



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD No. 4

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District Manager

October 5, 2006

Empire State Development Corporation
42nd St. Development Project, Inc.
633 Third Avenue
New York, NY 10017

Attention: Regina Stephens

Manhattan Community Board No. 4 is pleased to submit the following comments concerning (i) the proposed development at Site 8N, on the east side of Eighth Avenue between 41st and 42nd Streets, within the 42nd Street Development Land Use Improvement Project Area, and (ii) the proposed amendment to the 42nd Street Project's General Project Plan, which would permit residential development at the site. These comments were approved at CB4's meeting, on October 4, 2006, unanimously.

THE PROJECT

Site 8N is the last undeveloped parcel in the Project Area. Originally intended as a merchandise mart, the site has been vacant for many years. It was purchased in July by a SJP TS, LLC, joint venture between affiliates of SJP Properties and The Prudential Insurance Company of America. SJP proposes to build a 40-story, 600 foot tall office building with approximately 911,000 square feet or a 58-story, 690 foot tall building with residential and hotel space and approximately 850,000 square feet.¹ Either building will be required to contain retail space and a new subway entrance. The office building must contain 11 at-grade parking spaces, and the residential/hotel building may contain up to 153 below-grade parking spaces, with the entrance, in either case, on 41st Street.

Before discussing the proposed development and GPP amendment we point out that we strongly believe that any residential use and/or a density increase requires City Council approval. By agreement between the Governor and the Mayor, the GPP was subject to approval by the City's Board of Estimate (BOE). The BOE's resolution of November 8, 1984 specifies uses and lease terms for each development site, all of which are to be developed pursuant to Design Guidelines that were established by the City and UDC (now known as ESDC). The GPP does not contemplate any residential use in the Project Area. As a matter of policy, any substantial departure from the land use plan set forth in the GPP should be approved by the City Council, as the successor to the BOE with respect to land use matters.

¹ To compare, the New York Times Headquarters Building directly to the south is 52 stories and 820 feet tall, the Westin Hotel across 42nd Street to the north is 45 stories and 520 feet tall, and the McGraw Hill Building to the west is 33 stories and 485 feet tall.

That being said, we offer the following comments on the proposed development and the proposed GPP amendment:

1. An office building makes more sense at this location than a residential building and a hotel. Site 8N is a prime commercial location, immediately adjacent to a mass-transit hub, with subway service from the north, south and east, and the Port Authority Bus Terminal to the west. The site is large enough for the large floor plates required for Class A office space. With midtown running out of sites for new commercial development, public policy should require reserving this site for commercial development.

2. The rationale for a hotel or residential use at this location has not been explained. 42DP's application says nothing about why these uses would be desirable to serve 42DP's purposes. The explanation offered in the application is simply that "residential housing on West 42nd Street has become enormously popular" and that "strong demand for residential housing exists." To allow residential use in the Project Area for the first time requires much more careful analysis, especially considering that the objectives in the General Project Plan, as modified and affirmed in October 1984 (the GPP) say nothing at all about residential uses. There is no explanation at all of the need for another hotel. With the significant number of hotel projects now underway in the immediate vicinity, we question the need for one more hotel.

3. There's no justification for a density increase. We're confused about whether, and the extent to which, the project involves more floor area than is allowed by the GPP. According to information provided verbally to the Board office, 841,000 square feet remain available under the Project Plan for use on Site 8N.² However, other published information indicates that only 660,000 square feet remain.³ The final Amendment should clearly explain the facts and circumstances of any density increase.

News reports indicate that ESDC will use its ability to override local zoning to allow additional floor area, and a 42DP representative confirmed this at the meeting of the Board's Clinton/Hell's Kitchen Land Use Committee. When asked why, the representative explained that the developer "wanted a bigger building." It's hard to imagine any developer in the City who wouldn't want a bigger building, but that cannot justify exceeding the limits established by local zoning or, in this case, the GPP.

4. Have the impacts of residential use been studied? As noted above, the GPP does not contemplate any residential use in the Project Area. We therefore question whether the impacts of residential use at this site, which could amount to as many as 450 apartments, has been adequately studied in the Project's Final Environmental Impact Statement, which was issued in 1984.

² The GPP, as modified in 1984, contemplated that a wholesale mart would be developed on Site 8, containing approximately 2.4 million square feet devoted to computer and apparel wholesaling. Instead, Site 8 has been divided into 3 parcels, consisting, according to the information provided to the Board, of Site 8E ([add name]) with 189,000 square feet and Site 8S (the New York Times Headquarters Building) with 1.37 million square feet, leaving 841,000 square feet for Site 8N.

³ See Lynne B. Sagalyn, Times Square Roulette, p. 552 note 38. "Creeping density is a risk of using the UDC vehicle. While the process is valuable because UDC is often needed to make things happen expeditiously, it must be used carefully, and civic and community watchdogs can never be too observant of proposed changes. They are a fundamental check on the powerful override vehicle." Sagalyn, p. 427.

5. Sustainable/"green" building practices should be required. This Board strongly supports the use of design and construction practices that significantly reduce or eliminate the negative impact of buildings on the environment, including in particular those practices that will reduce impacts on area residents and workers and local infrastructure. As a matter of public policy, 42DP should require the developer to use as many "green" building practices.

6. Include additional public amenities: restrooms and not-for-profit theater space. We are delighted that the developer will be required to construct a new in-building subway entrance, but we believe that additional public amenities should be required, particularly if the project exceeds what was approved by the BOE. We support Community Board 5's request that the project include public restrooms and not-for-profit theater space, and refer you to CB5's submission for further details.

Sincerely,



J. Lee Compton
Chair
Community Board 4



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



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

cc: Community Board 5