



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD No. 4

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J. LEE COMPTON
Chair

MICHELLE SOLOMON
Acting District Manager

April 11, 2006

Hon. Amanda M. Burden, AICP
Director, Department of City Planning
22 Reade Street
New York, NY 10007-3219

Re: 455 W. 37th Street

Dear Commissioner Burden:

Since January 2005, when the Hudson Yards zoning was enacted, representatives of the Board have had various discussions with representatives of Rockrose Development, the Department of City Planning and the Hudson Yards Development Corporation about the development of Rockrose's property on the east side of Tenth Avenue between 37th and 38th Streets, in the new Special Hudson Yards District. Specifically, Rockrose has brought to us a series of ideas for "public facilities" to qualify for the density shift mechanism in Section 93-223(c) of the Zoning Resolution. The first idea was to create a building shell and mothball it until a public use could be found. Next came a proposal to house the New York Police Department Mounted Unit, and then another to create a new home for Congregation Beth Simchat Torah, a gay and lesbian synagogue. The latest proposal is to create a public park. A park is not the kind of public facility the zoning intends; it does not provide a necessary service, as does a fire or police station or a school, and it does not require a separation of uses. In addition, the resulting building will be inconsistent with the design parameters reflected in the Hudson Yards zoning. This Board cannot support this proposal, for the reasons detailed in this letter.

The site is located partially in Subarea D2 of Hell's Kitchen Subdistrict D (zoned C2-8 with a maximum FAR of 13), and partially in Subarea D4 (zoned R8A with a maximum FAR of 6.02). The rezoning of Subarea D4 was intended to maintain and strengthen the relatively low density of the distinctive Hell's Kitchen residential neighborhood between Ninth and Tenth Avenues. The rezoning of Subarea D2 along the Tenth Avenue corridor was intended to provide a transition between the very high density areas west of Tenth Avenue and the low density Hell's Kitchen core.

Section 93-223(c) of the Zoning Resolution, says, in lay terms, that the City Planning Commission may authorize the transfer of development rights from the mid-block portion of the site to the avenue frontage if the site includes a public facility and:

1. the public facility provides a necessary service to the surrounding area,
2. the transfer is necessary to achieve an adequate separation of uses, and

3. the transfer will not make the building on the avenue too big, and the disadvantages of having a bigger building on the avenue are offset by the advantages of the public facility to the local community and the City as a whole.

Rockrose now proposes to build a public park on the mid-block/D4 portion of the site and to transfer the development rights from that portion to the avenue frontage/D2 portion of the site pursuant to an authorization under ZR 93-223(c). The park would be designed in consultation with the community and the Department of Parks and Recreation and built by Rockrose, and ownership would be transferred to DPR. DPR would maintain the park using funding to be provided by Rockrose in perpetuity. In the proposal shown to CB4, the transferred development rights would allow a residential tower of approximately 32 stories that would extend along most of the blockfront between 37th and 38th Streets, producing a classic "tower in a park" building form. This building form is completely contrary to those so painstakingly planned for in Subareas D4 and D2 of the Special Hudson Yards District, where zoning controls promote contextual development.

The "public facility-density shift" provision of the Zoning Resolution was intended to facilitate siting and construction of one of the public facilities that will be required as the population of Hudson Yards increases, such as a fire station, police station or school. Efforts by Rockrose to interest FDNY, NYPD and the School Construction Authority were apparently unavailing.

Rockrose was invited to present its proposal to the Board's Clinton/Hell's Kitchen Land Use Committee at its meeting on March 8, 2006. Committee members were shown images of the as-of-right building, without the density shift, which would have a slender 32-33 story tower on Tenth Avenue and 8-9 stories on the balance of the avenue frontage and the mid-blocks. They were also shown images of the proposed tower and park.

Committee members, including several die-hard park advocates were unanimous in their skepticism that the proposed park would be a desirable public amenity. The site is too long and narrow to allow for an attractive park, and the shadow diagrams show that it would be largely in shade during the times when it would potentially be most actively used by young children. Area residents were concerned that the proposed tower form would erect a wall between the Hell's Kitchen core and areas to the west, and that the park would become an empty hole separating the tower from the Hell's Kitchen core. Some committee members were concerned about the owner's commitment to fund the maintenance of the park in perpetuity, citing the recent example in Community District 4 of Balsley Park, which has been abandoned by the new owners of the Sheffield.

Most committee members and community residents at the meeting felt that the proposed park was a good idea in a bad place. The committee was unanimous in its recommendation that Rockrose not pursue this proposal.

DCP's Hudson Yards Preferred Plan shows a network of mid-block parks on sites contiguous to or over the Lincoln Tunnel Approaches or Dyer Avenue between 34th and 39th Streets, and the Hudson Yards zoning provides another density-shift mechanism for their creation, in Section 93-223(d) of the Zoning Resolution. We support the creation of those parks, though our ideas about the mechanism differ (see our letter to you dated March 5, 2004). We understand that other developers are now actively working on plans to use Section 93-223(d) to create publicly accessible open space immediately to the east of the Rockrose site.

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We have subsequently learned that Rockrose nonetheless intends to proceed with an application for an authorization pursuant to ZR 93-223(c).

This strikes us as yet another example of a developer trying to bend the requirements of the new Hudson Yards zoning to suit their development aspirations. As it did recently with Cirque du Soleil, City Planning should resist this attempt.

The as-of-right building on the Rockrose site is exactly what the zoning intends. The lower wings on the mid-block portion of the site will fill in gaps in the streetwall and begin to put the neighborhood back together. A park will not satisfy the requirements of ZR 93-223(c) – it will not provide a necessary service to the surrounding area, the development rights transfer is not necessary to achieve an adequate separation of uses on the lot, and the park offers no advantages to the local community to compensate for the disadvantages of a full blockfront slab building on Tenth Avenue.

It would be especially unfortunate for the first residential building to be constructed under the new Hudson Yards zoning to be an exception to the design parameters that were carefully established by the Department of City Planning when it created that zoning.

Incidentally, we fail to understand Rockrose's apparent determination to avoid building apartments on 38th Street overlooking the Lincoln Tunnel entrance plaza. The entrance plaza is hidden well below grade, and those apartments will have spectacular, unobstructed views of midtown Manhattan. We urge you to visit the site before acting on any application.

Sincerely,



J. Lee Compton
Chair
Manhattan Community Board No. 4



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



Simone Sindin
Co-Chair
Clinton/Hell's Kitchen Land Use Committee

Cc: Hon. Adrian Benepe, Commissioner, Department of Parks and Recreation
Jon McMillan, Rockrose Development Corp.
Local Elected Officials
Will Haas, DCP