



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

GALE A. BREWER  
BOROUGH PRESIDENT

March 12, 2014

**Recommendation on**  
**ULURP Application Nos. C 140181 ZMM, N 140182 ZRM, C 140183 ZSM, N 140184**  
**ZCM, and C 140185 HAM – Site 7**  
**By the New York City Department of Housing Preservation and Development**

**PROPOSED ACTIONS**

The New York City Department of Housing Preservation and Development (“HPD”) and a development team of the Clinton Housing Development Company (“CHDC”) and a joint venture between Taconic Investment Partners and Ritterman Capital (“Taconic/Ritterman”) seek a series of actions on properties located in the Clinton neighborhood of Manhattan Community District 4. The project sites sit on two blocks between Tenth and Eleventh Avenues. The southern of the two blocks, Block 1080, sits between West 51<sup>st</sup> and West 52<sup>nd</sup> Street, with the second, Block 1081, directly to the north, between West 52<sup>nd</sup> and West 53<sup>rd</sup> Streets. The project site on Block 1081 includes a large scale general development (LSGD) plan.

**Block 1080**

*Zoning Map Amendment*

The applicant seeks a zoning map amendment extending an existing R8A district to a point 225 feet east of Eleventh Avenue on the northern half of the block and 200 feet east of Eleventh Avenue on the southern half of the block.

*Zoning Text Amendment*

The applicant seeks three zoning text amendments pertinent to Block 1080. First, they seek an amendment to Section 96-00 of the New York City Zoning Resolution (“ZR”) to include the site in the “Other Area – Western Subarea C2” of the Special Clinton District, which will apply the Inclusionary Housing (“IH”) Program to the site. Second, the applicant seeks an amendment to ZR § 96-31 (Special Regulations in R8 Districts) to modify the IH income bands in the project area using an existing IH formula from ZR § 23-953. Finally, the applicant seeks an amendment to Map 2 in ZR Appendix F to designate the rezoning area an IH eligible area.

*Disposition*

Finally, HPD seeks designation of City-owned property at 556-560 West 52<sup>nd</sup> Street as an Urban Development Action Area (“UDAA”) and approval for the project as an Urban Development Action Area Project (“UDAAP”). In addition, HPD seeks approval for the disposition of said property to Clinton Housing.

City-owned properties that are no longer in use or are in deteriorated or deteriorating condition are eligible to be designated as UDAA and UDAAP, 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 Charter limits HPD to the disposition of residential real property.

**Block 1081**

*Zoning Map Amendments*

On the northern block within the LSGD the applicant seeks zoning map amendments to change existing M1-5 and R8A districts to an R9 district with a C2-5 overlay.

*Zoning Text Amendments*

The applicant first seeks to extend the boundary of the Western Subarea C2 of the Special Clinton District to include the project area. Additionally, it seeks amendments to ZR § 96-32 (Special Regulations in R9 Districts) to permit developments within R9 districts in Western Subarea C2 to provide permanently affordable apartments at income levels defined by the new text. As with Block 1080, the proposed new text is modeled on the existing ZR § 23-935. Additionally, ZR § 96-32 would be altered to allow uses that historically existed in the project area to remain, though they are not allowed as of right in R9 districts. The proposed amendment would allow automotive service establishments (Use Group 16) and lumber stores of any size (Use Group 8). Finally, the applicant seeks an amendment to Appendix F of the ZR to include the project area on Block 1081 as an IH eligible area.

*Disposition*

HPD seeks UDAA designation and UDAAP approval of property at 530-548 West 53<sup>rd</sup> Street (Block 1081, Lot 1). HPD then seeks disposition of said property to Clinton Housing and disposition of unused development rights from that property to Taconic/Ritterman, to be used on Block 1081, Lots 1001 and 1008.<sup>1</sup>

*Large Scale General Development Special Permit*

The proposed new buildings on Block 1081, as well as three existing buildings, will comprise a proposed Large Scale General Development (LSGD). The LSGD will span the new R9 zoning district and existing R8A districts to the west. The applicant seeks a special permit pursuant to ZR § 74-743(a)(1) to allow the distribution of 11,028 square feet of zoning floor area from the R8A district to the R9 district. Additionally, the applicant seeks a special permit pursuant to ZR §74-743(a)(2) to allow for the location of buildings without regard to the height and setback requirements of ZR §§ 35-24 and 23-633. The City Planning Commission (“CPC”) may grant these waivers provided the proposed modifications satisfy the findings set forth in ZR § 74-743(b), including that:

- the modifications will result in a better site plan and a better relationship between the proposed development and its surrounding buildings and open space than would be possible, and thus will benefit the occupants of the project, the neighborhood, and the City as a whole;
- the modifications will not increase the bulk of buildings in any one block or obstruct access of light and air to the detriment of occupants of the buildings in the block or nearby blocks or to the people using the public streets;
- where a zoning lot of the LSGD does not occupy a frontage on a mapped street, appropriate access to a mapped street is provided; and
- the streets providing access to the LSGD will be adequate in handling the proposed project’s resulting traffic.

The CPC may also prescribe additional conditions and safeguards to improve the quality of the proposed project and minimize adverse effects on the surrounding area.

*Certification to Allow More than One Curb Cut*

Finally, the applicant seeks a certification pursuant to ZR § 26-15 to allow two additional curb cuts for a total of three curb cuts along the northern LSGD frontage at West 53<sup>rd</sup> Street. The total linear footage of the proposed curb cuts would be approximately 69 feet, a reduction from the existing 11 curb cuts comprising 190 linear feet. This certification requires the CPC find that additional curb cuts will not result in conflict between pedestrian and vehicular circulation and will result in a good overall site plan.

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<sup>1</sup> Block 1081, Lots 1001 and 1008 were formerly known as Lot 16.

## PROJECT DESCRIPTION

HPD, CHDC, and Taconic/Ritterman seek a number of actions to facilitate two new buildings with approximately 508 dwelling units, 184 of which will be affordable, and approximately 57,000 square feet of commercial space. In addition, the actions will facilitate the rehabilitation of an existing building with 22 apartments, all of which will be affordable. Finally, the proposed actions will support the development of three new community gardens, which will contain a total of 7,178 square feet of open space.

### Project Area

The proposed project will sit on two zoning blocks in the Clinton neighborhood of Manhattan Community District 4. The southern of the two blocks, Block 1080, is bounded by Tenth and Eleventh Avenues and 51<sup>st</sup> and 52<sup>nd</sup> Streets. Block 1080 contains a mix of retail, residential, community facility and cultural uses and is generally between five and ten stories in scale, with the exception of the 25 story Archstone Clinton South, which sits about 200 feet west of Tenth Avenue. Block 1081, directly to the north, contains a wide mix of building types and uses, to be discussed in greater detail below.

#### *History*

Most of the project area was part of the former Clinton Urban Renewal Area (“CURA”), which was designated on October 23, 1969 to encourage the development of an area of the Clinton neighborhood, which experienced significant blight at the time. The CURA was generally bounded by West 56<sup>th</sup> Street to the north, Tenth Avenue to the east, West 50<sup>th</sup> Street to the south, and Eleventh Avenue to the west. The CURA expired on October 23, 2009 and is no longer in effect.

As part of the CURA, Clinton Housing entered in to a net lease with HPD to manage properties that were taken by the City, either through *in rem* foreclosure or by the condemnation of the CURA. This net lease was amended several times to either add or remove properties. Pursuant to the net lease, Clinton Housing was responsible for engaging with current tenants and developing plans for redevelopment of the properties for residential, commercial, cultural, or not-for-profit uses. Since 1993, 27 buildings on the net lease have been disposed of for renovation or redevelopment. Currently, Clinton Housing net leases 15 properties located between West 25<sup>th</sup> and West 53<sup>rd</sup> Streets, including several properties in the former CURA.

#### *Prior Land Use Actions on the Project Area*

Much of blocks 1080 and 1081 have been redeveloped in the past 20 years by Clinton Housing and other development groups. In 1987, the CPC approved a site selection by the Human Resources Administration of 545 West 52<sup>nd</sup> Street (Building E of the LSGD) for use as a transitional shelter for homeless families (C 870534 PSM), but the building was never built and in 1994 the building was disposed to facilitate its enlargement (C 940648 HUM et al). In addition to this disposition, there have been a number of rezonings in the project area and its immediate surroundings over the past decade. These rezonings, generally, have responded to the

longstanding community goal, and CURA goal, of converting manufacturing and commercial areas to a mixed-use neighborhood with residential, retail and institutional uses.

In 2002, the western portion of the LSGD was rezoned from M1-5 to R8A with a commercial overlay to facilitate two affordable housing buildings (Buildings A and B of the LSGD) with 86 and 96 units (C 020463 ZMM et al). This rezoning was accompanied by a disposition of the two buildings to CHDC and the Clinton Association for a Renewed Environment (C.A.R.E.). The eastern portions of both the 1080 and 1081 blocks were rezoned in 2005 to facilitate the Archstone Clinton mixed-use development (C 050050 ZMM). This rezoning extended an existing C6-3 district along Tenth Avenue into the interior of the block. In addition to the rezoning, the Archstone Clinton project included a text amendment, special permits and a UDAAP designation. In 2009, CPC adopted the 770 Eleventh Avenue Mixed-Use Development Rezoning (C 080008 ZMM), which facilitated the recently completed Mercedes House development, which is located directly north of the project area. Finally, the 2011 Clinton Commons application (C 110125 ZMM) rezoned a portion of the M1-5 district mapped on Block 1081 to an R8A district. The rezoning affected a 150-foot long midblock area along West 52<sup>nd</sup> Street to facilitate the Clinton Commons (now known as the “Park Clinton”) development site and a 2,510 square foot open area which is located within the LSGD. The Park Clinton development will not be affected by the actions proposed by this application.

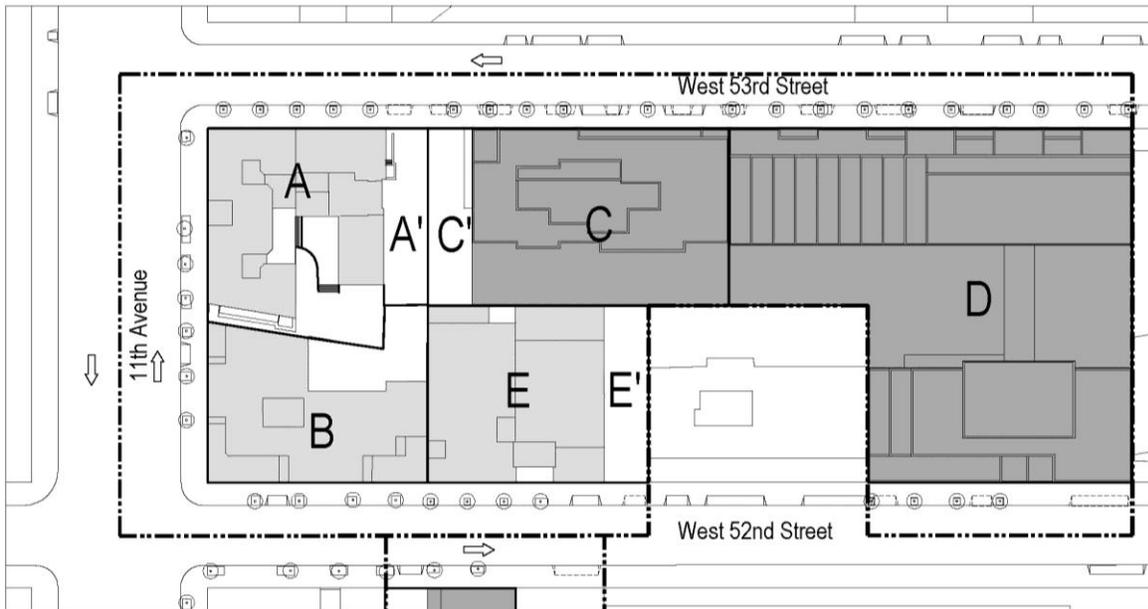
#### *Existing Uses in the Project Area*

The LSGD on Block 1081, as shown below, contains both existing buildings and the two proposed developments. As described above, Buildings A, B, and E were developed pursuant to previous CPC actions and contain affordable housing and community facility uses. Site C and C<sup>1</sup> on the site plan below currently contain: a four-story building, a one-story garage and an open lot used by Dave’s Collision Repairs II;<sup>2</sup> a one-story, 1,250 square foot storage building used by Clinton Housing; and an approximately 2,510 square foot lot that was occupied by a three-story building that was demolished in 2011 and is now also being used for construction staging. Site D currently contains an approximately 10,040 square foot vacant lot and a nine-story loft building. The vacant lot is currently being used as a construction staging area for the 96-unit Park Clinton affordable housing cooperative development being built on the adjoining lot at 533-541 W. 52<sup>nd</sup> Street. The loft building was previously a printing company plant and headquarters but is now primarily vacant, although there are some existing commercial uses, including offices and a for-hire vehicle base.

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<sup>2</sup> Dave’s Collision Repairs II occupies these properties on Block 1081 on a temporary basis and will relocate to permanent home at 505 W. 51st Street once renovations of that building are completed.

### *LSGD Site Plan*



*A – Flats/Old School; B – Clinton Parkview; C – 540 West 53<sup>rd</sup> Street (Development Site); C' – Garden; D – 525 West 52<sup>nd</sup> Street (Development Site); E – 545 West 52<sup>nd</sup> Street*

The proposed development site on Block 1080 is occupied by the “Captain Post” building, a 5-story vacant commercial loft building at 556-560 West 52nd Street that is owned by the City. The building was originally used as the Travers Brothers twine and cord factory and then as a canning facility for the Captain Post Horseradish and Pickle Company. The building is adjoined by a 25 foot by 100 foot side yard.

### **Area Context**

The surrounding area is characterized by a mix of building types including older tenements, multifamily apartment buildings, loft and manufacturing buildings, and low rise commercial uses. Recent residential developments in the area have given it a unique distribution of bulk, where Tenth Avenue and Eleventh Avenues are dominated by five to ten story residential buildings with retail at the base, while the midblock areas between them contain high-rise residential and infrastructure buildings. The Mercedes House, for example, steps up from a seven-story frontage along Tenth Avenue to 32 stories in the midblock portion. Archstone Clinton North, which abuts the Block 1081 project area, similarly rises to 25 stories approximately 200 feet west of Tenth Avenue.

In general, the area contains primarily residential uses east of Tenth Avenue; a mix of residential and industrial use between Tenth and Eleventh Avenues; and predominantly industrial uses and open space west of Eleventh Avenue. The blocks between Tenth and Eleventh Avenues have historically included primarily industrial and commercial uses, but have, in recent years, become more of a residential and mixed use area. Ground floor retail lines Tenth and Eleventh Avenues. Eleventh Avenue between West 39<sup>th</sup> Street and West 59<sup>th</sup> Street has a concentration of automobile dealerships, known colloquially as “Automobile Row.”

Block 1080 contains a number of existing affordable housing developments, as well as retail and cultural uses. The sites to the east of the project area were designated in the former CURA and were redeveloped and renovated to facilitate a mix of housing types. The midblock immediately east of the project area contains Clinton Manor, which consists of two 8-story residential buildings with 241 affordable units fronting on West 51<sup>st</sup> and 52<sup>nd</sup> Streets and was built in 1981. Further east is the Archstone Clinton South residential tower, which contains 310 apartments, 20 percent of which are affordable, a day-care facility, and commercial uses on the ground floor. The Tenth Avenue frontage is characterized by a mix of new construction and renovated tenement buildings, many of which are managed by CHDC as affordable apartments, non-profit office space, and artist studios.

The majority of the western portion of Block 1081 will be included in the LSGD. Existing buildings in the LSGD will be buildings A, B and E. Building A, known as the Flats/Old School is an HPD-sponsored rehabilitation project with neighborhood retail occupying the ground floor and housing above. Formerly two buildings, it was integrated into a single 7-story elevator building by CHDC. It contains 86 units of permanently affordable housing in studios, apartments, and SRO suites. Building B, the Clinton Parkview, is also an HPD sponsored project, which contains 96 apartments at a range of incomes and retail space on the ground floor. Building E is an existing 10-story, City-owned building occupied by several arts-related community facility and commercial uses. Outside of the LSGD on Block 1081 is the Archstone Clinton North mixed use development to the east, and the Park Clinton, a 96-unit co-op building currently under construction on the north side of West 52<sup>nd</sup> Street between Buildings D and E of the LSGD.

The largest park in the area is the Hudson River Park, which extends along the waterfront side of Twelfth Avenue. The park includes a waterfront esplanade and open space on piers, including Pier 96 at West 56<sup>th</sup> Street. Directly to the west of the proposed development is DeWitt Clinton Park, a six-acre park dominated by a baseball field that is heavily used. There are also basketball courts and playgrounds, though little space for passive recreation. In addition to these parks there are a number of community gardens and public plazas in the area. Despite these amenities, overall, the area is lacking in open space. In the surrounding area there is a total of .84 acres of open space per 1,000 residents, which is well below the PlaNYC goal of 2.5 acres per 1,000 residents.

The area is served by the C and E subway lines, but the nearest station is located at West 50<sup>th</sup>/51<sup>st</sup> Street and Eighth Avenue, approximately one-quarter mile away. There are, however, a number of bus lines in the area that provide direct access to the project sites. Additionally, two CitiBike stations were established this year near the LSGD: on West 53<sup>rd</sup> Street, west of Tenth Avenue and on West 52<sup>nd</sup> Street, west of Eleventh Avenue at De Witt Clinton Park.

### *Surrounding Area Zoning*

The proposed project sits in the Other Area, and within an excluded area, of the Special Clinton District. Established in 1974, the district was created to preserve and strengthen the residential

character of the community, maintain a broad mix of income, and ensure that the community is not adversely affected by new development. The district established a “Preservation Area,” from West 43<sup>rd</sup> to West 56<sup>th</sup> Streets between Eighth and Tenth Avenues, with an R7 zoning and a six-story height limit on new buildings. To the east and south of the Preservation Area is a perimeter area designed to provide appropriate transitions between the lower-scale side streets and the Special Hudson Yards District to the south and the Special Midtown District to the east. The Other Area, to the west and north of the Preservation Area, was established to maintain a mix of residential, industrial, and waterfront uses. Portions of Block 1081 sit within an area that was excluded from the Special Clinton District and are therefore subject to requirements of the underlying zoning districts. The remainder of Blocks 1080 and 1081 are within the Western Subarea C2 of the Special Clinton District, which contains special floor area, height and setback requirements in R8, R8A, and R9 districts. Inclusionary Housing is available to residential developments in this subarea.

The surrounding area is mainly composed of C6-3, M2-4, R8, and R8A districts. R8 districts are mapped over the blocks north, east, and south of the project area. R8 districts permit residential and community facility uses up to a floor area ratio (“FAR”) of 6.02 and 6.4, respectively. Buildings are allowed to rise 85 feet or nine stories, after which they must set back according to a sky exposure plane. There is no height limit in R8 districts. Within Western Subarea C2, R8 districts come with modified bulk and density regulations, which allow a maximum FAR of 4.2 for all uses and a maximum building height of 85 feet. An R8A district adjoins the projects site to the west and southeast on the 1081 block, and is also mapped south along the eastern side of Eleventh Avenue. R8A districts within the Western Subarea C2 are Inclusionary Housing designated areas with a base FAR of 5.4 that can be raised to 7.2 with the provision of affordable housing.

To the west of the project site, south of DeWitt Clinton Park, the area is zoned M2-4. The M2-4 districts allow medium intensity industrial and limited commercial uses. In Western Subarea C2 of the CL, M2-4 permits 5.0 FAR, a street wall of between 50 and 95 feet and a maximum height of 135 feet. To the east of the project site is a C6-3 district that stretched from West 50<sup>th</sup> to West 53<sup>rd</sup> Street along the west side of Tenth Avenue. C6-2 is a mixed-use district that allows a maximum FAR of 6.0 for commercial, 7.52 for residential, and 10.0 for community facility. Building heights are determined by the sky exposure plane above a maximum street wall height of 85 feet.

## **Proposed Project**

On Block 1081, the applicant proposes to build two new mixed-use buildings and two community gardens. Building C will be developed by CHDC and will contain 103 apartments, all of which will be permanently affordable. The proposed zoning text will enable these apartments to be available to individuals and families earning 80, 100, 130, and 165 percent of the area median income (“AMI”), and units at all of these levels will range from studios to three bedrooms. The building will be 135 feet in height and will feature red brick and a façade designed to mimic the older loft buildings in the area.

In addition to the residential area, Building C will include 10,272 square feet of commercial space for two tenants that have been reserved space in this development site pursuant to a Memorandum of Understanding (“MOU”) with the City. The two businesses, LeNoble Lumber and Cybert Tire, will occupy the first floor and cellar of the new building. Cybert Tire is an automobile repair business that has occupied 726 Eleventh Avenue since 1916. That site was condemned by the City as part of the CURA in 1969. Cybert Tire has agreed to move to Building C in order to facilitate the construction of the new Irish Arts Center at its current location. LeNoble Lumber has occupied multiple locations in the CURA for several years. In order to facilitate development of those sites in accordance with the CURA plan, LeNoble consolidated its operations in 2005 and temporarily moved off site with the expectation to return to the CURA in accordance with its MOU with the City. However, since LeNoble is presently operating its lumber store in Long Island City, it is not planning to relocate in the immediate future. It is working with CHDC to find a suitable tenant to lease its space, and is together they are interested in finding a grocery store to occupy the first floor and a health facility to occupy the cellar. No tenant has been found at this time.

To the west of Building C, CHDC will construct a 2,231 square foot expansion to the existing community garden on the site. The community garden will be operated by CHDC, which manages a network of gardens in the neighborhood. Keys to the garden are available for two dollars to anyone who lives or works in the area, and the key allows entry to any of the gardens in the network. The entrance to the residential component of the building will be through this garden, as will a community room that can be reserved by individuals and community groups for events and meetings.

Building D will be constructed and managed by Taconic/Ritterman on an L-shaped lot with a wide frontage on West 53<sup>rd</sup> Street and a narrow frontage on West 52<sup>nd</sup> Street. It will contain 405 apartments, 81 of which will be permanently affordable to individuals and families earning 40 and 50 percent of AMI. Along West 53<sup>rd</sup> Street the building will be a stepped structure, with its lowest height to the east at the same height as Building C. It will rise to the west to a total height of 263 feet where it adjoins the 26-story Archstone Clinton Building. The ground floor of Building D will contain a primary residential entrance on West 52<sup>nd</sup> Street and a secondary entrance on West 53<sup>rd</sup> Street. On the second floor, a landscaped terrace will connect the north and south portions of the building. In addition to the residential floor area, Building D will contain a commercial space along West 53<sup>rd</sup> Street that will be occupied by LeNoble Lumber’s commercial tenant. The building’s cellar will contain a parking facility for up to 50 cars and 203 bicycles.

On Block 1080, the applicant proposes to undertake a renovation of the Captain Post building. Rehabilitation will include restoration of the historic cast iron storefront and replacement of the wood windows on the building’s north facade. The applicant proposes a partial sixth-floor addition set back from both the northern and southern building facades, which will be undertaken pursuant to the requirements of the Historic Preservation Tax credits that the project is receiving. The building will provide 22 units for households earning between 80 and 100 percent of AMI in two-bedroom and studio apartments. The 2,500 square foot side yard will be converted to a keyed community garden. Access to the building will be through a fenced entrance path adjacent to the garden.

## **Proposed Actions**

In order to facilitate the proposed project, the applicant seeks five zoning actions. The actions will rezone the project area to allow for residential development with the inclusion of affordable housing, establish a large scale general development on a portion of Block 1081, allow LeNoble Lumber and Cybert Tire to operate on the site, set Inclusionary Housing income levels, and allow additional curb cuts on Block 1081.

### *Zoning Map Amendments*

On Block 1080, the applicants seek to extend the existing R8A district along Eleventh Avenue to a point 225 feet east of the avenue on the northern half of the block and 200 feet east of the avenue on the southern half. Extending the R8A district will allow buildings with a FAR of 5.4, which may be increased to 7.2 through the provision of affordable housing. The R8A district would require a streetwall height of up to 85 feet and a maximum building height of 120 feet. In addition to the Captain Post building, the rezoning area includes City-owned sites currently occupied by the Duncan Police Athletic League Center, the Irish Arts Center, and Cybert Tire. These sites are potential future development sites, and this rezoning will allow those sites to be developed according to the regulations of the Special Clinton District.

On Block 1081, the applicant seeks to change an M1-5 district that sits, generally, on the future location of Buildings C and D and an R8A district mapped over portions of Building E to an R9 district with a C2-5 overlay. Pursuant to ZR § 96-32(b), within the Inclusionary Housing area of Western Subarea C2, the maximum base floor area of an R9 district is 6.0. The can be increased to 8.0 FAR through the provision of affordable housing. R9 districts in Western Subarea C2 are subject to the height and setback regulations such that on a narrow street, such as West 52<sup>nd</sup> and 53<sup>rd</sup> Streets, a streetwall between 60 and 95 feet is required, and the maximum building height is 135 feet. The C2-5 overlay would allow for the relocation of LeNoble Lumber and Cybert Tire and either their historic uses or local retail or service uses in accordance with the MOUs. It will also allow the continued operation of commercial uses currently located within Building E.

### *Zoning Text Amendments*

The proposed text amendments would expand the boundary of the “Other Area – Western Subarea C2” to include the rezoning area, include the project area in the map of Inclusionary Housing areas in Appendix F of the ZR, and modify Inclusionary Housing income bands in the project area. The modified income bands will set an alternative bonus structure to the typical inclusionary housing bonus. The modified text will grant a larger development bonus for the provision of housing for moderate income households, encouraging the addition of apartments for households earning 100 and 125 percent of the area median income.

The text amendments will also allow uses that are not typically permitted as of right in R9 districts. Specifically, the proposed text will allow lumber stores with no limitation on size (Use Group 8), photographic or motion picture studios (Use Group 10), commercial art galleries (Use Group 12), theaters (Use Group 13), automobile service establishments (Use Group 16), and scenery construction (Use Group 17). These additional permitted commercial uses will allow

LeNoble Lumber and Cybert Tire to operate in Buildings C and D and will allow the variety of commercial arts establishments operating in Building E to continue as well as expand their operations in the future.

### *Disposition*

In order to grant City-owned property to the development team, the project requires a designation of the project area as an Urban Development Action Area and an approval of the project by the CPC. The site of Building C and the Captain Post building will be disposed of to an entity managed by CHDC, and unused floor area from Buildings A and B will be disposed to Taconic/Ritterman to be used on Building D.

### *Large Scale General Development Special Permits*

In order to facilitate the distribution of bulk across the project area, the applicant seeks a designation as a LSGD and special permits pursuant to that designation. The LSGD will comprise the western portion of Block 1081 as shown on the LSGD Site Plan above. The applicant seeks a waiver pursuant to ZR § 74-743(a)(i) that will allow the distribution of floor area across the LSGD. This will allow 11,028 square feet of unused floor area from Buildings A and B to be used on Building D. This distribution of floor area will enable the City to fulfil its commitments to LeNoble Lumber by including a commercial co-op in the privately owned Building D.

The applicant further seeks height and setback waivers for Buildings C and D pursuant to ZR § 74-743(a)(2). For Building C, the applicants seek a waiver to the base height and setback requirements, allowing the building to rise to its maximum height of 143 feet without the required setback at 95 feet. The applicant is also seeking to waive the required 10-foot rear yard setback at 95. The rear of the building will feature a rear yard of variable depth, but the maximum waiver being sought is approximately 10 feet. Finally, a maximum building height of 135 feet is allowed in R9 districts of Western Subarea C2. The majority of the building will rise to a height of 124 feet, but a 22-foot decorative tower on the northeastern corner of the building, above the residential entrance, will require an 8-foot height waiver.

Building D will feature a series of bays along West 53<sup>rd</sup> Street and a stepped building massing, so the waivers are requested for the portions of the building which pierce the required 10-foot setback at 95 feet. The base will exceed the maximum permitted base height by between 27 feet and 69 feet. Additionally, the building will rise to a total height of 263 feet at its northeastern portion, exceeding the maximum building height by 128 feet. As with Building C, the applicant further seeks a rear yard setback waiver of up to 7 feet.

### *Certification to Allow More than One Curb Cut*

Finally, the applicant seeks a certification pursuant to ZR § 26-15 to allow two additional curb cuts along West 53<sup>rd</sup> Street, for a total of three curb cuts along that frontage. The proposed curb cuts would serve the Building D parking facility, the loading dock for LeNoble Lumber, and the

entrance to the Cybert Tire automobile repair shop. The total linear footage of the proposed curb cuts will be approximately 69 feet.

## COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on January 6, 2014, Manhattan Community Board 4 (“CB4” or the “Board”) voted on a resolution recommending **approval with conditions** of the application by a vote of 35 in favor, 1 opposed, and 1 present but not eligible to vote.<sup>3</sup> The Board’s recommendation noted the redevelopment of former CURA sites, the inclusion of 206 permanently affordable units, and the addition of three community gardens as reasons for its support. The recommendation for approval is conditioned on a number of Board concerns, which the applicant has agreed to address.

Specifically, the Board asked, and HPD, CHDC, and Taconic/Ritterman agreed to, the following:

1. all affordable units be affordable in perpetuity;
2. affordable units in the Taconic/Ritterman building be distributed throughout the building;
3. all furnishes and fixtures in the Taconic/Ritterman building be the same in the affordable and market-rate units;
4. all amenities in the Taconic/Ritterman building be open to affordable tenants at a reduced rate;
5. the applicants will cooperate with the CB4 Construction Task Force to deal with construction impacts on the adjacent community;
6. the sidewalk of West 53<sup>rd</sup> Street be enhanced with expanded street tree beds, “planted with flair;”
7. the applicants coordinate with Archstone Clinton and Mercedes House for street improvements including pedestrian-oriented lighting; and
8. CHDC and LeNoble Lumber consult with the Board if negotiations for an affordable supermarket in space allocated on West 53<sup>rd</sup> Street frontage fall through.

## BOROUGH PRESIDENT’S COMMENTS

The proposed project represents a model public-private partnership that will revitalize an underused area in an inclusive manner. Western Clinton today is diverse in terms of both population and uses. The neighborhood is an example of a mixed-use neighborhood where affordable and public housing, market-rate housing, manufacturing and heavy commercial uses, cultural institutions, and retail can coexist. The project will create 530 units of housing, 39 percent of which will be permanently affordable to a range of incomes from 40 to 165 percent of AMI. On top of this impressively broad provision of affordable housing, the project will create two new, and expand one, keyed community gardens. It will allow two businesses that have been longstanding members of the community to remain a presence in the neighborhood. This development contributes to the exemplary diversity of the community.

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<sup>3</sup> Joe Restuccia is a member of CB4, serving on the Clinton/Hell’s Kitchen Land Use Committee, and is the Executive Director of CDHC. Mr. Restuccia recused himself from voting.

In 1969, when the CURA was designated, the area surrounding this development featured a proliferation of urban neglect. The City designated the CURA and took possession of vacant and underused properties in order to restore the residential character of the neighborhood and “provide for a range of income bands in housing that exhibited good design in terms of privacy, light, air, and open space while providing community facilities, parks, retail uses, and parking.” Over 40 years of community efforts have led to the situation today, where that goal is largely achieved. Indeed, the area has now become a hotspot for the development of high-rise, luxury housing—developments that would have been unimaginable in 1969. The proposed development will not only fill in some of the last remaining City-owned sites in a manner consistent with the CURA goals, it will also serve to maintain the diversity of the neighborhood into the future amidst the development pressure of the high-end residential market.

The proposed LSGD enables the project to maximize both the amount of affordable housing and the amount of open space. By expanding the scope of the project beyond Buildings B and D the City was able to find creative way to finance an impressive number of affordable apartments. In order to create a development that is 39 percent affordable, the applicants are utilizing a broad mix of subsidies, tax credits, and expansions of developable floor area including: HPD capital funding; the NYCERS Taxable Mortgage Initiative; the New York State Housing Finance Agency 80-20 program; HPD’s Multifamily Preservation Loan Program; Historic Preservation Tax Credits; the Inclusionary Housing Program; and the distribution of unused development rights. Community groups and the City should use this type of large-scale planning as an example of how to achieve ambitious affordable housing goals.

### **Zoning Map Amendments**

The applicant is seeking two zoning map amendments, both of which are appropriate and will enable the proposed development. On Block 1081, the existing M1-5 district over much of the project area is inappropriate for the neighborhood. The district allows manufacturing, hotels, commercial, and office uses as of right, none of which are consistent with the community’s goals for the area. The R9 district proposed by the developer will allow for the development of housing and community facility uses in Buildings C and D which are consistent with the trend towards residential development in the area. The R9 designation allows additional bulk than the existing R8A district to the west, but the added bulk allows for the inclusion of more units of affordable housing and is in context with the Mercedes House to the north and the Archstone Clinton North building to the east. The proposed C2-5 overlay will allow for the inclusion of longstanding neighborhood businesses in the proposed development and is in keeping with the automobile dealership and police stable across West 53<sup>rd</sup> Street. Finally, the proposed map amendment on Block 1081 will eliminate an excluded area from the Special Clinton District and will allow the proposed development to take advantage of the Inclusionary Housing benefits of the district.

The proposed zoning change on Block 1080 is similarly appropriate. The R8A designation will require a contextual street wall and will ensure that future developments in the rezoning area similarly meet this requirement. The maximum building height of 85 feet would be consistent with the eight-story Clinton Manor next door and with the existing R8A district to the west.

## **Zoning Text Amendments**

The proposed text amendments generally serve to include the project area in the Special Clinton District and provide for the provision of affordable housing at a wider range of income levels than typical Inclusionary Housing projects. The amendments to ZR §§ 96-31 and 96-32 allow for optional provisions for residential developments in R8A districts and within a LSGD in R9 districts to increase the total allowable floor area through the addition of affordable housing. The proposed zoning text is modeled on text used in the Special Hudson Yards District, where CPC sought to increase the range of incomes to which affordable apartments would be available. The proposed provisions provide a larger zoning bonus for the inclusion of moderate income units, which are typically hard to finance with the subsidies available to affordable developers. CB4 has as a priority the inclusion of a wide range of income levels in affordable projects and this proposed text allows for the furtherance of that goal through this development. Furthermore, the City should explore whether a bonus structure similar to this would be appropriate for all Inclusionary Housing developments. As the City looks to aggressively develop affordable housing, it should ensure that the new available housing does not exclude moderate income families.

The proposed text also adds new allowable uses within a LSGD in the Western Subarea C2 in a R9 district. This provision is consistent with the MOUs between the City and LeNoble Lumber and Cybert Tire and the needs of the existing arts tenants in Building E. While these uses are traditionally not allowed in high-density residential districts, these particular tenants have been longstanding members of the Clinton community and should be accommodated in this new development. LeNoble Lumber, however, has announced that it does not intend to return to this site, as its business operations are stable in its new Long Island City location. LeNoble lumber instead currently plans to bring a supermarket to the development, which the Borough President believes to be appropriate to the goals of the CURA and the carefully balanced mix of uses for the LSGD. However, there is nothing to stop a big box store like Lowes or Home Depot from opening a store here in the future given the permitted use. LeNoble Lumber is a long standing member of the community and it is because of this that the lumber use was to be grandfathered into the proposed text amendment. Other business entities that would be allowed to operate within the space if LeNoble Lumber sold their property interest do not meet this standard. If LeNoble Lumber does not return to the site, the applicants should come back to CPC to remove this potential use from the Zoning Resolution, which the proposed text allows with no limit on floor area. In addition, LeNoble Lumber should continue its longstanding engagement with the community to determine the best possible alternative use for the space if they choose to not occupy it after construction.

## **Disposition**

The designation of the project area as a UDAA, approval of the project, and disposition of the City-owned parcels are appropriate and necessary for the redevelopment of this area. The preponderance of underutilized and vacant City-owned parcels contributes to inactive street frontages and a lack of neighborhood amenities.

## Large Scale General Development Special Permits

In order to include Cybert Tire and LeNoble Lumber in the privately owned Taconic/Ritterman project, HPD proposes the distribution of unused air rights from Buildings A and B, which are in a different zoning district. This distribution is appropriate and meets the finding that the distribution of air rights results in a good site plan. The distribution of development rights will move bulk away from Eleventh Avenue, helping to preserve sunlight in DeWitt Clinton Park. Furthermore, it will result in increased light accessing the interior block and vital community gardens in the afternoon.

The applicant is additionally seeking a series of height and setback waivers for Buildings C and D. Overall, the distribution of bulk is appropriate on this site. In the applicant's discussion of the findings, it argues that development over the last decade on the surrounding blocks has tended to locate bulk in the midblock and retained lower-scale development along the avenues. This distribution of bulk has been the result of the numerous CPC actions cited above in the Project Area section. As the blocks to the immediate north and south of this project feature this distribution of bulk, the proposed special permits for height and setback waivers are appropriate and result in an appropriate site plan in the context of these adjacent blocks.

This building context, however, goes against the basic planning principle that taller buildings are more appropriate on wide streets where they are less likely to impact light and air to surrounding properties. As CB4 notes in its recommendation, the tall buildings lining both sides of the narrow West 53<sup>rd</sup> Street will prevent light from reaching the street and could overwhelm pedestrian uses. The applicant should work with CB4 to fulfil its request that the streetscape be enlivened through plantings and the inclusion of pedestrian lighting coordinated with the other property owners on the block. Furthermore, the CPC should be wary in the future of using the blocks surrounding the development as context to enact similar rezonings. This project sits in between two blocks sharing this characteristic, but further north and south the CPC should work to maintain the normal distribution of bulk in Manhattan that considers tall buildings on the mid-block of narrow streets inappropriate. This office questions the utility of the waiver requested for the 22-foot decorative tower on the northwest corner of Building C, above the residential entrance. Considering the reasoned justification for the bulk waivers requested for Building D, and the scale of such bulk, it may not be appropriate to add any additional bulk on the West 53<sup>rd</sup> Street frontage. While the encroachments on Building D have been effectively justified, this decorative tower is the only portion of Building C requiring a building height waiver and its necessity has not been explained.

Rear yard setbacks are required by zoning to ensure that adequate light reaches the interior of the block so that buildings do not adversely affect the light and air of their neighbors. In this case, the LSGD has been planned such that the buildings were designed holistically and complementary to existing buildings within the LSGD. Though rear yard setback requirements are being waived, the overall design of the site features a network of public and private green spaces. These green spaces will provide for increased light and air to the residents of the LSGD. The expansion of the existing community garden on the north side of the LSGD, for example, will increase sunlight into the rear of Buildings A and B and will allow light to reach West 53<sup>rd</sup>

Street. The garden on West 52<sup>nd</sup> Street will similarly allow light and air into the interior block behind Building C.

### **Certification to Allow More than One Curb Cut**

The south side of the LSGD currently contains eleven curb cuts comprising over 190 linear feet, which significantly impairs the pedestrian experience. The proposal includes the elimination of all but three of these curb cuts and the reconstruction of the sidewalk. The curb cuts to remain will be reconfigured so as to comply with maximum width requirements and will be spaced a minimum of five feet apart. The applicant's request of two additional curb cuts over the allowable single curb cut thus represents a significant improvement over the present condition. These curb cuts are necessary to the operations of LeNoble Lumber and Cybert tire, which are integral elements of the LSGD.

### **Distribution of Affordable Units**

In their recommendation, CB4 asked that the affordable units in Building D be distributed throughout the building. At a CB4 Clinton/Hells Kitchen Land Use meeting and in discussions with the Borough President's office, Taconic/Ritterman indicated that the affordable units would be included on 73 percent of the floors of the building. The Special Clinton District and the former CURA, have at their core, the goal of promoting a diverse community with a broad range of incomes. In support of this goal, the proposed development should aim to be a fully integrated community with affordable units distributed on as many floors of the new building as possible. The distribution of affordable units is higher than the 65 percent required by HPD but does not represent a full integration. It should be noted that Taconic/Ritterman has indicated to this office that: all units will have the same fixtures and finishes; more than half of the affordable two-bedroom units will have two bathrooms; one affordable unit will have a private terrace; and affordable tenants will have access to building amenities at a reduced fee. These efforts on the part of the applicant are commendable, but they should further explore whether affordable units can be more thoroughly distributed through the building, in keeping with the goals of CB4 and the Special Clinton District.

### **Conclusion**

HPD and Clinton Housing have proven their commitment to the goals of the former CURA and of the Community Board. The proposal includes a diverse mix of uses that complement the trends of the neighborhood. In addition, the provision of affordable units at various income bands not only serves the purposes of the former CURA and goals of this administration but could serve as a model to other projects. In order to ensure mixed income neighborhoods, it is essential that all income levels are represented. This project accomplishes that through the use of a multitude of financing resources, a commitment to maximize distribution of those units throughout the LSGD's buildings, and through the creative use of land use tools. Through these measures the project will create 530 units of housing, 39 percent of which will be affordable. This achievement shows that far greater than the standard 20 percent affordable project is possible, and that it can be done in a way that does not overwhelm the neighborhood with out-of-context bulk or height.

## **BOROUGH PRESIDENT’S RECOMMENDATION**

**In consideration of the above, the Manhattan Borough President recommends approval with conditions of ULURP application numbers C 140181 ZMM, N 140182 ZRM, C 140183 ZSM, N 140184 ZCM, and C 140185 HAM provided that the applicant:**

- 1. explore a more thorough distribution of affordable units in Building D, in keeping with CB4’s recommendation;**
- 2. apply for a text amendment to remove the lumber store use with no limitation on size if LeNoble Lumber does occupy its space on West 53<sup>rd</sup> Street; and**
- 3. continue to work with CB4 and the Borough President’s office to find an appropriate small business to occupy the LeNoble Lumber space should an affordable supermarket tenant not be found.**

**Further, the Borough President conditions approval on the City Planning Commission carefully evaluating future projects in the surrounding area such that the concentration of bulk and height in the midblock does not become a standard element of all projects in the Clinton neighborhood.**



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Gale A. Brewer  
Manhattan Borough President