



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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Lowell D. Kern
Chair

Jesse Bodine
District Manager

January 14, 2021

Louise Carroll
Commissioner
NYC Housing Preservation & Development
100 Gold Street
New York, NY 10038

Re: 705 Tenth Avenue, 48th to 49th Streets, aka the DEP Project

Dear Commissioner Carroll,

On November 24, 2020, at Manhattan Community Board 4's (MCB4) Clinton/Hell's Kitchen Land Use Committee meeting, the Department of Housing Preservation and Development (HPD), Douglaston Development and the Actor's Fund (the Development Team), presented a pre-ULURP review of its proposed development at 705 Tenth Avenue, also known as the DEP (Department of Environmental Protection) project (the "Project"). The presentation was given to solicit feedback from the community.

The proposed mixed-use, eight-story building would provide approximately 158 permanently affordable units, a community arts and culture facility, and a public comfort station accessible from the DEP Open Space/Park.

HPD and the Development Team proposed the following unit breakdown:

AMI Tier	Income Range (family of four)	Percentage of Units	Number of Units
Homeless Referrals	\$0 - \$45,480	15%	24
47-50% AMI	\$53,439 - \$56,850	25%	39
77-80% AMI	\$87,549 - \$90,960	20%	32
100-120% AMI	\$113,700 - \$136,440	40%	63
		Total	158

With that breakdown, only 40% of the units would be middle/moderate income housing, or less than half of what the Board and the Hell's Kitchen community had negotiated in the 2009 Western Railyard Points of Agreement ("WRY POA")¹ agreed to between the Mayor and the City Council.

At its December 2, 2020, regularly scheduled full board meeting, MCB4 with 36 in favor, 0 opposed, 2 abstaining, and 0 present but not eligible, voted to recommend the project **not go forward** unless:

- The Board and the Hell's Kitchen community, and HPD agree upon AMI levels to substantially reflect the WRY POA.
- The revised AMI bands have no gaps from 80% to 165%.
- The homeless referral units be set aside for families, not individuals
- That adequate funding for supportive services and a supportive service provider is identified for those families.

By coming to agreement on these matters, only then, can trust be restored between the City and the Hell's Kitchen community.

MCB4 urges HPD and the Development Team to engage with the Board and the Hell's Kitchen community to resolve these issues as soon as possible so the project can proceed.

PROPOSED PROJECT

The proposed Project is in an R8 zone (with a C2-5 overlay) and would be built primarily above the Amtrak railroad cut between West 48th and West 49th Streets just west of Tenth Avenue. It would face the proposed Department of Parks and Recreation open space on the DEP site off Tenth Avenue between 48th and 49th Streets. The maximum building height in the Preservation Area part of the Special Clinton District is 66-feet. The 2009 WRY POA agreed to the grant of a Special Permit under ZR Section 96-104 (c), which would allow the building height to rise to 77 feet.

The Land Use Actions needed to facilitate the proposed development will require approval of four Proposed Land Use Actions:

- Special Permit Pursuant to ZR Section 74-681 (Development Within or Over a Railroad or Transit Right-Of-Way or Yard);
- Special Permit Pursuant to ZR Section 96-104 (c) (Height and Setback Regulations);
- Zoning Text Amendment to ZR Section 96-103 (Yard Regulations); and,
- Disposition of City Owned Property (Light and Air Easement).

¹ [Western Railyard Rezoning Points of Agreement](#)

Unit Mix

The 2009 WRY POA stated that 50% of the units would accommodate two- and three-bedroom units². The Project's proposed unit mix is consistent with that agreement:

Unit Type	Percentage of Units	Number of Units
Studio	22%	35
1-Bedroom	27%	42
2-Bedroom	41%	65
3-Bedroom	10%	16
	Total	158

MCB4 supports the proposed unit mix.

Homeless Set Aside

The Mayor's Office has mandated that 15% of new housing on City-owned sites be set aside for homeless referrals. The Board and the Hell's Kitchen community fully understand the compelling need for such housing. Hell's Kitchen is a community that prides itself on its acceptance, concern, and compassion for all New Yorkers.

While the Mayor's Office may be oblivious to the facts on the ground, HPD should be aware that Hell's Kitchen has one of the densest concentrations of formerly homeless residents, homeless shelters, homeless temporary shelters, and supportive housing in the entire City. *Within the immediate vicinity* of the proposed development — on West 46th, West 47th, West 48th, West 49th, and West 50th Streets, there are several permanent residences (164 units) and social service facilities (80 units) for homeless individuals and families.³

In fact, the Skyline Hotel, on 49th and Tenth Ave, housed homeless families until the City in its ill-managed response to Covid-19, precipitously moved out 63 families and replaced them with 300 single men from congregate shelters without adequate social service support.

Amenities

The proposed Project's amenities include a laundry, fitness room, children's playroom, and bike room. MCB4 supports those amenities.

Ground Floor Community Facility Space

The Actor's Fund informed the Board it is committed to integrating arts and culture into community and deliver a long-term asset. Spaceworks, its original choice, was forced to close down in the early months of the Pandemic. The Actor's Fund is now in the process of identifying and securing a new cultural tenant.

² [Western Railyard Rezoning Points of Agreement](#), page 3: "HPD's RFPs will contain the following requirements: . . . 50% two or more bedroom units . . ."

³ See Appendix A. MCD4 - Homelessness and Social Services Summary and Appendix B. Map of Homeless Social Service Facilities and Homeless Supportive Housing

The Actor’s Fund stated it will welcome recommendations from the community and from MCB4 regarding arts and cultural organizations in need of space. Further, the Actor’s Fund agrees to consult with the Board prior to selecting a new tenant.

HISTORY

In 2009, as part of the Western Rail Yards Rezoning, the City committed to develop affordable housing on two city-owned sites: the Metropolitan Transportation Authority (MTA) site (Ninth Avenue at 54th Street) and the Department of Environmental Protection (DEP) site (Tenth Avenue, 48th-49th Streets).

This commitment was achieved through robust negotiations among the community, MCB4, the City Council, and the City.

Vital Need for Moderate & Middle-Income Housing

The vast majority of the affordable units produced under the Hudson Yards Points of Agreement (“HY POA”)⁴, through Inclusionary Housing, have been for low-income households.⁵ In the Hudson Yards and Western Railyard Rezoning⁶, the community’s concern was to maintain economic integration. Therefore, both the HY POA and the WRY POA⁷ contained commitments to produce affordable housing for a range of incomes: low, moderate, and middle. In fact, the Harborview NYCHA site, the Studio City site (now known as Gotham West), Site M (commitment now transferred to the Slaughterhouse site), and in the WRY POA, the DEP, MTA, and West 20th Street site (commitment now transferred to the Slaughterhouse site), all note a range of incomes up to 60-165% AMI.

Under those agreements, and through discussion with HPD during the development of the RFP for the DEP and MTA sites, MCB4 held public meetings and adopted recommendations for the income mix at both sites. MCB4’s presentation regarding these sites was included as a link for all prospective developers to review.⁸

AMI Tier	Income Range (family of four)	Percentage of Units	Number of Units
77% - 80% AMI	\$87,549 - \$90,960	20%	32
81% - 125% AMI	\$90,961 - \$136,440	40%	63
126% - 165% AMI	\$136,441 - \$187,605	40%	63
		Total	158

⁴ [Hudson Yards Points of Agreement](#), pages 4-6.

⁵ See Appendix C. Special Hudson Yards District Affordable Housing Production AMI Bands Distribution

⁶ [MCB4 2020 Hudson Yards Points of Agreement Annual Tracking Report](#) and [2019 Western Railyard Points of Agreement Annual Tracking Report](#)

⁷ [Western Railyard Rezoning Points of Agreement](#), pages 2-5

⁸ [MCB4 2018 Letter to HPD Re: DEP and MTA Affordable Housing Sites](#), for the MTA & DEP Sites: 806 9th Avenue & 705 10th Avenue, Permanent Affordable Housing & Open Space Presentation, see pages 7-22.

Honoring the WRY POA Still Expected

The agreed upon AMI mix was stated and re-stated in multiple MCB4 letters to HPD from 2015 – 2017⁹, as well as in MCB4's Affordable Housing Plan.¹⁰ MCB4 and HPD worked together to develop the provisions in HPD's Requests For Proposals for the DEP and MTA sites. MCB4's presentation regarding these sites was included as a link for all prospective developers to review.¹¹

Approximately a year ago, HPD, with no notice or discussion with the Hell's Kitchen community or MCB4, breached the agreement, announcing the DEP site would include a majority of low- and very-low-income units, with a substantial homeless component. In March of 2020, the Speaker of the City Council was informed by Board leadership that this was unlikely to be acceptable to the community. The Board reiterated that it expected the City to honor its 2009 commitment.

FEEDBACK

At the Clinton/Hell's Kitchen Land Use Committee meeting on November 24, 2020, HPD proposed that the majority of the units would not provide housing for moderate/middle income levels as promised. The feedback from the community was clear: the revised AMIs were unacceptable.

"Disingenuous, Opportunistic, Condescending, Insulting, Insincere, Deceitful"

The consensus of the community was that the City was not living up to either the letter or the spirit of the agreement to provide middle/moderate income housing for the community. There was considerable dismay, about not only breaking the agreement, but also violating the trust between the community and the City. One long-term community resident characterized HPD's volte-face as "disingenuous, opportunistic, condescending, insulting, insincere, and deceitful."

Umbrage was also taken to what appeared to be a condescending lecture from HPD on the necessity of developing more low-income housing in the community. This community and MCB4, has been in the forefront of developing affordable housing for very-low, low-, moderate-, and middle-income housing for decades. We have identified, fought for, and secured low-income housing throughout our District and we welcome with open arms New Yorkers of all incomes. We do not need a sermon on its vital importance.

As HPD knows, MCB4 developed one of the most comprehensive, far-sighted, achievable, affordable housing plans in the entire city. The Board and the community on its own have identified affordable housing sites and pushed and pushed City agencies until they became a

⁹ [MCB4 Letter re: ULURP Nos. 090422HAM, N090429ZRM, 090423HAM and 090430ZMM. July 27, 2009;](#)
[MCB4 Letter re: Affordable Housing RFPs. October 7, 2015;](#)
[MCB4 Letter re: Affordable Housing RFPs. February 8, 2017;](#)
[MCB4 Letter re: Affordable Housing RFPs. June 7, 2017.](#)

¹⁰ [MCB4 Affordable Housing Plan, originally adopted in 2015 and revised annually through 2019, pages 57-58.](#)

¹¹ [MCB4 2018 Letter to HPD Re: DEP and MTA Affordable Housing Sites](#), for the MTA & DEP Sites: 806 9th Avenue & 705 10th Avenue, Permanent Affordable Housing & Open Space Presentation, see pages 7-22.

reality. For example, MCB4 and the community identified the Slaughterhouse site on West 39th Street and Eleventh Avenue and fought for almost a decade for it to become a 100% affordable housing development with hundreds of low-, moderate-, and middle-income units.

HPD must also recognize that the Special Clinton District was created “to preserve and strengthen the residential character of a community bordering Midtown and maintain a broad mix of incomes.”¹² Development has produced market-rate housing and low-income housing through Inclusionary Bonuses. However, this community and this city needs to serve those New Yorkers in the middle who are left out, with the production of moderate- and middle-income housing.

Conclusion

MCB4 is cognizant of the exemplary work your agency has done for the City of New York and appreciative of HPD’s partnership with the Hell’s Kitchen community and MCB4. We want that successful partnership to continue. But it can only continue if the community has the confidence that agreements will be kept, that efforts are made to develop housing for all income levels, and that a level of respect is paid to the local community’s deep understanding of what it needs to thrive. We look forward to working with you to make this project succeed.

Sincerely,



Lowell D. Kern
Chair
Manhattan Community Board 4



Jean-Daniel Noland
Chair
Clinton/Hell’s Kitchen Land Use Committee

Enclosure

Cc: Hon. Brad Hoylman, New York State Senator
Hon. Robert Jackson, New York State Senator
Hon. Richard Gottfried, New York State Assemblymember
Hon. Linda Rosenthal, New York State Assemblymember
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Corey Johnson, Speaker, New York City Council
Hon. Scott Stringer, New York City Comptroller
Hon. Jumaane Williams, Public Advocate
Douglaston Development
Actors Fund

¹² [Special Clinton District Zoning Resolution](#), 96-00 General Purposes section.

Appendices

Appendix A. MCD4 - Homelessness and Social Services Summary

MCD4, comprised of Chelsea, Hudson Yards and Clinton/Hell’s Kitchen, is an area that has long welcomed both social services, homeless facilities, and supportive housing. We have never taken a NIMBY approach to such needs. MCD4 has however, been probing and thorough with social service agencies to ensure the proposed facilities or housing sites are well designed, managed and integrated successfully into the community. These permanent facilities and housing include:

Homeless Shelters & Facilities

Name	Address	Provider	# of Beds
Jack Ryan	127 West 25 th Street	BRC	200
Barbour House	330 West 36 th Street	Praxis	100
Holiday Inn	343 West 39 th Street	Acacia	30
Candlewood Suites	339 West 39 th Street	Acacia	48
The Dwelling Place	409 West 40 th Street	The Franciscan Sisters of Allegany	15
Covenant House	460 West 41 st Street	Covenant House	120
Travel Inn Hotel	515 West 42 nd Street	Acacia	81
Safe Haven	301 West 48 th Street	Urban Pathways	10
Alexander Abraham Residence	341 West 51 st Street	Women In Need	70
52 nd Street Women’s Center	427 West 52 nd Street	Care For the Homeless	120
Trinity Presbyterian Church	422 West 57 th Street	Partnership for the Homeless	10
Skyline Hotel	725 10 th Avenue	Acacia	63
Aladdin Hotel	317 West 45 Street	Urban Pathways	143
Total Beds			1,010

Homeless Supportive Housing

Name	Address	Provider	# of Beds/Apartments
	105 West 17 th Street		18
Volunteers of America	226 West 26 th Street		52
Flemister House	527 West 22 nd Street	American Baptist Churches	50
St. Francis III	148 8 th Avenue	Franciscans	79
St. Francis II	151 West 22 nd Street	Franciscans	115
The Christopher Residence	202 West 24 th Street	Common Ground & Good Shepard	62
	353 West 30 th Street	CHDC	32

	454 West 35 th Street	CHDC	53
	347 West 37 th Street	Fountain House	30
Geffner House	351 West 42 nd Street	Project Renewal	313
	500 West 42 nd Street	CHDC	66
	327 West 43 rd Street	Project Return	6
	300 West 46 th Street	CHDC	68
	424 West 47 th Street	Fountain House	15
	441 West 47 th Street	Fountain House	20
	448 West 48 th Street	Project Renewal	41
Postgraduate Center Community Residence I	516 West 50 th Street		20
Stardom Hall	330-332 West 51 st Street	Lantern Group	112
The Flats/Old School	554 West 53 rd Street	CHDC	52
The Friedman	475 West 57 th Street	Common Ground, The Actors Fund	98

Total Beds/Apts 1,302

Between May and June, DHS relocated 2,142 shelter beds for single individuals (many of whom suffer from mental illness, alcohol, and chemical addiction) to Manhattan Community District 4 (MCD4). These shelters were temporarily relocated to protect individuals in congregate shelters from the spread of COVID-19. The temporary shelters were relocated into hotels and include:

Temporary Shelter Relocations

Hotel	Address	DHS Contracted Shelter Provider	# of Beds
The Watson	440 West 57 th Street	Black Veterans for Social Justice (BVSJ)	369
Skyline Hotel ¹³	725 10 th Avenue	Acacia	300
The Washington Jefferson ¹⁴	318 West 51 st Street	Project Renewal	182
The Comfort Inn	548 West 48 th Street	Bronx Parent Housing Network	65
Comfort Inn	343 West 44 th Street	Help USA	284
The Cachet ¹⁵	510 West 42 nd Street	BRC	130
Hilton Garden	326 West 37 th Street	ICL	294
Springhill Inn	338 West 36 th Street	BVSJ	200
Double Tree	341 West 36 th Street	NAICA	318

Total Beds 2, 142

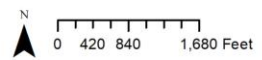
¹³ The Skyline Hotel, with family shelter rooms, became a single adult men relocation site.

¹⁴ This shelter was subsequently relocated to the Lucerne on West 79th Street in July 2020

¹⁵ This shelter was subsequently relocated due the discovery of Legionnaire's Disease in the HVAC equipment

Appendix B. Map of Homeless Social Service Facilities and Homeless Supportive Housing (Updated October 2020)

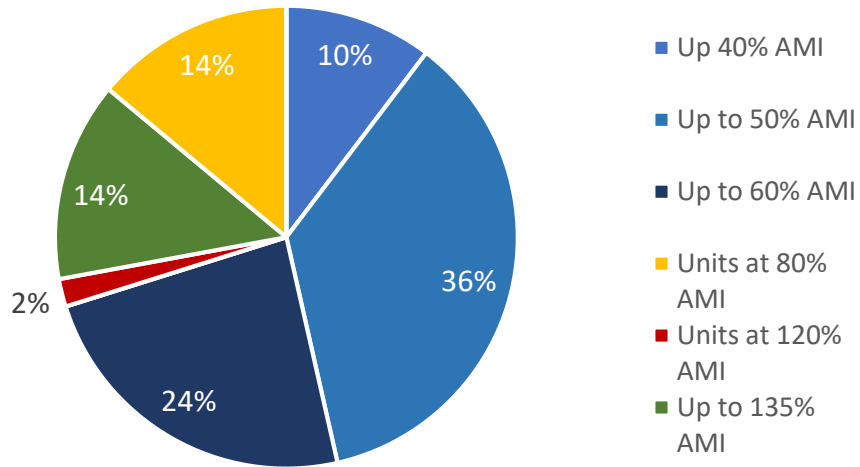
- Manhattan Community District #4
- Temporary Homeless Shelter Relocations (labeled)
- Homeless Supportive Housing
- Homeless Shelters & Facilities
- Parks/Open Space



Data Source: CHDC (2020), NYC Department of City Planning (2020)
 Map by Savannah Wu (2020)

Appendix C. Special Hudson Yards District Affordable Housing Production AMI Bands Distribution

Special Hudson Yards District
Affordable Housing Production
AMI Bands Distribution



There are 1,086 units below 60% AMI, or 68% of total affordable housing production.