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Mark D. Levine, Borough President

July 6, 2022

Recommendation on The DEP Site – 705 10th Avenue ULURP Application By NYCHPD and NYCDCAS

PROPOSED ACTIONS

The New York City Department of Housing Preservation and Development (“HPD”, or the “Applicant”) on behalf of HK LLC (the “developer”) is proposing several land use actions to facilitate the construction of a new, eight-story, mixed-use building that would include 157 affordable and supportive housing units, a landscaped inner courtyard, a Public Comfort Station operated by the Parks Department, and ground-floor community facility space, at 705 10th Avenue (the “Proposed Building” to be built on the “Development Site”). The proposed actions would impact a portion of Manhattan Block 1077, Lot 29 approximately 125 feet west of 10th Avenue in Manhattan Community District 4.

The Applicant is requesting approval for the following actions:

1. Designation of the area as an Urban Development Action Area (UDAA) and approval of the Urban Development Action Area Project (UDAAP).
2. Disposition by the City of a negative easement to provide development rights and light and air for the Proposed Building;
3. Zoning text amendment to add a new ZR section 96-112 to consolidate special permit provisions available within the Special Clinton District and add allowances for bulk modifications; and
4. CPC Special Permit pursuant to that newly established ZR Section 96-112 to:
 - a. Modify height and setback requirements as set forth in ZR 94-04 for the Proposed Building; and
 - b. Modify rear yard equivalents as set forth in ZR 96-103 for the Proposed Building.
5. CPC special permit pursuant to ZR Section 74-681 to facilitate development over an Amtrak right of way.

Findings and Criteria for Proposed Actions

City-owned properties that are no longer in use or are in deteriorated or deteriorating condition are eligible to be designated as UDAs and UDAAPs, pursuant to the Urban Development Area Act (Article 16 of the State General Municipal Law). UDAA and UDAAP provide incentives for private entities to correct substandard, unsanitary and/or blighted conditions. According to New York State General Municipal Law § 694(4), to receive a UDAA and/or UDAAP designation, the City Planning Commission and the City Council must find that:

- a) The present status of the area tends to impair or arrest the sound growth and development of the municipality;

- b) The financial aid in the form of tax incentives, if any, to be provided by the municipality pursuant to [the tax incentives provisions of the Urban Development Action Area Act] ... is necessary to enable the project to be undertaken; and
- c) The area designation is consistent with the policy and purposes [of the Urban Development Action Area Act].

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

In order to grant the Proposed Building a special permit under ZR 74-681, the City Planning Commission must find that:

- 1. The streets surrounding the Proposed Building can adequately handle traffic;
- 2. The character of the surrounding area is not adversely affected by the Proposed Building;
- 3. The uses on the zoning lot or below the platform that would be required to deck over the right-of-way do not adversely affect each other; and
- 4. The Proposed Building would not preclude any future transportation use or improvements to the right-of-way.

BACKGROUND

Area Context

The Development Site is located within Manhattan Community District 4 in the Clinton/Hell’s Kitchen neighborhood. The site is on the northeast corner of 10th Avenue and West 48th Street. This site lies within the markedly residential Clinton/Hell’s Kitchen neighborhood, which includes old and new law tenement buildings along the avenues and side streets.

The Development Site is within walking distance to multiple open spaces, including Oasis Garden to the north, Gutenberg Playground to the east, Lorraine Hansberry Park and Clinton Community Garden to the south, and DeWitt Clinton Park to the west. The Development Site is within walking distance to numerous transit lines, including the C and E trains at the 50th Street Station and the E, N, R and W trains at the 49th Street Station. Nearby bus lines include the M11, which runs along 9th and 10th Avenues, the M50 that runs along 50th Street, and the M12 that runs along 12th and 11th Avenues.

The median household income in Manhattan Community District 4 in 2019 was \$122,300 – about 73% more than the citywide median household income. The median gross rent in the same geographic area in 2019 was \$2,040. That year, about 20% of renter households were severely rent burdened, meaning they spent more than half of their income on rent. Of those, nearly half, or 46%, were low-income residents, while 19% were moderate-income. The Furman Center estimates that about 23% of the rental units in the district are affordable at 80% AMI. Less than

7% of the rental units are affordable at 30% AMI, while 44% of rental units are affordable at 120% AMI.¹

Clinton Special District

The Clinton Special District was first established in 1973 as a temporary preservation area under the City’s Neighborhood Preservation Program. The area received its permanent status the following year, with a stated mission to preserve the residential character of the community. As part of this action, the underlying zoning was changed from C6-2 to R8 and R8/C1-5. Height limits of 66 feet, or seven stories, were imposed on the midblocks of the Preservation Area, a subarea of the Special District intended to preserve the strong residential character of the area.

Hudson Yards and Western Rail Yards Rezonings

In January 2005, the New York City Council approved a comprehensive rezoning of the Hudson Yards area that would transform the western edge of Manhattan into a high-density extension of the Midtown business district and include residential, cultural, and retail uses as well as open space. The rezoning permitted 24 million square feet of new office space, one million square feet of new retail space, two million square feet of new hotels, including a new headquarters hotel for the Javits Convention Center, and 13,500 new residential units – 4,000 of which would be affordable.

In December 2009, the City Council’s Land Use Committee approved a proposal to develop the Western Rail Yards Site, which is a 13-acre site directly to the west of Hudson Yards. The area is bounded by West 30th Street and West 33rd Street between 11th and 12th Avenues. The area is still under development and will contain eight mixed-use towers and encompass 5.7 million square feet, including 4,600 to 5,700 residential units, a new public school, and 5.4 acres of open space. Twenty percent of the project’s rental units will be affordable.

As part of the Western Rail Yards rezoning, a Points of Agreement document was signed in 2009. That document outlined various commitments, including a Request for Proposal (“RFP”) to redevelop the Development Site. The parameters outlined in the document specified that the new building on the site would include permanently affordable units with an AMI mix of 165% or under, and that 50% of the units contain two or more bedrooms. The building would be capped at 77 feet. In addition, the site would not be able to generate an Inclusionary Housing bonus.

RFP Process

HPD issued the RFP for this site and another site at 806 9th Avenue in April 2018. Responses were submitted in July 2018, and in February 2019 the agency awarded the project on the Development Site to Douglaston Development and the Entertainment Community Fund (previously named the Actors’ Fund). In November 2020, the Proposed Building was slated to

¹ [Clinton/Chelsea Neighborhood Profiles](#)

have units affordable to households earning 50% AMI to 100% AMI. This AMI mix was lower than what Manhattan Community Board 4 had advocated for from the time of the Western Rail Yards rezoning.

Prior to the certification of this application in March 2022, the Applicant adjusted the affordability bands for the Proposed Building to include a higher AMI income band at 130%.

PROPOSED DEVELOPMENT

The Proposed Building is an eight-story mixed-use building that would include 158 affordable units, a ground-floor community facility, and an outdoor area that would be operated by the New York City Department of Parks and Recreation (DPR). This open space would include a comfort station and a separate section for maintenance equipment storage.

Amenities in the building would include an on-site laundry room, a fitness room, and a bike room. Half of the units would be two- and- three-bedrooms, and the other half would be studios and one-bedrooms. The building would contain 140,249 square feet, which would include 133,862 square feet of residential floor area and 6,377 square feet of community facility use. A new public restroom would serve the open space and would be maintained by DPR. The community facility space would be occupied and operated by IndieSpace, a nonprofit that provides advocacy and technical and real estate assistance to artists, theatre groups, and independent/arts venues. The applicants also propose a 3,600 square foot landscaped courtyard. The Proposed Building would meet Passive Housing Standards.

The chart below outlines the proposed AMI bands and bedroom distribution.

Proposed Affordability and Bedroom Distribution²

	Formerly Homeless	50 % AMI	80 % AMI	120% AMI	130% AMI	Super	Total	%
Studio	5	9	8	11	3	0	36	23%
1-Bed	6	11	8	13	4	0	42	27%
2-Bed	10	816	12	19	7	1	64	41%
3-Bed	0	4	3	4	2	0	15	9%
TOTAL	23	40	31	47	16	1	158	100%
	15%	25%	20%	30%	10%		100%	100%

² [Community Board 4 CHKLU Meeting](#)

Site Description

The Development Site is in the Clinton/Hell’s Kitchen neighborhood in Manhattan Community District 4. It is located on Block 1077, Lot 29 and extends west from West 48th Street to 10th Avenue. Land uses in the surrounding area include a mix of multifamily residential, commercial, and institutional facilities. The site is currently vacant and is owned by the New York City Department of Environmental Protection (NYCDEP). The 57,025 square foot lot runs 200 feet along 10th Avenue and 225 feet along the side streets. It is currently zoned C2-5 and R8.

The neighborhood around the site is zoned R8 with C2-5 commercial overlays along 10th Avenue and along the southern side of West 49th Street. Commercial corridors also exist to the west of the Development Site, with C2-5 overlays along 9th and 11th Avenues and C6-3 overlays along 10th Avenue between West 50th and West 53rd Streets.

To the north of the Development Site are multifamily apartment buildings ranging from six to seven stories. Additional uses along the northern edge of the site are commercial and office buildings, like hotel use, local retail stores, and restaurants. To the east of the site, along 10th Avenue there are mixed-use residential buildings with ground-floor retail or office use. A large educational building containing the High School of Graphic Communication Arts, the Business of Sports School, and the Urban Assembly Gateway School for Technology is northeast of the Development Site, at West 50th Street and 10th Avenue. In addition, Beacon High School is four blocks south of the site. The area to the south of the Development Site includes three-to-six-story walk-up apartment buildings with ground-floor retail spaces, some multifamily elevator buildings, and several mixed residential and commercial office buildings ranging from two to 11 stories. The area to the west of the site is more diverse in terms of height and use. Commercial and office building heights in this area range from two to 16 stories. This area also includes a mix of two to seven story walk-up and elevator buildings, some of which include ground-floor retail.

COMMUNITY BOARD RESOLUTION

Manhattan Community Board 4 (“CB4”) held a public hearing on the application on June 1, 2022. During the hearing, Board members voiced concerns about the Proposed Building’s AMI mix, community facility usage, and the proposed DPR comfort station. Members from the community shared concerns about the lack of residential units affordable to middle- and moderate-income households and the distribution of homeless supportive housing.

On June 1, 2022, CB4 voted to recommend denial of the application unless the Applicant meets the following conditions³:

1. Eliminate the 50% AMI band and redistribute the 40 units currently proposed under that AMI band to the 80%, 120%, and 130% AMI bands;

³ [Community Board 4 CHKLU Meeting](#)

2. Ensure that all 23 units that will be reserved for homeless referrals be family-sized units, as opposed to units for formerly homeless individuals;
3. Seek the proposed rear yard waiver under ZR Section 74-681 and the height and setback waivers under an amended version of the provision outlined in ZR Section 96-104 instead of the new, proposed ZR Section 96-112;
4. Agree to a deed restriction that ensures that the proposed open space remains a DEP-owned and DPR-operated space; and
5. Provide a social service plan to the Community Board.

BOROUGH PRESIDENT’S COMMENTS

We are in the midst of a housing crisis in New York City, and development sites like 705 10th Avenue present a rare opportunity to confront that crisis head on by providing tremendous potential for new affordable units. We must take full advantage of this opportunity.

The Applicant has taken important steps to respond to concerns raised by Community Board 4, including eliminating the proposed special permit that could have applied to the entire Preservation Area and working with the City Council’s Land Use Division to ensure that a new text amendment would only apply to the Development Site and the MTA site at 806 9th Avenue. Though DEP has no plans to build a structure over the proposed park in the future, it is our understanding that a restrictive declaration would limit DEP’s ability to make any necessary improvements should they be required in the future, and the agency has agreed to a memorandum of understanding with the Parks Department that outlines the maintenance and operations for the open space. Furthermore, DEP has allocated \$1.3 million toward the construction of the park and has committed to working with the community to ensure that their maintenance and operations of the below-ground infrastructure create as little disruption to the park as possible.

I applaud CB4’s hard work to ensure that the Proposed Building is contextual and that a significant number of the affordable units are reserved for families. This achievement is even more notable considering that the construction costs for the Proposed Building are significantly higher due to the required decking over the Amtrak rail cut, and that the Applicant has already agreed to a height limit of 77 feet rather than the maximum allowed height of 99 feet. The applicant has also secured additional City subsidy to meet CB 4’s Points of Agreement and ensure that 50% of the units are 2- and 3- bedroom. I encourage the Applicant to continue the close coordination with the surrounding community and the Board to arrive at an acceptable AMI mix so that this essential affordable housing is built as soon as possible.

BOROUGH PRESIDENT’S RECOMMENDATION

Therefore, the Manhattan Borough President recommends **approval** of the DEP Site – 705 10th Avenue application **with the condition that the applicants agree to meet the following conditions:**

1. Work with DCP and CB4 to modify the text amendment proposal in a manner that eliminates the need for a special permit provision for the Preservation Area; and
2. Amend the memorandum of understanding between DEP and the Parks Department to mandate that any permanent changes to the proposed open space be accompanied by extensive community outreach, including a discussion of mitigations if public access would be affected.

Sincerely,



Mark Levine
Manhattan Borough President