



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.ManhattanCB4.org

J. LEE COMPTON
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

June 8, 2007

Hon. Amanda M. Burden, AICP
Chair, City Planning Commission
Calendar Information Office
22 Reade Street, Room 2-E
New York, NY 10007-1216

Re: Application Nos. 070435/070436 ZAM for authorizations pursuant to Zoning Resolution Section 93-543 to allow for height and setback modifications within a C2-5 District mapped within an R8A District where publicly accessible open space is created adjacent to or on a deck over the Port Authority's Lincoln Tunnel Approaches or Dyer Avenue (the "Lincoln Tunnel Ramps") for 424 W. 37th Street (southern parcel) and 439 W. 37th Street (northern parcel) a.k.a. "Hudson Mews"

Dear Chair Burden:

At the recommendation of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board No. 4 voted to **recommend approval** of the captioned applications, subject to several conditions, which are summarized under "Conclusion" at the end. [add sentence re: vote counts.]

Representatives of HM 9th Avenue, LLC attended the meeting of this Board's Clinton/Hell's Kitchen Land Use Committee on May 9, 2007 and the meeting of the full Board on June 6, 2007 to present their applications for authorizations by the City Planning Commission pursuant to Section 93-543 of the Zoning Resolution to allow for height and setback modifications within a C2-5 District mapped within an R8A District where publicly accessible open space is created adjacent to or on a deck over the Port Authority's Lincoln Tunnel Approaches or Dyer Avenue (the "Lincoln Tunnel Ramps") for 424 W. 37th Street ("Hudson Mews South") and 439 W. 37th Street ("Hudson Mews North"). The applicant has filed separate applications for the southern parcel and the northern parcel. Since they comprise a single project, this is a single response to both applications.

THE PROJECT

The project involves the construction of two large residential buildings, each rising to a maximum height of 180 feet (18 stories), and the creation of almost 25,000 square feet of

publicly accessible open space, on decks over Dyer Avenue and Ramp C to the Lincoln Tunnel. Without the authorizations requested by these applications, the buildings would be limited to a maximum height of 120 feet (approx. 12 stories), and no publicly accessible open space would be created.

The Buildings.

Hudson Mews South is to be located mid-block between West 36th and 37th Streets, west of Ninth Avenue (Block 734, Lots 18, 30, 37). The existing zoning is R8A/C2-5 Overlay and C1-7A, Special Hudson Yards District. This will be an approximately 293,000 square foot mixed-use building fronting on West 37th Street containing approximately 359 dwelling units and 8,000 square feet of ground floor commercial space. The accessory parking required by the Special Hudson Yards District regulations will be located at the existing building known as Hudson Crossing, which is on the same zoning lot.

Hudson Mews North is to be located mid-block between West 37th and 38th Streets, west of Ninth Avenue (Block 735, Lots 18, 22, 30). The existing zoning is R8A/C2-5 Overlay and C1-7A, Special Hudson Yards District. This will be an approximately 378,500 square foot mixed-use building containing approximately 450 dwelling units, 13,500 square feet of ground floor commercial space and 190 accessory parking spaces, as required by the Special Hudson Yards District regulations.¹

Both buildings will be 80/20 rental properties, and approximately 80% of the units will be studios and one-bedroom units and 20% will be two-bedroom units. We regret this unit mix and believe that the buildings should include more two-bedroom or larger units, to accommodate families.

The entire project is expected to be built to LEEDs Silver standards, though it is unlikely to be certified.

The Open Space.

Virtually all of the proposed open space will be located on deck above the Lincoln Tunnel Ramps. The small open space next to Hudson Mews South, approximately 3,660 square feet, is planned as a pocket park with a water feature at the southern end that would provide a visual and audible separation between the open space and the Lincoln Tunnel traffic below. It will have substantial seating and landscaping and will link directly across 37th Street to the much larger open space next to Hudson Mews North, which will be approximately 21,080 square feet and

¹ The application for the northern parcel includes, in the third paragraph of the Description of the Proposal, the statement that “the building would share a zoning lot with certain properties along the Ninth Avenue frontage, which could be existing buildings that are maintained alongside new development at the northern end of the frontage or which could be all new development along the entire frontage.” [emphasis added] The existing buildings are a row of seven occupied tenement buildings with addresses at 485-499 Ninth Avenue. They are important elements of the “Main Street” character of this stretch of Ninth Avenue, and are subject to the harassment provisions of Section 93-90 of the Special Hudson Yards District regulations. This Board will oppose any future plan that involves demolition of these buildings, and the applicant has assured us that there is no present intention to demolish any of them.

have broad entrances along 37th and 38th Streets. The centerpiece of the northern open space will be a central lawn (with real grass), containing a variety of seating throughout. Heavy landscaping will be located along the edges of the open space in areas where it can be planted in the ground. Plantings on the deck will be located in raised planters. The plan includes a small playground on the northern side of the open space, near 38th Street.

The open space must be completed before certificates of occupancy for the buildings may be issued, and it must be operated and maintained by the applicant as required by the Zoning Resolution. Sections 93-543 and 37-04(q).

This project is an important first step toward realizing the “Infrastructure Park” or “Neighborhood Park” that featured so prominently in the City’s Hudson Yards open space plan, stretching from 34th to 40th Streets. This Board was dismayed when the plan for a public neighborhood park was dropped in favor of implementation through the zoning incentive that is now being used by the applicant, because we feared that such a piecemeal approach was not the most effective way to provide what should be an important element of the neighborhood’s public infrastructure. We are therefore now pleased that the Hudson Mews project will indeed create substantial open space in the heart of the planned Neighborhood Park, and will begin to make the plan real. We hope it is just the first of a string of developments that will complete the plan.

OUR CONCERNS

The Open Space. The applicant presented its preliminary plans to the Board’s Clinton/Hell’s Kitchen Land Use Committee in July 2006 and again in November 2006, and on November 9th, 2006 we issued a memorandum detailing a number of concerns related to the open space; we have used that memo as a reference in preparing the following comments and recommendations concerning the open space. Overall, we are pleased that so many of our comments and suggestions over the last year are now reflected in the open space plan, and we thank the applicant and its team for their extensive consultation with the community throughout the development of the plan.

In November, our primary concern was that the open space looked too much like an urban plaza and not enough like a neighborhood park. However, the Board is pleased to see that the open space looks much more like a neighborhood park now. There will be real grass and not field turf. There are four types of seating arrangements; and a proposed water fountain. The walkways which were once 15 feet wide have been reduced to seven feet wide allowing more lawn. Lighting will be bright enough for security, but downlit to minimize the impact on surrounding residences.

However, a small number of our comments about the open space still have not been addressed, and we reiterate them here, as conditions to our approval of these applications:

- The park must be **closed at night** to address existing public safety conditions in the neighborhood. We recognize that a nighttime closing may be authorized by the Commission under Section 37-06 only if “such a closing is necessary for public safety and maintenance of the public open areas as documented by the applicant.” DCP staff

has maintained that an authorization for nighttime closing under Section 37-06 is not appropriate until the park has been open for a period of time and a pattern of public safety and maintenance issues has arisen. We believe this attitude is short-sighted, and only invites trouble. There already is a well-established public safety need for nighttime closings of open space in Community District 4, and many of our most successful parks and open spaces are in fact closed at night. With the site's proximity to Port Authority Bus Terminal and Penn Station, and their nighttime transient populations, the need for a nighttime closing is clear. We understand that the applicant shares our view, and we urge the Commission to provide the necessary authorization now rather than later.

- **Street trees are required** on 37th and 38th Streets, per Section 93-62. Where the streets are actually bridges, street trees should be planted in movable planters. We thank the applicant for agreeing to pursue this route with the Department of Transportation and the Port Authority.
- **Retail uses should be good for a residential area:** no bars, clubs, cabarets, adult uses or banks (the latter because they're dead zones at night). The applicant has agreed to everything but a bank and bar. With so many small rental apartments, these buildings will most likely house a transient just-out-of-school population, making a bar an understandably appealing for the applicant. But the site is surrounded by longer-term residences, and we are seeking to reinforce the residential character of the neighborhood. We fear that a lively bar will inevitably create conflicts, and we urge the applicant to reconsider.
- The park must be a **well-maintained public open area in perpetuity**. The legal mechanism for ensuring this must be in place before Hudson Mews is completed, in compliance with the requirements of Section 93-543.

Construction Impacts. The construction impacts of this project will be overwhelming. The residents of 37th Street are already experiencing horrendous noise, air quality and traffic conditions due to the Rockrose project now under construction down the street. The Hudson Mews project will be bigger, and its impacts even worse. Building the steel deck over the Lincoln Tunnel Ramps and Dyer Avenue will take approximately 12 months, and will be complicated and noisy. It will require partial and full shutdowns of these roadways, with likely traffic impacts far beyond the area. The applicant is working with the Port Authority to reconcile the PA's operational needs with the applicant's. Apparently, the PA believes that its operational needs require that much of the work be done at night. This will be unacceptable to the residents of the surrounding area, and will be opposed by this Board. The needs of the surrounding community must be considered too, and nighttime work must be extremely limited.

A **construction task force**, with representatives from the applicant, the PA, all the involved public agencies and local residents and businesses must be established to plan and manage the construction impacts, which must be mitigated to the greatest extent possible. The task force should begin work immediately, in anticipation of the start of construction early in 2008, and should continue to meet regularly throughout the period of construction. The applicant has agreed to this recommendation.

THE FINDINGS

The authorizations that the applicant is seeking require that the Commission make four findings required by Section 93-543, relating to the appropriateness of the open space as an amenity, the features of the open space, the scale and character of the surrounding area, and approvals by the Port Authority. We agree that these findings can be made, for the reasons set forth in the applications.

CONCLUSION

This Board therefore recommends approval of Applications N 070435 ZAM and N 070436 ZAM, subject to the conditions set forth under "The Open Space" above and to the creation of a construction task force, which should be included in the terms of the authorizations.

Sincerely,



J. Lee Compton
Chair
Manhattan Community Board 4



Anna Hayes Levin
Co-Chair
Clinton/Hell's Kitchen Land Use

Cc: electeds
Steve Benjamin, The Dermot Company
Melanie Meyers, Fried, Frank, Harris, Shriver and Jacobson LLP
Daniel Kaplan, FX Fowle Architects, P.C.
Port Authority of NYNJ