

### A. INTRODUCTION

This Environmental Impact Statement (EIS) examines the potential environmental impacts of an application by the New York City Department of Housing Preservation and Development (HPD), on behalf of 44th Street Development LLC, the project sponsor, for redevelopment of Block 1073, Lot 1 (the “Project Site”) in the Clinton neighborhood of Manhattan. The proposal requires discretionary approvals by the City of New York for disposition of City-owned property, zoning map and text amendments, special permits, and site selection as well as approval by the State of New York for public financing (the “Proposed Actions”). These approvals would allow for the development of affordable and market-rate housing, retail uses, and accessory parking as well as relocation and expansion of Public School (P.S.) 51 on the Project Site (collectively, the “Proposed Project”). The Proposed Project would complement the ongoing residential redevelopment of Manhattan’s west side and enliven an underused site with much needed affordable housing, retail space, and expanded school capacity.

### B. PROJECT DESCRIPTION AND PURPOSE AND NEED

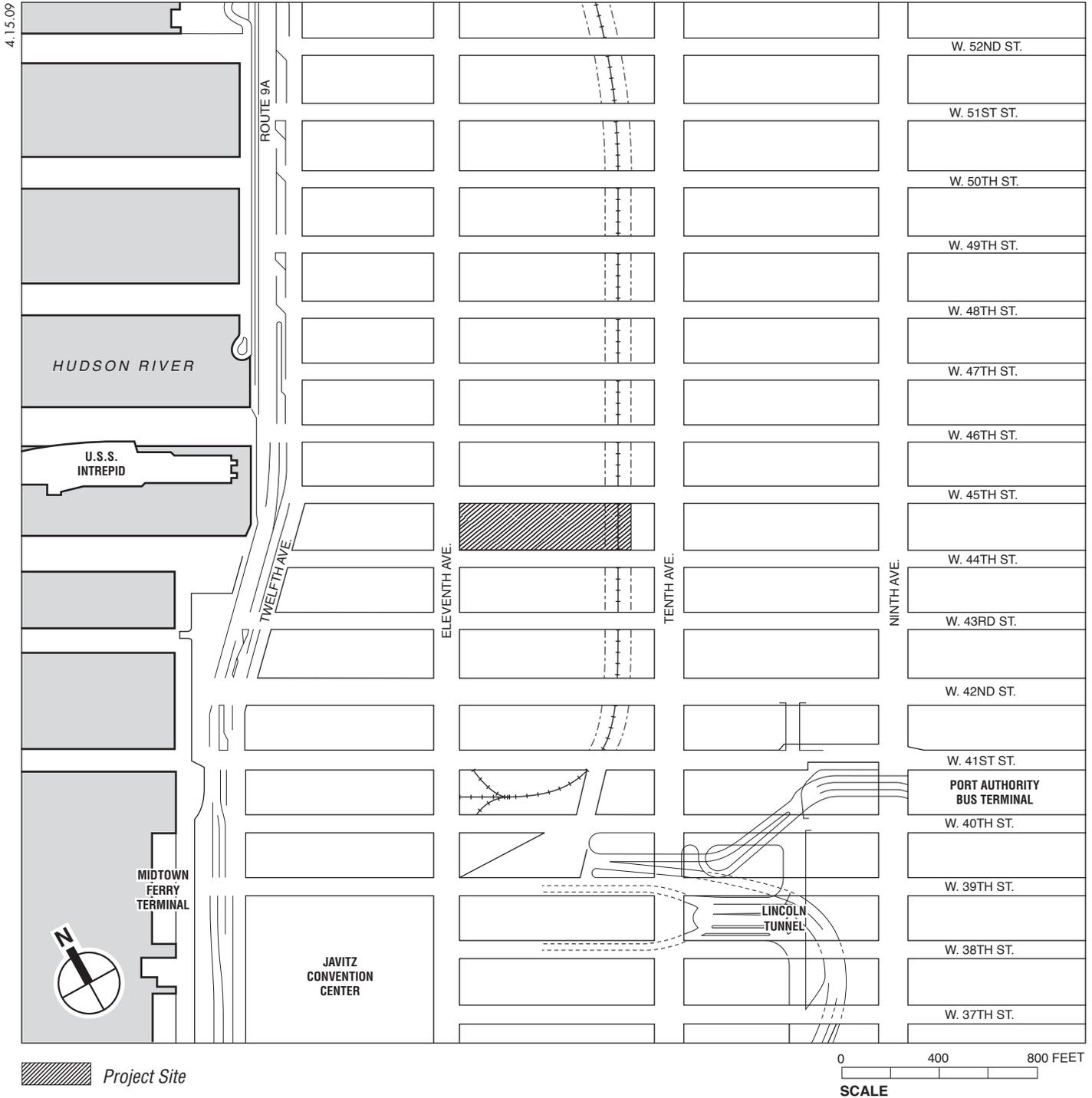
#### LOCATION

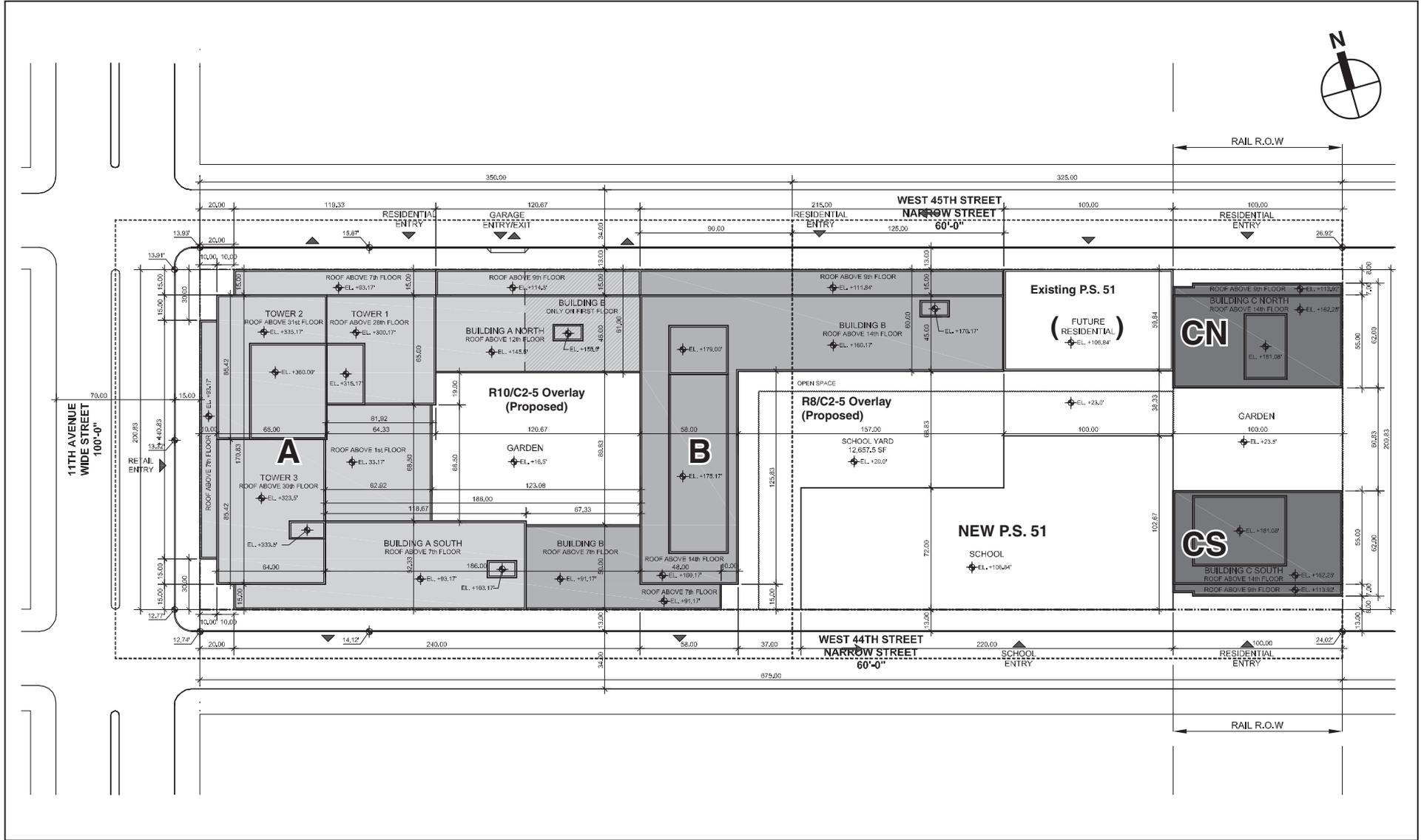
The Project Site (Block 1073, Lot 1) is located in the Clinton neighborhood of Community District 4 in Manhattan (see **Figure S-1**). It comprises most of the block bounded by West 44th Street to the south, Tenth Avenue to the east, West 45th Street to the north, and Eleventh Avenue to the west. The Project Site is zoned an M1-5 manufacturing zoning district and is within the Special Clinton District (CL). Current land uses on the Project Site include a 300-space public parking lot with access from Eleventh Avenue and West 45th Street, a New York City Police Department (NYPD) parking lot, Elias Howe School (P.S. 51) with 276 seats, a vacant warehouse (527 West 44th Street), and a horse stable (Shamrock Stables, 522 West 45th Street). All of the parcels are owned by the City of New York (the public parking and stables are leased to their current operators). The eastern boundary of the Project Site, 125 feet west of Tenth Avenue, is a rail cut used by Amtrak and owned by Penn Central Railroad. A gas station is located on a separate property (Block 1073, Lot 28) east of the rail cut and is not part of the Project Site.

#### **PROPOSED DEVELOPMENT PROGRAM**

**Figure S-2** shows the site plan for the Proposed Project, which includes the following mix of uses:

- **Residential:** Up to 1,350 residential units would be located in five buildings—Building A, a 31-story building spanning the block along Eleventh Avenue; Building B, a 14-story building located midblock with frontage on West 44th and West 45th Streets; Buildings C North (CN) and C South (CS), two 14-story buildings separated by a courtyard and located





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on a platform above the rail cut; and the existing P.S. 51, which would be surrendered by the New York City Department of Education (DOE) once the proposed new school is operational and converted to residential use;

- **Community facility:** A new, expanded P.S. 51 located on West 44th Street with 630 seats serving kindergarten through eighth grades and a rear and side yard playground;
- **Retail:** Up to 17,500 square feet of retail located on the ground and cellar levels of Building A with frontage on Eleventh Avenue; and
- **Parking:** Up to 204 accessory parking spaces located below-grade with access from West 45th Streets.

The new school would be constructed by the New York City School Construction Authority (SCA) and maintained by DOE. The SCA, an Involved Agency, is the applicant for the site selection action and would be responsible for the design and construction of the school on the Project Site. However, as stated above, all development on the Project Site is herein collectively referred to as the “Proposed Project.” Under the terms of its enabling legislation, SCA must comply with the State Environmental Quality Review Act (SEQRA; Part 617 of Title 6 of New York Code of Rules and Regulations) and Section 14.09 of the New York State Historic Preservation Act of 1980.

The project sponsor may seek tax-exempt bonds for the residential component of the Proposed Project through the New York State Housing Finance Agency’s (HFA) 80/20 Housing Program. At this time, no commitment to fund the Proposed Project has been made by the HFA. Therefore, HFA is an Involved Agency and would have to comply with SEQRA and Section 14.09 of the New York State Historic Preservation Act in the event that funding is provided.

The project sponsor, 44th Street Development LLC and SCA plan to begin construction in late 2010, with completion of all of the project components in approximately 2013.

## PROPOSED ACTIONS

### *ULURP Actions*

The Proposed Actions would involve the following actions by CPC, which are subject to ULURP:

- **Disposition of City-owned Property and UDAAP Designation:** HPD is seeking disposition authority for certain portions of the Project Site (Block 1073, Lot 1), herein referred to as the “Disposition Area”, consistent with the Proposed Actions’ ULURP application. In conjunction with the disposition of City-owned property to the project sponsor to facilitate the development of affordable housing, HPD is seeking project approval and designation of the Disposition Area as an Urban Development Action Area Project (UDAAP).

The Disposition Area is described as two portions of Block 1073, Lot 1. One portion is an approximately 100 foot wide a rail cut for an Amtrak railroad right-of-way, which extends from West 44th Street to West 45th Street, at the eastern end of the Project Site. The other portion included is an existing elementary school building, P.S. 51, located on West 45th Street, directly west of the rail cut. The school building measures approximately 100 feet in width and extends south into Lot 1 at a depth of approximately 59 feet. The disposition of the areas discussed above would be restricted to the bulk requirements of the General Large-Scale Development special permit, as discussed below.

Disposition approval is only required for the aforementioned Disposition Area because the balance of the Project Site previously received disposition approval in 2001 as part of a ULURP application for a 14-story, 700,000 square foot television studio production facility, known as “Studio City” (C 010137 ZSM and C010136 PMM). Studio City also included a request for a general large scale development special permit (C 010138 ZSM) under the New York City Department of City Planning’s (DCP) proposed unified bulk text amendments. This application was withdrawn when the unified bulk text amendments were also withdrawn. Although approved by the CPC and the City Council, Studio City was never constructed.

As discussed above, a separate action will occur on the portion of the Project Site, which will facilitate the construction of a new and larger school building on West 44th Street to replace the existing P.S. 51 school facility. SCA will be seeking approvals of the proposed school facility’s site plan from the City Council and Mayor under Sections 1731 and 1732 of the Public Authorities Law. This portion of the Project Site (the building footprint for the new school) is along West 44th Street, to south of the existing school building. This area of the Project Site is excluded from HPD’s Disposition Area and HPD is not seeking UDAAP designation for it.

- **Zoning Map Amendment:** HPD is proposing a zoning map amendment to change the zoning of the Project Site from an M1-5 district to R8 and R10 zoning districts. It is also proposed to map a C2-5 commercial overlay over the entire Project Site (see Figure 1-7). The existing M1-5 zoning district generally permits light industrial, commercial, and limited community facility uses (residential uses are not permitted in M1-5 zoning districts). Manufacturing and commercial uses have a maximum FAR of 5.0 and community facilities have a maximum FAR of 6.5. There are no height limits in M1-5 districts, and building heights and setbacks are governed by the sky exposure plane. There are no parking requirements in M1-5 zoning districts. The proposed R8 district generally allows residential uses with a maximum FAR of 6.02 and community facility uses with a maximum FAR of 6.5. The proposed R10 district generally allows residential and community facility uses, each with a maximum FAR of 10.0, but with utilization of the Inclusionary Housing (IH) Bonus, a maximum residential FAR of 12.0 is allowed in R10 districts. The C2-5 commercial overlay allows for commercial uses with a maximum FAR of 2.0.
- **Zoning Text Amendment:** HPD is proposing a zoning text amendment to designate a portion of the Project Site as an Inclusionary Housing designated site, as follows:  
Currently, pursuant to the definition of lower income housing in Section 23-911, lower income housing provided under the Inclusionary Housing program may include standard units assisted under city, state or federal programs only within Inclusionary Housing designated areas. Therefore, to allow the Project Site’s proposed Inclusionary Housing to include such assisted dwelling units, it is proposed to amend Section 96-82 to define the R10 portion of the Project Site as an Inclusionary Housing designated area within the Special Clinton District.
- **Special Permit to Establish a General Large-Scale Development:** Pursuant to ZR Section 74-74, the CPC may establish General Large-Scale Developments (GLSD), within which, pursuant to Section 74-743 (a), the CPC may permit modifications of the applicable bulk regulations, including the distribution of floor area, dwelling units, lot coverage and open space without regard for zoning lot lines or district boundaries; and the location of buildings without regard for the applicable yard, court, distance between buildings, or height and

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setback requirements. The GLSD special permit would apply to the entire Project Site. The modifications being requested are as follows:

1) Modification of rear-yard equivalent requirements

The modification of the rear yard equivalent requirements of ZR Sections 23-532 and 33-283 is requested in order to provide a larger building footprint, thus maximizing the affordable housing provided on the Project Site. The modification will also allow for lower building heights, maintaining the Clinton neighborhood character. Modification of the rear yard equivalent requirements is hereby limited to three locations on the through lot portion of the Project Site:

- a) The portion of Tower 1 of Building A, located within the through lot portion of the Project Site, encroaches into the required rear yard equivalent. In this location, it is therefore requested to reduce the required residential rear yard equivalent by a distance of 39.33 feet (from 60 feet to 50.42 feet).
- b) A portion of the L-shaped Building B (located midblock on the Project Site), extends across the rear yard equivalent area, requiring a waiver of the residential rear yard equivalent for a distance of 58 feet.
- c) An approximately 100 foot wide portion of the new school building encroaches into the rear yard equivalent area to allow the new school's gymnasium to contain a regulation sized basketball court. In this location, it is requested to reduce the required residential and community facility rear yard equivalents to 38.3 feet from 60 feet and 40 feet, respectively.

2) Modification of height and setback requirements: Pursuant to ZR Sections 23-632 and 33-431, in R8 and R10 districts (and C2-5 districts mapped with R8 and R10 districts), the maximum permitted street wall height is 85 feet, above which, a minimum initial setback of 20 feet on a narrow street and 15 feet on a wide street is required. In addition, any building must set back under a sky exposure plane having a vertical to horizontal ratio of 2.7 to 1 on a narrow street and 5.6 to 1 on a wide street. Pursuant to Section 23-663(a), above a height of 125 feet, a rear setback of 20 feet must be provided from the rear yard (or rear yard equivalent) line. Pursuant to Section 74-743(a)(2), the CPC may permit the location of buildings within a GLSD without regard for the applicable height and setback regulations. Modification of the applicable height and setback requirements of Sections 23-632 and 33-431 are being requested specifically for residential buildings A, B, CN, and CS, as described in more detail below.

*Building A*

Modification of the applicable height and setback requirements are being requested to:

- a) Allow the street wall of Building A North (fronting West 45th Street to the east of Tower 1), to be 97.75 feet in height, exceeding the maximum street wall height of 85 feet by 12.75 feet; and to allow the initial setback distance above the street wall height to be 15 feet, five feet less than the initial setback of 20 feet required along narrow streets;
- b) Allow the initial setback distance along Eleventh Avenue for Towers 2 and 3 to be 10 feet, five feet less than the required minimum of 15 feet along wide streets;
- c) Allow the initial setback distance along West 44th and West 45th Streets for Towers 1, 2, and 3 to be 15 feet, five feet less than required 20 feet along narrow streets;
- d) Allow Towers 1, 2, and 3 to penetrate the sky exposure plane above a height of

approximately 140 feet on West 44th and West 45th Streets and approximately 155.59 feet on Eleventh Avenue; and

- e) Waive the rear setback above a height of 125 feet requirement for the rear wall of Tower 1 (the rear wall of Tower 1 will rise without setback from the ground to a height of 285 feet);

*Building B*

Modification of the applicable height and setback requirements are being requested to:

- a) Allow the street wall along West 45th Street to be 89.67 feet in height, exceeding the maximum street wall height of 85 feet by 4.67 feet (the street wall along West 44th Street will be 69 feet in height, which is within the requirement);
- b) Allow the initial setback distance along both West 44th Street and West 45th Streets to be 15 feet, five less than the required 20 feet along narrow streets;
- c) Allow the front wall of the building to penetrate the sky exposure plane above a height of 106 feet;
- d) Waive the rear setback above a height of 125 feet requirement for the portion of the building within the rear yard equivalent area.

*Buildings CN and CS (over the rail cut)*

Modification of the applicable height and setback requirements are being requested to:

- a) Allow the street wall of Building CN along West 45th Street to be 87.67 feet in height, exceeding the maximum street wall height of 85 feet by 2.67 feet;
  - b) Allow the street wall of Building CS along West 44th Street to be 89.92 feet in height, exceeding the maximum street wall height of 85 feet by 4.92 feet;
  - c) Allow the initial setback distance along both West 44th Street and West 45th Streets to be 15 feet, five less than the required 20 feet along narrow streets;
  - d) Allow both buildings to penetrate the sky exposure plane above a height of approximately 145 feet; and
  - e) Waive the rear setback above a height of 125 feet requirement for the rear walls of both buildings. The rear wall of buildings CN and CS will rise without setback from the ground to heights of 135.77 and 138.02 feet, respectively.
- 3) Modification of the minimum distance between buildings requirement: Pursuant to Section 23-711, for buildings having a maximum building height greater than 50 feet, the minimum distance between a residential building and any other building on the zoning lot is 50 feet where only one of the buildings walls contains legally required windows (i.e., windows required for residential dwelling units). Pursuant to Section 74-743(a)(2), the CPC may permit the location of buildings within a GLSD without regard for the applicable distance between buildings regulations. This modification is being requested to:
- a) reduce the minimum distance between the east-facing wall on the through-lot portion of Building B (which will have legally required windows) and the west-facing wall of the new school building (which, although it may have windows, will not have legally required windows) to 37 feet from the minimum required 50 feet; and
  - b) reduce the minimum distance between the north-facing wall of the new school building (which will not have legally required windows) and the south-facing wall

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of the existing P.S. 51 building (which will be retained and converted to residential use) to 47 feet from the minimum required 50 feet.

- 4) Modification of the open space requirement: Pursuant to Section 23-142, in R8 districts, the amount of open space required to be provided is determined by the applicable open space ratio (OSR) associated with the height factor for the building(s) on the zoning lot. Pursuant to Section 74-743(a)(1), the CPC may permit the distribution of the total required open space within a GLSD without regard for zoning district boundaries.

For purposes of determining the applicable OSR, the height factor for the buildings in the R8 portion of the Project Site is 11, the associated OSR is 8.9 and the required open space is 24,983 square feet. However, because only 10,502 square feet of the required open space can be located in the R8 portion of the Project Site, a modification of the open space requirement of Section 23-142 is requested to allow the remaining required open space to be located in the R10 portion of the Project Site. The Proposed Project will provide a total of 28,596 square feet of open space on the Project Site, approximately 3,600 square feet more than required. In addition to the required open space, the new playground proposed in conjunction with the new school building, will provide an additional 12,500 square foot open space area on the Project Site.

- **Special Permit for Construction above a Railroad Right-of-Way:** As discussed above, the Proposed Actions include the development two residential buildings over the existing Amtrak right-of-way. HPD is seeking approval by the CPC of a special permit to construct portions of the Proposed Project (buildings CN and CS) above an active railroad right-of-way pursuant to ZR Section 74-681 (Development within or over a railroad or transit right-of-way or yard) of the New York City Zoning Resolution.

### *Other Actions*

- **School Site Plan Approval:** The relocation and expansion of P.S. 51 on the Project Site would require site plan approval by the Mayor and City Council pursuant to the requirements of the New York City School Construction Authority Act.
- **State Financing:** Implementation of the Proposed Actions may require approval for financing from HFA through its 80/20 Housing Program.
- **State Pollution Discharge Elimination System (SPDES) Permit:** Construction resulting from the Proposed Actions would require a SPDES permit for stormwater discharges associated with construction activities issued by the New York State Department of Environmental Conservation (DEC).
- **Amtrak:** The construction of project components above the rail cut would require administrative approval by AMTRAK.
- **Letter of Resolution:** As discussed in more detail in Chapter 7, “Historic Resources,” a Letter of Resolution (LOR) among HPD, 44th Street Development LLC, the SCA, and the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) would be executed prior to the conveyance of the residential portion of the Project Site to 44th Street Development LLC and prior to all construction activities (including the construction of the new school). The LOR includes the steps that would be undertaken to consult with OPRHP to minimize or mitigate any adverse impacts related to archaeological or architectural resources on the Project Site. The LOR is legally binding, and a property covenant would be recorded to require the measures stipulated in the LOR once the residential portion of the land is conveyed to 44th Street Development LLC. A draft of the LOR is currently under

review at the Law Department. The LOR would be executed prior to the start of construction.

- **Restrictive Declaration:** In connection with the GLSD, the sponsor would record a Restrictive Declaration that would cover the Project Site. The CPC approval for the “Disposition Area” (discussed above) would be contingent upon the execution and recording of a Restrictive Declaration upon closing, which would be approved by the CPC and bind the project sponsor and its successors or assigns to the bulk requirements contained in the GLSD special permit. The Restrictive Declaration would bind the development of both parcels (the Disposition Area and the balance of the Project Site) to the GLSD Special Permit.

Lastly, the Land Disposition Agreement (LDA) between HPD and the project sponsor would require compliance of the bulk requirements contained in the GLSD for both the “Disposition Area” and the balance of the Project Site.

## **PURPOSE AND NEED**

The Proposed Actions would facilitate the development of affordable and market-rate housing, retail uses, and the relocation and expansion of P.S. 51. The Proposed Actions would complement the ongoing residential redevelopment of Manhattan’s West Side and enliven an underutilized site with much-needed affordable housing, retail space, and a new expanded school facility that could accommodate elementary and intermediate levels. It would be consistent with the City’s public policy of providing increased housing to meet the needs of its population.

The current school facilities on the Project Site date back to 1905 and were originally planned as an annex to a since-demolished school building. The current facilities are programmatically limited and outmoded. As described in Chapter 4, “Community Facilities and Services,” elementary schools in Community School District 2 are currently operating at or above capacity. The Proposed Actions would result in the creation of a new, state-of-the-art school facility with additional capacity on the Project Site. P.S. 51 would be expanded by approximately 354 seats to contain 630 seats.

The Project Site’s location is well-suited to accommodate the proposed mixed-use development. However, the requested bulk waivers, as described above, are required to develop the project as currently proposed, and would accommodate the dual public purpose of providing affordable housing and a new expanded school facility on the same site. In addition, the development on the Project Site is somewhat constrained by the presence of the Amtrak rail cut. The proposed residential, community facility, and retail uses would be compatible with the existing uses in the surrounding area. The Proposed Actions would continue the trend of residential development in the area and would provide new retail and community facility uses to an area with a growing residential population. It would also replace the existing school facilities with new modern facilities and provide additional elementary and intermediate school capacity in Community School District 2.

## **C. ENVIRONMENTAL REVIEW**

The EIS has been prepared pursuant to City Environmental Quality Review (CEQR). As the Proposed Project is located in New York City, and involves discretionary actions, the environmental assessment methodologies employed in this EIS are consistent with those of the

2001 *CEQR Technical Manual*. The environmental review provides a means for decision-makers to systematically consider environmental effects along with other aspects of project planning and design, and to identify and, when practicable, avoid or minimize significant adverse environmental effects. HPD has assumed the lead agency role for this proposal

An EIS analyzes the effects of a proposed action on its environmental setting in the year that the project would be completed. It is assumed that the Proposed Project would begin construction in 2010 and be completed by 2013. Thus, 2013 is the analysis year for the Proposed Actions. For all technical areas that require detailed analysis, the assessment in the EIS includes a description of existing conditions, an assessment of conditions in 2013 without the Proposed Actions, assuming continued use of the site in its current state but accounting for other relevant changes in the area, and an assessment of conditions for the same year with completion of the Proposed Project. The identification and evaluation of impacts of the Proposed Actions are based on the change between the future without and with the Proposed Actions, and where significant adverse impacts have been identified, mitigation measures are proposed. As described below, the Proposed Actions would only result in significant adverse impacts related to traffic, which would be fully mitigated.

## **D. PROBABLE IMPACTS OF THE PROPOSED ACTIONS**

### **LAND USE, ZONING, AND PUBLIC POLICY**

Overall, the Proposed Actions would not have any significant adverse impacts on land use, zoning, and public policy. The Proposed Actions would introduce new uses to an underutilized site which would be compatible with and complementary to the mixed-use nature of the surrounding neighborhood. It would map new residential zoning districts consistent with districts found in the surrounding area, and would further several of the City's stated public policies concerning land use, affordable housing, and sustainability.

#### *LAND USE*

The Proposed Actions would change the existing manufacturing zoning designation on the Project Site to a zoning designation that would permit residential and commercial uses. While the Proposed Actions would dramatically alter the land use on the Project Site by permitting its redevelopment with high-density residential and retail uses, these new uses would be compatible with and complementary to surrounding land uses. P.S. 51 would be relocated and expanded as part of the Proposed Actions, but this would not result in a new community facility use on the Project Site because the Project Site is currently occupied by a school. The expanded school would support the growing residential community in Clinton. The new land uses introduced as part of the Proposed Actions would be similar to and compatible with existing development in the area. Therefore, the Proposed Actions would not result in a significant adverse impact on land use.

#### *ZONING*

The Proposed Project would require rezoning the Project Site, zoning text amendments, and special permits. The site is currently zoned as an M1-5 Manufacturing district and is located in an excluded area of the Special Clinton District. With the Proposed Actions, the zoning would be changed to R8 and R10 residential districts with a C2-5 commercial overlay. The proposed zoning would be consistent with neighborhood trends of residential development at increasing densities, including several projects near West 42nd Street. Although the proposed density

would be substantially greater than is currently permitted, higher-density R8 districts are found north and east of the Project Site. Furthermore, the R8 and R10 districts would permit the development of up to 700, but no less than 600, affordable dwelling units, which would be consistent with the goals of the Special Clinton District. The proposed zoning text amendments would apply only to the Project Site and would not have the potential to affect future zoning actions in the surrounding area. The special permits would be implemented through declaration of a GLSD Plan and, therefore, would be specific to the Proposed Project. Therefore, the Proposed Actions would not result in significant adverse impacts on the surrounding area.

#### *PUBLIC POLICY*

The Proposed Actions would be consistent with the public policies affecting the Project Site and surrounding area. The Proposed Actions would rezone the Project Site from a manufacturing district to a residential district to facilitate the development of affordable housing, which is consistent with the objectives of the New Housing Marketplace Plan to target certain underutilized areas for redevelopment.

The Proposed Actions would also be consistent with the housing initiatives of PlaNYC 2030 in that it would pursue transit-oriented development and land use and zoning changes to direct growth toward areas with transit infrastructure, develop underused areas to knit neighborhoods together, deck over a rail line, and expand Inclusionary Housing.

The Project Site is located outside the Clinton Urban Renewal Area (URA), but the proposed development would be consistent with the URA objectives, including providing high quality housing (including affordable housing), retail, community facility uses, and maximizing land use. Therefore, the Proposed Actions would not result in significant adverse impacts related to public policy.

#### **SOCIOECONOMIC CONDITIONS**

The Proposed Actions would not result in significant adverse impacts associated with the five socioeconomic areas of concern contained in the *CEQR Technical Manual*.

#### *DIRECT RESIDENTIAL DISPLACEMENT*

Since the Project Site does not contain any dwelling units, the Proposed Actions would not directly displace a residential population.

#### *DIRECT BUSINESS DISPLACEMENT*

The Proposed Actions would not result in significant adverse impacts due to direct business displacement. The Proposed Actions would directly displace two businesses currently located on the Project Site: a public parking lot, with an estimated 10 employees; and a horse stable, with an estimated 10 employees.

While the potentially displaced businesses both contribute to the City's economy and therefore have economic value, they do not have substantial economic value to the City or region as defined by CEQR. Study area businesses and consumers are not dependent upon the potentially displaced businesses for their business or consumer needs, and the potentially displaced businesses do not substantially contribute to neighborhood character in a socioeconomic sense. Parking services are available to residents, visitors, and consumers at other locations within the study area. As discussed in greater detail below, the loss of the horse stable and its 10 employees

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would not adversely affect neighborhood character, and would not result in the displacement of other area businesses which in turn could alter the character of the neighborhood.

### *INDIRECT RESIDENTIAL DISPLACEMENT*

The Proposed Actions would not result in significant adverse impacts due to indirect residential displacement. By 2013, the Proposed Actions would increase the study area's population by an estimated 2,606 residents, or a 9.7 percent increase over the future without the Proposed Actions conditions.<sup>1</sup> Approximately half of these residents (between 1,255 and 1,448 residents) would live in the 650 to 750 market-rate units contemplated under the Proposed Actions. The remaining half (1,158 to 1,351 residents) would be living in the 600 to 700 affordable units contemplated under the Proposed Actions. Given the diversity of incomes and unit prices that would be introduced (which includes a substantial amount of affordable housing), the Proposed Actions would not generate a dramatic demographic shift that could substantially affect area rents or the socioeconomic characteristics of the study area population.

### *INDIRECT BUSINESS AND INSTITUTIONAL DISPLACEMENT*

The Proposed Actions would not result in significant adverse impacts due to indirect business or institutional displacement. The Proposed Actions would introduce a combination of residential, neighborhood retail, and community facility uses, none of which would be new economic activities in the study area. The study area has a well-established residential market; since 2000 there have been approximately 2,703 units built in the study area, and there are plans for an additional 3,380 units by 2013 in the future without the Proposed Actions. The overall study area trend toward residential development, and the economic activities associated with residential demand, will occur irrespective of the Proposed Actions.

The Proposed Actions would not offset positive trends in the study area, impede efforts to attract investment, or create a climate for disinvestment. To the contrary, the Proposed Actions would introduce a new residential population, create affordable housing, generate new employment opportunities, and add to existing community facility and neighborhood retail space in order to meet the growing demands of the neighborhood.

### *ADVERSE EFFECTS ON SPECIFIC INDUSTRIES*

The Proposed Actions would not result in significant adverse impacts on any specific industry in New York City. The two potentially displaced businesses located on the Project Site represent two different industries, and their employees account for only a small fraction of the total employment within their respective employment sectors. The parking industry, and all industries that rely on parking, would remain viable in the Future with the Proposed Actions. The horse-drawn carriage industry, centered along Central Park South, also would remain viable in the Future with the Proposed Actions. Conservatively assuming that the displaced stable is not relocated, many of the horses could be boarded at other stables in Manhattan. The overall loss of stable capacity may reduce the total number of horse-drawn carriage operators, but not to a level that would jeopardize the viability of the horse-drawn carriage industry in the City as sufficient capacity would continue to exist in the future with the Proposed Actions. The impact on the

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<sup>1</sup> Project-generated population estimate is based on the study area's average household size (1.93 persons per household) from the 2000 Census.

horse-drawn carriage industry would not be significant, and would not have an adverse effect on the broader New York City tourism industry.

## COMMUNITY FACILITIES

### *PUBLIC SCHOOLS*

The Proposed Actions would provide for relocation and expansion of P.S. 51 within the Project Site. The new school facility would be designed to support pre-kindergarten through eighth grade instructional needs, but grade ranges would be confirmed by the DOE closer to the date of occupancy. For the purposes of analysis, it is assumed that the school would have 630 total student seats, consisting of approximately 353 elementary seats and 277 intermediate seats. This reflects an elementary seat increment of 77 seats over the existing capacity of 276 elementary seats. In both the future without and with the Proposed Actions, elementary schools in the ½-mile study area would be substantially over capacity. The 77 additional elementary seats introduced by the Proposed Project would partially offset the 162 project-generated elementary students, and the one percent increase in the utilization rate of elementary schools in the ½-mile study area or in Community School District (CSD) would not constitute a significant adverse impact as defined by CEQR.

For intermediate schools, the increase in student seats from the Proposed Actions (277 seats) more than offsets the project-generated students (54 intermediate students). Therefore, the Proposed Actions would improve the intermediate school utilization rates of both the study area and CSD 2, and there would not be a significant adverse impact on intermediate schools.

The Proposed Actions would generate fewer than 150 new high school students; therefore, a quantified assessment of high school seats is not required by CEQR.

### *LIBRARIES*

In 2013, as a result of the Proposed Actions, the Columbus Branch Library catchment area population would increase by 2 percent. The increase in population would be below the CEQR analysis threshold of 5 percent that could result in a significant adverse impact. Therefore, the Proposed Actions would not cause a noticeable change in the delivery of library services to the Columbus Branch catchment area.

### *HEALTH CARE FACILITIES (OUTPATIENT)*

The analysis considers the Proposed Actions' impacts on St. Luke's Roosevelt Hospital, the nearest major medical facility. The Proposed Actions could increase the number of emergency room visits by approximately 1 percent. The increase is below the CEQR analysis threshold of 5 percent that could result in a significant adverse impact. Therefore, no significant adverse impacts on area hospitals are anticipated as a result of the Proposed Actions.

### *DAY CARE CENTERS*

According to analysis methodologies issued by the Mayor's Office of Environmental Coordination in December 2009, a detailed analysis of the Proposed Project's impact on publicly funded day care facilities should be performed if the project would generate more than 20 children that would be eligible for these services. This threshold is based on the number of low-income and low- to moderate- income units within a Proposed Project, and the threshold for

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projects in Manhattan is 169 low- to moderate-income units. Since the Proposed Actions would result in 268 low- to moderate-income units, detailed analysis was prepared.

The analysis considers the potential impacts of the Proposed Actions on day care facilities within a 2-mile radius of the Project Site. The Proposed Actions would introduce 31 children under the age of 6 who would be eligible for publicly funded day care. While the new children from the Proposed Actions would exacerbate the predicted shortage in day care slots, in the future without the proposed action, these new children would represent only a 4.8 percent of the existing capacity of day care centers in the study area (640 slots). This increase in demand does not exceed the CEQR threshold of an increase of more than 5 percent, and, therefore, no significant adverse impacts would occur as a result of the Proposed Actions.

### *FIRE AND POLICE PROTECTION SERVICES*

The Proposed Actions would not directly displace any fire or police protection services, and therefore a significant adverse impact on these services would not occur. The Proposed Actions would remove a 50-space parking lot located on the Project Site that is used for vehicle storage by NYPD's Traffic Enforcement Division. NYPD is working to identify a new location to park these vehicles. As these are considered non-emergency vehicles, their relocation from the Project Site would not adversely affect NYPD operations.

### **OPEN SPACE**

#### *DIRECT EFFECTS*

The Proposed Actions would not result in the physical loss of publicly accessible open space. Furthermore, based on the shadows, air quality, and noise analyses for this EIS, the Proposed Actions would not result in any other direct effects on open spaces within the study area.

#### *INDIRECT EFFECTS*

The active and passive open space ratios in the Future with the Proposed Actions would be below DCP's recommended ratios for residents and workers. However, the *CEQR Technical Manual* recognizes that DCP's goals are not feasible for many areas of the City, and they are not considered impact thresholds. In addition, there are a number of active open space resources located within close proximity of the study area that are well utilized by study area residents that are not accounted for in the quantitative analysis, most notably Central Park and larger portions of Hudson River Park that extend well beyond the study area. Finally, since the total open space ratio would decline by less than 5 percent, the analysis concludes that Proposed Actions would not result in significant adverse impacts on open space.

### **SHADOWS**

Incremental shadows from the Proposed Project would fall on portions of Hudson River Park and the adjacent Route 9A Bikeway early in the morning during the fall, winter, and early spring, and on a small area of the Hudson River in the winter. The new shadows would be limited in extent and duration and would not result in significant adverse impacts to these resources.

## HISTORIC RESOURCES

### *ARCHAEOLOGICAL RESOURCES*

The Proposed Actions would not result in significant adverse impacts to archaeological resources. Portions of the Project Site, which would be disturbed for construction of the Proposed Project, were determined sensitive for potential historic-period archaeological resources in a Phase 1A Documentary Study. These include the former rear yard areas of historic Lots 8-11, 54-57, 61A, 61, 61-½, 63, and 64 (concentrated in the western portion of the Project Site) and in the original P.S. 51 building's side yard areas. The Phase 1A study recommended that Phase 1B archaeological testing be undertaken to determine to presence or absence of such resources. In a letter dated April 9, 2009, The New York City Landmarks Preservation Commission (LPC) concurred with the Phase 1A conclusions and recommendations. OPRHP also concurred with the Phase 1A recommendations in a letter dated May 7, 2009 (see LPC and OPRHP findings letters in Appendix A). Prior to testing, a testing protocol for the original P.S. 51 building's side yard areas was prepared on August 12, 2009 in consultation with LPC and OPRHP. Phase 1B archaeological testing was subsequently undertaken for these areas and was summarized in "Phase 1B Archaeological Testing Report P.S. 51/44th Street and Eleventh Ave. B 1073, L 1 (Part) Manhattan, New York," dated September 2009. The report was submitted to LPC and OPRHP. LPC and OPHRP concurred with this report's findings in letters dated November 6, 2009 and November 17, 2009, respectively, and have no further archaeological concerns for these areas of the Project Site.

Similarly, prior to testing of the former rear yard areas of historic Lots 8-11, 54-57, 61A, 61, 61-½, 63, and 64 (which would be occupied by Buildings A and B), a testing protocol would also be prepared in consultation with LPC and OPRHP and Phase 1B archaeological testing would be undertaken in accordance with this protocol in the archaeologically sensitive areas. Based upon the results of the Phase 1B investigation, LPC or OPRHP may require measures to salvage potential archaeological resources. Therefore, with the above testing and compliance measures in accordance with any OPRHP and/or LPC directives, no significant adverse impacts to archaeological resources are expected to occur with the Proposed Actions.

To avoid potential inadvertent adverse impacts to P.S. 51 (S/NR-eligible) and the Houbigant Building (S/NR-eligible) from construction-related work, a Construction Protection Plan (CPP) would be developed in consultation with OPRHP and LPC that would follow the requirements established in the DOB's *TPPN #10/88*, concerning procedures for the avoidance of damage to adjacent historic structures from nearby construction. The CPP would also follow the guidelines set forth in section 523 of the *CEQR Technical Manual*, including conformance with LPC's *New York City Landmarks Preservation Commission Guidelines for Construction Adjacent to a Historic Landmark and Protection Programs for Landmark Buildings*.

The conversion of P.S. 51 to residential use has not yet been designed, and could result in significant adverse impacts to this historic resource if the adaptive reuse would require the removal of significant historic or architectural features. Since the Proposed Project involves actions by a state agency, the proposed alterations to P.S. 51, which is eligible for listing on the S/NR, would require review by OPRHP. The project sponsor, or its successors or assigns would, therefore, consult with OPRHP regarding the proposed changes to P.S. 51 as design plans proceed.

The process by which this consultation would be undertaken will be established in a LOR that includes measures that would be undertaken to consult with OPRHP to minimize or mitigate the

## **West 44th Street and Eleventh Avenue Rezoning**

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potential for significant adverse impacts by the Proposed Actions. The LOR includes the following stipulations:

- Prior to the start of construction, Phase 1B archaeological testing would be undertaken in the rear yards of historic Lots 8-11, 54-57, 61A, 61, 61-1/2, 63, and 64 to further assess the site's potential to yield archaeological resources. In advance of testing, an archaeological testing protocol would be prepared in consultation with LPC and OPRHP.
- Because the Proposed Project involves state actions and the existing P.S. 51 is S/NR-eligible, 44th Street Development LLC, the project sponsor, or its successors or assigns would consult with OPRHP regarding proposed changes to P.S. 51 as design plans for the building's conversion to residential use proceed. The LOR will specify the points in the design process at which consultation with OPRHP would occur.
- 44th Street Development LLC and SCA would develop and implement CPP(s) for P.S. 51 and the former Houbigant Building in consultation with OPRHP and LPC prior to construction. The CPP(s) would follow the requirements established in the DOB's *TPPN #10/88*, concerning procedures for the avoidance of damage to adjacent historic structures from nearby construction. It would also follow the guidelines set forth in Section 523 of the *CEQR Technical Manual*, including conformance with LPC's *Guidelines for Construction Adjacent to a Historic Landmark* and *Protection Programs for Landmark Buildings*.

Parties to the LOR include the HPD, 44th Street Development LLC, SCA, and OPRHP. The LOR would be executed prior to the conveyance of the residential portion of the Project Site to 44th Street Development LLC and prior to all construction activities (including the construction of the new school). The LOR is legally binding and a property covenant would be recorded to require the measures stipulated in the LOR once the residential portion of the land is conveyed to 44th Street Development LLC. A draft of the LOR is currently under review at the Law Department, and as discussed above, the LOR would be executed prior to the start of construction.

The LDA between HPD and 44th Street Development LLC would also include –provisions related to historic resources as part of the Proposed Project, including future coordination with OPRHP and LPC. With the above-described measures incorporated into the Proposed Actions, including the LOR, significant adverse impacts to historic resources would not occur.

### **URBAN DESIGN/VISUAL RESOURCES**

The Proposed Actions would alter the urban design of the Project Site by redeveloping it with three new residential buildings and a new and expanded P.S. 51 school, and renovating and converting the existing P.S. 51 to a residential building. Although the Proposed Actions would change the uses on the Project Site, these new uses would be consistent with the existing residential, commercial, and community facility uses in the study area. The new residential buildings would have larger footprints than the existing buildings on the Project Site. However, these new buildings would be similar in bulk, massing, and materials to the variety of existing and planned buildings in the study area and would be not adversely affect these urban design components.

The new buildings and renovated P.S. 51 would contribute to an enlivened streetscape in the study area near the Project Site as they would add active ground-floor uses with increased pedestrian activity. The Proposed Project would result in beneficial effects as it would replace a largely underutilized site with new residential buildings along with a new and expanded school

and would create continuous streetwalls along West 44th and West 45th Streets and Eleventh Avenues where none currently exist on the Project Site. The new streetwall would be consistent with continuous streetwalls elsewhere in the study area.

Views in the study area closest to the Project Site would be altered by the Proposed Actions, as the new buildings would replace the one- and two-story buildings, parking lot, and Amtrak rail cut with three new taller residential buildings and a new school building. The new buildings, including the new school building and the renovated existing P.S. 51, would alter some views in the study area closest to the Project Site but these view corridors and views to visual resources would remain available with the Proposed Project. Therefore, the Proposed Actions would not result in any significant adverse urban design or visual resources impacts.

### **NEIGHBORHOOD CHARACTER**

No significant adverse impacts on neighborhood character would result in the future with the Proposed Actions. The Proposed Actions would not directly displace any land uses or result in differing land uses so as to adversely affect surrounding land use. The proposed buildings would be primarily residential, consistent with neighborhood redevelopment trends, and would be consistent in bulk and scale to nearby developments. The design of the Proposed Project includes the placement of the tallest portion of the Proposed Project along a wide avenue (Eleventh Avenue) and the use of streetwall heights and setbacks to preserve the mid-rise “feel” along the streetscapes adjacent to the Project Site. The renovation and conversion of P.S. 51 to residential use would not result in a significant adverse impact to this historic resource. The Proposed Actions would not change the socioeconomic characteristics of the study area and would not result in a significant increase in neighborhood traffic or noise. The Proposed Project would result in beneficial effects to neighborhood character by making land use on the Project Site consistent with residential and mixed residential/commercial uses located in areas to the north and east of the Project Site in the Clinton neighborhood. As discussed above in “Urban Design/Visual Resources,” the Proposed Actions would result in beneficial effects to urban design conditions by replacing an underutilized site with new development that respects the prevailing urban design conditions of the surrounding neighborhood.

### **NATURAL RESOURCES**

The Project Site is fully developed and is not viable habitat for species of concern. Incremental shadows from the Proposed Project would fall across a small area of the Hudson River next to the shore for only about 45 minutes or less in winter. This limited extent and duration of additional shadow would not result in a significant adverse impact to the biota of the river. On the other analysis days (March/September; May/August, and June), the new buildings would not result in an incremental increase in shadows on the Hudson River. Therefore, the Proposed Actions would not result in significant adverse impacts on natural resources.

### **HAZARDOUS MATERIALS**

A Phase I Environmental Site Assessment (ESA) was prepared for the Project Site in November 2008. The Phase I ESA identified recognized environmental conditions on the Project Site including potential underground and above-ground storage tanks, asbestos containing materials, lead-based paint, and urban fill of unknown origin. To characterize subsurface conditions prior to construction, a Subsurface (Phase II) Investigation was undertaken on the residential portions

## **West 44th Street and Eleventh Avenue Rezoning**

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of the Project Site, including the collection and laboratory analysis of soil and groundwater samples.

The results of the Phase II testing on the residential portion of the Project Site would be reviewed and approved to the satisfaction of the New York City Department of Environmental Protection (DEP). Subsequent testing (if any), remedial measures through a Remedial Action Plan (RAP), and construction safety measures through a Construction Health and Safety Plan (CHASP) would also be approved by DEP. If warranted, elements of the RAP would include detailed soil management plans outlining the excavation and removal of contaminated soil along with the importing of clean fill, and details of the installation of a vapor barrier or sub-slab depressurization system (if required). Elements of the CHASP would include general site safety rules, including the appropriate levels of protection that should be followed by on-site workers, industrial hygiene monitoring, material safety data sheets, dust suppression measures, air monitoring procedures and response, and identification of the nearest medical facility to the site. Following the conclusion of any remediation activities on the residential portions of the Project Site, a Professional Engineer (P.E.) certified Closure Report documenting that all remedial requirements have been properly implemented would be submitted to HPD and DEP for review and acceptance. The measures to avoid the potential impacts from hazardous materials during and after construction on the residential portions of the Project Site (including the existing P.S. 51 site) would be incorporated into the LDA between HPD and 44th Street Development LLC.

The SCA conducted a Phase II Environmental Site Investigation to confirm subsurface conditions on the portion of the Project Site to be used for construction of the new P.S. 51 school building. Based on the findings of the Phase II Environmental Site Investigation, the SCA would develop management plans (e.g., soil management plan, groundwater management plan, CHASP, etc.) to address any hazardous materials that may be encountered during construction of the new school. Vapor control systems are incorporated into the design of all new SCA schools. The management plans prepared by SCA would be separate from the RAP and CHASP prepared by 44th Street Development LLC for the remainder of the Proposed Project site but would include comparable measures to protect the health and safety of construction workers, school staff and students, and the public during construction and subsequently during occupancy. Testing and remediation measures would be implemented by the SCA as part of the Proposed Project in compliance with SEQRA. With these measures in place, no significant adverse impacts related to hazardous materials would result from the Proposed Actions.

### **INFRASTRUCTURE**

The Proposed Actions would generate demand for an estimated 521,350 gallons per day (gpd) of water and would increase sanitary sewage flows by an estimated 311,481 gpd. The incremental demand for water supply from the Proposed Actions would not adversely affect the ability of the existing system to distribute water to, or maintain water pressure for, local users. Further, the increase in sanitary sewage and stormwater discharge would not cause the North River Water Pollution Control Plant to exceed its permitted flow limit. Finally, the stormwater generated by the Proposed Actions would not result in a significant adverse impact on the combined sewer system or the Hudson or East Rivers. Therefore, implementation of the Proposed Actions would not result in significant adverse impacts on the city's water supply, sewage treatment, and stormwater discharge systems.

## **SOLID WASTE AND SANITATION SERVICES**

The Proposed Actions would not result in any significant adverse impacts on solid waste and sanitation services. While implementation of the Proposed Actions would generate 60,617 pounds per week of solid waste, the sanitation systems serving the Project Site would have adequate capacity to meet the projected increases in solid waste generation. The New York City Department of Sanitation (DSNY) would provide solid waste and sanitation services for the proposed residential units and school. Private carters provide solid waste and sanitation services to the proposed retail use. The Proposed Actions would increase the volume of solid waste and recyclables but would not put a substantial burden on New York City's public and private solid waste management services.

## **ENERGY**

The Proposed Actions would increase demands on electricity and gas; however, relative to the capacity of these systems and the current levels of use in New York City, the increases in demand would be inconsequential. Therefore, the Proposed Actions would not result in a significant adverse impact on the supplies of electricity and gas in the City or the region as a whole.

## **TRAFFIC AND PARKING**

The traffic analysis considers the potential impacts of the Proposed Actions on the operation of eight intersections near the Project Site. The Proposed Actions would yield net increments of 203, 149, and 163 vehicle trips during the AM, midday, and PM peak hours of analysis, respectively. The analysis concludes that the Proposed Actions would result in significant adverse traffic impacts at four intersections (at the Tenth Avenue intersections with West 42nd and West 45th Streets and at the Eleventh Avenue intersections with West 44th and West 45th Streets) during the AM, midday and PM peak hours. Measures to fully mitigate the predicted traffic impacts are presented below in Section E, "Mitigation."

The Proposed Actions would displace 300 public parking spaces currently on the Project Site as well as 50 spaces used by NYPD's traffic enforcement unit. The displacement of public parking from the Project Site would result in an overall increase in utilization rates of off-street parking facilities in study area, resulting in a shortfall in the weekday midday period. According to the *CEQR Technical Manual*, for actions within the Manhattan Central Business District (the area south of 61st Street), the inability of the Proposed Project or the surrounding area to accommodate projected future parking demands would generally be considered a parking shortfall, but is not deemed to be a significant impact. In the other analysis periods (AM, PM, and overnight), there would continue to be available off-street parking spaces with completion of the Proposed Project.

With respect to pedestrian safety, a rolling 12 month total of accident data identified West 42nd Street at Tenth Avenue as a high accident location based on criteria provided in the *CEQR Technical Manual*. Tenth Avenue and West 42nd Street is already striped with regular crosswalks on all approaches, and there are no signs warning either pedestrians to wait for a walk phase or automobiles to yield to pedestrians. However, the installation of high-visibility crosswalks on all four approaches and signs warning turning vehicles to yield to pedestrians on the westbound and northbound approaches could enhance pedestrian safety at this location.

**TRANSIT AND PEDESTRIANS**

The Proposed Actions would generate an estimated 1,717, 1,789, and 1,426 person trips during the weekday AM, midday, and PM peak hours, respectively. These trips would include 296, 194, and 343 subway trips, 184, 138, and 204 bus trips, and 1,071, 1,327, and 708 walk only trips over the same time periods. Analysis was prepared to determine the potential impacts of these new trips on subway and bus service as well as sidewalks, corners, and crosswalks near the Project Site. The results show that the Proposed Actions would not result in significant adverse impacts to subway station control areas or stairways, bus operations, or pedestrian circulation.

An examination of the area’s roadways revealed that several school safety measures are already in place to enhance safety along pedestrian paths for students. For example, most of the crosswalks at Tenth Avenue and West 44th Street, Tenth Avenue and West 45th Street, and Eleventh Avenue and West 45th Street are striped for school crossing. In addition, roadways approaching these intersections have “School X-ing” pavement markings. With the existing school entrance relocated to West 44th Street, it is recommended that the same safety treatments be implemented for the Eleventh Avenue and West 44th Street intersection. Specifically, it is recommended that “School X-ing” pavement markings be provided on the Eleventh Avenue southbound and West 44th Street eastbound approaches and that the east, west, and north crosswalks are striped as school crosswalks. As part of the Proposed Project, the SCA will implement the measures to enhance pedestrian safety for school children. With the measures included as part of the Proposed Project, no significant adverse impacts would result.

**AIR QUALITY**

The assessment of air quality considered the potential impacts from mobile sources (e.g., vehicle trips generated by the Proposed Actions) and stationary sources (e.g., emissions from new heating, ventilation, and air conditioning systems and subgrade parking on the Project Site as well as industrial source emissions from existing uses that surround the Project Site.) The analysis found that the maximum predicted pollutant concentrations and concentration increments from mobile sources with the Proposed Actions and from the accessory parking garage would be below the applicable criteria for determining the significance of potential impacts. There would also be no significant adverse air quality impacts from industrial facilities.

To preclude the potential for significant adverse air quality impacts from the HVAC system of the proposed school, SCA would incorporate specifications on fuel use and stack placement as part of the Proposed Project and per its environmental review requirements under the SEQRA:

- **Relocated and Expanded P.S. 51.** Any new development on this property must ensure that the heating, ventilating and air conditioning stack(s) utilize either No. 2 fuel oil or natural gas. If development on this property utilizes No. 2 fuel oil for the heating, ventilating and air conditioning, boiler exhaust stacks on this property must be located at least 60 feet from the building lines of Buildings B and C; if the development utilizes natural gas, boiler exhaust stacks on the property must be located at least 47 feet from the building lines of Buildings B and C to avoid any potential significant air quality impacts.

To avoid potential significant adverse impacts from the HVAC systems associated with the proposed residential buildings on the project site, the LDA between HPD and 44th Street Development LLC would include the following requirements as part of the Proposed Project:

- **Building A.** Any new development on this property must ensure that exhaust stack(s) for the building's heating, ventilating and air conditioning system be located on the roof of the tallest portion of the building to avoid any potential significant air quality impacts.
- **Existing School/Future Residential Building.** Any new development on this property must ensure that the heating, ventilating and air conditioning stack(s) utilize either No. 2 fuel oil or natural gas, and boiler exhaust stacks on this property must be located at least 30 feet from adjacent buildings, Buildings B and C, to avoid any potential significant air quality impacts.

The LDA between HPD and 44th Street Development LLC would also require the developer to ventilate diesel locomotive emissions through vents located on the roofs (or through a combined HVAC venting system on the roofs) of Buildings CN and/or CS. With these measures incorporated as part of the Proposed Project, the proposed actions would not result in significant adverse impacts on air quality.

## NOISE

The *CEQR Technical Manual* has set building attenuation levels for buildings, based on exterior  $L_{10(1)}$  noise levels, in order to maintain interior noise levels of 45 dBA  $L_{10(1)}$  or lower for residential and community facility (school) uses. Proposed building facades along West 45th Street, Tenth Avenue, and West 44th Street would require 30 dBA of window-wall attenuation, proposed building facades along the interior school courtyard would require 32 dBA of window-wall attenuation, and proposed building facades along Eleventh Avenue would require 35 dBA of window-wall attenuation.

The proposed buildings would be designed with a composite Outdoor-Indoor Transmission Class (OITC) to meet these attenuation requirements. New residential buildings would include well sealed double-glazed windows and an alternative means of ventilation (PTAC units) in all habitable rooms (i.e., living rooms, bedrooms, and dining rooms) to achieve a maximum interior noise environment of 45 dBA under closed window conditions. The new P.S. 51 would include well sealed double-glazed windows and central air conditioning. With these measures incorporated as part of the Proposed Project, the composite window/wall attenuation would provide sufficient attenuation to achieve the CEQR requirements. In addition, the building mechanical system (i.e., heating, ventilation, and air conditioning systems) would be designed to meet all applicable noise regulations and to avoid producing levels that would result in any significant increase in ambient noise levels. The attenuation requirements for the residential portion of the Proposed Project would be incorporated into the LDA between HPD and 44th Street Development LLC. SCA is obligated to comply with the attenuation specifications for the new school per its environmental review requirements under SEQRA.

A vibration analysis was undertaken to identify the potential impacts of continued railroad operations through the Project Site on the future residents and students of the new P.S. 51. Vibration measurements were made at two receptor locations—one on West 45th Street between Tenth Avenue and Eleventh Avenue and one located at the center of the railroad overpass on West 44th Street between Tenth and Eleventh Avenues. Based on the measured vibration levels, a properly designed building would not be significantly impacted by vibration.

## **CONSTRUCTION IMPACTS**

The Proposed Actions would result in construction activities within the Project Site for a period of approximately 48 months, including 36 months for construction of the new school and residential buildings and another 12 months for conversion of the existing school to residential use. Construction activities would comply with the New York City Noise Code, which regulates the hours of construction and times when noisy equipment can be used. The project sponsor and the SCA would implement dust control measures in accordance with the New York City Air Pollution Control Code and other applicable local, state, and federal regulations. It is also anticipated that some contractors working on the Project Site would use diesel emission reduction technologies such as ultra low-sulfur diesel fuel, diesel particulate filters, and Tier 1, 2, and 3 engines, and as early in the construction period as practicable, diesel-powered equipment would be replaced with electrical-powered equipment to the extent feasible. It is expected that the SCA would employ best available technologies and utilize ultra low-sulfur diesel fuel for construction vehicles in accordance with City and State requirements in connection with construction of the new school building, which will be constructed by the SCA and owned by the City of New York. Construction activities would be undertaken in accordance with an approved CHASP and RAP for soil disturbance that would include detailed procedures for managing both known contamination issues (e.g., fill) and any unexpectedly encountered contamination issues. Sediment and erosion control procedures would be identified in a Stormwater Pollution Prevention Plan and implemented during the construction activities to control runoff and pollutants from entering the stormwater system. A CPP would also be developed to avoid potential impacts, such as ground-borne vibration, falling debris, and damage from heavy machinery, on the existing P.S. 51 and the former Houbigant Building, which are S/NR-eligible historic resources on and near the Project Site.

Construction activities may require that the curbside lanes of West 44th Street, Eleventh Avenue, and West 45th Street adjacent to the Project Site be closed for staging. However, rerouting of vehicular traffic is not anticipated since at least one moving lane would be maintained on these streets. Sidewalks immediately adjacent to the Project Site may also be closed, but access to the existing P.S. 51 would be maintained when school is in session. Where sidewalks are closed, pedestrians would either walk on the opposite side of the street or in a protected area within a portion of the roadway or the Project Site. The New York City Department of Transportation (NYCDOT) would be consulted to determine the appropriate protection measures to ensure vehicular and pedestrian safety during construction.

It is estimated that construction activities would generate up to 175 vehicle trips in the morning peak (6AM to 7AM) and 113 vehicle trips in the afternoon peak (3PM to 4PM). Delivery vehicles would travel to and from the Project Site using NYCDOT designated truck routes with local access along Tenth and Eleventh Avenues as well as West 44th and West 45th Streets. Since parking would not be provided on-site for construction workers, they would travel to and from nearby parking facilities and would then walk to the Project Site. While construction traffic would be dispersed throughout the area around the Project Site, construction activities have the potential to adversely affect traffic operations since certain locations are already operating at poor levels-of-service.

Construction activities would generate a peak demand for 161 parking spaces, which would occur from weekday morning to the afternoon. In combination with the removal of a 300-space lot from the Project Site, there would be a shortfall of parking during construction. The unsatisfied demand for parking spaces in the study area in the midday peak hour would result in

vehicles parking outside the immediate area and motorists walking longer distances to their destination or taking mass transit.

Construction activities would not affect subway operations since no subway routes or stations are located on or adjacent to the Project Site. Bus service would be maintained near the Project Site during construction, and bus stops would not need to be relocated. Construction is expected to result in up to 454 new subway trips and 186 new bus trips from construction workers accessing the Project Site during the construction peak hours (6 AM to 7 AM and 3 PM to 4 PM). However, since these trips would be dispersed among the subway and bus routes that serve the Project Site and because the trips would occur outside the typical commuter peak hours, it is anticipated that adequate capacity would be available to support these construction-period trips. Similarly, it is also expected that adequate capacity would be available to support construction-period pedestrian trips, particularly since they would arrive and depart outside the typical commuter peak hours.

As with other projects constructed over active railroad right-of-way, activities associated with the deck over the rail cut and residential buildings above would be closely coordinated with and approved by Amtrak. As there are two tracks along this right-of-way, tracks would alternate closing temporarily to allow for excavation, construction of foundation walls, and construction of the deck. In addition, flagmen would be present along the right-of-way during construction.

No significant adverse impacts are anticipated due to construction activities on the Project Site. However, construction activities have the potential to result in temporary adverse effects. Construction activities would be most intensive during the demolition, excavation, and core and shell phases. Once interior construction commences, effects on traffic, air quality, and noise would be much more limited. The SCA and 44th Street Development LLC would adhere to all applicable codes and regulations to avoid or minimize the adverse effects of construction on adjacent sensitive receptors, including P.S. 51. The SCA and 44th Street Development LLC have agreed to participate in a task force comprised of the various stakeholders to address any ongoing concerns that may arise during the period of construction, including construction-related air, noise, and safety issues, and effects on the ongoing operations of P.S. 51.

## **PUBLIC HEALTH**

No activities are proposed that would exceed accepted city, state, or federal standards with respect to public health; therefore, no significant adverse impacts on public health are expected as a result of the Proposed Actions.

## **E. MITIGATION**

The Proposed Actions would result in significant adverse impacts at four intersections during the 2013 Build AM, midday, and PM analysis peak hours. To mitigate these impacts, low-cost and readily implementable measures were explored, including: retiming of signal controls to increase green time for impacted movements, modifying existing parking regulations, and daylighting curb lanes at intersection approaches to provide additional travel lanes or turn pockets. The traffic mitigation measures were reviewed and approved by DOT, the implementing agency for the traffic mitigation measures. With these mitigation measures in place, the projected significant adverse traffic impacts would be fully mitigated.

## **F. ALTERNATIVES**

Under CEQR, alternatives selected for consideration in an EIS are generally those that have the potential to reduce, eliminate, or avoid significant adverse impacts of a proposed action while meeting some or all of its goals and objectives. A total of three alternatives were assessed to determine whether they would substantively meet the stated goals and objectives of the Proposed Actions while reducing or eliminating its adverse impacts:

- 1) The “No Action” Alternative would maintain the Project Site in its current condition and existing uses would remain.
- 2) The “Expansion of Existing P.S. 51” Alternative contemplated renovating and expanding the existing school building in response to concerns expressed during scoping by certain members of the public.
- 4) The “School over Rail Cut” Alternative contemplated construction of a new school building over the Amtrak rail cut in response to concerns expressed during scoping by certain members of the public.

### **NO ACTION ALTERNATIVE**

The No Action Alternative would maintain the Project Site in its current condition and existing uses would remain. While the No Action Alternative would avoid all of the significant adverse environmental impacts of the Proposed Actions (i.e., historic resources, hazardous materials, traffic, air quality, and noise impacts), it would not provide for an expanded school or new affordable housing. The No Action Alternative would not achieve the Proposed Actions’ purpose and need, which include enlivening an underutilized site with much-needed affordable housing, retail space, and a new and expanded school.

### **EXPANSION OF EXISTING P.S. 51 ALTERNATIVE**

Two alternatives, which were identified during public scoping for this EIS, were considered for the proposed school on the Project Site. The first alternative, “Expansion of Existing P.S. 51 Alternative” contemplated renovating and expanding the existing school building. This alternative and the Proposed Actions would increase school capacity in the district by providing another school facility on the Project Site. In other respects, overall effects and significant adverse impacts would be similar to those with the Proposed Project as the number of residential units and square footage of retail space would be generally unchanged. There would continue to be significant adverse traffic impacts with similar mitigation measures considered.

Renovating the school for continued long term use would require extensive reconstruction; because given the age of the school, it does not meet many current design standards of SCA, such as central air conditioning and energy-efficiency measures. Also, renovation would require closing of the school for at least one or two school years, thereby relocating students and temporarily reducing the capacity of the district. The temporary impact on school capacity that would result from this alternative would not occur with the Proposed Actions.

With this alternative, a new wing would be added south of the existing school building. Since floor heights vary between the existing school and SCA’s standard design, an expanded school could result in reduced efficiency of its layout and capacity as compared to a new school building. Furthermore, as described in the “Historic Resources” section above, the existing school is S/NR-eligible. Thus, as with the Proposed Actions, any alteration to the existing school

building would need to be undertaken in consultation with OPHRP, and these alterations may increase the cost and schedule for the school as compared to the Proposed Actions.

The expansion of the existing school would require modifications to the site plan for residential uses, since the adaptive re-use of the school for residential purposes would not occur. It is anticipated that the overall unit count would be the same as for the Proposed Project, but bulk would have to be added to one of the other proposed residential buildings on the Project Site since dwelling units contained in the existing P.S. 51 building under the Proposed Actions would be distributed throughout the other buildings under this alternative.

The sale of the existing school building is critical to creating the funding required for construction of the project's new school. Consequently, retaining and renovating the existing school could jeopardize the overall financial feasibility of the Proposed Actions.

### **SCHOOL OVER RAIL CUT ALTERNATIVE**

The second alternative involving the new school on the Project Site, the "School over Rail Cut" Alternative, contemplates placing the new school above the rail cut on the eastern side of the Project Site rather than within the existing school yard. Under this alternative, the rear yard of the existing school would instead provide for a portion of the residential development along 44th Street. As the proposed development program could still be accommodated under the reconfigured site plan, this alternative would result in similar impacts on traffic as the Proposed Project.

Development of a school over the rail cut would orient the building north-south rather than east-west in order to meet the minimum footprint and space requirements. The school would also be constructed to the lot line such that classroom windows would front, in close proximity, the gas station to the east of the rail cut along Tenth Avenue. Furthermore, building over the rail cut would preclude the inclusion of a cellar level, resulting in a design of six stories above grade, which is not consistent with the SCA's design standards. Therefore, SCA considers development of the school over the rail cut to be infeasible.

## **G. GROWTH INDUCING ASPECTS OF THE PROPOSED ACTIONS**

The Proposed Actions would enable the development of 1,350 dwelling units, 17,500 square feet of retail space, and a 630-seat public school on a site located in the Clinton neighborhood of Manhattan. The Proposed Actions would result in the redevelopment of an underutilized site with market-rate and affordable housing, which is consistent with City initiatives to increase the housing supply and provide additional capacity for public schools. These uses would be compatible with the surrounding area and would contribute to the broader residential redevelopment of Clinton. No major new development is expected to be induced in the surrounding area as a result of the Proposed Actions.

## **H. IRREVERSIBLE AND IRRETREIVABLE COMMITMENT OF RESOURCES**

There are a number of resources, both natural and built, that would be expended in the construction and operation of the Proposed Project that would occur as a result of the Proposed Actions. These resources include the building materials used in construction of the buildings; energy in the form of gas and electricity consumed during construction and operation of the

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buildings; and the human effort (time and labor) required to develop, construct, and operate various components of these developments. They are considered irretrievably committed because their reuse for some other purpose would not be possible. \*