Parcel 4 open space after construction have been developed in consultation with the community board and residents of Harborview Terrace.

**However, the Borough President recommends that the low-income housing plan for the project should not be approved until:**

- A deed restriction assures permanence of the agreed affordability levels, specifying the number of permanently affordable units, by unit size and income band, as a condition of the property disposition;
- Apartments are available through lottery with 50% community preference;
- The number of family-size, middle- and moderate-income units are increased;
- NYCHA explores opportunities to retain a long-term interest in the property; and
- The amount of inclusionary housing credits and market-rate units enabled by this affordable housing project are adjusted to reflect the community's anticipation that development on this site was proposed to mitigate new building density generated by the Hudson Yards rezoning.



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Scott M. Stringer  
Manhattan Borough President