

CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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August 19, 2022

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Re: Contribution-In-Kind and ZTA for Block 4 at Hudson Boulevard Proposal

Dear Amir & Michelle,

Manhattan Community Board 4 (MCB4) remains pleased to work in partnership and appreciates Tishman Speyer's willingness to respond to community concerns as it moves ahead with development sites along Hudson Boulevard in Hudson Yards. The presentation on May 5, 2022, to the Clinton/Hell's Kitchen Land Use Committee of Manhattan Community Board 4 demonstrates this commitment, however, MCB4 must raise serious policy concerns and make recommendations on this development proposal and the proposed Zoning Text Amendment as voted on during the June 1, 2022 Full Board meeting with 44 in favor, 0 opposed, 2 abstaining, and 0 present but not eligible to vote.

Background

As envisioned and mapped by the City of New York, Bella Abzug Park and Hudson Boulevard will span six blocks, from West 33rd to West 39th Streets, between Tenth and Eleventh Avenues.

Phase 1, currently developed on Blocks 1, 2, and 3, between West 33rd and West 36th Streets, serves Hell’s Kitchen and the growing residential and commercial community of Hudson Yards.

The first section of Phase 2 is Block 4, between West 36th and West 37th Streets, Hudson Boulevard West and Hudson Boulevard East. The remainder of Phase 2, Blocks 5 and 6, between West 37th to West 39th Streets, are subject to active condemnation but have yet to be acquired by the City. Tishman Speyer, the owner of a majority of the property west of Block 4, has used an existing in-kind-contribution mechanism in the Hudson Yards Special District zoning text¹ to construct the Block 4 portion of the park, to the design of the NYC Parks Department, and subsequently transferred ownership to the Parks Department. The majority of the park area of Block 4 has been completed and is awaiting final Parks Department approval before being opened to the public.

East of the newly constructed park land are two privately owned parcels. Both parcels are subject to condemnation proceedings by the City of New York for the construction of the Hudson Boulevard East. One is a vacant lot owned by Lalazarian Development; the other is a 2-story building under contract of sale to Tishman Speyer.

Proposed Zoning Text Changes to Special Hudson Yards District (SHYD)

For the City to avoid the condemnation process, Tishman Speyer is proposing a Zoning Text Amendment to the Contribution in Kind zoning text.² This text was established to allow private developers to receive a zoning bonus for Park Acquisition and Construction. The newly proposed Zoning Text Amendment would allow a zoning bonus not only for Park Acquisition and Construction but also for construction of Hudson Boulevard East, a mapped future public street.

However, Tishman’s proposed development site to be bonused, 99 Hudson Boulevard West, immediately adjacent to Block 4 of the Park, is at its maximum FAR of 21.6 under the SHYD, by a combination of development bonuses: Eastern Railyards TDR purchase³, District Improvement Bonus TDR purchase⁴, and Park Acquisition & Construction Contribution in Kind⁵.

Therefore, Tishman Speyer also proposes to upzone the Eleventh Avenue blockfront from West 36th to West 37th Streets from 21.6 FAR to 24.0 FAR to accommodate another 2.4 FAR proposed zoning bonus.

Community & Zoning Policy Considerations

Managing Zoning Density along the Eleventh Avenue Corridor

The 2005 Hudson Yards rezoning carefully planned for zoning density to decrease moving north along Eleventh Avenue from West 33rd to West 42nd Streets as it approached the residential area

¹ [NYC Zoning Resolution, Chapter 3 Special Hudson Yards District, 93-32 Floor Area Regulations in the Phase 2 Hudson Boulevard and Park](#)

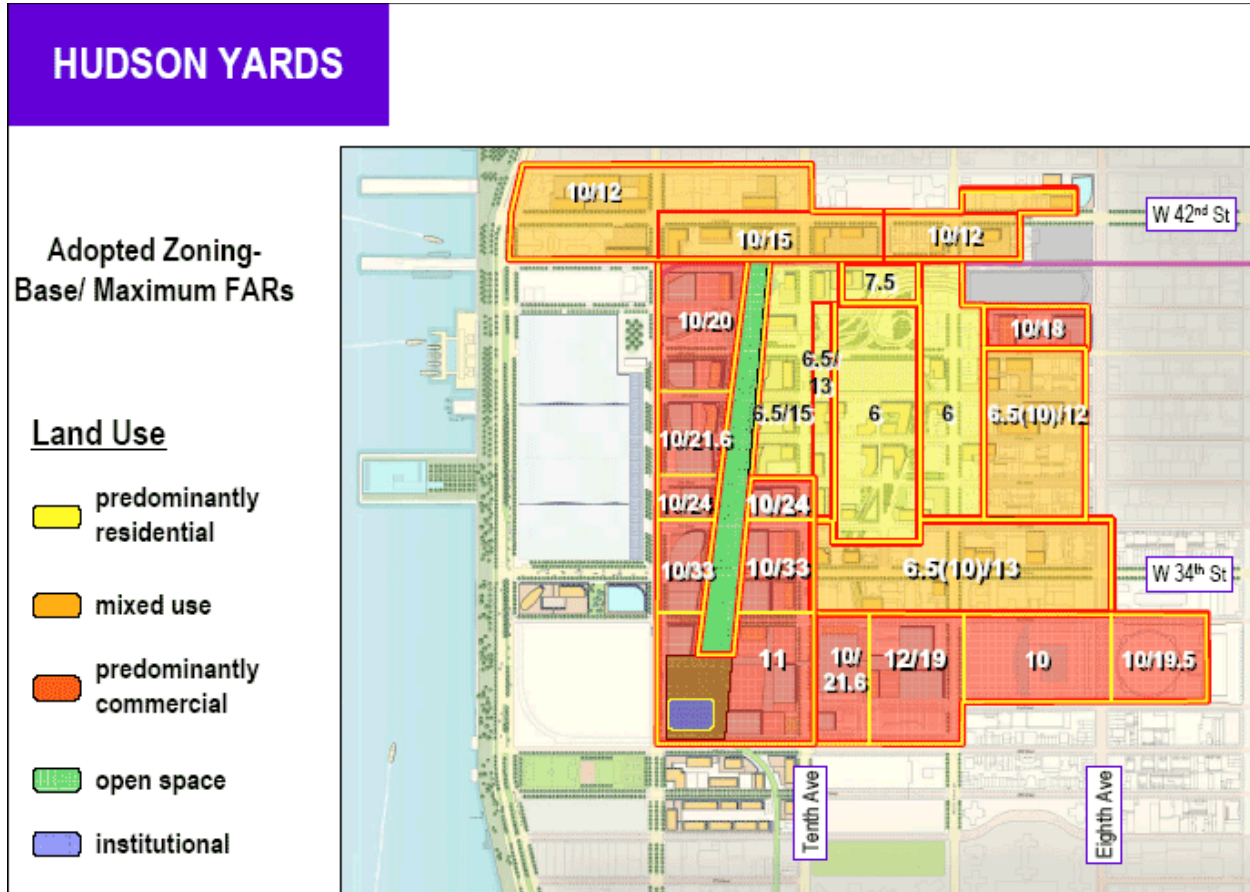
² Ibid.

³ [Hudson Yards Development Corporation Rezoning](#)

⁴ Ibid.

⁵ [Block 4 Contribution-in-Kind Technical Memorandum](#)

of Hell’s Kitchen. Eleventh Avenue was to serve as a transition zone from the highest zoning density in the City, 33.0 FAR for commercial buildings on the four corners between West 33rd and 34th Streets from Tenth to Eleventh Avenues, to a 12.0 FAR of mostly residential buildings along the West 42nd Street Corridor from Tenth to Twelfth Avenues.



Hudson Yards Adopted Zoning – Base Minimum/Maximum FAR map (Source: [HYDC](#))

Increasing the density of 99 Hudson Boulevard West undercuts that planning objective.

Further, 99 Hudson Boulevard West would grow from approximately 685 feet to 745 feet. This increase in height raised concerns among Land Use Committee members and the public attending the presentation.

Creating a Zoning Bonus to Acquire Land and Construct a Mapped Street

Hudson Boulevard, originally entitled “Olympic Boulevard” was meant to lead to the never built Westside Stadium for the City’s failed 2012 Olympic bid. From a zoning policy perspective, Tishman Speyer asks the City of New York to create zoning text to build a new street in exchange for a zoning bonus. MCB4 asks, what is the public benefit to the surrounding Hell’s Kitchen and Hudson Yards community? Why are Hudson Yards Bonds not funding that improvement?

Hudson Yards Bonds--Infrastructure Improvements

Major public infrastructure and open space improvements in the plan to create the new Hudson Yards dense westside commercial district included:

- The #7 subway line extension, with two stops, one on West 41st Street and Tenth Avenue, the other on West 34th Street and Eleventh Avenue
- A new midblock park, West 33rd to West 39th Streets, between Ninth and Tenth Avenues (on Port Authority land)
- Hudson Boulevard & Park, a new midblock park from West 33rd to West 39th Streets, between Tenth and Eleventh Avenues

All the improvements were to be funded through a special real estate taxing district⁶, with the revenue derived from the real estate tax payment diverted from the City's General Fund to Hudson Yards Infrastructure Corporation (HYIC). HYIC in turn would issue bonds against the future real estate payment to raise capital to fund the major infrastructure improvements detailed above.

The HYIC bonds were issued, raised over 3 billion dollars in capital funds, but the improvements were only partially constructed:

- The #7 subway line extension was constructed, but being over budget, with only one stop on West 34th Street and Eleventh Avenue. The other stop on West 41st Street and Tenth Avenue, meant to serve the Hell's Kitchen neighborhood was eliminated.
- A new midblock park, West 33rd to West 39th Streets, between Ninth and Tenth Avenues (on Port Authority land) was neither acquired nor constructed. It was eliminated from the planned community improvements.
- Hudson Boulevard & Park, a new midblock park from West 33rd to West 39th Streets, between Tenth and Eleventh Avenues
 - Blocks 1, 2 and 3 (from West 33rd to West 36th Streets) were acquired and constructed from Hudson Yards bond proceeds
 - Block 4 was partially acquired by Tishman Speyer, designed by HYDC, then constructed as parkland by Tishman Speyer between 2019 and 2020
 - Block 4 (balance) and Blocks 5 and 6 are currently subject to condemnation by the City of New York

Summary

MCB4 has the following policy concerns and recommendations on this development proposal and proposed text amendment:

- *Upzoning Twice to Fund the Same Public Improvements*
First, the community already agreed, through dramatically increased bulk in Hudson Yards, to funding Bella Abzug Park. That upzoning created increased real estate tax

⁶ [Hudson Yards Development Corporation Financial Incentives](#)

revenue. In turn, that real estate tax revenue was the dedicated revenue source to issue the Hudson Yards Bonds to fund the infrastructure improvements.

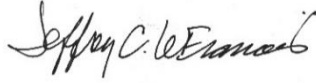
The proposed 2.4 FAR increase is, in essence, asking the community to pay twice through upzoning, for the same infrastructure improvements, namely a small portion of Block 4 of Bella Abzug Park. In actuality, the majority of the bonused site is the street bed of Hudson Boulevard East from West 36th to West 37th Street.

- *Creating Precedent for Zoning Text and Bonus to Acquire Land and Fund Construction of a Public Street*
Funding and constructing a mapped City street, is the function of city government through the NYC Department of Transportation. It should not be subject of zoning bonus to create additional development rights for a private sector development plan. Such a zoning precedent should not be established.
- *Maintaining the Zoning Transition Embodied in the SHYD Eleventh Avenue Corridor Zoning to the Clinton Special District West 42nd Perimeter Area*
The transition in zoning along the SYHD Eleventh Avenue corridor, from an FAR of 33.0 to an FAR of 12.0, from West 33rd to West 42nd Streets should be maintained.
- *Securing Opportunities to Increase Residential Uses within Current Density Limits to Promote Affordable and Market Rate Residential Development*
MCB4 is continually looking for new housing opportunities in the SHYD. As the Hudson Yards area continues to be built out, there is greater demand for housing at all income levels to contribute to the vitality and success of this district. MCB4 recommends as part of the MCB4 Housing Plan increasing the current limitation of 6.0 residential FAR to 12.0 residential FAR. Further, MCB4 recommends including the existing Hudson Yards Inclusionary Housing zoning text as part of such a zoning action, to ensure a wide range of housing affordability.
- *Design Issues for Hudson Boulevard East*
When Hudson Boulevard East is constructed, that design should ensure it is constructed as a Permanent Shared Street or Pedestrianized Street that severely limits vehicular traffic.
- *Other Proposed Community Benefits*
It must be noted Tishman Speyer has offered, in conjunction with this proposed zoning action, a contribution of \$2M to fund other streetscape and open space capital improvements in the Hudson Yards District. MCB4 appreciates that offer. However, MCB4 notes District-wide capital improvement costs well exceed that offer. Further, it must be noted, that the proposed zoning benefit to the developer far outweighs the proposed benefits to the community.

Notwithstanding the matters enumerated above, MCB4 will continue to work with Tishman Speyer to develop mechanisms to ensure the completion of Bella Abzug Park and promote

residential development with an affordable component, in the Hell's Kitchen neighborhood and Hudson Yards area.

Sincerely,



Jeffrey LeFrancois
Chair
Manhattan Community Board



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



Paul Devlin
Co-Chair
Clinton/Hell's Kitchen Land Use Committee

CC: Hon. Brad Hoylman State Senator
Hon. Linda Rosenthal Assemblymember
Hon. Assemblymember Richard Gottfried
Hon. Erik Bottcher, Councilmember, Council District 3
Hon. Eric Adams, Mayor
Hon. Mark Levine, Manhattan Borough President
Dan Garodnick, Chair, City Planning Commission
Edith Hsu-Chen, Executive Director, Department of City Planning