



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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**CHRISTINE BERTHET**  
Chair

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

February 13, 2014

Ken Knuckles, Vice-Chair  
NYC Department of City Planning  
22 Reade Street  
New York, NY 10007

**Re: Manhattan West Text Amendment  
N 140191 ZRM**

Dear Vice-Chair Knuckles:

Manhattan Community Board 4 (MCB4) is pleased to provide its recommendation on an application ("Application") by BOP West 31st Street LLC and Brookfield Properties W. 33rd Co., L.P. ("Applicant") to amend the Special Hudson Yards District of the New York City Zoning Resolution in order to facilitate development of 450 West 33rd Street in Subarea B1 and Ninth Avenue Rail Yard in Subarea B2.

The proposed text amendment would modify the requirements of the public access area and phasing of 450 West 33rd Street (450 Building) in Subarea B1 and Ninth Avenue Rail Yard in Subarea B2; and parking certification of Ninth Avenue Rail Yard in Subarea B2.

Although the Application for a zoning text amendment (N140191 ZRM) is not subject to the Uniform Land Use Review Procedure and did not require public hearing by Manhattan Community Board 4 (MCB4), public presentations on the proposed development and the required zoning actions were given to the Clinton/Hell's Kitchen Land Use And Zoning Committee on January 8, 2013 and, at the Board's request, to Manhattan Community Board 4 at its Full Board Meeting on February 5, 2014.

At the Full Board Meeting Manhattan Community Board 4 recommended approval with conditions.\*

**DEVELOPMENT SITE**

The Development Site consists of lots 50 and 60 in Block 729. The site occupies the entire Ninth Avenue block front (455 feet) and extends 478 feet west on 31st Street. Along 33rd Street, the Development Site also extends west a distance of 478 feet but it does not include the lot

containing 424 West 33rd Street.

The Development Site has an area of approximately 213,600 square feet. It contains no existing buildings but there is an active below-grade rail yard used primarily for Amtrak. The Applicant is currently constructing a platform to cover the rail yard and to enable the development of the proposed commercial and residential buildings. Along both West 33rd and West 31st Streets, public parking lots with a total capacity of approximately 450 spaces were in operation until recently.

The Applicant intends to develop the Development Site into a new commercial center, residential hub and extensive green space (to be known as Manhattan West) that links the midtown business district and Moynihan Station to the Eastern and Western Rail Yards and beyond to Hudson Park and Boulevard, the northern terminus of the High Line, and the new 7 Line extension.

Upon completion, the Development Site will contain approximately four million square of zoning floor area, with approximately 3.2 million square feet of commercial (office, hotel, and retail) uses and 800,000 square feet of residential uses. The first stage of the project is the construction of a platform about the rail yards which commenced in late 2012.

Completion of the entire project is expected in 2020.

### **Five Buildings**

It is currently anticipated that a total of five buildings will be constructed on the Development Site: two office buildings on the northeast and southeast corners, respectively, a residential building on the southwest portion and mixed-use buildings containing office, hotel, or retail uses on the northwest portion and to the north of the residential buildings.

The height and setback regulations in the Special Hudson Yard District allow a building to rise without setback to a height of 150 feet with a mandatory 15 foot setback above that height on a wide street and 20 feet on a narrow street. Alternatively, if a 15-foot setback at grade is provided on a narrow street, no setback is required on a narrow street.

According to the Applicant, the exact heights of the buildings are not known but it is expected that the two office buildings will be skyscrapers.

### **Public Space**

The proposed Development will provide over two acres of publicly accessible open space. According to the Applicant, the space will include "gardens, plazas, terraces," and passageways along with a deck over the existing Dyer Avenue between 31st and 33rd Streets "to create a seamless public open space in place of the open cut roadway." The open space will be "extensively landscaped with both trees and planted areas, (and) have fixed and moveable seating and tables and other amenities".

### **PROPOSED AMENDMENT**

It should be noted that the proposed text amendment is not required to implement the Applicant's

proposed development for the Development Site. They do not change the amount of floor area that can be developed nor do they modify any height and setback or other bulk requirement applicable to the Development site. Rather, they only seek to modify the nature of the public access areas to be provided on the Development Site and the parking requirements. The changes to the parking regulations are required to accommodate the size and complexity of the Development Site.

The central elements of the proposed revised public access plan are:

- A Central Plaza;
- An Entry Plaza at Ninth Avenue and West 33rd Street;
- A new Platform over Dyer Avenue;
- An Art Plaza at Ninth Avenue and West 31st Street; and,
- A Breezeway in the 450 Building running from Dyer Avenue to Tenth Avenue.

The following actions are required to implement the proposed project.

### **Zoning Text Amendments**

1. Amendment to Section 93-221 (Maximum Floor Area Ratio in the Farley Corridor Subdistrict B).

The proposed text amendment would prohibit a transfer of floor area between a zoning lot located north of West 31st Street in the Western Blocks Subarea B1 and a zoning lot located north of West 31st Street in the Central Blocks Subarea B2

2. Amendments to Section 93-70 (Public Access Requirements for Special Sites); Section 93-72 (Public Access Areas at 450 West 33rd Street; Section 93-73 (Public Access Areas on Ninth Avenue Rail Yard); 93-731 (Special Requirements for Zoning Lots with Floor Area Ratios Greater than 10).

The proposed text amendment would substitute a new, redesigned series of public access areas. The revised public access spaces for the Development Site will consist of the following elements:

- An **Entry Plaza** with a minimum size of 10,080 square feet and a minimum Ninth Avenue frontage of 168 feet located at the corner of Ninth Avenue and 33rd Street. The Entry Plaza will have a minimum of eight trees, 336 linear feet of seating including a minimum of 48 moveable chairs and 12 moveable tables and at least two planting bed with an aggregate minimum size of 800 square feet. The Entry Plaza will connect to the northern edge of the central plaza.
- The **Central Plaza** will be a minimum of between 80 to 100 feet wide and extend from Ninth Avenue to Dyer Avenue. The Central Plaza will include a landscaped area with at least 44 trees, large (minimum 7,500 square feet) planting beds as well as at least 725 linear feet of seating including a minimum of 120 moveable chairs and 30 moveable tables.
- An **Event Space** of no more than 4,500 square feet is proposed for the western part of the Central Plaza and will be used for both public events (such as concerts, performances, special

events, art exhibits, etc.) with up to 12 private events permitted upon approval by the Commission of a restrictive declaration. When no events are occurring, the Entry Plaza will contain a minimum 192 linear feet of seating including 96 moveable chairs and 24 moveable tables along with two moveable food kiosks during winter months.

- A **Pavilion**. For the 100 foot wide plaza alternative, the proposed text amendment allows for a one-story retail Pavilion to be constructed in the Central Plaza provided that the lot coverage of the Pavilion is at least 1,000 square feet and no more than 3,000 square feet. The text limits the width of the pavilion to 40 feet and 25 feet in height.
- An **Art Plaza** with a minimum of 7,480 square feet at the corner of Ninth Avenue and West 31st Street. The Art Plaza will contain one or more pieces of artwork approved by the Public Design Commission, 45 feet of linear seating along with at least four trees, and a planting bed of at least 410 square feet.
- A **Platform** ("Dyer Platform") covering the full width of Dyer Avenue from West 31st to West 33rd Street. The platform will be landscaped with trees (a minimum of 16) containing a planting bed of at least 1,500 square feet and have two eight-foot wide circulation paths or one 12-foot wide path extending for the full length of the Dyer Platform. A West 31st Street connector consisting of a stair and elevator will connect the Dyer Platform with the sidewalk at West 31st Street.

For the 450 Site, the proposed text provides that the following new public access areas must be constructed at the time that the Dyer Platform is substantially completed:

- A **Breezeway** (or passageway) in the 450 Building which connects the Dyer Platform to Tenth Avenue.
- A **Podium** with a minimum area of 1800 square feet at the corner of Tenth Avenue and West 31st Street which will connect with the breezeway and provide stairs and elevators to the sidewalk.

The proposed text requires that the seating, planting areas, trees, and stairs generally comply with the public plaza design standards. The public access areas are required to be open to the public from 6 a.m. to 1 a.m. The Applicant wants to close them between 1 a.m. and 6 a.m.

3. Section 93-821 (Permitted Parking when the Reservoir Surplus is Greater than or Equal to Zero) and 93-822 (Permitted Parking when a Reservoir Deficit Exists).

The proposed text amendment aligns the certification for the parking with the timing of the actual construction process for this large site. It only allows the Development Site to utilize the parking permitted by the Zoning Resolution and does not increase the number of parking spaces permitted on the Development Site or allowed in the Special Hudson Yards District.

## **Certifications**

### Certification under Section 93-122

Residential development is only permitted on the Development Site after 15 FAR of commercial uses have been developed. Section 93-122 provides that residential use on the Development Site requires a certification by the Chairperson of the City Planning Commission that the minimum amount of commercial floor area has been provided.

The Applicant is proposing to develop a residential building on the southwest portion of the Development Site that will contain 854,520 square feet of residential floor area (4 FAR).

### Certification under Section 93-122(b)

Section 93-122(b) provides that for phased developments, the Chairperson of the City Planning Commission may, by certification, permit one or more buildings containing residential uses to be developed before residential use is allowed under Section 93-221.

The Applicant intends to develop the Development Site in two phases and has submitted a plan describing the proposed phases.

## **MCB4 COMMENTS AND CONDITIONS**

MCB4 wishes to thank the Applicant for its consistent willingness to present at the Board's request its proposed plans to the community and the Board and to listen to their concerns.

MCB4 applauds the Applicant's desire to install works of art and produce performances for the public and welcomes the increased public space that the approval of these proposed text amendments will provide. The Board feels, however, that public space should not be expanded solely to provide access corridors to retail venues. And the Board fears that the Applicant's employment of stale, corporate-speak lacking in specificity ("open spaces ... to be designed in an integrated fashion, (to) greatly enhance the pedestrian environment") portends open space characteristic more of an upper Sixth Avenue "pedestrian environment" than of a public space worthy of the Applicant's and the community's aspirations.

The Board is not unmindful of the many, sometimes competing demands, public space design has to balance — maintenance and safety considerations, tree and plant requirements, pedestrian circulation, etc. But public space design should not be driven by commerce. It should be driven by a desire to create a respite *from* commerce, an inviting refuge from the hustle and bustle of the city.

The Winter Garden Atrium at Brookfield's World Financial Center is a beautiful and stirring example of what great public space can be. The Board urges the Applicant to create a similar great public space — alas, one without an atrium — in our neighborhood.

## **Conditions For MCB4 Approval**

MCB4 recommends approval of the proposed text amendment with the following conditions:

### **1. Affordable Units**

The Applicant plans to develop a residential building on the southwest portion of the Development Site with 800,000 square feet of residential uses. The Applicant is financing its residential development through the New York State Housing Financing Agency 80-20 Program.

Under this program, tax-exempt financing is available to buildings that provide 20% of the units in their building as affordable to low-income tenants. This affordability is restricted to the life of the bond, typically 30 years, and then those units can be put on the market at a non-restricted rent. Under the Inclusionary Housing program, a floor area bonus is received for making the affordable units permanently affordable.

But the project is located within the Special Hudson Yards District, Farley Corridor Subdistrict B, Central Blocks Subarea B2. In this subarea, an FAR of 4.0 is allowed for residential after a minimum amount of commercial has been built. According to ZR §93-23, Inclusionary Housing is not applicable to this Subarea.

While this building is not able to receive an Inclusionary Housing bonus, the developer has voluntarily agreed to make the 20% of the units in the building that are low-income, permanently affordable. MCB4 is pleased that the developer is taking this step as permanent affordability helps to sustain the economic diversity of the neighborhood.

*The Board requests that the developer embodies this commitment in a written letter to City Council. MCB4 also requests that the developer make a written commitment to Council that it will file a Lower Income Housing Plan with the NYC Department of Housing Preservation and Development by the end of the third quarter of 2014.*

*The Board strongly insists that the affordable units not be segregated, that is, that they be randomly distributed throughout all floors of the building.*

### **2. Finishes and Fixtures**

The Applicant has been unable to answer the Board's simple question: will the affordable units have finishes and fixtures of inferior quality to the market-rate units? We would hope that a company in possession of a respected national and international reputation would wish to treat all the renters in its residential units the same.

*The finishes and fixtures of the affordable units must be the same as the market-rate units.*

### **3. Residential Building Amenities**

*All amenities in the residential building will be open to all market-rate and affordable tenants. For fee-based amenities, there will be a reduced fee for the affordable tenants.*

### **4. An Open City**

The Board fully understands the necessity of closing the public access areas for emergencies or repairs. The Board does not believe, however, that outside those contingencies, open public access areas in our district in the heart of a 24-hour city should ever be closed to the people of New York.

The Applicant contends that Central Park is also closed from 1:00 a.m. until 6 a.m. The Board notes that Central Park is over 800 acres in size, contains over 25,000 trees and wooded areas, and is visited by 20 million people each year. And people have been known to walk or run in it after its closing hours. Despite that, it remains the safest precinct in in Manhattan.

As far as we know, there are no wooded areas in the Applicant's proposed 87,000 square feet of public space.

*The public access areas should be open at all times.*

### **5. Event Space and Pavilion**

If a one-story retail Pavilion is constructed in the public space of the Central Plaza, and if it is a restaurant, it must be one with a price range which will not be prohibitive to majority of the public. And since a Pavilion would take otherwise freely accessible public space, the Board requests that the Applicant consider the possibility of having some of the Pavilion space available to the public even if it is not patronizing the restaurant or café.

*The Event Space will be used for private events not more than 12 days out of the year. All other events in the space will be non-commercial events open to the public and free of charge. MCB4 will participate in the event selection process.*

### **6. Construction Task Force**

The Applicant is already cooperating with an MCB4 Construction Task Force to deal with construction effects (noise, hours of construction, sanitation pickup, rat baiting, etc.) to mitigate the impact of construction on the surrounding community, including the Clinton School for Writers and Artists, the Church of St. Michael, the Webster apartments, the Fashion Institute of Technology (FIT), and nearby residential owners and tenants.

*The Applicant will continue to cooperate with the MCB4 Construction Task Force.*

### **7. West 31st and West 33rd Streets**

*The Applicant work with MCB4 and DOT to make West 31st and West 33rd Streets landscaped, inviting, and well lit.*

### **8. Continuing Community Cooperation**

The Board expects that the Applicant will continue to be a good neighbor and valuable member of the Hell's Kitchen community after the development is complete. The Board hopes the Applicant will look into the possibility of offering space in the development for community meetings.

*The applicant will work with MCB4 and the surrounding community to address and resolve*

*issues of light "bounce," noise issues, security, and other concerns which might arise after the development is completed.*

Thank you,



Christine Berthet  
Chair



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

CC: Henry Caso, Sabrina Kanner, Philip Wharton – Brookfield Properties  
Peter Krokondelas, Kenneth Lowenstein – representatives for Brookfield Properties  
Brad Hoylman - NY State Senator  
Richard Gottfried - NY State Assembly Member  
Jerrold Nadler - Congress Member  
Gale Brewer - Manhattan Borough President  
Corey Johnson - NYC Council Member  
Frank Ruchala - Department of City Planning

\* Joe Restuccia, a member of MCB4 who serves on the Clinton/Hell's Kitchen Land Use Committee is Executive Director of the Clinton Housing Development Company, recused himself from voting.