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Mark D. Levine, Borough President

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Recommendation on The Lirio – 806 9th Avenue ULURP Application By NYCHPD and NYCDCAS

PROPOSED ACTIONS

The New York City Department of Housing Preservation and Development (“HPD”, or the applicant) and the Department of Citywide Administrative Services (“DCAS”, the co-applicant) are proposing several ULURP actions to facilitate the construction of a new, nine-story, mixed-use building that would include 111 affordable and supporting housing units, ground-floor retail, and new office space for the Metropolitan Transportation Authority (“MTA”) at 806 9th Avenue (the “Proposed Building” to be built on the “Development Site”). The proposed actions would impact a portion of Manhattan Block 1044, Lot 3 as well as six other lots on that block, including parts of Lot 2, Lot 22, Lot 24, Lot 25, Lot 38, and Lot 7501 (formerly Lot 29) (collectively the “Rezoning Area”). Lots 3, 22, and 38 are City-owned, and Lots 2, 24, 25 and 7501 are privately-owned.

The applicants are requesting approval for the following actions:

1. Zoning map amendment to Section 8c to change the Rezoning Area from C1-5/R9 and R8 districts to a C6-2 district;
2. Zoning text amendment to Article 6, Chapter 6, to establish a new City Planning Commission (“CPC”) special permit to consolidate existing special permit provisions and create an additional waiver for lot coverage requirements;
3. CPC special permit pursuant to the new, proposed ZR Section 96-112 to modify height and setback and lot coverage requirements;
4. Disposition by the City of a negative easement to allow approximately 35,518 square feet of development rights to be transferred from the MTA facility to the Proposed Building; and
5. Acquisition of approximately 30,466 square feet of the Development Site by the City to accommodate a New York City Transit (NYCT) facility within the Proposed Building.

BACKGROUND

Area Context

The Development Site is located within Manhattan Community District 4 in the Clinton/Hell’s Kitchen neighborhood. The site is on 9th Avenue, between West 53rd and West 54th Streets, and extends to about 284 feet west of 8th Avenue. This site sits between areas of rich culture and commerce. Times Square and the Theater District are located to the east of the site, while the more residential Clinton/Hell’s Kitchen neighborhood is situated to the west of the site. This western part of the neighborhood is markedly residential, with many old and new law tenement buildings sitting along the avenues and side streets.

The Development Site is within walking distance to multiple open spaces, including Balsley Park and Central Park to the north; Gutenberg Playground to the south; and the P.S 111 School Playground and the Oasis Community Garden to the west. The Development Site is within walking distance to numerous

transit lines, including the N, Q, R, and W trains at the 57th Street Station and the E, B, and D trains at the 7th Avenue Station. Nearby bus lines include the M11 along 9th Avenue as well as the M50, M20, M104, and M7 bus lines.

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 Railyards 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 Railyard Site, which is a 13-acre site directly to the west of Hudson Yards. The area is bounded by West 33rd Street and West 30th 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 Railyards 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 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 85 feet on 9th Avenue and 99 feet along the midblock. In addition, the site would not be able to generate the Inclusionary Housing bonus.

¹ [Clinton/Chelsea Neighborhood Profiles](#)

RFP Process

HPD issued the RFP for this site in April 2018. Responses were submitted by July 2018 and the agency awarded the project to a development team comprised of Hudson Companies and Housing Works in February 2019. At the time of the announcement, HPD shared the affordable housing program for the site, which included a supportive housing component and an affordability mix of up to 60% AMI.

PROPOSED DEVELOPMENT

The Proposed Building is a nine-story mixed-use building that would include 111 affordable units and one superintendent’s unit. Half of the units would be studios and one-bedrooms while the other half would be two-and three-bedroom units. The building would contain 129,509 square feet, which would include the following uses: 92,108 square feet of residential floor area (1.0 FAR); 30,466 square feet of office space for the MTA; 6,935 square feet of commercial space for retail use (0.41 FAR); and 1,500 square feet of community facility space to provide services. Supportive services would include on-site case management, counseling and conflict resolution, life skills training, and structured activities. The applicants also plan to include a 7,361 square foot landscaped terrace, green roofs, and rooftop solar panels. The building is expected to meet Passive Housing Standards.

Prior to ULURP certification, the applicants modified the proposed AMI mix to include slightly higher AMI bands, up to 80%.

Proposed Affordability Distribution

	Formerly Homeless	40% AMI	50% AMI	60% AMI	70% AMI	80% AMI	Super	Total
Studio	50	0	1	0	0	0	0	51
1-Bed	5	0	0	0	0	0	0	5
2-Bed	12	8	8	9	8	8	1	54
3-Bed	0	0	0	1	1	0	0	2
TOTAL	67	8	9	10	9	8	1	112
	60%	7%	8%	9%	8%	7%	1%	100%

The Proposed Building would also use approximately 35,518 square feet of unused development rights (0.39 FAR) from the adjacent New York City Transit Authority (“NYCT”) Rail Control Center (“RCC”) and Power Control Center (“PCC”) building located on the remaining portion of the Development Site. The existing five-story NYCT RCC and PCC building contains 180,937 square feet of commercial floor area (1.97 FAR). The Development Site and the remainder of Lot 3 (where the existing NYCT RCC and PCC building are located) would be subdivided into two separate tax lots but would remain on the same zoning lot. The space occupied by the MTA would be a condominium unit that would become subject to the agency’s master lease with the City. The payment terms for the space would be finalized as part of the construction agreement.

To facilitate the proposed program, the applicants propose to change the Rezoning Area from a C1-5/R8 district to a C6-2 district. This modification would permit a commercial FAR of 6.0 where the current maximum allowed by zoning is 1.0. Furthermore, the Zoning Resolution does not require parking for this

project. However, the cellar of the Proposed Building would accommodate approximately 15 MTA emergency response vehicles.

Site Description

The Development Site is in the Clinton/Hell’s Kitchen neighborhood in Manhattan Community District 4. It is located on Block 1044, Lot 3 and extends west from West 54th Street to 9th Avenue. Land uses in the surrounding area include a mix of residential, commercial, community, and institutional facilities.

Existing non-conforming uses on the block include the NYPD Midtown North Precinct, which is located at 306 West 54th Street, as well as Midtown Community Court, located at 314 West 54th Street and was originally built in 1894. The Midtown Community Court building has an individual landmark status. The institutional uses in both buildings predate the creation of the Clinton Special District.

The Development Site is owned by the City. The site includes 525 feet of frontage along West 54th Street and approximately 136 feet of frontage along 9th Avenue. A row of tenement buildings along West 53rd Street sits to the south of the site. The site is occupied by NYCT RCC and PCC building, which is used to monitor the operations and safety of the subway system 24 hours a day.

The neighborhood around the site includes R8 zoning with a commercial C1-5 overlay along 9th Avenue as well as West 53rd Street. Commercial corridors also exist to the west of the Development Site, with a C2-5 zoning overlay on 10th and 11th Avenues. To the north of the Development Site there are multi-family apartment buildings ranging from six to 23 stories. The southern and eastern areas are comprised of three-to-six-story walk-up apartment buildings with ground-floor retail spaces, along with several fully commercial office buildings ranging from eight to 14 stories. In contrast, the eastern and southern portion of the site is comprised of mostly C6-5 zoning within the Special Midtown Theatre District.

COMMUNITY BOARD RESOLUTION

Manhattan Community Board 4 (“CB4”) held three public hearings regarding the application on February 17, 2022, February 22, 2022, and March 3, 2022. During these hearings, Board members voiced concerns about the Lirio’s proposed AMI mix, its lack of adherence to the Western Railyards Points of Agreement, the inclusion of MTA office space, the non-contextual façade design, and retail usage. Members from the community who testified at these hearings shared concerns about the lack of residential units affordable to middle- and moderate-income households and the inclusion of supportive housing units.

On March 16, 2022, CB4 voted to recommend denial of the application unless the applicants meet the following conditions:

1. Adjust the AMI mix to include more units between 80% and 165% AMI;
2. Create more affordable housing by eliminating or reducing the MTA’s square footage and locating all or part of the proposed office space to another site within Manhattan Community District 4;
3. If there will be MTA office space in the Proposed Building, that the use be accommodated via a Mayoral Zoning Override instead of a commercial rezoning;
4. Modify proposed height and setback changes to better reflect the context of the surrounding blocks;
5. Provide a grocery store in the commercial space;
6. Provide property management services from Hudson Companies or its affiliated entities; and

7. Modify the façade design to be more contextual with the buildings along 9th Avenue and the Preservation Area of the Special Clinton District.²

BOROUGH PRESIDENT’S COMMENTS

We are in the midst of an affordability crisis in New York, and we must take bold steps to confront it as we work to recover from the Covid-19 pandemic. This City-owned site has long been part of an important affordable housing commitment, and Manhattan Community Board 4’s longstanding advocacy for housing that is affordable for a wide range of New Yorkers has helped get us to this point today.

I share the Board’s concerns regarding the proposal’s nonadherence to the 2009 Western Railyards Points of Agreement and encourage the applicants to arrive at an AMI mix that is closer to the original commitments outlined in the Points of Agreement. I also believe that the applicants should take steps to improve their proposal to better align with the needs of the community. I agree with the Community Board that the major tenets of the Special Clinton District must be preserved, and the proposed commercial rezoning does not align with these tenets. The applicant should explore alternative methods to accommodate the MTA’s office space.

Additionally, the team should ensure that the proposed new special permit that would waive rear yard requirements is only applicable to the two sites indicated in the Western Railyards Points of Agreement: the Lirio, located at 806 9th Avenue and the “DEP Site” located at 705 10th Avenue. Given the area’s number of old law tenements, the potential for this waiver to apply to other sites raises serious concerns about the proper provision of light and air for these residential units.

I also believe that the applicants should work with Community Board 4 to thoroughly explore the possibility of relocating some or all of the MTA office space to a different site within the district. If successful, an all-encompassing alternative site could not only obviate the need for a commercial rezoning, but also create the opportunity to include more affordable housing on the site.

Lastly, I urge the applicants to work with Manhattan Community Board 4 and the neighborhood’s block associations to arrive at a design that is harmonious with the Clinton/Hell’s Kitchen neighborhood. I commend the applicant for responding to the community’s concerns thus far in the ULURP process by modifying the building envelope and working to ensure that these changes did not result in a loss of affordable units. However, given the Proposed Building’s size and location along 9th Avenue, the massing and choice of materials will have a significant impact on the built environment. The applicants should relish this opportunity and seek to improve this prominent site.

BOROUGH PRESIDENT’S RECOMMENDATION

Therefore, the Manhattan Borough President recommends **approval** of the Lirio – 806 9th Avenue application **with the condition that the applicants agree to meet the following conditions:**

1. Withdraw the proposed commercial rezoning and instead accommodate the commercial/MTA use via another mechanism or otherwise limit the Rezoning Area to the Development Site;
2. Work with Community Board 4 to modify the text of the proposed new special permit for rear yards to ensure it only applies to the Development Site and to the site at 705 10th Avenue;
3. Eliminate or reduce MTA component and use space for more affordable housing; and

² [Community Board 4 Resolution March 2022](#)

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4. Work with the community to arrive at a façade design that is more contextual with the Clinton/Hell’s Kitchen area; and
5. Include a grocery store in the proposed commercial space.



Mark Levine
Manhattan Borough President