



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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**CHRISTINE BERTHET**  
Chair

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

August 13, 2014

Vicki Been  
Commissioner  
NYC Dept. of Housing Preservation and Development  
100 Gold Street  
New York, NY 10007

**Re: Harborview Terrace  
Hudson Yards Points of Agreement  
Proposed Permanent Affordable Housing RFP**

Dear Commissioner Been:

At the June 19, 2014 meeting of Manhattan Community Board 4's (CB4) Housing, Health and Human Services (HH&HS) Committee, a presentation was made detailing the community's progress made on reaching consensus on a planned Request for Proposals (RFP) for a permanently affordable housing development on the Harborview Terrace site at West 56<sup>th</sup> Street, just east of 11<sup>th</sup> Avenue. This RFP is part of the affordable housing commitments made by the Mayor to City Council and finalized in the Hudson Yards Points of Agreement (HY POA) in 2005 (attached). CB4 has been a strong advocate for this project over the years and is pleased that the NYC Department of Housing Preservation and Development (HPD) and the NYC Housing Authority (NYCHA) are engaging with both CB4 and the Harborview Tenant Association to draft an RFP that is responsive to the range of concerns of all sectors of the community.

**Background**

The project site is approximately 34,000 square feet and is currently used as a 37 car NYCHA tenant parking lot and basketball courts. The site is located through block between West 55<sup>th</sup> and West 56<sup>th</sup> Streets, between 10<sup>th</sup> and 11<sup>th</sup> Avenues, on the northern block of Harborview Terrace and is part of the former Clinton Urban Renewal Area (CURA) that was condemned for affordable housing in 1969. The site is part of a 1974 Large Scale Residential Development (LSRD) that encompasses both the north and south blocks of Harborview Terrace.

In 2005, Council and the Administration agreed to develop affordable housing on the NYCHA Harborview Site and committed that the site would generate 155 affordable units, including 63 low-income units (up to 60% of AMI), 46 moderate income units (up to 135% AMI) and 46 middle income units (up to 165% of AMI). The HY POA stated that the new building would be

no taller than the existing Harborview building. The HY POA also noted that all of the units would be permanently affordable and NYCHA and HPD would lead the development of the site.

An RFP was issued according to these parameters in 2007 and Atlantic Development Group was selected as the developer. The Uniform Land Use Review Procedure (ULURP) application for the project was certified in May 2008 and was approved by Council in November 2008. CB4 did not support the original project for several reasons (see attached letter dated July 11, 2008) including:

- The inclusion of market-rate units that were never agreed to in the HY POA.
- The creation of a floor area bonus through the Inclusionary Housing Program.
- The project only generated 72 moderate and middle income units, less than the 92 moderate and middle units committed to in the HY POA.
- The majority of the proposed units were studios and one bedroom apartments that did not meet the community's need for family-size units.
- The project included a concentration of senior housing. CB4 believes that senior housing should be integrated throughout the community.

The original developer encountered legal issues and the project did not proceed.

In August of 2013 as part of the negotiations over the Culture Shed, the Council and the Administration agreed to release a new RFP for the project on or before December 31, 2013 (see attached letter dated July 31, 2013). CB4 agreed to push that date back into 2014 in order to allow for more community input into the parameters of the RFP. The developer that is awarded the project will need to submit a new ULURP application for, at minimum, a Special Permit to build over a rail cut and modifications to the existing LSRD.

### **Community Planning Process**

At the December 19, 2013 of CB4's HH&HS Committee, HPD and NYCHA gave a presentation on the status of the Harborview RFP. That meeting was well attended by residents of the community and members of the Harborview Tenant Association as well as representatives from the office of Manhattan Borough President Gale Brewer, Assembly Member Linda Rosenthal, and Council Member Helen Rosenthal. The Committee and members of the public each expressed a broad variety of concerns. At the same time, CB4 was very pleased that as part of this second round RFP, HPD and NYCHA will continue to meet with CB4 and the Harborview Tenant Association to develop its parameters prior to the RFPs issuance.

Since that December meeting, there have been a series of follow-up meetings with a working group comprised of the Harborview Tenants Association, CB4, Housing Conservation Coordinators, Clinton Housing Development Company, Assembly Member Linda Rosenthal, Council Member Helen Rosenthal, Manhattan Borough President Gale Brewer and New York State Senator Brad Hoylman (the "Harborview Working Group"). As a result of meetings on February 18<sup>th</sup>, May 1<sup>st</sup>, May 16<sup>th</sup>, and June 9<sup>th</sup> key objectives have been identified, developed and defined for the Harborview site.

## ***Public Process***

- HPD and NYCHA must continue to engage with the Harborview Working Group and the broader community at each step along the way, as parameters are developed, through ULURP and construction.

## ***Site Planning***

- *Design guidelines*
  - Contextual design – Design must be developed contextually to allow for integration of the new building into the existing Harborview campus and surrounding buildings.
  - Distance between buildings – The site plan must provide for adequate light and air for the existing Harborview buildings. The new building should be L-shaped, mirroring the existing family building.
  - Height and bulk – The height of the new building should be limited to provide light and air to existing buildings and spaces and to work within the context of the site. However, the Harborview Working Group favors a bulkier, set back and stepped down building with height capped at 25 stories and the massing pushed to the west. This increase in bulk allows for an increase in the number of affordable units in the new building from 155 to 230 units.
- *Integrating existing NYCHA facilities*
  - NYCHA tenant parking – NYCHA must confirm the number of existing NYCHA tenant parking permits being impacted. The RFP must provide for consolidation of all tenant and NYCHA staff parking for the entire Harborview campus into an enclosed garage as part of the new building.
  - NYCHA garbage facilities – Relocation of all existing NYCHA dumpsters, compactors, and bulk recycling which serve the campus must be integrated into the site plan. The Harborview Working Group recommends integration of the dumpsters, compactors and bulk recycling into the proposed enclosed garage in the new building. The garbage should be accessed from one street and the parking from a different street, but both access points should be as far west as feasible.

## ***Building Design and Program***

- *Market rate units* – The RFP must not allow for any market rate units to be built on the site.
- *Maximizing units* – The RFP should allow for the maximum amount of permanently affordable units. Units must be distributed as follows according to the HY POA:
  - 63 low-income units (up to 60% of AMI);
  - 46 moderate income units (up to 135% AMI); and
  - 46 middle income units (up to 165% of AMI).
- The additional 75 affordable units created by the stepped building design should be distributed at 50%, 60%, 80%, 125% and 165% of AMI.

- *Unit sizes* – The RFP will require at least 50% two-bedroom units and should encourage some three-bedroom units.
- *Lottery preferences:*
- The Community Preference for units during the lottery will be 50%.
- The NYCHA preference should be increased from 20 to 25% of the units.
- The Community District 4 NYCHA preference should be expanded to include tenants of the nearby Amsterdam Houses located in Community District 7.
- *Green building* – The RFP should mandate, at minimum, compliance with the Enterprise Green Communities program.
- *Pets* – The RFP should make clear that the project will allow pets.
- *Smoke-free preference* – The RFP should stipulate that the project be smoke-free.

### ***Harborview Campus Open Space Improvements***

- *Master plan for open space* - The Harborview Working Group is now working with the Harborview Tenant Association to develop a master plan for all of the Harborview open spaces and expects that planning process to be complete by late September 2014. The master plan will include improved open space design for specific age demographics including:
  - Adults and Elderly (seating, easy access);
  - Teenagers (e.g. basketball, skateboarding and rollerblading surfaces);
  - School-age children (e.g. playground with slides, water sprinkler, and other equipment) and
  - Toddlers (adjacent to school age playground, path for tricycle riding).
- *Open space improvements* – The RFP should provide parameters for improvements to the existing open spaces on the Harborview campus all of which are to be done by the developer that is awarded the RFP.
- *Existing trees* - Approximately 11 existing trees may be impacted by the new development. The RFP should provide for one-for-one replacement of trees within the Harborview campus.
- *Playground* – The Harborview Tenants Association has agreed to relocate and/or reconfigure the playground as long as the new space is equivalent or larger in size.
- *Additional funding* - Manhattan Borough President Brewer and Councilmember Rosenthal have been asked to provide additional funding for Harborview campus open space redevelopment and both have indicated they would consider such a request.

### ***Community Facility Space***

- *Community Room - Existing Harborview Terrace*– The existing community room space at Harborview has been made inaccessible to residents. NYCHA should make this space available to tenants once again. As part of this planning process, a plan for renovation of the existing space is being developed. The Harborview TA and CB4 will approach Councilmember Rosenthal and Manhattan Borough President Brewer for funding for renovation of the space. If funding is granted, execution of the renovation shall be the responsibility of the developer who is awarded the RFP.

- *Community room – New development* - The RFP should also require inclusion of a community room for building residents, Harborview residents and the broader community in the new building.

**NYCHA Revenue**

- NYCHA and HPD noted that this project is being contemplated as a ground lease and not an outright sale to a developer. NYCHA represented, and CB4 supports, structuring this development as a ground lease with income from that ground lease going towards repairs and capital improvements at the Harborview Terrace campus.

CB4 looks forward to engaging with all of the stakeholders to create an RFP that meets the requirements of the HY POA and benefits both the existing Harborview tenants and the broader community. CB4 requests to meet with HPD’s Department of Planning to discuss the next steps in this community planning process for the Harborview RFP.

Sincerely,



Christine Berthet  
Chair  
Community Board 4



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

[signed 8/12/2014]

Barbara Davis  
Co-Chair  
Housing, Health & Human Services  
Committee



Joe Restuccia  
Co-Chair  
Housing, Health & Human Services  
Committee

Enclosures (2)

CC:

Adriano Espaillat, NYS Senator  
Brad Hoylman, NYS Senator  
Linda Rosenthal, NYS Assemblymember  
Jerrold Nadler, Congressman  
Gale Brewer, Manhattan Borough President

Corey Johnson, NYC Councilmember  
Thehbia Walters, HPD  
Gbenga Dawodu, NYCHA  
Dada Olasunkanmi, NYCHA  
Maria Guzman, President Harborview T.



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**JEAN-DANIEL NOLAND**  
Chair

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

July 11, 2008

Hon. Amanda M. Burden, AICP  
Chair  
City Planning Commission  
22 Reade Street  
New York, New York 10007

**Re: Harborview Affordable Housing Development – 513 West 55<sup>th</sup> Street and 520 West 56<sup>th</sup> Street - Application Numbers C080400ZSM, C080401ZSM, N080402ZAM, N080403ZAM, M080404HDM, M080405ZAM<sup>1</sup>**

Dear Chair Burden:

At its regular monthly meeting on June 4, 2008, Manhattan Community Board No. 4 held a duly noticed public hearing on the six applications referenced above. The following comments and resolutions were approved by a roll call vote of 38 in favor, 0 opposed, 0 abstentions and 1 present but not eligible to vote. (Our resolutions on the individual applications begin on page 9.)

The applications relate to development of affordable housing on the “NYCHA Harborview Site” pursuant to the Hudson Yards Points of Agreement and the West Side Sites Request for Proposals issued by the Department of Housing Preservation and Development (“HPD”) and the New York City Housing Authority (“NYCHA”) on December 7, 2006.

**SUMMARY ULURP RESPONSE**

As discussed in detail below, we recommend disapproval of four of these applications because of fundamental defects in the proposed affordable housing development program:

- The commitment to the Clinton/Hell’s Kitchen community was that this site would be used primarily for permanently affordable housing for moderate and middle income families. That commitment is not being kept.

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<sup>1</sup> It is impossible to tell from the Land Use Review Application form which number goes with which requested action.

- Market-rate units should not be built on land acquired by NYCHA for affordable housing.
- The proposed use of the inclusionary housing bonus is inappropriate.

## **THE ULURP APPLICATIONS ARE PREMATURE**

For the first time since 1982, this Board finds itself in sharp disagreement with HPD over an affordable housing development. Unfortunately, there has been very little engagement with the Board about the developer's response to the RFP and no opportunity to resolve these differences. We have a long public record of support for a wide variety of affordable housing developments. We welcome well-sited affordable housing developments, by responsive developers, including housing for homeless and special needs populations, which are often contentious and rejected by other communities. But successful development must be planned carefully, in consultation with all stakeholders.

We are baffled that these applications are proceeding through ULURP at this time. The proposed development was first presented to our Housing Health and Human Services Committee on March 18, 2008. At that meeting, substantial questions were raised about the project's affordable housing program, which is dramatically different from the program we expected based on the affordable housing commitments made in connection with the Hudson Yards rezoning. We specifically requested that the ULURP process not begin until there had been further consideration of the housing program. Holly Leicht, Deputy Commissioner of Development for the Department of Housing Preservation and Development indicated, at the end of the meeting, that HPD and NYCHA would pursue further discussions with CB4 regarding the affordable housing program before certification of the ULURP applications. Our concerns were then summarized in our letter to you, HPD and NYCHA dated April 2, 2008. In contacting HPD subsequently, the Board was informed that continuing discussions between HPD and NYCHA were underway. We were therefore flabbergasted to learn on May 5<sup>th</sup> that the applications were being certified that very day, having been filed with DCP on April 28<sup>th</sup>, only 7 days earlier.

The applications reveal the haste in which they were filed and are incomplete and lacking in necessary detail. Supporting documentation is missing. We have received notices that 3 of the applications have been certified<sup>2</sup>, but have not received any communication from DCP about public review of the other 3 applications, even though they are all contained in the same Land Use Review Application.

Negotiations have now begun in earnest between this Board, HPD, NYCHA and the developer, -- a process that should have begun months ago, and that has been this Board's and HPD's tried and true process. The applications should be withdrawn due to the incomplete and inaccurate information, and resubmitted only after an agreement is reached on a housing development plan that is more consistent with prior and often stated community needs.

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<sup>2</sup> We have received Notices of Certification for C080400ZSM, C080401ZSM and C080404HDM (sic). On the application form this last application number is M080404HDM

However, having received the 3 Notices of Certification, we feel compelled to respond to all of the applications so as not to forfeit our opportunity to provide public comment.

## **PROJECT DESCRIPTION**

These applications request six actions to facilitate the development of two new residential buildings with a total of 342 residential units on property in the Clinton Urban Renewal Area (“CURA”) that is currently owned by NYCHA and is subject to a Large Scale Residential Development Plan (LSRD) that was approved by the Board of Estimate in 1972. The developer selected by NYCHA for this project is Atlantic Development Group.

The proposed site is a through-block parcel over the Amtrak cut between West 55<sup>th</sup> and 56<sup>th</sup> Streets and Tenth and Eleventh Avenues. It is currently part of Harborview Terrace, and was intended in the LSRD to be developed with a 10 story turnkey public housing project containing 67 units. The site is now used as a parking lot for tenants of Harborview Terrace, 2 basketball courts and a passive recreation area.

The North Building, on 56<sup>th</sup> Street, would be 14 stories tall and would include approximately 148 units for low-income senior citizens with incomes between 61% and 80% of Area Median Income, developed under the City’s Inclusionary Housing Program. As such, it would generate more than 400,000 square feet of bonus development rights for use elsewhere in the Special Clinton District.

The South Building, on 55<sup>th</sup> Street, would be 15 stories tall and would, according to information presented by Atlantic, include 122 market rate units and 72 moderate- and middle-income units for households making between 81% and 165% of Area Median Income.

A 47-space accessory parking garage is proposed for the ground floors of both buildings, with 22 spaces permanently reserved for the residents of Harborview Terrace, to replace the spaces now in the parking lot. The roof of the garage between the two new buildings would be landscaped open space for the exclusive use of the tenants of the new buildings.

To summarize, the proposed affordable housing development program consists of:

148 low income units (inclusionary housing units)

72 moderate and middle income units

122 market rate units

342 total units

## **THE AFFORDABLE HOUSING PROGRAM – Site History, the Hudson Yards Affordable Housing Negotiations and the Board’s Position**

### **History of the Site**

The project site was condemned by the City in 1969, when the CURA was created, for use as affordable housing. Pursuant to the August 1972 LSRD application, two turnkey public housing projects “consisting of large family units” were planned for parcel 1 (which includes the project site) – a 19 story (234 unit) building and a separate 10 story (67 unit) building. One NYCHA building on parcel 1 was completed, but the 10 story public housing development was never developed. The entire parcel was transferred by the City to a turnkey developer, Neighborhood Developers Inc. on April 24, 1975 and by Neighborhood Developers, Inc. to NYCHA on June 23, 1977, when construction was complete. A Land Disposition Agreement recorded with the deed on April 24, 1975 restricts the use of the site “to and only to and in accordance with the uses specified in the Urban Renewal Plan.”

In 1985, the site was identified as part the Clinton Preservation Local Development Corporation’s master plan for CURA as a site for development of family housing. The Board supported that plan. In 1999, when a broad coalition of community groups came together to advance affordable housing development in the CURA, the site was again identified for the development of family housing.

### **Hudson Yards Affordable Housing Negotiations – the Points of Agreement and the Request for Proposals**

The creation of affordable housing was our top priority for the Hell’s Kitchen/Hudson Yards rezoning. From 2002 to 2005, the Board actively negotiated with the Mayor’s office regarding the number of mitigation measures. The most complex and difficult negotiations centered around affordable housing. The end result was a package that allowed the Mayor and the City Council to declare that 28% of the total number of planned housing units for Hudson Yards would be affordable. The package included zoning mechanisms for development by the private sector, and commitments by the public sector of public land and public funding. The NYCHA Harborview Site was one of 13 public sites identified by the Board as possible locations for affordable housing. After lengthy negotiation with HPD, and HPD in turn with NYCHA, the project site was included as one of 3 public sites in the Hudson Yards affordable housing package.<sup>3</sup>

The Board had initially proposed that the public sites be used for the lowest income housing. But we soon realized that the zoning mechanisms being proposed for the private sector (Inclusionary Housing coupled with enhancement of the 80/20 financing program) would produce an abundance of low income housing on privately owed sites. It was therefore agreed, somewhat counter-intuitively, that the public sites would be

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<sup>3</sup> The other sites are “Site M” on the west side of Tenth Avenue between 40<sup>th</sup> and 41<sup>st</sup> Streets and the “Studio City/PS 51 Site” between 44<sup>th</sup> and 45<sup>th</sup> Streets and Tenth and Eleventh Avenues

reserved for moderate and middle income housing. The City would provide the land and a public subsidy and a private developer would be chosen through a competitive process.

The City's commitments for affordable housing were embodied in the "Points of Agreement" between the Administration and the City Council in January 2005. The Points of Agreement anticipate that the NYCHA Harborview Site will generate 155 permanently affordable units, including 63 low income units (up to 60% of AMI), 46 moderate income units (up to 135% AMI) and 46 middle income units (up to 165% of AMI).

The NYCHA Harborview Site was included in HPD's West Side Sites Request for Proposals, issued on December 7, 2006<sup>4</sup>. As the RFP was being prepared, the Board held a series of public meetings, which were attended by representatives of HPD and NYCHA, to develop community consensus on the programs for each of the sites. In those meetings, the community's overall concern was to maximize the production of housing for moderate- and middle-income **families**, since the market was producing low-income studios and one-bedroom units throughout CD4.

We understand that Atlantic Development Group was selected as the developer for the NYCHA Harborview site in the late summer or fall of 2007, but Atlantic's proposal was not presented to the community until the meeting of our Housing Health and Human Services Committee on March 18, 2008. The community's opposition to the proposal, summarized in our letter to you dated April 2, 2008, was resounding. Despite public assurances from HPD that differences would be worked out prior to filing, there was no further discussion of Atlantic's affordable housing proposal before the ULURP applications were filed and certified.

Until this point, the Board has considered itself a partner with HPD in identifying, conceiving and bringing this project to fruition. It is an affordable housing development the Board wants to see realized, but not in this manner.

### **The Board's Position on the Proposed Harborview Affordable Housing Program**

The proposed affordable housing program presented to the joint meeting of CB4's Clinton/Hell's Kitchen Land Use and Zoning and the Housing, Health and Human Services committees on May 14, 2008, does not meet the Board's affordable housing goals, fails to meet the requirements of the Points of Agreement and is not consistent with the 1975 Land Disposition Agreement deed restriction, as follows:

- **Minimal Production of Moderate and Middle Income Housing for Families** -- Under the Points of Agreement, the City committed to create predominantly moderate and middle income units on this site, with a minimum of 155 units. The project as proposed generates only 72 moderate and middle income units. The Harborview site must maximize not minimize the number of moderate and middle

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<sup>4</sup> The two other sites in the RFP resulted from the affordable housing commitments in the West Chelsea rezoning.

income units. In addition, the majority of the proposed affordable housing units are studios and one bedroom apartments. Those unit sizes are already being produced in disproportionate amounts by the private sector through the Inclusionary Housing and 80/20 programs. The consistently-stated community need for family-size units must be a base requirement at this site.

- **Building Market-Rate Units on NYCHA Land is a Slippery Slope** – Market-rate units should not be built on NYCHA owned land. The stated reason for production of market-rate units is the need to produce revenue for NYCHA’s operating purposes. This policy shift, in the name of preserving public housing, is a slippery slope at best. The sale of scarce resource, publicly owned land, whether or not controlled by a public authority, to fund operating deficits does not make financial sense. It is quick one-time fix in an attempt to remedy a structural financial problem. Decisions made for Harborview, to include market-rate units, will be precedent setting for the entire NYHCA housing inventory citywide.

In the case of this particular site, on the CURA, the project will not conform to the requirements of the 1975 Land Disposition Agreement. The project site was condemned for affordable housing. The deed restriction requires that any use be in compliance with the Clinton Urban Renewal Plan. The plan specifies that “approximately one third of the new apartments will be for low income families with the *remaining* units for families of moderate income (emphasis added).” The covenant is still in effect and does not expire until October 24, 2009. Market-rate units are simply not appropriate on this public site, in a neighborhood where the private sector is producing market units at a rapid pace.

- **Housing mitigation for Hudson Yards should not produce more density and less affordable housing in the Special Clinton District** -- The commitment for affordable housing offsite from the Hudson Yards rezoning area was to mitigate the impact on the Clinton/Hell’s Kitchen community of the enormous bulk to be developed in the Hudson Yards, the densest zoning district in the City. The use of the public sites for affordable housing would help maintain the economic diversity of the community and to offset the anticipated large number of new market-rate units to be developed Hudson Yards.

The linchpin of the proposed project’s financing is the sale of Inclusionary Housing development rights, which will generate 400,000 square feet of new development in the Special Clinton District. That choice raises the following issues:

- How can a development meant to mitigate bulk resulting from the Hudson Yards rezoning generate bulk equivalent to the Victory Tower on 41<sup>st</sup> Street and 10<sup>th</sup> Avenue?
- Why are we using the Harborview public site to replace private sites which the private market would have had to acquire to produce

Inclusionary Housing needed for bonusing market rate housing? In fact, why subsidize the private Inclusionary Housing market with a public site?

- Why concentrate Inclusionary Housing next to other affordable housing in the CURA? Why not let it be included throughout the community, whether within the market rate buildings developed, or on scattered sites acquired by market rate developers?
- Don't we have a net loss of production of affordable housing by using Harborview for Inclusionary Housing? If Harborview were developed without Inclusionary Housing, the private sector would meet its Inclusionary need on other private sites, thus increasing the total supply of affordable housing.

The Board simply cannot support the use of the Harborview site for Inclusionary Housing. It is not double dipping, but triple dipping for the same site—Hudson Yards mitigation, use of scarce public site for affordable housing, and creating development rights to benefit several other sites in the Special Clinton Zoning District.

- **Senior Housing is a Right Choice on the Wrong Site**--The Clinton/Hell's Kitchen and Chelsea community welcomes senior housing. Indeed, we recently celebrated completion of the Encore Senior Residence at 755 10<sup>th</sup> Avenue with 84 units for low income seniors – a development on the CURA for which this Board advocated for years. One of the existing Harborview buildings in the LSRD has 195 units of low-income senior housing across 55<sup>th</sup> Street from the proposed development. The proposed developer has attempted to portray the Board and the Clinton/Hell's Kitchen and Chelsea community as opposed to senior housing. Given the Board's 30-year record of supporting all types of affordable housing, we can only conclude that their due diligence on the community's goals and concerns, was inadequate.

Senior housing, like all other affordable housing, must be integrated throughout the community, not built on a site reserved for moderate and middle income family housing.

Further, the income band for the proposed senior housing is at 80% AMI, an income band that most of our seniors fall well below. A project with the same financing structure and income bands was developed by this developer on West End Avenue and 61<sup>st</sup> Street. We understand that that project experienced severe delays in rent up, because of a lack of income-eligible seniors, notwithstanding a citywide lottery.

## DEFECTIVE ULURP DOCUMENTATION

The application materials received from the Department of City Planning reveal a number of apparent defects. We are surprised that the applications were certified in this form.

1. Agency Co-Applicants--The application is signed by HPD as co-applicant, but HPD is not listed as a co-applicant in Item 1. Is HPD a co-applicant or not?
2. Disposition of Property--The application form indicates that disposition of real property is one of the requested actions, yet that action is not described in the Project Description. The Property Disposition section of the application form indicates that the intended disposition is from HPD to NYCHA, but NYCHA already owns the property. More importantly, the application does not explain how the property will be disposed of to the selected developer. Isn't ULURP required for this action?
3. Detailed Program for Relocation and Improvement to Common Open Space--The Negative Declaration states that the selected developer has agreed to relocate the existing playground to a location specified by NYCHA and to landscape and improve the existing walkway between the proposed development and the existing Harborview Terrace building for use by NYCHA through a permanent easement, yet no information is provided about implementation of these commitments. Plans for relocation of the playground and for landscaping, lighting and improving the areas between the development site and the existing Harborview Terrace building must be developed in consultation with this board and the residents of Harborview Terrace before construction begins. Those plans must include more than just relocating the existing playground and landscaping the walkway; care must be taken to integrate and modernize all of the open space, especially considering that the development will permanently displace a large amount of open recreational space.
4. Existing and Proposed Site Plans for the LSRD--The current LSRD is proposed to be updated to reflect development of the new buildings, but neither the current LSRD nor the proposed change is provided. What we have is a letter from the City's Housing and Development Administration to the City Planning Commission dated August 3, 1972 transmitting the LSRD and requesting CPC's "expeditious action." The application indicates that the LSRD was approved by the CPC on October 11, 1972. The transmittal letter is file-stamped to indicate it was subject to approval by the Board of Estimate. Since changes may have been made in the LSRD between its transmittal to CPC and approval by the Board of Estimate, the LSRD approved by the Board of Estimate must be provided.<sup>5</sup> In addition, the proposed change in the LSRD must be provided in graphic form.

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<sup>5</sup> HPD did provide us with a copy of a Board of Estimate resolution which, upon examination, is the resolution for the zoning actions required for the adjacent Clinton Towers development based on CP-22119. The resolution concerning the LSRD is based on CP-22113.

5. Zoning Lot Subdivision Requirements Under 78-50--The application makes no reference to ZR Section 78-50 concerning subdivision of large-scale residential developments. Parcel 1 of the LSRD is proposed to be subdivided into two zoning lots, and the requirements of Section 78-50 must be met.
6. Modification of 1975 Disposition Authorization--The 1975 authorization by the Board of Estimate for disposition of Parcels 1 and 4 pursuant to the Clinton Urban Renewal Plan is proposed to be modified, but neither the authorization nor the proposed modification is provided.
7. Inclusion of Clinton Towers as part of the LSRD--The August 1972 application for the LSRD, which is purported to be the application approved by the Board of Estimate on October 11, 1972, included 4 parcels on the northern portion of the Clinton Urban Renewal Area. A portion of the 7 story extension of the existing Clinton Towers development on block 1083, lot 1, falls within the boundary of the LSRD; however the property owner, Clinton Towers Housing Co. is not included as a co-applicant, nor are the details of that development, including the number of dwelling units, development s.f. and open space s.f. specified in the application. Without this information, it is not possible to assess the modifications requested to the LSRD. We also believe that Clinton Towers Housing Co. must approve the applications, yet there is no indication that such approval has been obtained.

## **THE APPLICATIONS**

With the ULURP clock running, CB4 has nonetheless carefully reviewed the six land use applications in light of the concerns expressed above and based on the development program described in the application. Our recommendations are as follows:

- 1. Authorizations pursuant to ZR Section 78-311 to distribute floor area, dwelling units and open space without regard to zoning lot lines and to modify height and setback regulations within the LSRD.**
- 2. Special permit pursuant to ZR Section 78-312 to modify height and setback regulations on the periphery of the LSRD.**

The proposed development site is part of Parcel 1 in the LSRD. The balance of Parcel 1 is occupied by the existing Harborview Terrace NYCHA building. The LSRD includes two other parcels: Parcel 4, which is also owned by NYCHA and is occupied by the Harborview Terrace senior building, and Parcel 3, which is owned by Clinton Towers Housing Co.

When Parcel 1 is subdivided, as planned, into two zoning lots, the proposed development on Parcel 1A would place 31% more floor area and 27% more dwelling units on the development site than are allowed by zoning, and would provide 57% less open space than is required. The requested authorizations would allow those differences because the other parcels in the LSRD have “leftovers.” Specifically, 60,878.58 square feet of floor

area would be reallocated from Parcels 1B and 4; Parcel 1B has 188 fewer dwelling units than zoning allows and 73 of those would be allocated to Parcel 1A; and Parcels 1B and 4 together have 22,524 more square feet of open space than is required and 10,538 square feet of that open space would “count toward” the open space requirement on Parcel 1A. As noted above, it still must be confirmed that these numbers accurately reflect the built conditions of the existing Harborview Terrace and Clinton Towers buildings.

Modest modifications are requested for the setbacks required along the street and the rear yard, and for the sky exposure plane.

If the proposed buildings were to contain an acceptable affordable housing program, the numbers are confirmed to be accurate, and the remaining open space is carefully planned, the proposed distributions and modifications could be justified and the required findings could be made. The proposed distributions and modifications result in buildings that exceed the requirements and limitations by a small amount, and the scale and shape of the proposed buildings are not overwhelming. However, since the affordable housing program is so far from what we consider acceptable and, the project, as presented, will generate an additional 400,000 s.f of bulk elsewhere in the Special Clinton District, we cannot recommend approval of the authorizations for the proposed development.

In addition, we note that the open space in the LSRD is now generally available to all residents. The proposed application restricts the use of the open space to residents of the new development and circumvents the intent of the LSRD to share open space over a larger area. The proposed open space should be accessible to all LSRD residents.

Finally, we are pleased to note that the exposed eastern ends of both new buildings would be entirely finished with brick. We request that similar treatment be given to the western ends of the buildings, since they will rise above the 5 story adjacent building.

**Now, therefore, be it resolved that CB4 recommends disapproval of the authorizations pursuant to ZR Section 78-311 and the special permit pursuant to ZR Section 78-312 unless the following conditions are met:**

- Housing Program
  - Both buildings are developed as predominantly family buildings for moderate and middle income families earning between 125% and 165% AMI. The allocation between the income groups is flexible, depending on financing considerations. The community is willing to consider one of the buildings as a moderate and middle income cooperative, provided resale restrictions are put in place to eliminate windfall profits and maintain permanent affordability through deed restrictions.
  - If a senior housing component is required for financing or sponsor purposes, it is be limited to no more than 20% of the units in one building and be fully integrated throughout that building.

- The project does not create Inclusionary Housing development rights to be used within the Special Clinton Zoning District
- Permanence of the agreed levels of affordability is assured by deed restriction;
- All residential units in the proposed development have the same finishes and access to building amenities and affordable units are evenly distributed throughout each building;
- A deed restriction, specifying the number of permanently affordable units, by unit size and income band, is a condition of the property disposition;
- Apartments are made available through lottery, with a 50% community preference;
- The open space is made accessible to all LSRD residents;
- Plans for relocation of the playground and for landscaping, lighting and improving the areas between the development site and the existing Harborview Terrace building have been developed in consultation with this board and the residents of Harborview Terrace;
- The development uses design and construction methods and methods of operation that will achieve a high degree of environmental sustainability, including meeting or exceeding the standards for U.S. Green Building Council's Leadership in Energy Design (LEED) Silver certification; and
- Plans for temporary relocation of parking to Parcel 4 during construction and a restoration plan for Parcel 4 open space after construction have been developed in consultation with this board and the residents of Harborview Terrace.

**3. Authorization pursuant to ZR Section 78-41 to relocate existing required accessory parking spaces.**

The ground floor of the proposed new buildings would contain a parking garage with 47 accessory parking spaces, accessible from entrances on 55<sup>th</sup> and 56<sup>th</sup> streets. The garage would be unattended, accessible by residents using a card key and monitored from the front desks of the new buildings by camera. The application states that 22 of the parking spaces will be permanently reserved for residents of Harborview Terrace and that 8 of the required 30 spaces are on Parcel 1B and will not be affected by the proposed development. This information is incorrect. All of the existing spaces are currently located on Parcel 1A. The application must be modified to request authorization to locate all 30 required spaces on Parcel 1A to ensure compliance with NYCHA's requirement that Harborview Terrace have 30 parking spaces.

Harborview Terrace residents have expressed concern about two aspects of this parking plan: security in an unattended enclosed garage, especially at night, and the fact that residential garbage will be collected and stored in the garage, attracting vermin. Both of these concerns must be addressed.

Because the site is in the Clinton Urban Renewal Area, which is excluded from the Special Clinton District, the accessory parking is as-of-right and does not require the special permit required for accessory parking in the Special Clinton District.

When Parcel 1 of the LSRD is subdivided, as planned, into two zoning lots, the parking spaces for Harborview Terrace will be on a different zoning lot, authorization for which is required by ZR Section 78-41. We have reviewed and do not disagree with the application's statement of the findings required for this authorization.

**Now, therefore, be it resolved that CB4 recommends approval of the authorization pursuant to ZR Section 78-41, with the following conditions:**

- The garage must be made safe and secure for the residents of Harborview Terrace as well as for the residents of the new buildings;
- Garbage must be stored and handled so as to minimize adverse effects in the parking areas; and
- 30 spaces must be permanently reserved by deed restriction for the residents of Harborview Terrace.

#### **4. Minor modification to the existing LSRD site plan**

As noted above, the application contains no detail about the requested modification, noting only that it “would update the site plan to reflect the development of the New Buildings.”

The modification should be made only for a development that conforms to the requirements of the LSRD (which specifies that Parcel 1 is to be developed with large family units) and provides an acceptable affordable housing program, as discussed above.

**Now, therefore, be it resolved that CB4 recommends disapproval of the modification to the existing LSRD site plan unless the following conditions are met:**

- It is determined what the existing site plan is;
- The requested modification is graphically presented; and
- The conditions set forth above with respect to the resolution for applications 1 and 2 are met.

**5. Special permit pursuant to ZR Section 74-681 to allow for development over the Amtrak right-of-way**

The Amtrak right-of-way runs through the development site and is already covered by a permanent platform. Development above this platform requires a special permit pursuant to ZR Section 78-41. We have reviewed and do not disagree with the application's statement of the findings required for this authorization.

**Now, therefore, be it resolved that CB4 recommends approval of the authorization pursuant to ZR Section 78-41.**

**6. Modification of prior disposition pursuant to the Clinton Urban Renewal Plan**

As noted above, the application contains no detail about the requested modification, noting only that it "would modify the 1975 approval to reflect the parcels as constructed and to authorize the development of the New Buildings."

The modification should be made only for a development that conforms to the requirements of the LSRD (which specifies that Parcel 1 is to be developed with large family units) and provides an acceptable affordable housing program, as discussed above.

**Now, therefore, be it resolved that CB4 recommends disapproval of the modification of the prior disposition unless the following conditions are met:**

- The requested modification is presented in writing; and
- The conditions set forth above with respect to the resolution for applications 1 and 2 are met.

Thank you for considering our comments. Despite our profound concerns about the current development proposal, we are hopeful that through continued discussions with HPD and NYCHA the proposal can be modified to meet the needs of the community and the other stakeholders. We look forward to continuing the ULURP process with a project we can support.

Sincerely,



Jean-Daniel Noland  
Chair

[signed on July 11, 2008]  
Sarah Desmond  
Co-Chair Housing, Health &  
Human Services Committee



Anna Hayes Levin, Chair  
Clinton/Hell's Kitchen Land Use Committee



Joe Restuccia  
Co-Chair Housing, Health &  
Human Services Committee

cc: NYCHA – Ilene Popkin  
HPD – Holly Leicht, Ruth Anne Viznauskas  
DCP – Erika Selke  
Atlantic Development – Marc Altheim, Charles Brass  
Council Speaker Christine Quinn  
Councilmember Gale Brewer  
City Council Land Use Division – Danielle DeCerbo  
Congressman Jerrold Nadler  
Senator Thomas Duane  
Assemblymember Linda Rosenthal  
Manhattan Borough President Scott M. Stringer  
Manhattan Borough President’s Office – Mike Kent  
Clinton Towers Housing Co. – Mary D’Elia



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

ROBERT K. STEEL  
DEPUTY MAYOR FOR ECONOMIC DEVELOPMENT

July 31, 2013

Speaker Christine Quinn  
The New York City Council  
City Hall  
New York, New York 10007

Council Member Gale A. Brewer  
563 Columbus Avenue  
New York, NY 10024

Dear Speaker Quinn & Council Member Brewer:

I am writing to you in regards to our continued work to create and preserve affordable housing within your district. Working with the Department of Housing Preservation & Development (HPD) and the New York City Housing Authority (NYCHA), the administration is pleased to inform you that we will issue a Request for Proposal (RFP) by December 31, 2013 for the development of affordable housing on the "NYCHA Harborview Site" located at 56<sup>th</sup> Street just west of 11<sup>th</sup> Avenue. It is anticipated that the site will generate 155 affordable units.

HPD and NYCHA commit to including 63 low-income units (up to 60% of AMI), 46 moderate income units (up to 135% of AMI) and 46 middle income units (up to 165% of AMI). All units will be permanently affordable. HPD and NYCHA shall brief and consult Manhattan Community Board 4, the Harborview Tenants Association, the Manhattan Borough President and your offices prior to the release of the RFP.

Thank you for your continued partnership in working to meet our goals of creating or preserving affordable housing throughout New York City.

Sincerely,

  
Robert K. Steel