

Appendix D
Written Comments Received on the DEIS



News from ...

SENATOR THOMAS K. DUANE

29th SENATORIAL DISTRICT • NEW YORK STATE SENATE



TESTIMONY BY NEW YORK STATE SENATOR THOMAS K. DUANE
BEFORE THE NEW YORK CITY
CITY PLANNING COMMISSION
REGARDING THE ULURP APPLICATIONS
RELATED TO P.S. 51/GOTHAM WEST

December 2, 2009

My name is Thomas K. Duane and I represent New York State's 29th Senate District, within which lie the Public School 51 (P.S. 51)/Gotham West project site and the surrounding neighborhood of Clinton-Hell's Kitchen. Thank you for the opportunity to testify.

The P.S. 51/Gotham West development, which will occupy most of the block from West 44th to West 45th Streets between 10th and 11th Avenues, is an exciting opportunity for Manhattan's West Side. By building on a parking lot and over a rail cut, a hole in Clinton-Hell's Kitchen will be filled with a new residential and commercial community and an upgraded, enlarged P.S. 51, fulfilling several of the promises made to the community during the 2005 Hudson Yards (HY) rezoning process.

I want to express my gratitude to the Gotham Organization (Gotham), the New York City Department of Housing Preservation and Development (HPD), the New York City Department of City Planning (DCP), and the New York City School Construction Authority (SCA) for their commitment to working with the community throughout the Uniform Land Use Review Procedure, and especially for already incorporating some of Manhattan Community Board Four's (CB4) recommendations. I am pleased with many aspects of the current proposal, but I also wish to highlight some concerns that remain.

Gotham and HPD propose to build three new residential buildings containing approximately 1,200 residential rental units and roughly 17,000 square feet of retail at or below grade on 11th Avenue. This development will proceed in conjunction with SCA's proposal to build a new, more modern and bigger school to replace the existing P.S. 51 building, which will be redeveloped into market-rate housing.

I am delighted that the project will include the 600 permanently affordable apartments, including many available to those with moderate and middle incomes, that the community was promised during the HY rezoning. Unfortunately, only 40% of these units will have two or more bedrooms, and thus provide homes for families for whom there are currently few adequate housing options, yet who are, as CB4 has noted, "the backbone of our city." While I appreciate that Gotham has modified its plan to accommodate even that number, the community and I would like to see at least 50% of the units be made family-sized in order to help offset the

neighborhood's preponderance of studio and one-bedroom units. I also urge Gotham to make the 75 additional affordable units it plans to build under the New York State Housing Finance Agency's 80/20 program affordable in perpetuity.

In a similar vein, I look forward to the creation, as promised in the HY points of agreement, of an affordable housing fund from the proceeds of the disposition of the city-owned land on which this project will be built. It is important that the money in that fund—projected to be approximately \$20,000,000—be reserved first for those affordable housing developments in Manhattan Community District 4 (CD4) to which Mayor Bloomberg has already committed but which have not been able to proceed due to gaps in funding. These projects, to be developed on parking lots at New York City Housing Authority's Fulton Houses, Elliott-Chelsea Houses, and Harborview Houses, were promised to CB4 during the HY and West Chelsea rezoning processes, and it is imperative that they be given priority for affordable housing funding generated by a project in CD4.

Generally, Gotham's proposed buildings are contextually designed, with appropriate façade treatments and a low, broad outline. Unfortunately, the project will include one building with towers reaching 14 stories each as well as another with two towers reaching 30 and 31 stories respectively. Gotham and HPD have stated that such tall buildings are necessary in order to house the significant number of affordable units and the accompanying market-rate units that make this project feasible. While it seems that some compromise on height will be necessary in order to house the community's desired volume of affordable units, and I am grateful that the heights have already been lowered considerably during the ULURP process, I urge all parties to continue to work to ensure that the buildings are contextual to our neighborhood's low-rise character.

Any compromise on height in this development, though, highlights the urgency of the proposed 11th Avenue rezoning and its associated height limits, and I hope that DCP will move forward on that rezoning with due speed. Also, while I appreciate that Gotham has agreed not to transfer off-site the excess development rights that this project will generate, I hope to see that agreement codified in the Land Disposition Agreement (LDA), along with the building-form controls that will ensure the project's physicality does not materially change from the current proposal.

I am also concerned that the proposed zoning map amendment includes a C2-5 overlay, which would permit commercial uses on the entire site at 2 Floor Area Ratio (FAR), a level out of character with a residential neighborhood. While I understand the need for this overlay in order to create a General Large Scale Development, and appreciate Gotham's commitment to limit the commercial space to 1 FAR along 11th Avenue, I urge DCP, CB4, and Gotham to develop a means by which the 1 FAR may be embodied in an enforceable agreement and the commercial overlay may be significantly reduced.

It is notable that the Draft Environmental Impact Statement (DEIS) for this proposal projects that even without this development, the area will see a shortage of 525 publicly funded childcare slots by 2013. This project will add 56 children to that number, and the DEIS suggests that these 581 children may be accommodated by filling 71 open slots at Hartley House, by using Administration for Children's Services (ACS) vouchers for private childcare, and by sending the remainder to publicly funded facilities over a mile away from home. These suggestions would be laughable if they were not so seriously inadequate. The City must commit to working with

CB4 to locate a suitable place for sufficient childcare facilities, and any mitigation of the childcare slot deficit must include a funding mechanism.

Finally, while the proposal for the new school building is not before you today, it is clearly a large and inextricable piece of the P.S. 51/Gotham West project. I am incredibly excited that the community will finally get the new, upgraded, larger school it was promised and so deserves, and I thank P.S. 51 Principal Nancy Sing-Bock, her staff, and P.S. 51 parents for their unyielding advocacy.

Still, some parts of the proposal for the new school trouble me. The DEIS estimates that in a future without the P.S. 51/Gotham West project, elementary schools in the area will be operating at 193% capacity by 2013. With the proposed development's introduction of 162 elementary-aged students, that high percentage will inch up to 194%, exacerbating an already terrible projected problem. Incredibly, the DEIS notes that only school operating capacity increases of 5 percentage points or more constitute significant adverse impacts, and so no mitigation of the projected increase is required in this case. While I appreciate that a main goal of this development is increased educational space, it defies logic that we would not take full advantage of this opportunity to remediate an expected significant shortfall, even if the DEIS does not specifically require such action. Specifically, I am perplexed as to why the SCA and New York City Department of Education (DOE) have committed more than 40% of the new P.S. 51 school seats to intermediate-aged students when there is such an obvious need for elementary school space.

As I and other elected officials made clear this summer, we have good reason to believe that the numerous residential developments planned on Manhattan's West Side put future generations of elementary school children at risk of attending overcrowded classrooms. While the new P.S. 51 is a much needed step, it alone is insufficient. It behooves the DOE and SCA to look at the area's long-term school seat needs, including not only eliminating its planned introduction of intermediate-school seats in the new P.S. 51, but also planning for new neighborhood public—not charter—elementary and intermediate schools.

Further, I am disheartened by SCA's proposal to replace the current P.S. 51 playground—already a small space—with a smaller outdoor space when it will have to accommodate the larger number of students slated to attend the school's new building. It is crucial that SCA make every effort to find a way to accommodate a play space on the roof of the new P.S. 51 to offset the loss of ground-level playground square footage. Additionally, I hope that the City will see to it that appropriate spaces at the school—including the playground and auditorium—be made available outside of school hours to community groups for meetings, athletic competitions, artistic performances, and other events.

The long-awaited P.S. 51/Gotham West development will be a positive addition to our community. Again, I commend Gotham, HPD, DCP and SCA for their engagement with CB4 and local groups and for the many positive aspects of this proposal. Still, there remains room for improvement, and I look forward to continuing to work collegially and collaboratively with all stakeholders towards this end.



LINDA B. ROSENTHAL
Assemblymember 67th District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

20722

CHAIR
Subcommittee on Mitchell-Lama

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**TESTIMONY BY NEW YORK STATE ASSEMBLYMEMBER LINDA B. ROSENTHAL
BEFORE THE NEW YORK CITY
CITY PLANNING COMMISSION REGARDING THE ULURP APPLICATIONS
RELATED TO THE WEST 44 ST AND 11TH AVE ("GOTHAM WEST") REZONING**

December 2, 2009

I am Assemblymember Linda Rosenthal and I represent the 67th Assembly District, which includes the Upper West Side and parts of Hell's Kitchen/ Clinton where the West 44th Street/Gotham West development is located. Thank you for the opportunity to testify.

The rezoning of West 44th and West 45th Streets between 10th and 11th Avenues presents a historic opportunity to expand the residential community and achieve long overdue school construction. While I appreciate Gotham West's proposals for affordable housing and the relocation of P.S. 51, it raises several concerns that I would like to address.

I am very pleased that two buildings built over the railroad right-of-way (Building C North and South) and the midblock building located immediately west of the P.S. 51 facility (Building B) will offer 540 affordable units in perpetuity. As Community Board 4 explained in its response to the Draft Environmental Impact Statement, previous development plans demonstrate how a large supply of market rate housing, similar to the 535 units requested in this proposal, can raise the cost of living for the surrounding community. Given the large number of market rate units included in the proposal, it is essential to provide housing that reflects the current character and economic diversity of the neighborhood's residents. Gotham's agreement to reserve 50% of its affordable units for residents of Community District 4 is a helpful first step toward preserving the "look and feel" of the Clinton/Hell's Kitchen communities. However, the scope of the Gotham West development demands additional, permanently affordable housing.

The remaining 670 units on the western portion of the site in Building A and Towers 1, 2, and 3 will be made up of 80% market rate units and 20% affordable housing units. Yet, only 60 units will be low-income, permanently affordable units and count toward the 600 permanently affordable units reserved by the affordable housing fund in the Hudson Rail Yards agreement.

Only 75 affordable units will be reserved for residents making less than 50% of the Area Median Income (AMI) and will expire and convert to market rate housing, as stipulated by 80/20 bond financing. I believe these units must also be included among permanently affordable housing. The 8.5 floor area ratio, 31-story tower, and mid-block buildings of up to 14 stories add more density and height than Community Board 4 originally preferred, yet were accepted in exchange for additional affordable housing units in the

project proposal. Affordable housing should not be considered a temporary benefit to the community, particularly since it is a centerpiece of the compromises reached between community groups and the City of New York. To that end, all affordable units planned for the projected site should be available to the community.

It is equally essential to use a portion of the \$45 million affordable housing fund, developed under the 2005 Hudson Rail Yards Agreement, to finance additional affordable housing projects in Community District 4, including the NYCHA parking lot sites at Fulton, Elliot-Chelsea, and Harborview Houses.

The population growth triggered by additional residential development will mean additional strain on the already-overcrowded P.S. 51 at West 44th Street and 11th Avenue. I am excited that plans for a new P.S. 51 are finally approaching fruition. Although the school's construction falls under the purview of the School Construction Authority (SCA) and the Department of Education (DOE), I am concerned that the school's future will be impacted by development plans being considered. According to the Manhattan Borough President's report on school overcrowding, Community District 4 has one of the fastest growing populations in Manhattan, and Gotham's proposal alone is expected to add 162 elementary and 54 intermediate public school students to school district 2.

Relocating P.S. 51 provides long overdue relief to a school community currently operating at 121% of its capacity, and a population surge should not undermine its goal to provide adequate learning space. The Draft Environmental Impact Statement (DEIS) illustrated the potential impact of residential development when it projected an additional 3,380 units will be built less than one mile from the Gotham West site by 2013. In fact, 985 elementary school students from active and stalled developments are projected to join the P.S. 51 catchment area in the near future. It is therefore crucial that the new P.S. 51 should only serve grades Pre-K through 5, instead of the Pre-Kindergarten through 8th grade proposal being considered by the SCA and DOE. As Borough President Stringer has pointed out, the proposed development will lead to a shortfall in elementary school student seats and accommodate fewer than half the elementary school students projected from the Gotham West residential development alone.

In that vein, I am disappointed that the proposal replaces the original school yard measured at 16,250 square feet with a considerably smaller school yard of 12,658 square feet that is blanketed in permanent shadows by the surrounding buildings. I echo Community Board 4's request that half of the P.S. 51 rooftop be reserved for additional outdoor play space with sufficient sunlight.

The construction of a new P.S. 51 and conversion of its current building must proceed with diligence and attention to the needs of the school community and the overall Clinton neighborhood. Simultaneous construction for these two projects can limit construction time, and I appreciate all efforts to achieve this goal. As the community board and Manhattan Borough President Stringer have stated, it is equally important to establish a P.S. 51 School Task Force, in which representatives from the SCA, DOE, P.S. 51 administrators, teachers, and parents, CB4, and local elected officials can meet regularly to monitor the project's progress and address the health and safety issues associated with both projects. Additionally, I stand with CB4 in requesting an insulated window system at the current P.S. 51 to protect the school's air quality during construction.

The projects proposed for West 44th and 45th Streets along 10th and 11th Avenues hold promise, but must approval be conditioned upon responsible development. I look forward to ongoing collaboration with stakeholders to achieve this goal. I am grateful for the efforts of Community Board 4, Borough President Stringer, and other elected officials and community leaders for their efforts to find common ground for the proposed plan. It is now time to complete its mission by tempering development with the suggestions we have outlined. Thank you for your consideration.



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

November 30, 2009

Recommendation on
ULURP Application Nos. C 100051 ZMM, N 100052 ZRM, C 100053 ZSM, C 100054 ZSM
and C 100055 HAM – West 44th Street and Eleventh Avenue Rezoning
by the New York City Department of Housing Preservation and Development

PROPOSED ACTIONS

The New York City Department of Housing Preservation and Development ("HPD") seeks approval for several actions to facilitate a mixed-use primarily residential development on a City-owned parcel in Community District 4. The Project Site (Block 1073, Lot 1) is located on a city 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 for the proposed actions comprises all of Block 1073 except for Lot 28 and is in the Excluded Area of the Special Clinton District.

HPD seeks approval of a **Zoning Map Amendment (C 100051 ZMM)** to rezone the western portion of the site from M1-5 to R10, within 350 feet from Eleventh Avenue, and to rezone the remaining portion of the site from M1-5 to R8. It also proposes to establish a C2-5 overlay over the entire Project Site.

HPD also seeks approval of the **disposition of City-owned property (C 100055 HAM)**, which are two portions of the Project Site: one portion is a 100-foot wide rail cut for an Amtrak right-of-way that runs north-south at the easternmost edge of the Project Site, and the other portion is the existing P.S. 51 elementary school building. The balance of the Project Site previously received disposition approval and Urban Development Action Area Project ("UDAAP") designation in 2001 as a part of the Studio City (C 010137 ZSM and C010136 PMM) ULURP action.

HPD also seeks approval of the designation of the Project Site as an **Urban Development Action Area ("UDAA")** and approval for the project as an **Urban Development Action Area Project** pursuant to Article 16 of the General Municipal Law of New York State. The proposed UDAAP area excludes a 31,360 SF portion of the Project Site where a new school will be constructed. The excluded portion starts just west of the rail cut and south of the existing P.S. 51 school building, extends east 245 feet, and continues through the southern portion of the site along West 44th Street.

City-owned properties that are no longer in use or are in deteriorated or deteriorating condition are eligible to be designated as a UDAA and a UDAAP, pursuant to the Urban Development Area Act (Article 16 of the State General Municipal Law). UDAA and UDAAP provide incentives for private enterprise to correct substandard, unsanitary and/or blighted conditions. According to New York State General Municipal Law § 691(4), to receive a UDAA and/or a UDAAP designation the City Planning Commission (“CPC”) and the City Council must find that: the present status of the area tends to impair or arrest the sound growth and development of the municipality; the financial aid in the form of tax incentives, if any, to be provided by the municipality pursuant to [the Urban Development Area Act] ... is necessary to enable the project to be undertaken; and the area designation is consistent with the policy and purposes [of the Urban Development Area Act].

HPD also seeks a **Zoning Text Amendment (N 100052 ZRM)** to create a new subsection of Special Clinton District section of the New York City Zoning Resolution (“ZR”)—ZR § 96-82—to define the R10 portion of the Project Site as an Inclusionary Housing designated area within the Special Clinton District and to exclude the height and setback requirements pursuant to ZR § 23-954(a) to said designated area.

HPD also seeks approval of a **Special Permit (C 100053 ZSM) pursuant to ZR § 74-681(a)**, to allow the railroad right-of-way on the Project Site, which will be completely covered over by a permanent platform, to be included in the zoning lot area in connection with the proposed mixed-use development on the Project Site. In order to grant this Special Permit, the CPC must find: that the streets providing access are adequate to handle resulting traffic; that the distribution of floor area and the number of dwelling units does not adversely affect the character of the surrounding area by being unduly concentrated in any portion of such development or enlargement, including any portion located beyond the boundaries of such railroad or transit right-of-way or yard; that all uses, developments or enlargements located on the zoning lot or below a platform do not adversely affect one another; and that if such railroad or transit right-of-way or yard is deemed appropriate for future transportation use, the site plan and structural design of the development does not preclude future use of, or improvements to, the right-of-way for such transportation use.

HPD also seeks approval of a **Special Permit (C 100054 ZSM) pursuant to ZR § 74-74** to establish a General Large Scale Development (“GLSD”), within which, the applicant requests bulk waivers pursuant to ZR § 74-743(a), where the CPC may permit the location of buildings without regard for the applicable yard, height and setback regulations, applicable distance between buildings, and the distribution of total required open space without regard for zoning boundaries:

- Pursuant to ZR § 74-743(a)(2) to modify the rear yard regulations of ZR §§ 23-532 and 33-283 in order to provide larger building footprints and lower building heights.
- Pursuant to ZR § 74-743(a)(2) to modify the height and setback regulations of ZR §§ 23-632 and 33-43.
- Pursuant to ZR § 74-743(a)(2) to modify the minimum required distance between two or more buildings regulation of ZR § 23-711.
- Pursuant to ZR § 74-743(a)(1) to allow the distribution of open space without regard for zoning district boundaries as required by ZR § 23-142.

The CPC may grant the proposed bulk waivers provided that the modifications satisfy certain findings outlined in ZR § 74-743(b), including that the modifications will result in a better site plan and a better relationship between the development and the surrounding area than would otherwise be possible, and will thus benefit the occupants of the development, neighborhood, and the City; that the modifications will not obstruct light and air; that the streets are adequate to handling resulting traffic flow; and that a plan for any required additional public facilities has been provided.

PROJECT DESCRIPTION

HPD seeks approval of several actions, including disposition of property, zoning map and text amendments, special permits, designation of a UDAA and approval of a UDAAP to facilitate the development of City-owned property in the Clinton/Hell's Kitchen neighborhood. The Project Site comprises all of Block 1073 (bounded by Eleventh Avenue, West 44th Street, Tenth Avenue, and West 45th Street) except for Lot 28, which is a 25,100 SF lot with 200 feet of frontage on Tenth Avenue currently occupied by a gas station. The proposed land use actions would facilitate the development of five buildings that include affordable and market-rate housing, retail uses, and the relocation and expansion of the existing P.S. 51 public school (on-site) (herein together the "Proposed Project"). HPD selected Gotham Organization¹ ("Gotham") as the developer for this project through an RFP process.

The Project Site is currently occupied with a 300-space public parking lot, a 50-space parking lot used by the New York City Police Department, a public elementary school (P.S. 51), a vacant warehouse, and a horse stable (Shamrock Stables). All of these parcels are owned by the City of New York; the public parking lot and horse stable are leased to their current operators. A rail cut used by Amtrak and owned by Penn Central Railroad is within the Project Site and divides the block 150 feet west of Tenth Avenue.

The project site is within an M1-5 zoning district and within an Excluded Area of the Special Clinton District. The M1-5 district allows light manufacturing, commercial, and certain community facilities uses as of right; however, it does not allow residential uses. The maximum allowable FAR for manufacturing and commercial uses is 5.0 and for community facilities is 6.5. The proposed R8 and R10 districts with a C2-5 overlay would allow both residential, community facility, and commercial uses. An R8 district allows a maximum FAR of 6.02 for residential uses and 6.5 for community facilities. An R10 district typically allows a maximum FAR of 10.0 for both residential and community facilities uses. However, the proposed zoning text amendment would allow for a base residential FAR of 9.0 and up to 12.0 if Inclusionary Housing were provided. The C2-5 commercial overlay allows a maximum FAR of 2.0 for commercial uses.

These zoning changes would facilitate the construction of residential buildings of a variety of heights and sizes. The Project Site rezoning would allow for a maximum floor area of approximately 1,267,735 SF (9.35 FAR); the Proposed Project will utilize approximately 1,156,410 SF (8.5 FAR). The Proposed Project would include 1,050,282 SF of residential floor area, comprised of approximately 1210 dwelling units, with 675 as affordable units (600 of

¹ The actual project sponsor is 44th Street Development, LLC, which is an affiliate of the Gotham Organization.

which will be permanently affordable). The Proposed Project would also include 17,000 SF of retail floor area along Eleventh Avenue and a new 630-seat school (approximately 95,000 SF) built to the south of current P.S. 51 site, along West 44th Street. The Proposed Project would also include 204 accessory parking spaces in a below-grade garage with ingress and egress on West 45th Street.

The Proposed Project is comprised of Buildings “A,” “B,” “C-North,” “C-South,” the existing P.S. 51 building, and a new P.S. 51 building. Building A anchors the western end of the block and has a 7-story, roughly C-shaped base with frontage on West 44th Street, West 45th Street, and Eleventh Avenue. Above the base of Building A would be a tower. The center portion of the tower, which would be located on the northwest corner of the Project Site at West 45th Street and Eleventh Avenue, would rise to 31 stories. From this central tower, a 12- to 28-story wing extends eastward along West 45th Street, and a wing would extend southward along Eleventh Avenue, ranging from 28 to 31 stories. Building A will contain approximately 675 units, with 80% market-rate housing and 20% affordable housing. The Proposed Project’s retail component would be located on the ground floor and below grade of Building A’s Eleventh Avenue frontage.

Building B is a midblock, midrise, L-shaped building (east of Building A) with frontages on both West 44th and West 45th streets. It would have a 7-story base fronting West 44th Street and a 9-story base fronting West 45th Street. Above the bases is a 14-story tower extending north-south through the site and extending east along West 45th Street. All of the building’s 297 units will be affordable housing. An approximately 10,700 SF open space would be provided within the interior of the western portion of the Project Site, between Buildings A and B, which will be available for use by residents of those two buildings.

The existing 5-story P.S. 51 (east of Building B on West 45th Street) would be converted to market-rate residential use. P.S. 51 would be relocated to a new building on the southern portion of the block, with a main entrance on West 44th Street. The expanded and relocated school building would be five stories and contain approximately 630 elementary/intermediate school seats, an increase from its current 276-seat elementary school capacity. A new playground for P.S. 51 would be a side and rear yard of the new school. The existing school building would remain operational until the new school is fully constructed. Once the new school building is completed, the Department of Education (“DOE”) would turn over the existing school building to Gotham for conversion to residential uses. The relocation and expansion of P.S. 51 on the Project Site would require site selection approval by the Mayor and the City Council pursuant to the requirements of the New York City School Construction Authority Act.

East of the existing and proposed P.S. 51 is the Amtrak railroad right-of-way. A platform will be constructed above this rail cut to facilitate the construction of two 14-story residential buildings, C-North on West 45th Street and C-South on West 44th Street. Between the buildings would be an open area for building residents. All of the 243 units within Buildings C-North and C-South would be affordable housing.

The Special Clinton District was established with goals, as indicated in its general purposes, to allow new development that preserves and strengthens the social and physical character of the

community, maintain a broad mix of incomes and ensure that the community is not adversely affected by new development. The proposed Zoning Text amendment would define the R10 portion of the Proposed Project as an Inclusionary Housing designated area within the Special Clinton District. The Project Site's designation as an Inclusionary Housing area would facilitate the construction of lower income housing in the neighborhood, thereby supporting goals as laid out in the Special Clinton District zoning and by the community.

The establishment of a GLSD pursuant to ZR § 74-743(a) would allow the applicant to construct buildings that do not conform to regulations governing rear yard, height, setbacks, minimum distance between buildings, and open space.

Rear Yard Regulations – The Proposed Project requires the modification of rear yard equivalents to provide a larger building footprint while allowing for lower building heights. A rear yard equivalent of 60 feet for residential buildings and 40 feet for community facilities is required for the Project Site. This modification is limited to three locations:

- In the through lot portion of Building A, the tower encroaches upon the residential rear yard equivalent for a distance of 39.33 feet;
- In the through lot portion of Building B, the building extends across the rear yard equivalent area and requires a waiver of the residential rear yard equivalent for 58 feet;
- A 100-foot wide portion of the new school building encroaches in the rear yard equivalent area to allow the new school's gymnasium to contain a regulation sized basketball court. It requires a reduction in residential and community facility rear yard equivalents to 38.3 feet from 60 feet and 40 feet, respectively.

Height and Setback – The Proposed Project also requires numerous modifications of the height and setback regulations. The zoning of the Project Site allows a maximum street wall height of 85 feet, requires an initial setback of 20 feet (from a narrow street) and 15 feet (from a wide street), and a rear setback of 20 feet above the height of 125 feet. Building height is governed by the sky exposure plane. Most of the requested modifications are small, in particular for initial front setback and street wall height (less than 5 feet), although the Proposed Project does require more extensive waivers and modifications relating to height and rear yard setbacks, including:

- A modification to allow the northern Eleventh Avenue tower of Building A to pierce the sky exposure plane from an approximate height of 155 feet to 335 feet with varying degrees of depth and a maximum depth of approximately 31 feet (at the top of the building);
- A modification to allow the southern Eleventh Avenue tower of Building A to pierce the sky exposure plane from an approximate height of 154 feet to 333 feet with varying degrees of depth and a maximum depth of approximately 30 feet (at the top of the building);
- A waiver of the rear setback for the rear wall of through lot portion of Building A from a height of 125 feet to a height of 285 feet for a depth of 20 feet;
- A waiver of rear setback for Building B from a height of 125 feet to approximately 175 feet for a depth of 20 feet; and
- A waiver of rear setback for the rear walls of buildings C-North and C-South from a height of 125 feet to approximately 181 feet for a depth of 20 feet.

Minimum Distance Between Buildings – The Proposed Project necessitates the modification of the required minimum distance between two or more buildings. The minimum required distance between a residential building and any other building on the zoning lot is 50 feet. The modification would reduce the distance between a portion the east-facing wall of Building B and the west-facing wall of the new school building by 13 feet, and the south-facing wall of the existing P.S. 51 building and the north-facing wall of the new P.S. 51 by 3 feet.

Open Space – The Proposed Project requires modification of the open space requirement. Based on the height factor and open space ratio for the buildings in the R8 portion of the Project Site, 25,008 SF of open space is required. Only 10,445 SF of the required open space can be located in the current plan of the R8 portion of the Project Site. Consequently, a modification of the open space requirement is needed to allow the remaining required open space to be located in the R10 portion of the Project Site.

COMMUNITY BOARD COMMENTS

At its Full Board meeting on October 7, 2009, Community Board 4 (“CB4”) voted unanimously, with a vote of 35 in favor, to recommend conditional approval of the ULURP applications. CB4’s recommendation included the following conditions:

Affordable Housing

- 600 units developed pursuant to development agreement to remain affordable in perpetuity to a specified range of household incomes up to 165% Area Median Income (“AMI”);
- 75 units developed under the 80/20 program to remain affordable in perpetuity to households earning up to 50% AMI;
- New York State Housing Finance Agency (“FHA”)-financed units to have identical finishes as market-rate units and be evenly distributed throughout the building;
- 50% of all affordable units must have 2 or more bedrooms;
- CD4 resident must be given preference for 50% of all affordable units;
- Gotham’s contribution to the Hudson Yards Affordable Housing Fund must be used to realize City commitments as a part of Hudson Yards and West Chelsea;

Height and Bulk

- Any excess development rights generated through the Inclusionary Zoning program must be used only on site;
- Overall height limits not to exceed those depicted in the site plan;

Commercial Uses

- Commercial overlay must be limited to the proposed R10 district;
- Commercial uses must be limited to Eleventh Avenue extending no more than 75 feet into the mid-block;

Design and Facades

- Architectural feature must reflect local context with regard to use of brick, fenestration and streetwalls;

Historic Resources

- Renovate P.S. 51 for residential use must consistent with historic preservation regulations;
- The existing P.S. 51, The E.J. Burke Company Warehouse, the Acker, Merall & Condit Company Warehouse, Landmark Tavern, and the Houbigant Company Building, should be designated as New York City landmarks;

Community Facilities and Infrastructure

- Mitigate impacts on daycare needs;

Traffic and Parking

- Limit parking to no more than 204 accessory spaces;
- Eliminate taxi standing on West 44th Street;

Open Space

- Plant street trees pursuant to ZR § 96-51;
- Mitigate impacts on open space by mapping new parkland and open new P.S. 51 playground to public use after school hours;
- Create a taskforce for oversight of open space and playground development;

Construction of the New P.S. 51

- Existing P.S. 51 must remain open until new P.S. 51 is completed;
- Separate School Construction Authority P.S. 51 fund must be created for development funds;
- Create P.S. 51 task force with formal role in construction, programming, design and developer selection;
- New seats at P.S. 51 should be used exclusively for elementary education;
- Alternate playground space for existing P.S. 51 students must be identified during construction period;
- 50% the rooftop space of the new P.S. 51 building must be designed for outdoor play space;
- Special education classrooms must be integrated with other classrooms;
- New P.S. 51 playground must available for public use;
- Design of new P.S. 51 must be consistent with neighborhood character and the proposed new development;
- Design of new P.S. 51 should meet LEED standards and accommodate new educational technologies.

BOROUGH PRESIDENT'S COMMENTS

General Comments

As a part of the January 2005 Hudson Yards Points of Agreement between the Mayor and the local council member, the City agreed to develop 600 units of permanently affordable housing

on this site, expand P.S. 51, and provide for the creation of an affordable housing fund to underwrite future affordable housing projects. The Proposed Project is a product of extensive discussions among community members, Gotham, the Department of Education (“DOE”), the School Construction Authority (“SCA”), the Department of City Planning (“DCP”), and HPD.

In all, the HPD and Gotham have shown an admirable commitment to meet community planning goals and obligations in the development of this complex project, which includes construction over a railroad right-of-way. By reaching an appropriate compromise between the community’s interest in affordable housing and an expanded P.S. 51 and concerns regarding building height, bulk, and design, this project, as proposed, will create much-needed affordable housing and a new school while still respecting the neighborhood’s character and meeting local needs. In particular, Gotham has altered the building forms by reducing the height of buildings and has designed contextual façades and streetwalls in response to community concerns.

Community and Environmental Concerns

Construction

The construction of the Proposed Project is anticipated to take approximately 48 months and has the potential to create temporary adverse impacts. Construction will be disruptive to neighborhood residents and P.S. 51, which will remain open during construction. In order to minimize the impacts of this lengthy and complex project, Gotham and the SCA should form a Construction Mitigation Task Force, involving the developer, construction contractors, regulatory agencies, P.S. 51, DOE, CB4, and other local stakeholders. The Task Force should develop a construction mitigation plan to monitor community impacts and construction mitigation issues cited in the DEIS, such as protection of historic resources and handling potential hazardous materials. The task force should also provide a regular and reliable stream of information to the community regarding construction activities and related environmental concerns. Additionally, the task force should also work with the P.S. 51 administration and P.T.A. to address construction impacts on the continued operation of P.S. 51. During the period of site construction, the students of the P.S. 51 will not be able to use the school’s outdoor recreational space. The task force should also work to find alternate outdoor space in the neighborhood that can be used by P.S. 51 for outdoor play space during this interim period.

Density-related Impacts

The new residents and visitors of the proposed development will result in increased pedestrian and vehicular volumes and will have a negative impact at nearby intersections that already operate at a substandard level of service. The DEIS identified 4 intersections where the proposed actions would result in significant adverse impacts on traffic (Tenth Avenue at West 42nd Street and West 45th Street, and Eleventh Avenue at West 44th Street and West 45th Street). The DEIS anticipates that the traffic impacts would be fully mitigated if the proposed mitigations implemented. To minimize parking and traffic impacts, parking in the Proposed Projects garage should be limited to 204 accessory parking spaces, as proposed. In addition, the Department of Transportation (“DOT”) should reevaluate the appropriateness of parking regulations on streets surrounding the Project Site given the changing needs of the future development.

The proposed project is expected to create a significant adverse impact on day care facilities and exacerbate a shortage of day care slots that are eligible for public funding. However, the DEIS only suggests that the City's Administration for Children's Services ("ACS") monitor the demand for additional capacity and develop new capacity as needed at existing facilities or new facilities on-site or nearby. To address these concerns, the developer of the proposed development should consider providing community facility space on the Project Site or support nearby facilities. In lieu of space, the developer should provide funds to supplement the number of ACS daycare slots in the area after the number of completed residential units on-site reaches a threshold of need.

The Proposed Project will add significant new residential density to a neighborhood that already has limited access to open space. The area's open space ratio is very low for both residential passive and active open space in comparison to DCP guidelines for open space. Although it is anticipated that residents will utilize the development's private open spaces, the City should still evaluate opportunities for new open spaces that are publicly available. To this end, DOE should consider making the P.S. 51 playground publicly accessible space, and the City should consider prioritizing development of new open spaces in the neighborhood.

Bulk

The increased density of this residential development will bring new vitality to an underused site; however, Proposed Project may impact the look and feel of the Clinton/Hell's Kitchen neighborhood. The Project Site is currently used primarily for outdoor parking; thus, the proposed development will bring new buildings and bulk. It is important for these new buildings to fit into the context of Clinton/Hell's Kitchen. As a result of extensive community dialogue, the size and shape of the buildings in the Proposed Project have been adjusted to fit as much as possible with existing character and community goals for development.

The Proposed Project will be built to a proposed 8.53 FAR, with approximately 110,000 SF of development rights remaining unused. Gotham has agreed not to transfer these remaining development rights, and to include this limitation as a part of the Land Disposition Agreement between Gotham and HPD.

Historic Resources

The Proposed Project will encourage additional growth in the surrounding community, increasing real estate pressures on the neighborhood's historic resources. The DEIS identifies 5 buildings eligible for State or National Register of Historic Place ("S/NR") designation located within 400 feet of the proposed project, including the existing P.S. 51. The residential conversion of the P.S. 51 building will require review from the New York State Office of Parks, Recreation and Historic Preservation, because projects sponsored, assisted or approved by state agencies, in this case SCA and HFA, must undergo such review. However, the other identified privately-owned or funded historic resources are not provided the same stringent protections against redevelopment or construction as are S/NR properties or New York City Landmarks ("NYCL"). The historic resources identified in the DEIS should be examined for appropriateness as city landmarks. Beyond these buildings, the community board has identified other nearby historic sites that should be reconsidered for their historic value, such as Landmark Tavern.

Therefore, Gotham or the City should study historic resources in the area as identified by the community, and evaluate the potential for landmarking these individual buildings.

Affordable Housing

Developing new affordable housing on publicly owned land allows the City to retain livable, economically diverse communities. Such projects should be developed in close consultation with affected community members and must not compromise the long-term goals of the neighborhood and the City at large. Gotham has worked to meet community goals while meeting the obligations of the Hudson Yards Points of Agreement. In light of the number of market-rate residential units that will be introduced into the neighborhood by the Proposed Project, it is only appropriate that Gotham use its best efforts to create housing that also reflects the needs of the local community in type and income-targets. The affordable housing generated through the Inclusionary Housing Program will be for a range of income groups, with a mix of low-, moderate-, and middle-income units. While it is understandable that CB4 has requested that the applicants make a greater proportion of the affordable units two-bedroom or larger units in order to accommodate families, current HFA guidelines require an even unit mix of sizes between affordable and market-rate units. Gotham has already modified its housing program so that 40% of the units are family-sized. As the Proposed Project is designed, it is not possible to change the unit mix without requiring larger or taller buildings.

Gotham has agreed to give preference to residents of CD4 for 50% of the affordable units. HPD should guarantee that Gotham's contribution to the Hudson Yards Affordable Housing Fund be first used to address any funding gaps for public sites committed to CD4 by the City in the Hudson Yards and West Chelsea Points of Agreement documents before being applied to citywide needs. Gotham should also work with HPD to better reach community targets and make all new affordable housing permanently affordable.

Part of the proposed financing for the project will include proceeds from the sale of inclusionary housing credits. These credits will cross-finance the development costs by allowing other developments to reach their maximum density in exchange for purchasing the credits. The Community Board has raised a valid concern that the development of affordable housing was intended to be mitigation as part of the Points of Agreement and beyond those provided through the inclusionary housing program. By allowing this development to sell inclusionary housing credits, the total amount of potential affordable housing built in the neighborhood will be reduced.

This site must balance many priorities of the Points of Agreement, including the construction of 600 affordable housing units, a new school and a contribution to the affordable housing fund. According to the developer, the inclusionary credits are currently necessary to meet these priorities. HPD and the developer should work with the community to determine how the credits can be eliminated and whether such elimination would require the project to reassess its ability to meet its commitments.

New P.S. 51

Although the design and construction of P.S. 51 are not specifically part of these ULURP actions, they are an integral to the success and purpose of the overall Proposed Project. The SCA and the DOE, in conjunction with Gotham, should develop a task force of P.S. 51 administrators, the P.S. 51 P.T.A., CB4, and other stakeholders to address issues of school design, construction, and programming.

The SCA and DOE propose to expand P.S.51 to accommodate both elementary and intermediate students (pre-K through 8). Elementary schools within the area are already overcapacity, including the existing P.S. 51. Recent reports by the Manhattan Borough President's Office on school overcrowding have identified CD4 as having the fastest growing residential population in Manhattan and have highlighted the need to plan proactively to accommodate new students to prevent neighborhood school overcrowding. The DEIS estimates that 162 elementary and 54 intermediate public school students will be generated by the proposed actions. Although the increase in students did not trigger the CEQR threshold requiring mitigation, the proposed actions will contribute to an anticipated shortfall of elementary schools seats within the area. Even with the new elementary school seats proposed for P.S. 51, the new school will accommodate fewer than half the elementary schools students anticipated from the Proposed Project alone. In light of the area's elementary school capacity issues, the new school building should be used only for pre-K through 5.

Specific Land Use Actions

Zoning Map Amendment (C 100051 ZMM)

The proposed rezoning introduces significant density, bulk, and height into the immediate neighborhood which has traditionally consisted of low-rise residential structures with some low to mid-rise industrial buildings. This added density permitted by a change in zoning, together with the introduction of a C2-5 overlay, could create an environment inconsistent with the neighborhood's character. The proposed residential zoning is both necessary and appropriate as it fulfills community planning goals and will bring much needed vitality to an underutilized site. The proposed C2-5 overlay is necessary for the proposed retail uses and to enable the Proposed Project to be considered a GLSD and be eligible for certain bulk waivers under such designation. However, the depth of the proposed overlay on the block is mapped atypically deep into the mid-block, thereby allowing potentially incompatible commercial uses on what are intended to be residential side streets similar to other residential blocks in the neighborhood. Given that Gotham's proposal includes retail only on Eleventh Avenue and a garage for accessory use only, CPC should limit the application of the C2-5 overlay along Eleventh Avenue to the minimum depth needed to allow the proposed development to be considered a GLSD.

Disposition and UDAA/UDAAP Designation (C 100055 HAM)

When disposing of City-owned property, which is an increasingly scarce resource, it is good public policy for the City to ensure that the property will be used efficiently and serve important public purposes. The Proposed Project will result in up to approximately 1,210 units of housing available to a range of incomes, including 675 units of affordable housing (600 of which will be

permanently affordable), and will also facilitate the construction of a new expanded public school. The development of affordable housing and a school addresses local needs. The Proposed Project represents a superior use of land compared to existing conditions and is consistent with surrounding land uses. The development of the Project Site will make use of underutilized properties and will repair a break in the urban fabric. The proposed development meets the required findings for UDAA and UDAAP designation, is an appropriate use of City-owned property, and has community support.

Zoning Text Amendment (N 100052 ZRM)

The Special Clinton District was designed to allow new development that preserves and strengthens the social and physical character of the community, maintain a broad mix of incomes and ensure that the community is not adversely affected by new development. Designation of the Project Site in the Inclusionary Housing Program will facilitate the construction of hundreds of permanently affordable units, and will allow the Administration to meet the affordable housing commitments of the 2005 Hudson Yards Points of Agreement.

Special Permit pursuant to ZR § 74-681(a) (C 100053 ZSM)

The development program and design of the Proposed Project meets the findings for this special permit. The arrangement of buildings is intended to distribute the proposed floor area and density on the site to respect the neighborhood's character of taller, denser buildings located along avenues and lower buildings along the side streets. Development over the Amtrak railroad right-of-way is consistent with surrounding land uses and would represent a superior use of land compared to existing conditions. The Proposed Project will not adversely affect the character of the surrounding neighborhood, nor will its mix of uses adversely affect one another. Further, the proposed density for Building C – the portion constructed on the Amtrak right of way – is consistent in scale and character with the remaining GLSD and will not result in an undue concentration of density on any portion of the site. Furthermore, the development is being designed to Amtrak and City specifications to ensure that rail traffic is unimpeded during construction and to allow future use, maintenance and improvement of the rail line.

Special Permit pursuant to ZR § 74-74 (C 100054 ZSM)

The overall design of Proposed Project evolved out of the affordable housing commitments contained the Point of Agreement, while also contending with the site constraints of the railroad right-of-way, preservation of the existing P.S. 51 building, and SCA's strict requirements for the the new P.S. 51 building. SCA would not allow the school to be constructed on the Amtrak right-of-way, and requires the new P.S. 51 building to be free standing and no more than five-stories tall. These constraints determined the overall size and scale of Proposed Project and limit flexibility to incorporate the proposed program in an as-of-right development scenario.

Most of the setback modifications and rear yard equivalent modifications are minimal though more extensive waivers are needed to build a bulkier building on Eleventh Avenue where other bulky buildings exist. The proposed waivers on West 44th and 45th Streets, particularly the rear-yard waiver for Building B, are creative solutions that allow a more uniform distribution of bulk across the block without jeopardizing the midblock character. The Eleventh Avenue waivers shift bulk away from the midblock ensuring a more contextual character on West 44th and West

45th streets. The Eleventh Avenue waivers, while more extensive, are therefore necessary to produce a superior site plan which protects neighboring structures on West 44th and 45th Streets while realizing the development's programmatic requirements.

The proposed modifications are necessary for the Proposed Project to balance the needs of the development program, site constraints and built character of the neighborhood. The distribution of buildings on the Proposed Project will not unduly increase the bulk of buildings or obstruct access to light and air. Further, the proposed waivers allow for a better site design than would be allowed in an as-of-right development scenario, given the development constraints listed above. Finally, the proposed development scenario was generated after significant public input and balances community concerns with development needs. Given the site's proposed waivers produce a better site plan, the program requirements and the development's consistency with community planning goals as articulated in CB4's resolution, the Proposed Project meets the findings for GLSD.

It should be further noted that the proposed GLSD will limit the total density built on the site to below the as of right development scenario. Any modification of the total density or any expansion of the proposed zoning lot to transfer development rights should be strictly limited and only allowed through a major modification of the GLSD. Additionally, the proposed zoning envelopes should be shrink-wrapped as much as possible to guarantee the proposed development while allowing for reasonable design flexibility.

However, the Proposed Project's design reduces the size of the new P.S. 51 schoolyard in order to provide a regulation size gymnasium. This design also leaves the schoolyard in near constant shadow. Given the limited availability of open space in the immediate surrounding area, the SCA should consider maximizing the school's design to address the need for quality outdoor recreational space; specifically the SCA should consider adding a rooftop recreational area to P.S. 51 to address the limitations of this site plan.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Borough President recommends conditional approval of ULURP application Nos. C 100051 ZMM, N 100052 ZRM, C 100053 ZSM, C 100054 ZSM, and C 100055 HAM provided that:

1. The developer work with CB4 to create a Construction Mitigation Task Force involving construction contractors, regulatory agencies, P.S. 51, DOE, and other local stakeholders to monitor construction impacts on the P.S. 51 as well as on the larger community;
2. Gotham works closely with HPD to make all affordable housing units permanently affordable to a range of household incomes;
3. Gotham and HPD work with the community to reassess the feasibility of limiting the use of Inclusionary Housing credits;
4. Gotham works with ACS to mitigate impacts on daycare facilities;

5. HPD ensures the developer's contribution to the Hudson Yards Affordable Housing Fund be used to fill funding gaps for affordable housing projects committed to be the City as part of the Hudson Yards and West Chelsea rezonings;
6. CPC limit the application of the C2-5 overlay to Eleventh Avenue;
7. DOT reevaluate the appropriateness of parking regulations on streets surrounding the Project Site;
8. Gotham and HPD commit to not allowing the transfer of the remaining on-site development rights and include this limitation in the Land Disposition Agreement;
9. The historic resources identified in the DEIS are examined for appropriateness as city landmarks;
10. SCA and the DOE, in conjunction with the school developer, CB4 and PS 51, create a task force to address issues related to the new P.S. 51 building's design, construction, and programming, including its dedication as an elementary school and public use of the outdoor recreation areas by the general public as appropriate;
11. CPC require that any modification of the Proposed Project's total density or any expansion of the proposed zoning lot to transfer development rights should be s only allowed through a major modification of the GLSD;
12. SCA work to create rooftop recreation space at the new P.S. 51 building; and
13. The City works to development of new parks and open spaces in the neighborhood.

A handwritten signature in black ink, appearing to read 'Scott M. Stringer', is written over a horizontal line.

Scott M. Stringer
Manhattan Borough President



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

*** revised ***

November 30, 2009

Recommendation on
ULURP Application Nos. C 100051 ZMM, N 100052 ZRM, C 100053 ZSM, C 100054 ZSM
and C 100055 HAM – West 44th Street and Eleventh Avenue Rezoning
by the New York City Department of Housing Preservation and Development

PROPOSED ACTIONS

The New York City Department of Housing Preservation and Development (“HPD”) seeks approval for several actions to facilitate a mixed-use primarily residential development on a City-owned parcel in Community District 4. The Project Site (Block 1073, Lot 1) is located on a city 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 for the proposed actions comprises all of Block 1073 except for Lot 28 and is in the Excluded Area of the Special Clinton District.

HPD seeks approval of a **Zoning Map Amendment (C 100051 ZMM)** to rezone the western portion of the site from M1-5 to R10, within 350 feet from Eleventh Avenue, and to rezone the remaining portion of the site from M1-5 to R8. It also proposes to establish a C2-5 overlay over the entire Project Site.

HPD also seeks approval of the **disposition of City-owned property (C 100055 HAM)**, which are two portions of the Project Site: one portion is a 100-foot wide rail cut for an Amtrak right-of-way that runs north-south at the easternmost edge of the Project Site, and the other portion is the existing P.S. 51 elementary school building. The balance of the Project Site previously received disposition approval and Urban Development Action Area Project (“UDAAP”) designation in 2001 as a part of the Studio City (C 010137 ZSM and C010136 PMM) ULURP action.

HPD also seeks approval of the designation of the Project Site as an **Urban Development Action Area (“UDAA”)** and approval for the project as an **Urban Development Action Area Project** pursuant to Article 16 of the General Municipal Law of New York State. The proposed UDAAP area excludes a 31,360 SF portion of the Project Site where a new school will be

constructed. The excluded portion starts just west of the rail cut and south of the existing P.S. 51 school building, extends east 245 feet, and continues through the southern portion of the site along West 44th Street.

City-owned properties that are no longer in use or are in deteriorated or deteriorating condition are eligible to be designated as a UDAA and a UDAAP, pursuant to the Urban Development Area Act (Article 16 of the State General Municipal Law). UDAA and UDAAP provide incentives for private enterprise to correct substandard, unsanitary and/or blighted conditions. According to New York State General Municipal Law § 691(4), to receive a UDAA and/or a UDAAP designation the City Planning Commission (“CPC”) and the City Council must find that: the present status of the area tends to impair or arrest the sound growth and development of the municipality; the financial aid in the form of tax incentives, if any, to be provided by the municipality pursuant to [the Urban Development Area Act] ... is necessary to enable the project to be undertaken; and the area designation is consistent with the policy and purposes [of the Urban Development Area Act].

HPD also seeks a **Zoning Text Amendment (N 100052 ZRM)** to create a new subsection of Special Clinton District section of the New York City Zoning Resolution (“ZR”)—ZR § 96-82—to define the R10 portion of the Project Site as an Inclusionary Housing designated area within the Special Clinton District and to exclude the height and setback requirements pursuant to ZR § 23-954(a) to said designated area.

HPD also seeks approval of a **Special Permit (C 100053 ZSM) pursuant to ZR § 74-681(a)**, to allow the railroad right-of-way on the Project Site, which will be completely covered over by a permanent platform, to be included in the zoning lot area in connection with the proposed mixed-use development on the Project Site. In order to grant this Special Permit, the CPC must find: that the streets providing access are adequate to handle resulting traffic; that the distribution of floor area and the number of dwelling units does not adversely affect the character of the surrounding area by being unduly concentrated in any portion of such development or enlargement, including any portion located beyond the boundaries of such railroad or transit right-of-way or yard; that all uses, developments or enlargements located on the zoning lot or below a platform do not adversely affect one another; and that if such railroad or transit right-of-way or yard is deemed appropriate for future transportation use, the site plan and structural design of the development does not preclude future use of, or improvements to, the right-of-way for such transportation use.

HPD also seeks approval of a **Special Permit (C 100054 ZSM) pursuant to ZR § 74-74** to establish a General Large Scale Development (“GLSD”), within which, the applicant requests bulk waivers pursuant to ZR § 74-743(a), where the CPC may permit the location of buildings without regard for the applicable yard, height and setback regulations, applicable distance between buildings, and the distribution of total required open space without regard for zoning boundaries:

- Pursuant to ZR § 74-743(a)(2) to modify the rear yard regulations of ZR §§ 23-532 and 33-283 in order to provide larger building footprints and lower building heights.
- Pursuant to ZR § 74-743(a)(2) to modify the height and setback regulations of ZR §§ 23-632 and 33-43.

- Pursuant to ZR § 74-743(a)(2) to modify the minimum required distance between two or more buildings regulation of ZR § 23-711.
- Pursuant to ZR § 74-743(a)(1) to allow the distribution of open space without regard for zoning district boundaries as required by ZR § 23-142.

The CPC may grant the proposed bulk waivers provided that the modifications satisfy certain findings outlined in ZR § 74-743(b), including that the modifications will result in a better site plan and a better relationship between the development and the surrounding area than would otherwise be possible, and will thus benefit the occupants of the development, neighborhood, and the City; that the modifications will not obstruct light and air; that the streets are adequate to handling resulting traffic flow; and that a plan for any required additional public facilities has been provided.

PROJECT DESCRIPTION

HPD seeks approval of several actions, including disposition of property, zoning map and text amendments, special permits, designation of a UDAA and approval of a UDAAP to facilitate the development of City-owned property in the Clinton/Hell's Kitchen neighborhood. The Project Site comprises all of Block 1073 (bounded by Eleventh Avenue, West 44th Street, Tenth Avenue, and West 45th Street) except for Lot 28, which is a 25,100 SF lot with 200 feet of frontage on Tenth Avenue currently occupied by a gas station. The proposed land use actions would facilitate the development of five buildings that include affordable and market-rate housing, retail uses, and the relocation and expansion of the existing P.S. 51 public school (on-site) (herein together the "Proposed Project"). HPD selected Gotham Organization¹ ("Gotham") as the developer for this project through an RFP process.

The Project Site is currently occupied with a 300-space public parking lot, a 50-space parking lot used by the New York City Police Department, a public elementary school (P.S. 51), a vacant warehouse, and a horse stable (Shamrock Stables). All of these parcels are owned by the City of New York; the public parking lot and horse stable are leased to their current operators. A rail cut used by Amtrak and owned by Penn Central Railroad is within the Project Site and divides the block 150 feet west of Tenth Avenue.

The project site is within an M1-5 zoning district and within an Excluded Area of the Special Clinton District. The M1-5 district allows light manufacturing, commercial, and certain community facilities uses as of right; however, it does not allow residential uses. The maximum allowable FAR for manufacturing and commercial uses is 5.0 and for community facilities is 6.5. The proposed R8 and R10 districts with a C2-5 overlay would allow both residential, community facility, and commercial uses. An R8 district allows a maximum FAR of 6.02 for residential uses and 6.5 for community facilities. An R10 district typically allows a maximum FAR of 10.0 for both residential and community facilities uses. However, the proposed zoning text amendment would allow for a base residential FAR of 9.0 and up to 12.0 if Inclusionary Housing were provided. The C2-5 commercial overlay allows a maximum FAR of 2.0 for commercial uses.

¹ The actual project sponsor is 44th Street Development, LLC, which is an affiliate of the Gotham Organization.

These zoning changes would facilitate the construction of residential buildings of a variety of heights and sizes. The Project Site rezoning would allow for a maximum floor area of approximately 1,267,735 SF (9.35 FAR); the Proposed Project will utilize approximately 1,156,410 SF (8.54 FAR). The Proposed Project would include 1,050,282 SF of residential floor area, comprised of approximately 1,250 dwelling units², with 675 as affordable units (600 of which will be permanently affordable). The Proposed Project would also include 17,000 SF of retail floor area along Eleventh Avenue and a new 630-seat school (approximately 95,000 SF) built to the south of current P.S. 51 site, along West 44th Street. The Proposed Project would also include 204 accessory parking spaces in a below-grade garage with ingress and egress on West 45th Street.

The Proposed Project is comprised of Buildings “A,” “B,” “C-North,” “C-South,” the existing P.S. 51 building, and a new P.S. 51 building. Building A anchors the western end of the block and has a 7-story, roughly C-shaped base with frontage on West 44th Street, West 45th Street, and Eleventh Avenue. Above the base of Building A would be a tower. The center portion of the tower, which would be located on the northwest corner of the Project Site at West 45th Street and Eleventh Avenue, would rise to 31 stories. From this central tower, a 12- to 28-story wing extends eastward along West 45th Street, and a wing would extend southward along Eleventh Avenue, ranging from 28 to 31 stories. Building A will contain approximately 675 units, with 80% market-rate housing and 20% affordable housing. The Proposed Project’s retail component would be located on the ground floor and below grade of Building A’s Eleventh Avenue frontage.

Building B is a midblock, midrise, L-shaped building (east of Building A) with frontages on both West 44th and West 45th streets. It would have a 7-story base fronting West 44th Street and a 9-story base fronting West 45th Street. Above the bases is a 14-story tower extending north-south through the site and extending east along West 45th Street. All of the building’s 297 units will be affordable housing. An approximately 10,700 SF open space would be provided within the interior of the western portion of the Project Site, between Buildings A and B, which will be available for use by residents of those two buildings.

The existing 5-story P.S. 51 (east of Building B on West 45th Street) would be converted to market-rate residential use. P.S. 51 would be relocated to a new building on the southern portion of the block, with a main entrance on West 44th Street. The expanded and relocated school building would be five stories and contain approximately 630 elementary/intermediate school seats, an increase from its current 276-seat elementary school capacity. A new playground for P.S. 51 would be a side and rear yard of the new school. The existing school building would remain operational until the new school is fully constructed. Once the new school building is completed, the Department of Education (“DOE”) would turn over the existing school building to Gotham for conversion to residential uses. The relocation and expansion of P.S. 51 on the Project Site would require site selection approval by the Mayor and the City Council pursuant to the requirements of the New York City School Construction Authority Act.

² Approximately 1,210 units would be created in newly constructed buildings, and approximately 40 units would be created through the residential conversion of the P.S. 51 building.

East of the existing and proposed P.S. 51 is the Amtrak railroad right-of-way. A platform will be constructed above this rail cut to facilitate the construction of two 14-story residential buildings, C-North on West 45th Street and C-South on West 44th Street. Between the buildings would be an open area for building residents. All of the 243 units within Buildings C-North and C-South would be affordable housing.

The Special Clinton District was established with goals, as indicated in its general purposes, to allow new development that preserves and strengthen the social and physical character of the community, maintain a broad mix of incomes and ensure that the community is not adversely affected by new development. The proposed Zoning Text amendment would define the R10 portion of the Proposed Project as an Inclusionary Housing designated area within the Special Clinton District. The Project Site's designation as an Inclusionary Housing area would facilitate the construction of lower income housing in the neighborhood, thereby supporting goals as laid out in the Special Clinton District zoning and by the community.

The establishment of a GLSD pursuant to ZR § 74-743(a) would allow the applicant to construct buildings that do not conform to regulations governing rear yard, height, setbacks, minimum distance between buildings, and open space.

Rear Yard Regulations – The Proposed Project requires the modification of rear yard equivalents to provide a larger building footprint while allowing for lower building heights. A rear yard equivalent of 60 feet for residential buildings and 40 feet for community facilities is required for the Project Site. This modification is limited to three locations:

- In the through lot portion of Building A, the tower encroaches upon the residential rear yard equivalent for a distance of 39.33 feet;
- In the through lot portion of Building B, the building extends across the rear yard equivalent area and requires a waiver of the residential rear yard equivalent for 58 feet;
- A 100-foot wide portion of the new school building encroaches in the rear yard equivalent area to allow the new school's gymnasium to contain a regulation sized basketball court. It requires a reduction in residential and community facility rear yard equivalents to 38.3 feet from 60 feet and 40 feet, respectively.

Height and Setback – The Proposed Project also requires numerous modifications of the height and setback regulations. The zoning of the Project Site allows a maximum street wall height of 85 feet, requires an initial setback of 20 feet (from a narrow street) and 15 feet (from a wide street), and a rear setback of 20 feet above the height of 125 feet. Building height is governed by the sky exposure plane. Most of the requested modifications are small, in particular for initial front setback and street wall height (less than 5 feet), although the Proposed Project does require more extensive waivers and modifications relating to height and rear yard setbacks, including:

- A modification to allow the northern Eleventh Avenue tower of Building A to pierce the sky exposure plane from an approximate height of 155 feet to 335 feet with varying degrees of depth and a maximum depth of approximately 31 feet (at the top of the building);
- A modification to allow the southern Eleventh Avenue tower of Building A to pierce the sky exposure plane from an approximate height of 154 feet to 333 feet with varying degrees of depth and a maximum depth of approximately 30 feet (at the top of the building);

- A waiver of the rear setback for the rear wall of through lot portion of Building A from a height of 125 feet to a height of 285 feet for a depth of 20 feet;
- A waiver of rear setback for Building B from a height of 125 feet to approximately 175 feet for a depth of 20 feet; and
- A waiver of rear setback for the rear walls of buildings C-North and C-South from a height of 125 feet to approximately 181 feet for a depth of 20 feet.

Minimum Distance Between Buildings – The Proposed Project necessitates the modification of the required minimum distance between two or more buildings. The minimum required distance between a residential building and any other building on the zoning lot is 50 feet. The modification would reduce the distance between a portion the east-facing wall of Building B and the west-facing wall of the new school building by 13 feet, and the south-facing wall of the existing P.S. 51 building and the north-facing wall of the new P.S. 51 by 3 feet.

Open Space – The Proposed Project requires modification of the open space requirement. Based on the height factor and open space ratio for the buildings in the R8 portion of the Project Site, 25,008 SF of open space is required. Only 10,445 SF of the required open space can be located in the current plan of the R8 portion of the Project Site. Consequently, a modification of the open space requirement is needed to allow the remaining required open space to be located in the R10 portion of the Project Site.

COMMUNITY BOARD COMMENTS

At its Full Board meeting on October 7, 2009, Community Board 4 (“CB4”) voted unanimously, with a vote of 35 in favor, to recommend conditional approval of the ULURP applications. CB4’s recommendation included the following conditions:

Affordable Housing

- 600 units developed pursuant to development agreement to remain affordable in perpetuity to a specified range of household incomes up to 165% Area Median Income (“AMI”);
- 75 units developed under the 80/20 program to remain affordable in perpetuity to households earning up to 50% AMI;
- New York State Housing Finance Agency (“HFA”)-financed units to have identical finishes as market-rate units and be evenly distributed throughout the building;
- 50% of all affordable units must have 2 or more bedrooms;
- CD4 resident must be given preference for 50% of all affordable units;
- Gotham’s contribution to the Hudson Yards Affordable Housing Fund must be used to realize City commitments as a part of Hudson Yards and West Chelsea;

Height and Bulk

- Any excess development rights generated through the Inclusionary Zoning program must be used only on site;
- Overall height limits not to exceed those depicted in the site plan;

Commercial Uses

- Commercial overlay must be limited to the proposed R10 district;
- Commercial uses must be limited to Eleventh Avenue extending no more than 75 feet into the mid-block;

Design and Facades

- Architectural feature must reflect local context with regard to use of brick, fenestration and streetwalls;

Historic Resources

- Renovate P.S. 51 for residential use must consistent with historic preservation regulations;
- The existing P.S. 51, The E.J. Burke Company Warehouse, the Acker, Merall & Condit Company Warehouse, Landmark Tavern, and the Houbigant Company Building, should be designated as New York City landmarks;

Community Facilities and Infrastructure

- Mitigate impacts on daycare needs;

Traffic and Parking

- Limit parking to no more than 204 accessory spaces;
- Eliminate taxi standing on West 44th Street;

Open Space

- Plant street trees pursuant to ZR § 96-51;
- Mitigate impacts on open space by mapping new parkland and open new P.S. 51 playground to public use after school hours;
- Create a taskforce for oversight of open space and playground development;

Construction of the New P.S. 51

- Existing P.S. 51 must remain open until new P.S. 51 is completed;
- Separate School Construction Authority P.S. 51 fund must be created for development funds;
- Create P.S. 51 task force with formal role in construction, programming, design and developer selection;
- New seats at P.S. 51 should be used exclusively for elementary education;
- Alternate playground space for existing P.S. 51 students must be identified during construction period;
- 50% the rooftop space of the new P.S. 51 building must be designed for outdoor play space;
- Special education classrooms must be integrated with other classrooms;
- New P.S. 51 playground must available for public use;
- Design of new P.S. 51 must be consistent with neighborhood character and the proposed new development;
- Design of new P.S. 51 should meet LEED standards and accommodate new educational technologies.

BOROUGH PRESIDENT’S COMMENTS

General Comments

As a part of the January 2005 Hudson Yards Points of Agreement between the Mayor and the local council member, the City agreed to develop 600 units of permanently affordable housing on this site, expand P.S.51, and provide for the creation of an affordable housing fund to underwrite future affordable housing projects. The Proposed Project is a product of extensive discussions among community members, Gotham, the Department of Education (“DOE”), the School Construction Authority (“SCA”), the Department of City Planning (“DCP”), and HPD.

In all, the HPD and Gotham have shown an admirable commitment to meet community planning goals and obligations in the development of this complex project, which includes construction over a railroad right-of-way. By reaching an appropriate compromise between the community’s interest in affordable housing and an expanded P.S. 51 and concerns regarding building height, bulk, and design, this project, as proposed, will create much-needed affordable housing and a new school while still respecting the neighborhood’s character and meeting local needs. In particular, Gotham has altered the building forms by reducing the height of buildings and has designed contextual façades and streetwalls in response to community concerns.

Community and Environmental Concerns

Construction

The construction of the Proposed Project is anticipated to take approximately 48 months and has the potential to create temporary adverse impacts. Construction will be disruptive to neighborhood residents and P.S. 51, which will remain open during construction. In order to minimize the impacts of this lengthy and complex project, Gotham and the SCA should form a Construction Mitigation Task Force, involving the developer, construction contractors, regulatory agencies, P.S. 51, DOE, CB4, and other local stakeholders.

The task force should develop a construction mitigation plan to monitor community impacts and construction mitigation issues cited in the DEIS, such as protection of historic resources and handling potential hazardous materials. The task force should also provide a regular and reliable stream of information to the community regarding construction activities and related environmental concerns. Additionally, the task force should also work with the P.S. 51 administration and its P.T.A to address construction impacts on the continued operation of P.S. 51. During the period of site construction, the students of the P.S. 51 will not be able to use the school’s outdoor recreational space. The task force, particularly its members in government, should also work to find alternate outdoor space in the neighborhood that can be used by P.S. 51 for outdoor play space during this interim period.

Density-related Impacts

The new residents and visitors of the proposed development will result in increased pedestrian and vehicular volumes and will have a negative impact at nearby intersections that already operate at a substandard level of service. The DEIS identified 4 intersections where the proposed

actions would result in significant adverse impacts on traffic (Tenth Avenue at West 42nd Street and West 45th Street, and Eleventh Avenue at West 44th Street and West 45th Street). The DEIS anticipates that the traffic impacts would be fully mitigated if the proposed mitigations implemented. To minimize parking and traffic impacts, parking in the Proposed Projects garage should be limited to 204 accessory parking spaces, as proposed. In addition, the Department of Transportation (“DOT”) should reevaluate the appropriateness of parking regulations on streets surrounding the Project Site given the changing needs of the future development.

The proposed project is expected to create a significant adverse impact on day care facilities and exacerbate a shortage of day care slots that are eligible for public funding. However, the DEIS only suggests that the City’s Administration for Children’s Services (“ACS”) monitor the demand for additional capacity and develop new capacity as needed at existing facilities or new facilities on-site or nearby. To address these concerns, the developer of the proposed development should consider providing a daycare facility on the Project Site or supporting a nearby facility. In lieu of space, the developer should provide funds to supplement the number of ACS daycare slots in the area after the number of completed residential units on-site reaches a threshold of need.

The Proposed Project will add significant new residential density to a neighborhood that already has limited access to open space. The area’s open space ratio is very low for both residential passive and active open space in comparison to DCP guidelines for open space. Although it is anticipated that residents will utilize the development’s private open spaces, the City should still evaluate opportunities for new public open spaces. To this end, DOE should consider making the P.S. 51 playground publicly accessible space, and the City should consider prioritizing the development and improvement of parks in the neighborhood.

Bulk

The increased density of this residential development will bring new vitality to an underused site; however, Proposed Project may impact the look and feel of the Clinton/Hell’s Kitchen neighborhood. The Project Site is currently used primarily for outdoor parking; thus, the proposed development will bring new buildings and bulk. It is important for these new buildings to fit into the context of Clinton/Hell’s Kitchen. As a result of extensive community dialogue, the size and shape of the buildings in the Proposed Project have been adjusted to fit as much as possible with existing character and community goals for development.

The Proposed Project will be built to a proposed 8.54 FAR, with approximately 110,000 SF of development rights remaining unused. Gotham has agreed not to transfer these remaining development rights, and to include this limitation as a part of the Land Disposition Agreement between Gotham and HPD.

Historic Resources

The Proposed Project will encourage additional growth in the surrounding community, increasing real estate pressures on the neighborhood’s historic resources. The DEIS identifies 5 buildings eligible for State or National Register of Historic Place (“S/NR”) designation located within 400 feet of the proposed project, including the existing P.S. 51. The residential

conversion of the P.S. 51 building will require review from the New York State Office of Parks, Recreation and Historic Preservation, because projects sponsored, assisted or approved by state agencies, in this case SCA and HFA, must undergo such review. However, the other identified privately-owned or funded historic resources are not provided the same stringent protections against redevelopment or construction as are S/NR properties or New York City Landmarks (“NYCL”). The historic resources identified in the DEIS should be examined for appropriateness as city landmarks. Beyond these buildings, the community board has identified other nearby historic sites that should be reconsidered for their historic value, such as Landmark Tavern. Therefore, Gotham or the City should study historic resources in the area as identified by the community, and evaluate the potential for landmarking these individual buildings.

Affordable Housing

Developing new affordable housing on publicly owned land allows the City to retain livable, economically diverse communities. Such projects should be developed in close consultation with affected community members and must not compromise the long-term goals of the neighborhood and the City at large. Gotham has worked to meet community goals while meeting the obligations of the Hudson Yards Points of Agreement. In light of the number of market-rate residential units that will be introduced into the neighborhood by the Proposed Project, it is only appropriate that Gotham use its best efforts to create housing that also reflects the needs of the local community in type and income-targets.

The affordable housing generated through the Inclusionary Housing Program will be for a range of income groups, with a mix of low-, moderate-, and middle-income units. While it is understandable that CB4 has requested that the applicants make a greater proportion of the affordable units two-bedroom or larger units in order to accommodate families, current HFA guidelines require an even unit mix of sizes between affordable and market-rate units. Gotham has already modified its housing program so that 40% of the units are family-sized. As the Proposed Project is designed, it is not possible to change the unit mix without requiring larger or taller buildings.

Gotham has agreed to give preference to residents of CD4 for 50% of the affordable units. HPD should guarantee that Gotham’s contribution to the Hudson Yards Affordable Housing Fund be first used to address any funding gaps for public sites committed to CD4 by the City in the Hudson Yards and West Chelsea Points of Agreement documents before being applied to citywide needs. Gotham should also work with HPD to better reach community targets and make all new affordable housing permanently affordable.

New P.S. 51

Although the design and construction of P.S. 51 are not specifically part of these ULURP actions, they are an integral to the success and purpose of the overall Proposed Project. The SCA and the DOE, in conjunction with Gotham, should develop a task force of P.S. 51 administrators, the P.S. 51 P.T.A., CB4, and other stakeholders to address issues of school design, construction, and programming.

The SCA and DOE propose to expand P.S.51 to accommodate both elementary and intermediate students (pre-K through 8). Elementary schools within the area are already overcapacity, including the existing P.S. 51. Recent reports by the Manhattan Borough President's Office on school overcrowding have identified CD4 as having the fastest growing residential population in Manhattan and have highlighted the need to plan proactively to accommodate new students to prevent neighborhood school overcrowding. The DEIS estimates that 162 elementary and 54 intermediate public school students will be generated by the proposed actions. Although the increase in students did not trigger the CEQR threshold requiring mitigation, the proposed actions will contribute to an anticipated shortfall of elementary schools seats within the area. Even with the new elementary school seats proposed for P.S. 51, the new school will accommodate fewer than half the elementary schools students anticipated from the Proposed Project alone. In light of the area's elementary school capacity issues, the new school building should be used only for pre-K through 5.

Specific Land Use Actions

Zoning Map Amendment (C 100051 ZMM)

The proposed rezoning introduces significant density, bulk, and height into the immediate neighborhood which has traditionally consisted of low-rise residential structures with some low to mid-rise industrial buildings. This added density permitted by a change in zoning, together with the introduction of a C2-5 overlay, could create an environment inconsistent with the neighborhood's character. The proposed residential zoning is both necessary and appropriate as it fulfills community planning goals and will bring much needed vitality to an underutilized site. The proposed C2-5 overlay is necessary for the proposed retail uses and to enable the Proposed Project to be considered a GLSD and be eligible for certain bulk waivers under such designation. However, the depth of the proposed overlay on the block is mapped atypically deep into the mid-block, thereby allowing potentially incompatible commercial uses on what are intended to be residential side streets similar to other residential blocks in the neighborhood. Given that Gotham's proposal includes retail only on Eleventh Avenue and a garage for accessory use only, CPC should limit the application of the C2-5 overlay along Eleventh Avenue to the minimum depth needed to allow the proposed development to be considered a GLSD.

Disposition and UDAA/UDAAP Designation (C 100055 HAM)

When disposing of City-owned property, which is an increasingly scarce resource, it is good public policy for the City to ensure that the property will be used efficiently and serve important public purposes. The Proposed Project will result in up to approximately 1,250 units of housing available to a range of incomes, including 675 units of affordable housing (600 of which will be permanently affordable), and will also facilitate the construction of a new expanded public school. The development of affordable housing and a school addresses local needs. The Proposed Project represents a superior use of land compared to existing conditions and is consistent with surrounding land uses. The development of the Project Site will make use of underutilized properties and will repair a break in the urban fabric. The proposed development meets the required findings for UDAA and UDAAP designation, is an appropriate use of City-owned property, and has community support.

Zoning Text Amendment (N 100052 ZRM)

The Special Clinton District was designed to allow new development that preserves and strengthens the social and physical character of the community, maintain a broad mix of incomes and ensure that the community is not adversely affected by new development. Designation of the Project Site in the Inclusionary Housing Program will facilitate the construction of hundreds of permanently affordable units, and will allow the Administration to meet the affordable housing commitments of the 2005 Hudson Yards Points of Agreement.

Special Permit pursuant to ZR § 74-681(a) (C 100053 ZSM)

The development program and design of the Proposed Project meets the findings for this special permit. The arrangement of buildings is intended to distribute the proposed floor area and density on the site to respect the neighborhood's character of taller, denser buildings located along avenues and lower buildings along the side streets. Development over the Amtrak railroad right-of-way is consistent with surrounding land uses and would represent a superior use of land compared to existing conditions. The Proposed Project will not adversely affect the character of the surrounding neighborhood, nor will its mix of uses adversely affect one another. Further, the proposed density for Building C – the portion constructed on the Amtrak right of way – is consistent in scale and character with the remaining GLSD and will not result in an undue concentration of density on any portion of the site. Furthermore, the development is being designed to Amtrak and City specifications to ensure that rail traffic is unimpeded during construction and to allow future use, maintenance and improvement of the rail line.

Special Permit pursuant to ZR § 74-74 (C 100054 ZSM)

The overall design of Proposed Project evolved out of the affordable housing commitments contained the Point of Agreement, while also contending with the site constraints of the railroad right-of-way, preservation of the existing P.S. 51 building, and SCA's strict requirements for the the new P.S. 51 building. SCA would not allow the school to be constructed on the Amtrak right-of-way, and requires the new P.S. 51 building to be free standing and no more then five-stories tall. These constraints determined the overall size and scale of Proposed Project and limit flexibility to incorporate the proposed program in an as-of-right development scenario.

Most of the setback modifications and rear yard equivalent modifications are minimal though more extensive waivers are needed to build a bulkier building on Eleventh Avenue where other bulky buildings exist. The proposed waivers on West 44th and 45th Streets, particularly the rear-yard waiver for Building B, are creative solutions that allow a more uniform distribution of bulk across the block without jeopardizing the midblock character. The Eleventh Avenue waivers shift bulk away from the midblock ensuring a more contextual character on West 44th and West 45th streets. The Eleventh Avenue waivers, while more extensive, are therefore necessary to produce a superior site plan which protects neighboring structures on West 44th and 45th Streets while realizing the development's programmatic requirements.

The proposed modifications are necessary for the Proposed Project to balance the needs of the development program, site constraints and built character of the neighborhood. The distribution of buildings on the Proposed Project will not unduly increase the bulk of buildings or obstruct access to light and air. Further, the proposed waivers allow for a better site design than would be

allowed in an as-of-right development scenario, given the development constraints listed above. Finally, the proposed development scenario was generated after significant public input and balances community concerns with development needs. Given the site's proposed waivers produce a better site plan, the program requirements and the development's consistency with community planning goals as articulated in CB4's resolution, the Proposed Project meets the findings for GLSD.

It should be further noted that the proposed GLSD will limit the total density built on the site to below the as of right development scenario. Any modification of the total density or any expansion of the proposed zoning lot to transfer development rights should be strictly limited and only allowed through a major modification of the GLSD. Additionally, the proposed zoning envelopes should be shrink-wrapped as much as possible to guarantee the proposed development while allowing for reasonable design flexibility.

The Proposed Project's design reduces the size of the new P.S. 51 schoolyard in order to provide a regulation size gymnasium. This design also leaves the schoolyard in near constant shadow. Given the limited availability of open space in the immediate surrounding area, the SCA should consider maximizing the school's design to address the need for quality outdoor recreational space; specifically the SCA should consider adding a rooftop recreational area to P.S. 51 to address the limitations of this site plan.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Borough President recommends conditional approval of ULURP application Nos. C 100051 ZMM, N 100052 ZRM, C 100053 ZSM, C 100054 ZSM, and C 100055 HAM provided that:

1. The developer work with CB4 to create a Construction Mitigation Task Force involving construction contractors, regulatory agencies, P.S. 51, DOE, and other local stakeholders to monitor construction impacts on the P.S. 51 as well as on the larger community;
2. Gotham works closely with HPD to make all affordable housing units permanently affordable to a range of household incomes;
3. HPD and ACS work with Gotham to mitigate impacts on daycare facilities;
4. HPD ensures the developer's contribution to the Hudson Yards Affordable Housing Fund be used to fill funding gaps for affordable housing projects committed to be the City as part of the Hudson Yards and West Chelsea rezonings;
5. CPC limit the application of the C2-5 overlay along Eleventh Avenue to the minimum depth needed to allow the proposed development to be considered a GLSD.
6. DOT reevaluate the appropriateness of parking regulations on streets surrounding the Project Site;
7. Gotham and HPD commit to not allowing the transfer of any remaining on-site development rights and include this limitation in the Land Disposition Agreement;

8. The historic resources identified in the DEIS are examined for appropriateness as city landmarks;
9. SCA and the DOE, in conjunction with the school developer, CB4 and PS 51, create a task force to address issues related to the new P.S. 51 building's design, construction, and programming, including its dedication as an elementary school, creation of a rooftop recreation space, and use of any outdoor yard areas by the general public as appropriate;
10. City prioritizes the development and improvement of parks in the neighborhood.

A handwritten signature in black ink, appearing to read "Scott M. Stringer", is written over a horizontal line.

Scott M. Stringer
Manhattan Borough President

ENVIRONMENTAL REVIEW

HOUSING PRESERVATION AND DEV./09HPD022M

8/7/2009

Project number

Date received

Project: W. 44 ST. AND 11 AVE. REZONING 592 11 AVENUE BBL 1010730001

☒ **No architectural significance**

☐ **No archaeological significance**

☐ **Designated New York City Landmark or Within Designated Historic District**

☐ **Listed on National Register of Historic Places**

☒ **in radius Appears to be eligible for National Register Listing and/or New York City Landmark Designation**

☒ **May be archaeologically significant; requesting additional materials**

Comments: The LPC is in receipt of the DEIS of August, 2009. LPC notes that the Acker, Merrall and Condit Co. warehouse appears LPC eligible. The text of the DEIS is acceptable for architecture and archaeology.

Cc: SHPO

8/13/2009

SIGNATURE

DATE



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ENVIRONMENTAL REVIEW

HOUSING PRESERVATION AND DEV./09HPD022M

12/1/2009

Project number

Date received

Project: W. 44 ST. AND 11 AVE. REZONING 592 11 AVENUE BBL 1010730001

☐ **No architectural significance**

☐ **No archaeological significance**

☐ **Designated New York City Landmark or Within Designated Historic District**

☐ **Listed on National Register of Historic Places**

☒ **In radius Appears to be eligible for National Register Listing and/or New York City Landmark Designation**

☒ **May be archaeologically significant; requesting additional materials**

Comments: The lead agency (HPD) has submitted the Manhattan Community Board 4 (CB#4) comment letter of 11/14/09 on the DEIS to the LPC for comment.

Regarding the request for individual landmark designation for properties cited in the DEIS, the lead agency should direct the CB#4 to file a Request for Evaluation:
http://www.nyc.gov/html/lpc/downloads/pdf/forms/request_for_evaluation.pdf

to be submitted to the LPC Research Department. Regarding archaeological work, testing has been completed and the final report accepted by LPC on 11/6/09. All archaeological reports accepted by LPC may be examined by contacting the lead agency.

cc: SHPO

Gina Santucci

12/2/2009

SIGNATURE

DATE

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THE CITY OF NEW YORK LANDMARKS PRESERVATION COMMISSION
1 Centre Street, 9N, New York, NY 10007 (212) 669-7700 www.nyc.gov/landmarks

ENVIRONMENTAL REVIEW

HOUSING PRESERVATION AND DEV./09HPD022M

10/30/2009

Project number

Date received

Project: W. 44 ST. AND 11 AVE. REZONING 592 11 AVENUE BBL 1010730001

☐ **No architectural significance**

☒ **No archaeological significance**

☐ **Designated New York City Landmark or Within Designated Historic District**

☐ **Listed on National Register of Historic Places**

☐ **Appears to be eligible for National Register Listing and/or New York City Landmark Designation**

☒ **Requesting additional materials**

Comments:

The LPC is in receipt of the, "Phase 1B Archaeological Testing Report PS 51/44th Street and Eleventh Ave, B 1073, L 1 (Part) Manhattan, New York," prepared by AKRF, Inc and dated September 2009. The LPC concurs that there are no further archaeological concerns. Please submit an electronic version of the report in both pdf and rtf formats to the LPC.



11/6/2009

SIGNATURE

DATE

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New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

David A. Paterson
Governor

Carol Ash
Commissioner

November 17, 2009

Adam Lynn
NYC School Construction Authority
30-30 Thompson Avenue
Long Island City, New York 11101

Re: NYCSCA
Intermediate School
1065 Martin Luther King, Jr., Blvd./BRONX,
Bronx County
09PR05876

Dear Mr. Lynn:

Thank you for requesting the comments of the Field Services Bureau of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Field Services Bureau and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6 NYCRR Part 617).

Based upon this review, it is the OPRHP's opinion that your project will have No Impact upon cultural resources in or eligible for inclusion in the State and National Register of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont
Director



New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189
518-237-8643
www.nysparks.com

David A. Paterson
Governor

Carol Ash
Commissioner

November 17, 2009

Adam Lynn
NYCSCA
30-30 Thomson Ave.
Long Island City, NY 11101

Re: NYCSCA
Proposed PS 51
515-533 West 44th Street
Borough of Manhattan, New York County, NY
09PR00143

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO) with regard to the potential for this project to affect significant historical/cultural resources. SHPO has reviewed The Phase IB Archaeological Study undertaken by AKRF at the location of the proposed PS 51. Based on this review, we have no further archaeological concerns.

Please contact me at extension 3291, or by e-mail at douglas.mackey@oprhp.state.ny.us, if you have any questions regarding these comments.

Sincerely

Douglas P. Mackey
Historic Preservation Program Analyst
Archaeology



New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

December 10, 2009

David A. Paterson
Governor

Carol Ash
Commissioner

Aaron Werner
Environmental Planner
NYC Dept. of Housing Preservation & Development
100 Gold Street, 9-V
New York, NY 10038

Re: HFA, HPD, NYCSCA
Rezoning of West 44th Street and Eleventh Avenue
New York County
09PR00143

Dear Mr. Werner:

Thank you for continuing to consult with the New York State Historic Preservation Office (SHPO). We have reviewed the submitted materials in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to the Historic/Cultural resources. They do not include other environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the National Environmental Policy Act and/or the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8).

Based upon our review of the CB4 letter requesting individual landmark designation of 626 Eleventh Avenue, if requested, we would be happy to re-evaluate the building for eligibility to the National Register of Historic Places. Kathy Howe of our National Register Staff has requested additional information if a re-evaluation is requested. Her Request for Additional Information is attached for your use.

Thank you for your request. If you have any questions, I can be reached at (518) 237-8643, ext. 3282. Please refer to the Project Review (PR) number in any future correspondences regarding this project.

Sincerely,

Beth A. Cumming
Historic Site Restoration Coordinator
e-mail: Beth.cumming@oprhp.state.ny.us

enc: Request for Additional Information

cc: P. Blanchfield – NYC HPD (via e-mail)



New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

December 30, 2009

Aaron Werner
Environmental Planner
NYC Dept. of Housing Preservation & Development
100 Gold Street, 9-V
New York, NY 10038

Re: HFA, HPD, NYCSCA
Rezoning of West 44th Street and Eleventh Avenue
New York County
09PR00143

Dear Mr. Werner:

Thank you for continuing to consult with the New York State Field Services Bureau of the Office of Parks, Recreation and Historic Preservation (OPRHP). This letter is intended to replace the letter dated December 10, 2009 regarding this same project. We have reviewed the project materials submitted in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Field Services Bureau and relate only to Historic/Cultural resources. They do not include other environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6 NYCRR Part 617).

Based upon our review of the CB4 letter requesting individual landmark designation of 626 Eleventh Avenue, if requested, we would be happy to re-evaluate the building for eligibility to the State and National Registers of Historic Places. Kathy Howe of our National Register Staff has requested additional information if a re-evaluation is requested. Her Request for Additional Information is attached for your use.

Thank you for your request. If you have any questions, I can be reached at (518) 237-8643, ext. 3282. Please refer to the Project Review (PR) number in any future correspondences regarding this project.

Sincerely,

Beth A. Cumming
Historic Site Restoration Coordinator
e-mail: Beth.cumming@oprhp.state.ny.us

enc: Request for Additional Information

cc: P. Blanchfield – NYC HPD (via e-mail)

David A. Paterson
Governor

Carol Ash
Commissioner



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.ManhattanCB4.org

*Comes-in
cc Kenick
ROSS
Lorraine
Lir*

JOHN WEIS
Chair

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

October 23, 2009

Ms. Sharon L. Greenberger
President and CEO
School Construction Authority
30-30 Thompson Avenue
Long Island City, NY 11101

Re: Proposed Site Selection of new replacement Public School 51 pursuant to §1731 of the New York City School Construction Authority Act

Dear Ms. Greenberger:

Manhattan Community Board No. 4, having held a duly noticed public hearing pursuant to §1731 of the New York City School Construction Authority Act (NYCSCAA) on the Notice of Site Selection dated September 11, 2009, adopted the following resolution by roll call vote (35 favor, 0 opposed, 0 abstentions and 0 present but not eligible to vote) at its meeting on October 7, 2009. The resolution recommends approval with conditions.

The September 11, 2009 Notice of Site Selection, issued by the School Construction Authority (SCA), proposes the construction of a new, 630 seat replacement Public School 51 (P.S.51) that will be located on West 44th Street, between Tenth and Eleventh Avenues immediately south of the existing P.S.51, on a portion Block 1073, Lot 1 in Manhattan in School District 2.

PROJECT OVERVIEW

Originally condemned in 1975 for the construction of a new school and housing, the project site has been the subject of a number of unrealized development proposals, until it was most recently identified in the January 2005 Hudson Yards Points of Agreement¹ as a publicly-owned site on which to develop 600 units of permanently affordable housing and to expand P.S.51.

The proposed new P.S.51 facility will be located on a larger residential development site that encompasses almost an entire city block between West 44th and 45th Streets, between Tenth and Eleventh Avenues. The residential development will include 1,210 residential units, of which 675 will be affordable to families of low-, moderate- and middle-incomes.

¹ The Hudson Yards Points of Agreement between the New York City Council and NYC Administration is attached hereto as Exhibit A.

The residential development is the subject of five related Uniform Land Use Review Procedure (ULURP) applications filed by the Department of Housing Preservation and Development (HPD) and certified by the Department of City Planning (DCP) on September 6, 2009. Community Board 4 (CB4) is submitting comments separately on those applications.

The current P.S.51 facility will continue to operate on the site until the new facility is ready for occupancy. After the new facility is built, the existing school will be adapted for reuse as a residential building.

COMMUNITY CONCERNS

Our community is delighted, after many years of unrealized proposals, to see concrete plans for a new school that will relieve overcrowding, provide up-to-date facilities and serve our expanding community.

The existing P.S.51 building was built in 1905 and, while well-maintained, is desperately in need of improvements. As you are aware, the 276 seat facility is operating at 121% capacity and lacks basic amenities considered standard for modern school programming, namely adequate classroom space, an auditorium and a gymnasium. We look forward to working with the School Construction Authority (SCA) and the Department of Education (DOE) on the siting, programming and construction of the new facility as this process moves forward.

While we are pleased that this process is moving forward, we have a number of concerns that need to be addressed, namely:

GENERAL CONCERNS

Site Selection Timetable

The timing of this project is critical to ensure a smooth transition to the new facility, minimize the exposure of students and staff to harmful effects of construction, and to limit the disruption that the construction will inevitably have on the daily activities of the school program. The Board appreciates the SCA's commitment to synchronize the school construction timeline with that of the adjacent residential development. In order to do so, it is essential that:

- SCA/DOE submit the Notice of Site Selection to the City Council and the Mayor pursuant to NYCSCAA §1732 so as to complete the review required by each entity concurrent with the City Council review of the related ULURP actions for the residential component.
- The construction of the school must follow the same timeline as the residential development to minimize disruption to the operations of P.S.51 and ensure a smooth transition to the new site.

Establish a Community Advisory Task Force

The successful development of the new P.S.51 will require close coordination with the SCA, DOE, local elected officials, CB4 members, P.S. 51 PTA members, P.S. 51 Administrators and Gotham (as appropriate). CB4 proposes that an advisory board comprised of all stakeholders be established for regular consultation regarding the planning, programming, selection of a developer and construction issues relating to both the P.S.51 facility and the adjacent residential construction. Together, we can plan and develop an enormous asset for our community that better meets the respective goals of each stakeholder.

CB4 has meaningfully participated in a number of similar advisory boards on State-sponsored projects in our community, most recently serving on the Hudson Yards Community Advisory Committee, Moynihan Station Community Advisory Committee and the Javits Community Advisory Committee. We therefore request that:

- A P.S. 51 Community Advisory Board be established that is representative of SCA, DOE, local elected officials, CB4 members, P.S. 51 PTA members, P.S. 51 Administrators and Gotham (as appropriate) for regular consultation and formal review of issues related to the programming, design, selection of a developer and construction management for the new P.S.51. The Advisory Board will be active in development, design, construction and programming stages.

CONTINUED OPERATION OF EXISTING P.S.51

The historic 1905 P.S.51 facility will be adapted for reuse as a residential dwelling after the construction of the new P.S.51 facility. The disposition of the site to the proposed residential developer is the subject of a related ULURP action pending now before the City Planning Commission. While we have been reassured that the existing P.S.51 facility will continue to operate at the same location until the new school facility is constructed, the community has significant concerns. Those concerns include the continued operation of the existing school after the ownership has been transferred from the City, the health and safety of the students and staff during construction, and the unavoidable disruptions that the construction will have on school programming.

Continued Right to Operate

After the disposition of the existing P.S.51 site, DOE will continue to operate the facility under a lease agreement with the proposed residential developer, 44th Development LLC (an affiliate of the Gotham Organization, hereinafter referred to as "Gotham"). It is therefore critical that:

- the lease negotiated by DOE with Gotham be recorded as an exhibit to the Land Disposition Agreement (LDA) for the site at 520 West 45th Street, and include provisions to ensure the continued operation of the school without disruption, taking into account unforeseeable delays in opening the new facility.

Construction Impacts on the Existing School

P.S.51 will be operating in the middle of a major construction site. Excavation, foundation work, demolition and construction of 1,200 residential units will be taking place on all adjacencies, including construction of a platform and two residential buildings over the railroad cut immediately east, demolition and new construction to the west and the construction of the new P.S.51 to the south. Protecting the health and safety of the children and staff during construction is our first priority.

Asthma rates, particularly among children, are already a concern in our community. NYC Department of Health (DOH) ranked CD4's asthma rates the third highest (out of the ten communities) in Manhattan, only exceeded by Central and East Harlem². Manhattan itself ranked second only to the Bronx out of the five boroughs.

CB4 has serious concerns for the vulnerable school-age population during construction. All possible steps must be taken to minimize disruption, lessen health impacts and ensure regular communication, including:

- Minimize the length of the overall construction timeline by ensuring that the construction of the new P.S.51 facility proceeds concurrently with the residential construction.
- Establish the P.S.51 advisory board as a vehicle for addressing construction concerns, ensuring minimal disruptions during school hours through construction coordination and monitoring and ensuring regular communication about construction.
- Mitigate the exposure to serious health hazards by staff and children during demolition and construction through low cost measures taken in the existing P.S.51 facility. These measures must be incorporated into the existing facility at 520 West 45th Street prior to the start of any construction.
- Minimize noise and dust through the installation of air conditioners throughout to reduce particle dust, as recommended by the P.S.51 Administration in its September 21, 2009 letter.
- Students must have access to a playground while school is in session. An interim outdoor play space within three blocks of P.S.51 must be identified. Access to the existing P.S.51 playground will be unavailable during the construction period, meaning the school would be without both indoor and outdoor play space during this time.

NEW REPLACEMENT P.S.51

School Program

P.S.51's currently operates at 121% capacity with 334 students in a 276 facility. The adjacent residential development alone will add more than 145 new elementary students. A conservative estimate of new elementary students expected as a result of new

² NYC DOH: Comparison of Asthma Rates in NYC by Community, 1997-2004;
<http://www.nyc.gov/html/doh/downloads/pdf/asthma/asthma-hosprates-children.pdf>

development projects under construction within the P.S.51 school zone is that 537 new elementary students will need to be accommodated in the immediate future³. Additional new developments that are currently on hold but will likely be constructed once the economy rebounds, will add 300 more elementary-aged students to P.S.51.⁴

Resolving PS51's current overcrowding and planning for future growth is our first concern. According to the Draft Environmental Impact Study (DEIS) prepared for the adjacent residential development, the proposed school program reserves 277 seats out of the total 354 seat expansion for a new intermediate component at the site. Under this plan, P.S.51 will only be able to accommodate a total of 19 new elementary school students.

The school must be for grades pre-K through 5, not pre-K through 8. [You don't need underlining both here and in the request below.] Resolving P.S. 51's current overcrowding and increasing its capacity to accommodate new elementary school students is our first priority. To expand P.S.51, and then fill the new school seats with a brand new IS student body, is shortsighted and does nothing to address the needs of the rapidly growing community and student body. Redistricting school zones would fail to resolve the overcrowding as an equal number of new developments are on-line throughout all parts of Community District 4. An overall plan must be developed for our community to address the anticipated huge influx of elementary school students.

We therefore request that:

- P.S.51 remains pre-kindergarten through fifth grades, not pre-K through eighth.

School Playground

The existing school yard measures 16,250 square feet (s.f.) and benefits from plentiful amounts of sunlight. The proposed school yard is smaller at 12,658 s.f., will need to accommodate a significantly larger student body, and is projected by the DEIS to be in full or partial shadow during every part of the day, all year long. While the ample indoor play space included in the school design is greatly appreciated, it is not a substitute for outdoor space. There must be adequate sunlit play space included in the design of the school. The Board originally requested that play space be accommodated on the roof; in response, the SCA explained the need to house mechanical equipment. The Board appreciates the expert analysis the SCA has shared with it, but believes that since the school building is in the design stage, space for both mechanical equipment and sufficient play area can be balanced. CB4 therefore requests that:

- the mechanical equipment be located to leave 50% of roof space for play space at the western side of the building to maximize sunlight and compensate for the projected shadows in the proposed school yard.

Public Use of School Facilities

- The school playground must be opened to the public as a public playground, consistent with PlaNYC's top open space initiative. CD4 ranks 58 out of 59

³ A list of new developments planned or in construction in P.S.51's school zone is attached as Exhibit B.

⁴ A list of new developments planned or in construction in P.S.51's school zone is attached as Exhibit B.

among New York City's Community Districts in open space. This Proposed Project presents a unique opportunity to address that shortcoming by designing a school yard that could serve as a school yard and a neighborhood playground when it is not being used as part of the school program.

- Indoor school facilities, such as the gymnasium, must be made available to the local community and arts organizations for use during out-of-session hours. CD4 is home to a large number of not-for-profit theater, arts and cultural organizations that have been impacted by escalating rents and severe space needs; the community must best use its available public resources to support cultural activities.

Design

Facade: Overall Design Objectives

The Board and Gotham have had several discussions over the past two years to ensure that the adjacent residential development reflects the existing built context. While the Board is satisfied with the proposed design by Gotham, CB4 first saw the proposed exterior design for P.S.51 last month. We look forward to working with the SCA to develop a design that is better integrated into the neighborhood.

Facade: School Design Objectives

While the school building can be modern in design, it must reflect the architectural rhythm of Clinton's mid-blocks, which are largely dominated by low-rise buildings on narrow lots and brick and stone façades embellished with appropriately scaled, horizontal elements.

The SCA originally presented a rendering of the school façade that featured gray brick and a three-story "P.S. 51" sign. The Board expressed concern that these façade elements were inconsistent with the predominant masonry and scale of the residential neighborhood. The Board is grateful that the current façade proposal has responded to its requests regarding these features. There are still aspects of the school design that must be modified. The design contrasts too dramatically with the character of the surrounding neighborhood or adjacent housing development.

- The white brick color is inconsistent with neighboring buildings;
- The verticality of the eastern section of the building distracts from the horizontal pattern typical of surrounding buildings;
- The uninterrupted bands of horizontal windows on the western side of the building are reminiscent of industrial construction, also uncharacteristic of the residential neighborhood.

In light of the Board's design preferences, it requests that the façade design be redesigned to:

- be brick, in a color that is consistent with adjacent buildings;
- reflect the horizontal rhythm characteristic of surrounding buildings;
- incorporate vertical elements and punched windows to break up the western portion of the façade; and
- be consistent in style with the rest of the Development.

Interior

In the current school design, the cluster of special education classrooms has been located in a portion of the school that isolates these students and teachers from the rest of the classrooms. While it is acknowledged that these classrooms require centrally provided resources, the Board requests that:

- special education classrooms must be located among non-special education classrooms, so as to not segregate these students.

Environmental design considerations

- The school should be designed to a LEED standard and incorporate green design elements, including, but not limited to, the use of recycled materials to construct playground furnishings.

Technology

The Board welcomes the inclusion of many state-of-the-art facilities in the school proposal. It is important that the school be designed to accommodate advancements in technology and educational tools.

Selection of a Developer

Over thirty years ago, the Education Construction Fund (ECF) condemned the project site for residential and school use. Given the ECF's role in the history of the site and the fact that Gotham is building approximately 1,210 residential units and 17,000 sq. ft. of commercial space as part of the project, the Board finds that the construction of the new school under the management of the ECF with Gotham as the builder is the most efficient solution to selecting a developer. The selection of Gotham under the authority of ECF is beneficial in terms of economies of scale, construction coordination and staging. Multiple contracts suffer the consequences of lacking accountability, union differences and scheduling mismanagement. To that end, we recommend that the execution of construction be done through the ECF and that Gotham be selected as the builder if at all possible. The Board looks forward to working with the SCA and ECF to satisfy the necessary criteria for ECF's involvement.

Financial Contribution

- Gotham's financial contribution to the cost of construction must be held in a segregated account held by the City of New York and used only for construction of the new P.S.51.

Historic Preservation of Existing Facility

The existing P.S.51 at 520 West 45th Street is a 1905 Renaissance-style school designed by C.B.J. Snyder and marks the proliferation of school construction following the consolidation of New York City. Its five-story, red-brick façade with stone base features a tripartite design, with a base, shaft, and capital. CB4 has requested that the facility be landmarked. We ask that SCA assist in the formal landmarking process.

NOW, therefore, be it resolved that Manhattan Community Board No. 4 recommends approval of the Notice of Site Selection dated September 11, 2009, for the new, 630 seat, replacement P.S.51, submitted pursuant to the New York City School Construction Authority Act, provided the following conditions are met:

General Concerns

- A P.S. 51 Community Advisory Board is established with representatives of SCA, DOE, local elected officials, CB4 members, P.S. 51 PTA members, P.S. 51 Administrators and Gotham (as appropriate) for regular consultation and formal review of issues related to the programming, design, selection of a developer and construction management for the new P.S.51.
- The construction of the facility follows the same timeline as the residential development to minimize disruption to the operations of P.S.51 and ensure a smooth transition to the new site.

Continued Operation of the Current Facility

- The disposition of the City-owned site on which the current P.S.51 is located is conditioned on the negotiation of a lease that is recorded with the LDA, is on terms acceptable to DOE and allows DOE to continue to operate at the existing location until the new facility is constructed.
- All steps necessary to minimize disruptions, lessen health impacts and ensure regular communication during the school construction period must be taken, including installing low cost preventive measures in the existing P.S.51 facility
- Construction schedules are coordinated to minimize the impact during the school year and school hours; and
- Alternative playground space is identified in the immediate vicinity for use by students currently attending P.S.51 throughout the construction period.


New Replacement P.S.51

- Funds allocated by Gotham for the construction of P.S.51 are segregated in a separate fund by SCA for use only for P.S.51.
- P.S.51's expansion of 354 new seats is used solely for an elementary education program; no intermediate education program should be included on the site.
- 50% of the new school roof area is made available for additional outdoor play space.
- Special education classrooms are located among non-special education classrooms, so as to not segregate these students.

- The design of the new school façade reflects the architectural rhythm of Clinton's mid-blocks and be consistent in style with the rest of the residential development, as follows:
 - be brick, in a color that is consistent with adjacent buildings;
 - reflect the horizontal rhythm characteristic of surrounding buildings;
 - incorporate vertical elements and punched windows to break up the western portion of the façade; and
 - be consistent in style with the rest of the Development.
- The school is designed to a LEED standard and incorporate green design elements.
- The school is designed to accommodate advancements in technology and educational tools.
- The school yard is open to the public as a public playground, consistent with PlaNYC's top open space initiative.
- Indoor school facilities such as the gymnasium must be made available to the local community and arts organizations as spaces for use during out-of-session hours.
- The SCA and ECF work with the Board to satisfy the necessary criteria for ECF's involvement in the construction of the new school with Gotham as the developer.

Thank you for this opportunity to provide comments and to submit recommendations on these important applications. We look forward to continued dialogue.

Sincerely,



John Weis, Chair
Manhattan Community Board 4



Elisa Gerontianos, Co-Chair
Clinton/Hell's Kitchen Land Use Committee



Sarah Desmond, Co-Chair
Clinton/Hell's Kitchen Land Use Committee

cc: City Planning Commission
DCP – Edith Hsu-Chen, Erika Sellke
DCP Calendar Office
HPD – Sara Levenson
MBPO – Anthony Borelli, Deborah Morris
NYC Council Speaker Christine Quinn
NYC Council Speaker Quinn's Office – Kate Seeley-Kirk, Melanie Larocca
NYC Council Land Use Division – Danielle DeCerbo

NYS Senator Thomas K. Duane
NYS Assemblyman Richard Gottfried
The Gotham Organization (Melissa Pianko) & Attorneys
NYS HFA
P.S.51 Nancy Sing-Bock,
P.S.51 Parent Teacher Association, President - Katherine Consuelo Johnson
NYC DOE Micah Lasher

44th Street & 11th Avenue

Draft Breakdown of Permanently Affordable Units

9/18/2009

Project Summary	Studio	1 Bdrm	2 Bdrm	3 Bdrm	Total
40% AMI	16	9	14	5	44
50% AMI	51	25	36	12	124
135% AMI	86	43	65	22	216
165% AMI	87	43	65	21	216
Total Affordable	240	120	180	60	600
Unit Breakdown %	40%	20%	30%	10%	

Building A (11th Ave)	Studio	1 Bdrm	2 Bdrm	3 Bdrm	Total
40% AMI	6	3	5	2	16
50% AMI	18	9	13	4	44
Total Affordable	24	12	18	6	60

Buildings B & C Combined	Studio	1 Bdrm	2 Bdrm	3 Bdrm	Total
40% AMI	10	6	9	3	28
50% AMI	33	16	23	8	80
135% AMI	86	43	65	22	216
165% AMI	87	43	65	21	216
Total Affordable	216	108	162	54	540
Unit Breakdown %	40%	20%	30%	10%	

Building B (Mid-Block)	Studio	1 Bdrm	2 Bdrm	3 Bdrm	Total
40% AMI	1	3	8	3	15
50% AMI	4	10	22	8	44
135% AMI	10	26	61	22	119
165% AMI	11	26	61	21	119
Total Affordable	26	65	152	54	297

Building C (RR Cut)	Studio	1 Bdrm	2 Bdrm	3 Bdrm	Total
40% AMI	9	3	1	-	13
50% AMI	29	6	1	-	36
135% AMI	76	17	4	0	97
165% AMI	76	17	4	0	97
Total Affordable	190	43	10	0	243

POINTS OF AGREEMENT*

I. FINANCING

a. General

The Administration agrees to the financing plan adjustments made separately by the Budget Director and the Council, described in a separate document.

b. District Improvement Fund/Bonus

i. Uses West of 11th Avenue

The Administration agrees that no funds generated by the District Improvement Bonus will be used to pay for any improvements to the sites housing the New York Sports and Convention Center, the Jacob K. Javits Convention Center, the full-block park located between 33rd and 34th Street, or the community porch on the 33rd Street right-of-way. The Administration agrees to provide further language to emphasize that the District Improvement Fund cannot be used in any way to connect to or benefit the Javits Center or the New York Sports and Convention Center. Limitations to the use of the District Improvement Fund are described in the modified zoning text.

ii. Uses for neighborhood parks

The Administration agrees that the District Improvement Fund may be used to pay for neighborhood parks.

iii. Future of the District Improvement Fund

The Administration agrees that funds generated by the District Improvement Bonus will be used only to pay debt service on debt issued by the Hudson Yards Infrastructure Corporation (HYIC). Any excess in any given year will flow directly to the City's general fund for uses in the district consistent with the zoning resolution. Once the HYIC debt is fully repaid, all payments into the District Improvement Fund will flow directly to the City's general fund for uses in the district consistent with the zoning resolution.

iv. Sequencing of bonuses

The Administration agrees to alter the sequence of the District Improvement Bonus and the Inclusionary Housing Bonus so that the two bonuses are available to developers on a pari passu basis, in two tiers. The change is described in detail in the modified zoning text.

* As we have discussed, some of the items set forth in the Points of Agreement will require changes to the zoning resolution which may be made by the Council now, while other items may require additional follow-up action by the Administration, the City Council, the Planning Commission and other parties. Where follow-up action is needed, such follow-up is subject to review and consideration under applicable procedures, including land use and environmental review, and the receipt of applicable consents. We are confident that we can continue to work together to achieve the goals stated in the Points of Agreement.

v. Changes in per square foot payment into District Improvement Fund

The Administration agrees to the process for changes in the payment level into the District Improvement Fund, as detailed in the modified zoning text.

2. GOVERNANCE

a. HYIC

The HYIC board consists of the Deputy Mayor for Operations, the Deputy Mayor for Economic Development & Rebuilding, the Budget Director, the Speaker of the City Council, and the City Comptroller. The HYIC's powers are limited to ensuring the appropriate capture of designated revenue sources and the use of these revenue sources for debt service on authorized debt and other commitments of the HYIC. The HYIC is subject to the requirements of the Open Meetings Law. The Speaker, as member of the HYIC board, will receive appropriate notice of meetings and other actions by HYIC. The HYIC will commit to making annual reports to the Speaker and the Council of the projects financed by the HYIC, the amount of financing issued by HYIC for each project, related debt service and the status of projects.

b. Development entity

The precise form of the entity that will manage the development of the Hudson Yards has not been determined. The Administration agrees that any development entity will include the same board members as the HYIC plus a representative of Community Board 4, the local Councilmember, the Manhattan Borough President, the Commissioner of the Department of Housing Preservation & Development, the Commissioner of the Department of Parks and Recreation, the Commissioner of the Department of Small Business Services, the Chair of the City Planning Commission, and the President of the Economic Development Corporation. The development entity will be subject to the requirements of the Open Meetings Law. The development entity will commit to making annual reports to the Mayor and the Council of the development entity's budget for the upcoming fiscal year, together with its annually prepared financial statements. There will also be formed a Hudson Yards Community Advisory Board, to include representatives of the affected communities.

3. AFFORDABLE HOUSING

a. Total number of units

The table below summarizes the expected units that will be generated by the zoning incentives and other components of the Administration's proposal for affordable housing in the Hudson Yards. These unit totals will change slightly subject to recalculation of the market-rate and affordable housing build out under lower density in the Hell's Kitchen midblock area, as described in 4(b).

	# OF NEW UNITS	# OF PRESERVED UNITS
CPC proposal	2,220 (16% of total)	383 (3% of total)
Revised Administration proposal		
80/20	2,031	
Expansion of 421(a) exclusion zone 80/20 and inclusionary housing combo		
Inclusionary housing	411	421
Tiering of inclusionary bonus		
Public sites		
Site M	150	
NYCHA	155	
Studio City	600	
Total	3,347 (25% of total)	421 (3% of total)

b. Harassment provisions

The Administration agrees to the harassment provisions provided separately, as part of a follow-up corrective action.

c. 421-a exclusion zone

The Administration would support Council action to expand the 421-a exclusion zone, in order to make the construction of affordable housing more likely. A proposed bill has been provided separately.

d. Permit City, State, and Federal programs in inclusionary program

The Administration agrees to allow developers to count affordable units created toward both the 80/20 requirement and the Inclusionary Housing Bonus. The Administration also agrees to allow developers to access any and all housing subsidy programs for the construction or rehabilitation of inclusionary housing. This will allow the Administration to increase the share of affordable units required under the inclusionary program and will result in both greater incentives for the production of affordable housing and permanent affordability for all affordable units in 80/20 buildings that make use of the inclusionary bonus.

e. Tiering of inclusionary bonus to higher income levels

The Administration agrees to allow developers to provide inclusionary housing units to higher income levels in exchange for providing more affordable units, as detailed in the modified zoning text.

f. Public sites

i. Site M

The Administration agrees to develop affordable housing on "Site M" located on the west side of 10th Avenue between 40th and 41st Streets. The Administration anticipates that this site will generate 150 affordable units, including 48 low-income units (up to 60% of

AMI) 51 moderate-income units (up to 135% of AMI), and 51 middle-income units (up to 165% of AMI). All units will be permanently affordable. HPD and the Hudson Yards development entity will lead the development of the site.

ii. NYCHA site

The Administration agrees, subject to HUD approval, to develop affordable housing on the "NYCHA Harborview Site" located at 56th Street just west of 11th Avenue. The Administration anticipates that this site will generate 155 affordable units, including 63 low-income units (up to 60% of AMI), 46 moderate income units (up to 135% AMI) and 46 middle income units (up to 165% of AMI). The new building will be no taller than the existing Harborview towers. The Administration and the Council will work together to select one of the following options for limiting the height of the tower: reducing the number of units or constructing a second building on additional space within Harborview to maintain the same unit total. All units will be permanently affordable. NYCHA and HPD will lead the development of the site.

iii. Studio City site

The Administration agrees to develop affordable housing on the "Studio City Site" located between 44th and 45th Streets, between 10th and 11th Avenues. The Administration anticipates that this site will generate 600 affordable units, including 120 low-income units (up to 60% of AMI), 240 moderate-income units (up to 135% of AMI), and 240 middle-income units (up to 165% of AMI). The Hudson Yards development entity will lead development of the site, working in close cooperation with HPD.

g. Citywide affordable housing fund

The Administration agrees to create an affordable housing fund of up to \$45 million – to be managed by HPD – using the proceeds received from the disposition of the Studio City site for affordable moderate- and middle-income housing in the Hudson Yards area and citywide. The fund also may be used to augment funding for construction and renovation at P.S. 51 on the Studio City site.

h. Income averaging

The Administration agrees to work with the Council and unions to find acceptable ways to allow income averaging whenever possible.

4. DENSITY

a. Commercial density

i. FAR at "four corners" at 34th Street at 10th/11th Avenues

The Administration agrees to establish a maximum FAR of 33 for each site, with an overall limitation of 7,363,600 square feet on the four corners by limiting the permitted distribution from the Eastern Rail Yards to 3,238,000. This represents a density reduction of 200,000 square feet.

ii. Limiting maximum permitted FAR on 11th Avenue

The administration agrees to limit the maximum FAR to 21.6 between 36th and 38th streets and to 20.0 between 38th and 41st streets. This results in a density reduction of more than one million square feet, as detailed in the table below:

SITE	MAXIMUM FAR	ZONING FLOOR AREA REDUCTION (SF)
1069A	20	332,640
711A	20	147,200
710A	20	277,656
709A	21.6	153,163
708A	21.6	139,416
Total		1,050,075

iii. Commercial overlay between 9th and 10th Avenues

The Administration agrees to restrict commercial uses in residential buildings to one floor. However, a stand-alone two-story commercial building would be permitted due to scope issues. The Administration also agrees to create language excluding conversion to retail where there are existing ground floor residential tenants, as part of a follow-up corrective action.

iv. Along 10th Avenue

The Administration agrees to alter the proposal so that developers on the west side of 10th Avenue can exceed 13 FAR (up to a maximum of 15 FAR) only with the provision of community facilities. This will result in a commercial density reduction of approximately 500,000 square feet.

v. Theater bonus

The Administration agrees to restrict the Theater Bonus to the south side of 42nd Street between 11th Avenue and Dyer Avenue.

vi. Site at NW Corner of 42nd Street and 8th Avenue

The Administration will upzone this site from an FAR of 14.4 to a higher FAR to be determined with the Council.

b. Residential density

The Administration agrees to modify the zoning of the Hell's Kitchen midblocks between 9th and 10th Avenues between 35th and 40th Streets to R-8A, which will reduce the maximum density from 7.5 FAR to 6.0 FAR.

5. OTHER PLANNING ISSUES

a. Neighborhood open space

i. Height bonus for open space

The Administration agrees to reduce the height bonus for provision of open space in the Hell's Kitchen midblocks from a maximum height of 200 feet to 180 feet. For sites affected by this change between 36th and 38th Streets, the Administration agrees to work with the Council to meet the resulting funding gap (if any).

ii. Port Authority sites

The Administration will establish a task force with the Council and the community to work toward creating open space on Port Authority sites in the Hell's Kitchen midblocks. This task force will undertake detailed site analysis to identify optimal locations for open space within the blocks bounded by 34th and 38th Streets. The task force will engage in discussions with the Port Authority, and participate in design and construction oversight. The task force will also consider management and governance options, including but not limited to park mapping, deed restrictions, or conveyance to a non-profit organization. In the event that negotiations with the Port Authority do not result in open space on their sites, the Administration agrees to work with the Council to acquire privately-owned sites for open space.

b. Subdistrict naming

The Administration agrees to rename the Tenth Avenue Corridor Subdistrict as part of the Hell's Kitchen Subdistrict.

c. Follow-up corrective actions

The Administration agrees that the local Councilmember and Community Board 4 will be co-applicants on all follow-up corrective actions, with any disagreements between the two being resolved by the local Councilmember.

d. Special permits

i. Parking requirements

The Administration agrees that parking garage construction in excess of the minimum will be subject to a special permit. This minimum provides a modest range to account for site-specific conditions. The Administration also agrees to the grandfathering of developments in the 42nd Street Perimeter Area with building permits prior to 12/31/04.

ii. Public access improvements

The Administration agrees to make this a special permit in the Hudson Yards area, but without generating a bonus.

e. Community facilities

The Studio City site will house an expanded elementary school to serve the area. The Administration has provided a separate letter detailing funding requirements for this school.

6. CONTRACTING AND EMPLOYMENT

a. Dedicated oversight

The Department of Small Business Services (DSBS) will create a special, focused office ("the Office") to lead M/WBE contracting and minority employment initiatives in the Hudson Yards area. The key activities of the Office are described below in 6(b) and 6(c).

b. M/WBE

i. M/WBE certification partnerships

To maximize the number and value of Hudson Yards contracting opportunities available to City certified M/WBEs, the Office will seek to establish reciprocal certification agreements with the other public entities contracting for goods and services in the Hudson Yards district, such as the MTA.

ii. Bid matching and information sharing for Hudson Yards opportunities

The Office will apply DSBS' database and bid matching/alert process to Hudson Yards contracting opportunities. E-mail alerts will be sent to certified M/WBEs to inform them of new Hudson Yards opportunities as they arise. The Office also will promote usage of DSBS' online, searchable database of M/WBEs by Hudson Yards contractors and businesses.

iii. Technical assistance and preparation for contracting opportunities

The Office will tailor and target DSBS' existing M/WBE technical assistance program for anticipated Hudson Yards contracting opportunities. This involves two major components. The first is identification of the types of goods and services contracting opportunities that are likely to arise in both the short- and long-term through Hudson Yards developers, businesses and tenants. The second component is the creation of a technical assistance curriculum to build M/WBE capacity to be competitive for such anticipated contracting opportunities.

iv. Private sector alliances linking M/WBEs to Hudson Yards opportunities

Building on DSBS' current private sector partnership strategies, the Office will seek to connect M/WBEs to diversity contracting programs of major private sector developers, businesses and tenants in the new Hudson Yards district. The Office will also work with DSBS' M/WBE Advisory Committee to develop such linkages.

v. Further actions

The Administration understands that the Council intends to release a disparity study in the near future. Once the disparity study is released, the Administration is prepared to consider programs specifically designed for growing M/WBE participation, as appropriate in light of the results of the disparity study.

The Administration has demonstrated its commitment to increasing the successful participation of M/WBEs in public and private sector contracting opportunities. So far, the Administration has dramatically simplified and shortened the certification process, increased the number of certified companies, and created certification partnerships with other public entities. The Administration also has created an on-line searchable database of M/WBEs, and modified small purchase procurements to insure their participation. In addition, the Administration has extended its initiatives beyond the public sector by linking its M/WBE program to private sector diversity contracting programs and forming a M/WBE Advisory Board of business and community leaders.

In partnership with the City Council, the Administration is committed to further growing M/WBE success by building upon these foundational efforts. The Administration is exploring a range of options to do that, such as a certification partnership with New York State, and additional private sector partnerships.

The Administration recognizes that other public entities have implemented race and/or gender based strategies, such as: adopting M/WBE goals or utilization plans for a municipality and/or its agencies; or requiring prime contractors to create M/WBE utilization plans or achieve M/WBE subcontracting goals. However, the Administration also recognizes that adoption of any of these options, or any other race or gender based program, would be premature prior to the release of the City Council's forthcoming disparity study.

Following the release of the City Council's forthcoming disparity study, the Administration is prepared to consider M/WBE program options such as these, or other program enhancements. We will evaluate program options in light of the results of the study, which covers the period of 1998-2002, as well as the achievements of the City's revitalized M/WBE program during the past two years. Our approach will be cognizant of the critical need to ensure that M/WBEs in construction and other industries have a full and fair opportunity to share in the success of the Hudson Yards project.

c. Workforce Participation

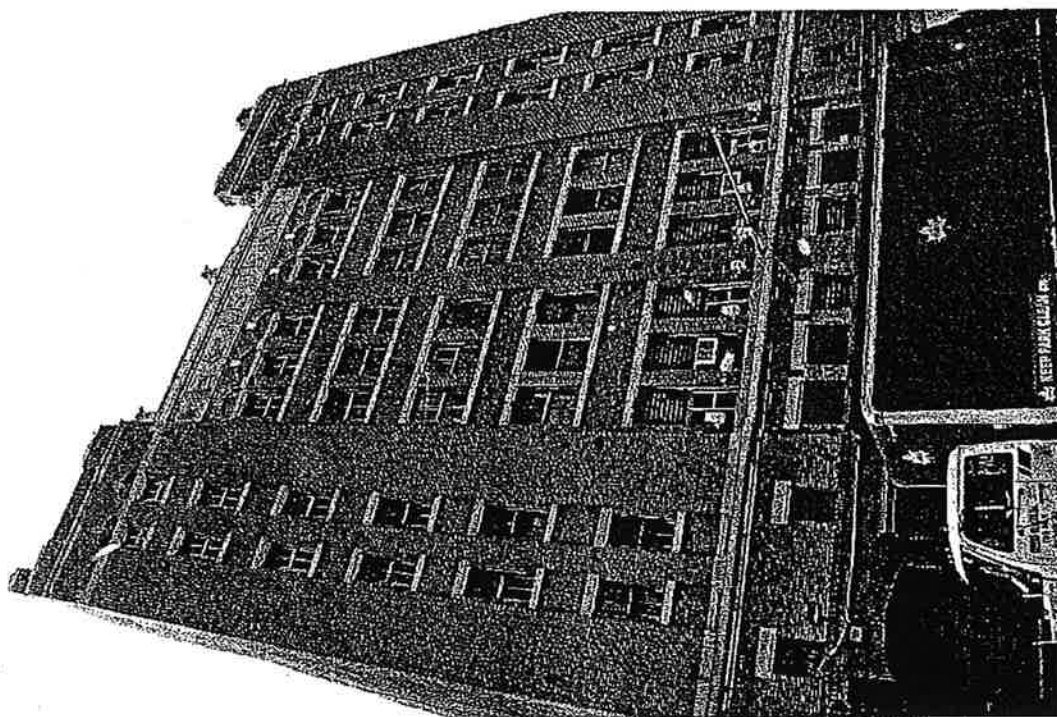
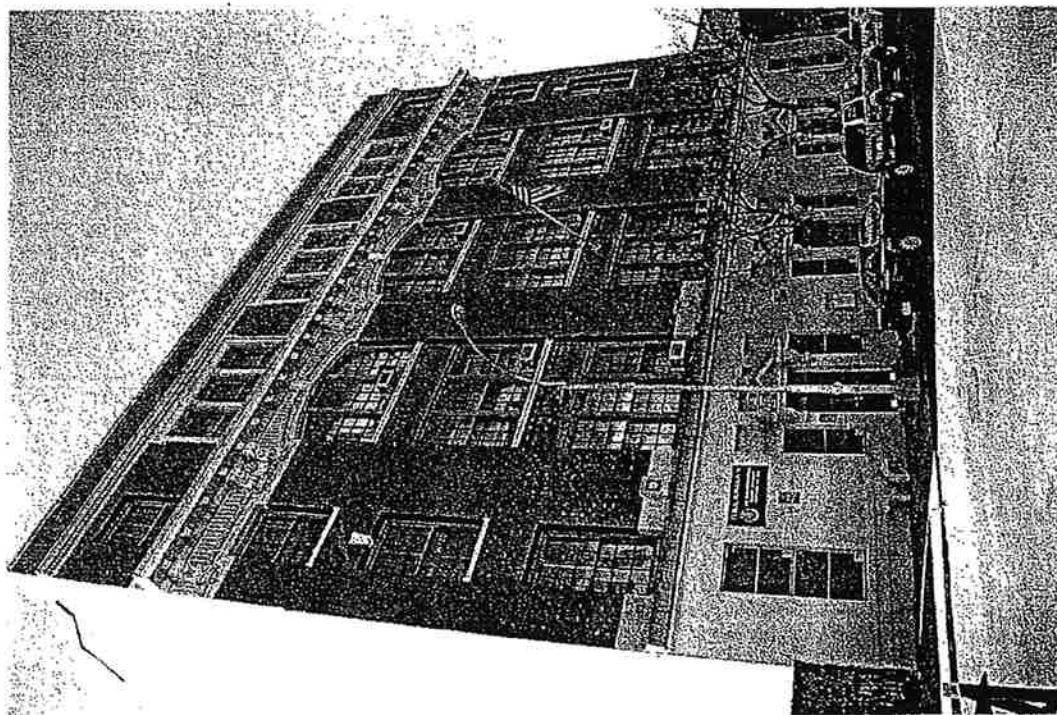
i. Pre-apprenticeship programs

The Administration and the Office will work with the Council towards an agreement with trade unions to establish and fund a pre-apprenticeship program that links economically disadvantaged New Yorkers from throughout the five boroughs to union careers in the construction trades. Specific eligibility criteria (e.g., language, math and literacy skills), training program curricula and program scale will be established through collaboration with the building trade unions, with scale based on demand for construction labor generated by Hudson Yards development.

ii. Job placement

The Office will coordinate large-scale hiring initiatives linking New York City job seekers to employment opportunities in the Hudson Yards district. These initiatives may be based at the Workforce1 Career Centers in each of the five boroughs, in collaboration with Community Based Organizations to assist with outreach to economically disadvantaged job seekers and/or communities. DSBS may eventually establish a Workforce1 Career Center affiliate in the Hudson Yards district.

EXHIBIT C: PROPOSED INDIVIDUAL LANDMARK PHOTOS



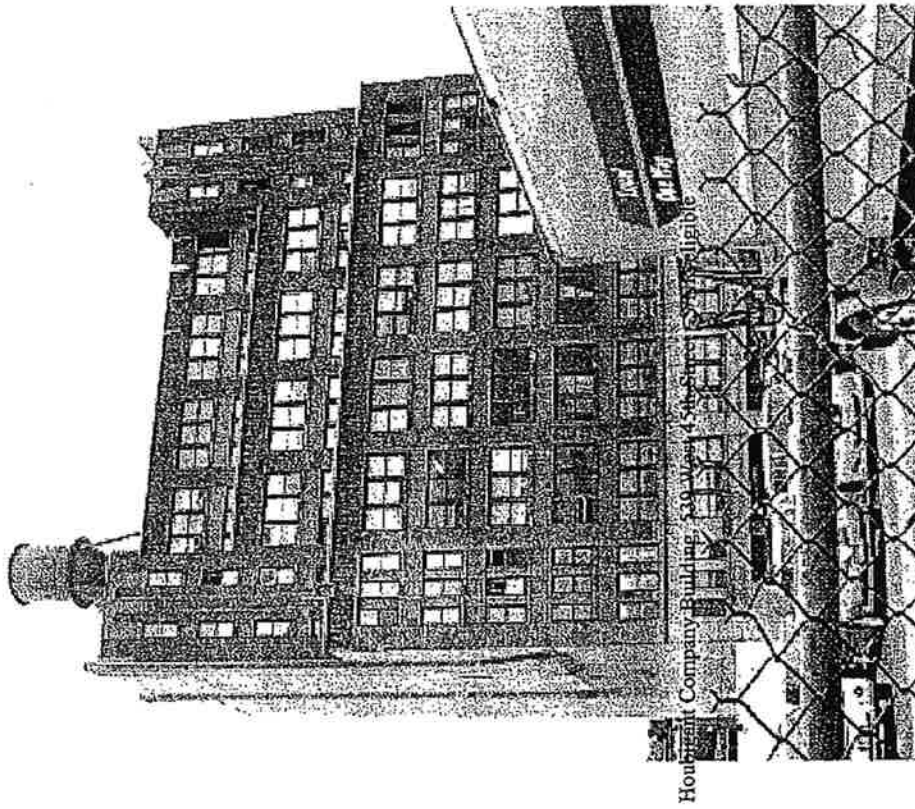
E&J



Acker, Merrill & Condit Company warehouse, 536 West 46th Street – SNR-eligible



The Landmark Tavern, 626 Eleventh Avenue





CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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JOHN WEIS
Chair

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

November 14, 2009

New York City Planning Commission
Attention: Robert Dobruskin, AICP
Director EARD, NYCDP
22 Reade Street, Room 4E
New York, New York 10007

**Re: ULURP Applications No. 100051 ZMM, N100052 ZRM, 100053 ZSM,
100054 ZSM and 100055 HAM - Gotham West, West 44th Street, between
Tenth and Eleventh Avenues; 592 – 608 11th Ave; 507-553 W. 44th Street,
508-558 W. 45th Street**

Dear Mr. Dobruskin:

Manhattan Community Board 4 ("CB4") is pleased to provide the following comments on the Draft Environmental Impact Statement for preparation of an Environmental Impact Statement for the West 44th Street and Eleventh Avenue Rezoning, commonly referred to as P.S. 51 / Gotham West.

The proposal involves an application by the New York City Department of Housing Preservation and Development ("Applicant"), on behalf of the project sponsor, 44th St Development LLC, for a new residential development with limited ground-floor commercial use. The proposed development encompasses almost an entire city block between West 44th and 45th Streets, between Tenth and Eleventh Avenues ("Project Site"). The only portion of the block that is not included in the Project Site is the existing Hess station on 10th Avenue. Specifically, the proposed project will result in the addition of approximately 1,210 residential units, of which 600 will be permanently affordable, and the construction of a new 630 seat public school that will replace the existing P.S. 51 (collectively referred to as "Proposed Project"). The Proposed Project will also add retail space of approximately 10,000 square feet (s.f.) at street level, and 7,000 s.f. below grade. There will also be up to 204 accessory parking spaces, predominantly for the residential units. Ultimately, the Proposed Project will realize several of the promises made to this community in connection with the 2005 Hudson Yards Rezoning.

THE PROJECT: AN OVERVIEW

Proposed Buildings' Siting and Massing

As proposed in the applications, the residential component of the Project would involve construction of a 7 story "C" shaped base with frontage on West 44th and West 45th Street and 11th Avenue, above which several residential buildings will rise to varying heights ranging from 7 and 14 stories on the mid blocks, to 31 stories on the northwest corner of the Project Site at 45th Street and 11th Avenue and up to 30 stories on the corner of 44th Street and 11th Avenue. Upon completion of a new P.S. 51 facility on West 44th Street, the current P.S. 51 facility will be converted to accommodate market-rate residential units. Finally, a platform will be built over the existing railroad cut right-of-way located on the eastern portion of the Project Site in order to facilitate the construction of two 14-story residential buildings, one on West 44th Street and one on West 45th Street. The Project's retail space would be located on the ground- and cellar-levels of the Eleventh Avenue frontage, and the below-grade parking garage would be accessible from West 45th Street. The residential buildings would be developed by 44th St Development LLC, an affiliate of the Gotham Organization ("Gotham").

Affordable and Market Rate Housing Program

The residential buildings include up to 1,210 units available to a range of incomes. The two buildings constructed over the railroad right-of-way (Building C North and South) and the mid block building located immediately west of the P.S.51 facility (Building B) will include a combined 540 units and be 100% affordable in perpetuity. The additional 670 housing units will be located on the western portion of the Project Site (Building A, including Towers 1, 2, and 3) and will be developed under the NYS Housing Finance Agency's (HFA) 80/20 program, with 80% market-rate housing and 20% low-income housing (for families earning less than 50% Area Median Income (AMI)). Only 60 of the low-income units in this component will be affordable in perpetuity and count toward the Hudson Yards commitment of 600 permanently affordable units; the balance of 75 low-income units in the Towers will be affordable only for a limited length of time, as governed by the 80/20 bond financing.

A detailed breakdown of the permanently affordable units by building and by Area Median Income (AMI) is attached as Exhibit A and is summarized below:

Permanently affordable units:

<u>Income Range</u>	<u>No. of Units</u>
<40% AMI	44
>40%, but <50% AMI	124
>50%, but <135% AMI	216
>135% but <165% AMI	216

In addition, the project will also include:

Market-rate units	535
80/20 low-income* units (<50% AMI)	75
<i>*affordable only for the life of the bond, i.e., 30 years</i>	

New P.S. 51

The new school is sited on West 44th Street, immediately west of the railroad cut. The five-story building will seat 630 students and include a 12,658-square foot school yard located between the school building and the residential building on West 45th Street. The public school and school yard will be constructed by the New York City School Construction Authority (SCA) and maintained by the New York City Department of Education (DOE).

OVERALL COMMUNITY CONCERNS

CB4 acknowledges the multiple conflicting goals involved in this Proposed Project and continues to appreciate the willingness of the Gotham Organization to engage in substantive discussions concerning all aspects of the Proposed Project. Over the last four years there have been numerous community meetings and workshops, as well as several public forums wherein Gotham, SCA, Department of City Planning (DCP) and HPD presented the Proposed Project to the community, listened and responded to the community's concerns.

Gotham has presented a complex project that balances conflicting community concerns about building height, the affordable housing commitments of the Hudson Yards rezoning, a new expanded P.S.51, and construction over the railroad cut right-of-way, while negotiating a highly volatile economic climate.

While CB4 is pleased to finally see this project moving forward, we seek to reconcile the remaining concerns of the stakeholders to create a project that better meets the community's needs, best uses scarce public resources and better integrates the project as a whole.

Affordable Housing

Affordable Housing Program

Realizing the promised affordable housing plan, targeted predominantly to the hard-to-reach moderate- and middle- income residents, is of utmost importance to CB4. The 2005 Hudson Yards Points of Agreement outlines the housing program for the Project Site as follows:

“The Administration anticipates that this site will generate 600 affordable housing units, including 120 low-income units (up to 60% of AMI), 240 moderate-income units (up to 135% of AMI), and 240 middle-income units (up to 165% of AMI).”

The Proposed Project generates 675 affordable units. CB4 requests that the proposed affordable housing program be modified as a condition of the CB4's approval:

- 600 of these are permanently affordable as a condition of previous Hudson Yards Points of Agreement. CB4 is appreciative of the efforts of the Mayor's Office and Gotham to meet the goals of the Hudson Yards commitments.
- The remaining 75 affordable units generated under the 80/20 program must also be affordable in perpetuity. In consideration of scarce resources and limited publicly-owned sites, any affordable units created through this Proposed Project must be permanent.
- 50% of all affordable units must be family-sized units, i.e. two-bedroom or larger. We appreciate that Gotham has modified its housing program so that 40% of the units are two-bedroom or larger. We request that an additional 10% of the units be made larger to offset the disproportionate number of studio and one-bedroom units that are being constructed in our community.

In addition, HPD and Gotham have already committed to the following condition:

- Residents of CD4 should be given preference in 50% of prospective tenant selection.

These conditions must be included in the Land Disposition Agreement (LDA) to ensure that the housing program better meets the community's long term needs, best uses public resources, and better integrates the project as a whole.

Affordable Housing Fund

As described in the Hudson Yards Points of Agreement:

"The Administration agrees to create an affordable housing fund of up to \$45 million – to be managed by HPD – using the proceeds received from the disposition of the Studio City site for affordable moderate- and middle-income housing in the Hudson Yards area and citywide. The fund also may be used to augment funding for construction and renovation at P.S. 51 on the Studio City site."

Given the funding structure of PS 51, the affordable housing fund has been adjusted to generate an additional \$20,000,000 of affordable housing in the city. There are a number of already planned affordable projects located in CD4 that flow from mayoral commitments and the Hudson Yards and West Chelsea rezonings, which have yet to proceed due to gaps in funding. Those projects include the NYCHA parking lot sites at Fulton, Elliott-Chelsea and Harborview Houses. We therefore request that the affordable housing fund first be applied to the proposed affordable housing on publicly-owned sites as described in the Hudson Yards and West Chelsea rezoning Points of Agreement before being applied to citywide needs.

Height/Bulk

Reconciling height and bulk with affordable housing commitments

The site plan represents a balance of conflicting needs to accommodate the Proposed Project's component parts. We appreciate the site plan's contextual design with lower, broader buildings. This is consistent with the area's immediate surroundings, which feature a mix of industrial loft buildings and lower-rise residential buildings. The 8.5 FAR, the 31-story tower and the mid-block buildings of up to 14-stories add more density and height than desired, but this is an acceptable compromise in light of the inclusion of affordable housing and construction of the new school. We take comfort in knowing that, together with the proposed Eleventh Avenue Rezoning, this rezoning should not be a precedent for any other site.

Off-site Development Rights Transfers

The Proposed Project may generate more inclusionary housing development rights than are needed for the on-site inclusionary bonus. To minimize any additional impact on neighborhood character, Gotham has already agreed not to transfer the excess development rights off-site. The Land Disposition Agreement (LDA) must contain provisions to include Gotham's agreement not to transfer development rights off-site. Further, the LDA must include limits on height, massing and set-backs of the Proposed Project.

Commercial Uses

CB4 is particularly concerned about the proposed C2-5 overlay that would permit commercial use across the entire site at an FAR of 2. Commercial uses along our residential side streets do not reinforce residential character and exacerbate an already problematic bar/club use on residential blocks. Gotham development plans indicate that there will be no commercial and/or retail use on the residential side streets under the proposed rezoning, commercial use must be limited to the Avenue and then only at 1 FAR, consistent with the rest of the district. CB4 understands that a C2-5 zoning is necessary to trigger the General Large Scale Development. CB4 looks forward to working with DCP to find a means by which zoning would limit commercial use to a maximum of 1 FAR and minimize the area covered by the overlay that also permits a General Large Scale Development. A similar resolution was proposed by the DCP in the recent ULURP related to the Western Rail Yard development for the off-site affordable housing project on the MTA site at 806 Ninth Avenue.

Design and Façade Treatment

Gotham's proposed design responds effectively to CB4's request to modify bulk, include punched windows, articulate façade treatments and break up the continuous street wall. Long street walls on the side streets must be designed to reflect the area's context:

- using traditional building materials like brick;
- repeating fenestration to harmonize with surrounding streets; and
- varying street walls and façade treatments to diminish the effect of the portions of the buildings above the 7-story bases.

CB4 appreciates that the eastern façade of the building over the railroad cut will be finished with the same materials as the street wall façades, and punctuated with windows.

Requests regarding the Land Disposition Agreement (LDA)

In summary, the conditions that must be included in the LDA are:

- The remaining 75 affordable units generated under the 80/20 program must also be affordable *in perpetuity*.
- 50% of all affordable units must be family-sized units, i.e. two-bedroom or larger.
- 50% of tenant selection must be allocated to residents of CD4.
- Excess inclusionary housing development rights must not be transferred off-site.
- Regulations regarding limits on height, massing and set-backs of the Proposed Project.

THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

CB4 has carefully reviewed each section of the DEIS; the remainder of the letter presents our comments.

Chapter 2: Land Use, Zoning and Public Policy

After thirty years of unrealized plans, CB4 is pleased to finally see a proposal for the Project Site that reaffirms the residential and school uses for which the site was originally condemned in 1975. The introduction of residential use, particularly with a strong component of permanently affordable housing, satisfies CB4's housing objectives for this site.

CB4 is particularly concerned about the proposed C2-5 overlay that would permit commercial use across the entire site at an FAR of 2. The Board understands that a C2-5 zoning is necessary to trigger the General Large Scale Development. However, commercial uses along our residential side streets do not reinforce residential character and exacerbate an already problematic bar/club use on residential blocks. While Gotham's site plan indicates that there will be no commercial and/or retail use on the residential side streets, the proposed rezoning must limit commercial use to the Avenue and then only at 1 FAR, consistent with the rest of the district. Therefore, we urge that the language in the text amendment clearly state that the commercial FAR will be restricted to 1 FAR and minimize the area covered by the overlay, while also permitting a General Large Scale Development.

Chapter 3: Socioeconomic Conditions

Business

The two businesses which would be displaced are a public parking lot, with an estimated 10 employees and a horse stable, with an estimated 10 employees. Area businesses and consumers are not dependent upon the potentially displaced businesses. 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 employment sectors. There is additional horse stable capacity within Community District 4.

Residents

As there is no residential use currently on the Project Site, there is no direct displacement of residents resulting from this Proposed Project.

The analysis of indirect residential displacement considers whether the Proposed Project would affect property values to the degree that existing area residents would not be able to stay in their homes. The supply of adequate affordable housing is fundamental to CB4. CB4's previous experience suggests that developments involving a large portion of market-rate units have a cumulative impact of raising the cost of housing and related living expenses. While CB4 is appreciative of the efforts of the Mayor's Office and Gotham to meet the goals of the Hudson Yards commitments and provide 600 affordable units in this Proposed Project, 535 new market-rate units create a considerable impact. In addition to the 1,210 residential units introduced by the Proposed Project, the DEIS projects that an additional 3,380 units will be built within the ¼ mile radius from the Project Site by 2013¹ – this constitutes a substantial new population that existing residents must be prepared to receive. In consideration of scarce resources and limited public land, the remaining 75 affordable units generated under the 80/20 program must also be affordable in perpetuity.

Further, 50% of all affordable units must be family-sized units (two-bedroom or larger) and 50% of tenant selection must be allocated to residents of CD4.

Chapter 4: Community Facilities and Services

New School

After thirty years of unrealized plans, CB4 is delighted to see concrete plans for a new school that will relieve overcrowding, provide up-to-date facilities and serve our expanding community.

The current P.S. 51 operates at 121% capacity, indicating the need for additional elementary level seats. Resolving P.S. 51's current overcrowding and increasing its capacity to accommodate new elementary school students is our first priority. Residential development on the Project Site alone will add 162 new elementary students. In addition, development that is in construction, proposed or part of a recent rezoning, is projected to add more than 900 new elementary students to the school zone. The school must be for grades pre-K through 5, not pre-K through 8. (Exhibit B)

¹ New York City Department of Housing Preservation and Development, "West 44th Street and Eleventh Avenue Rezoning Draft Environmental Impact Statement," August 2009, pg. 3-14

Summary:

Projected number of elementary school students resulting from residential developments in P.S. 51 School Zone

Number additional students from active developments	685
Number additional students from developments on hold	300
TOTAL	985

School Playground

The existing school yard measures 16,250 square feet and benefits from plentiful amounts of sunlight. The proposed school yard is smaller at 12,658 s.f., will need to accommodate more students, and is projected by the DEIS to be in full or partial shadow during every part of the day, all year long. While the ample indoor play space included in the school design is greatly appreciated, it is not a substitute for outdoor space. There must be adequate sunlit play space included in the design of the school. As a result of the diminished outdoor playground and projected shadow over the school yard, the outdoor school play space is insufficient. The Board originally requested that play space be accommodated on the roof; in response, the SCA explained the need to house mechanical equipment. The Board appreciates the expert analysis the SCA has shared, however, believes that as the school building is in the design stage, space for both mechanical equipment and sufficient play area can be balanced. CB4 therefore requests that the mechanical equipment be located to leave 50% of roof space for play space at the western side of the building to maximize sunlight and compensate for the projected shadows in the proposed school yard.

Community Cultural Use

Making space in P.S. 51 available to certain community groups for meetings, athletics and artistic performance opportunities could effectively mitigate some of the residents' concerns and more positively integrate this proposed development into the daily lives of members of our community.

The Mayor's Office recently announced plans to give nonprofit cultural groups access to gallery and theater space in city-owned buildings and parks. PS 51 is an ideal space suitable for these types of community based activities, which would not interfere with the educational mission of the facility itself. Funding can be made available through a portion of the ten million (\$10,000,000.00) dollars being provided by Gotham to cover the administrative, custodial, supervisory and other associated costs of making this facility available for use by the entire community on a year round basis.

Day Care

The introduction of 56 children below the age of six who would be eligible for publicly funded day care will exacerbate already oversubscribed day care facilities in the future.

The additional children from the Proposed Project constitute 18% of the capacity of existing day care centers; this figure is substantially higher than the CEQR threshold of 5%. The City must work with CB4 to identify a suitable location for day care facilities. HPD should review the multiple projects proposed in the Clinton Urban Renewal Area to find resources to house the deficit of daycare facilities. Additionally, mitigation should incorporate funding measures for day care similar to the school seats mechanism approved by the City Planning Commission as a requirement of the rezoning approval of "Clinton Park" at 770 11th Avenue developed by Two Trees Management LLC.

Chapter 5: Open Space

As is noted in the DEIS², open space in Clinton/Hell's Kitchen is woefully inadequate. The study area of ½ mile from the project site currently falls well below DCP guidelines for park accessibility.

Open space ratios within ½-mile radius of project site³

	Total open space*	Active open space*	Passive open space*
Current	0.44 acres	0.22 acres	0.08 acres
Future with Action	0.36 acres	0.19 acres	0.07 acres

* per 1,000 residents

The renovation of baseball fields and areas surrounding DeWitt Clinton Park are the only anticipated improvements or additions to the study area inventory of open space, an addition of three acres. With the projected growth of residential population attributed to developments in the study area, the ratio of open space will further decrease in the ½ mile radius. In CB4's view, this is a tremendous detriment to the area, however, this decline in open space does not meet DEIS thresholds as a significant adverse impact.

In light of the deficiency of open space in the area, CB4 requests the school yard be opened to the public as a public playground, consistent with PlaNYC's top open space initiative, to mitigate the insufficiency of open space. CD4 has less publicly-accessible open space than all but one other community district in the City. This Proposed Project presents a unique opportunity to address that shortcoming by designing a school yard that could serve as a school yard and a neighborhood playground when it is not being used as part of the school program.

Chapter 6: Shadows

While mitigation is not required for project-generated open space, the projection that the proposed school yard will be in full or partial shadow during every part of the day all year long is unacceptable. Technical manual aside, there must be adequate sunlit play

² New York City Department of Housing Preservation and Development, "West 44th Street and Eleventh Avenue Rezoning Draft Environmental Impact Statement," August 2009, pg. 5-4

³ New York City Department of Housing Preservation and Development, "West 44th Street and Eleventh Avenue Rezoning Draft Environmental Impact Statement," August 2009, pgs. 5-4, 5-12

space included in the design of the new school. As a result of the diminished outdoor playground and projected shadow over the school yard, the outdoor school play space is insufficient. This deficiency must be mitigated by including a rooftop play space at the western side of the building that would maximize sunlight and compensate for the projected shadows in the proposed school yard.

Chapter 7: Historic Resources

CB4 requests the landmark designation of certain historic resources identified in the DEIS. The current physical fabric of the Clinton/Hell's Kitchen community presents a unique landscape and, therefore, an excellent opportunity to preserve elements of the neighborhood's residential and manufacturing history. The buildings presented in the DEIS embody the neighborhood's transformation from a low-rise, working-class, immigrant area of tenements to the growth of industry along Tenth and Eleventh Avenues in the late 19th and early 20th centuries. We therefore request the individual landmark designation of the following historic resources cited in the DEIS, listed here in order of CB4's priority: (Exhibit C)

- *P.S. 51, 520 West 45th Street – S/NR-eligible*

This 1905 Renaissance-style school designed by C.B.J. Snyder marks the proliferation of school construction following the consolidation of New York City. Its five-story, red-brick façade with stone base features a tripartite design, with a base, shaft, and capital.

The conversion of the C.B.J. Snyder building into residential use and construction of a new, five-story school building immediately to the south reinstates the original use of the new school site, as it is the location of the original P.S. 51 school built in 1855.

- *E&J Burke Company warehouse, 616-620 West 46th Street – S/NR-eligible*
Built in 1912-1913 for the E & J Burke company, an importer and seller of beer and whiskey, the warehouse was designed by Thomas J. Duff. The building's four bay-wide façade has street level loading docks, two end bays that project slightly forward from the two center bays, and regular fenestration with historic two-over-two double-hung sash and copper window frames. Two copper finials extend above the roof. A stone panel inscribed with the words "E & J. Burke" spans the top of the center bays.

- *Acker, Merrall & Condit Company warehouse, 536 West 46th Street – S/NR-eligible*

Built circa 1907 for the former wholesale grocery business, the five-story Romanesque Revival warehouse, presently occupied by the Salvation Army Thrift Store, is faced in patterned orange and brown brick with terra cotta stringcourses. The ground floor has three tall arched garage entrances. The building's most distinctive components are its three expansive triple-height arched window bays extending from the second through the fourth floors.

- CB4 requests the reconsideration of 626 *Eleventh Avenue*, the site of *The Landmark Tavern* as eligible for designation. This building has been cited in the DEIS Appendix A as not eligible for listing on the National Register of Historic Places. The 1868 three-story, red brick building with three window bays across and an Italianate cornice is among the last buildings of its kind along Eleventh Avenue. The building, which has been continually occupied as a bar, retains original interior fittings. The Landmark Tavern significantly contributes to the story of Hell's Kitchen's immigrant and industrial past.
- *Houbigant Company Building, 539 West 45th Street –S/NR-eligible*
Lockwood Greene & Company built this 11-story warehouse in 1924 for a perfume and cosmetics manufacturer, the Houbigant Company. The tan brick-faced building has a granite and limestone base, copper spandrel panels below the tripartite window bays, and setbacks above the seventh and ninth floors. The word "Houbigant" is inscribed in the limestone panel above the second floor.

It has been determined in the DEIS that historic-period archaeological resources may exist within the Project Site and investigation in the form of Phase 1B archaeological testing is recommended in the rear yards of historic Lots 8-11, 54-57, 61A, 61, 61-½, 63, and 64 and in the original P.S. 51 building's side yard areas in order to further assess the site's potential to yield archaeological resources.

- CB4 requests that archaeological testing be completed before the start of construction, is compliant with New York State Office of Parks, Recreation and Historic Preservation and Landmarks Preservation Commission directives and that the results of this test be made available to CB4.

Chapter 8: Urban Design and Visual Resources

CB4 and Gotham have had several discussions over the past two years to ensure that the Proposed Project reflects the built character of the Project Site's surrounding area. CB4's overall goal is that the Proposed Project is physically integrated into the neighborhood rather than be a prominent element. CB4 is satisfied with the proposed design by Gotham as it responds to this objective.

The proposed school design contrasts too dramatically with the character of the surrounding neighborhood or adjacent housing development. Given CB4's work with Gotham, the school building can be modern in design but must reflect the architectural rhythm of Clinton's mid-blocks, which are largely dominated by low-rise buildings on narrow lots and brick and stone façades embellished with appropriately scaled, horizontal elements. In view of these qualities, CB4 requests that the façade be redesigned to be brick, in a color that is consistent with adjacent buildings, reflect the horizontal rhythm characteristic of surrounding buildings, incorporate vertical elements and punched windows to break up the western portion of the façade and be consistent in style with the rest of the Development.

Chapter 9: Neighborhood Character

Land Use

After thirty years of unrealized plans, CB4 is pleased to finally see a proposal for the Project Site that reaffirms the residential and school uses for which the site was originally condemned in 1975. The introduction of residential use, particularly with a strong component of permanently affordable housing, satisfies CB4's housing objectives for this site. CB4 is particularly concerned about the proposed C2-5 overlay that would permit commercial use across the entire site at an FAR of 2. The Board understands that a C2-5 zoning is necessary to trigger the General Large Scale Development. However, commercial uses along our residential side streets do not reinforce residential character and exacerbate an already problematic bar/club use on residential blocks. While Gotham's site plan indicates that there will be no commercial and/or retail use on the residential side streets, the proposed rezoning must limit commercial use to the Avenue and then only at 1 FAR, consistent with the rest of the district. Therefore, we urge that the language in the text amendment clearly state that the commercial FAR will be restricted to 1 FAR and minimize the area covered by the overlay, while also permitting a General Large Scale Development.

Socioeconomic Conditions

The DEIS finds that there is no significant adverse residential impact because the Proposed Project is consistent with area development trends. This assertion does not consider the cumulative impact of all of the residential development in the district. The supply of adequate affordable housing is fundamental to CB4. CB4's previous experience suggests that developments involving a large portion of market-rate units have a cumulative impact of raising the cost of housing and related living expenses. While CB4 is appreciative of the efforts of the Mayor's Office and Gotham to meet the goals of the Hudson Yards commitments and provide 600 affordable units in this Proposed Project, 535 new market-rate units create a considerable impact. In addition to the 1,210 residential units introduced by the Proposed Project, the DEIS projects a further 3,380 units will be built within the ¼ mile radius from the Project Site by 2013 – this constitutes a substantial new population that existing residents must be prepared to receive. In consideration of scarce resources and limited public land, the remaining 75 affordable units generated under the 80/20 program must also be affordable in perpetuity.

Historic Resources

The conversion of the C.B.J. Snyder building to residential accommodation is an appropriate use of this architecturally valuable structure. Further, the construction of a new, five-story school building immediately to the south reinstates the original use of the new school site, as it is the location of the original P.S. 51 school built in 1855. CB4 also requests the designation of individual landmarks outlined in the Historic Resources section beginning on page 8.

Urban Design

New Residential Development Design

The Proposed Project has been the subject of regular discussion between the developer and CB4 to ensure building heights balance the needs of the Proposed Project while respecting the low-rise nature of the surrounding Special Clinton District including the low-rise, mid-block housing, the limited height of the residential tower on Eleventh Avenue and the school footprint.

We appreciate the site plan's contextual design with lower, broader buildings. This is consistent with the Project Site's immediate surroundings, which feature a mix of industrial loft buildings and lower-rise residential buildings. CB4's overall goal is that the Proposed Project is physically integrated into the neighborhood rather than be prominent. CB4 is satisfied with the proposed design by Gotham as it responds to this objective.

New School Design

The architectural rhythm of Clinton's mid-blocks is largely dominated by low-rise buildings on narrow lots and brick and stone façades embellished with appropriately scaled, horizontal elements. In this regard, the proposed school design contrasts too dramatically with the character of the surrounding neighborhood or adjacent housing development. CB4 requests that the façade be redesigned to be brick, in a color that is consistent with adjacent buildings, reflect the horizontal rhythm characteristic of surrounding buildings, incorporate vertical elements and punched windows to break up the western portion of the façade and be consistent in style with the rest of the Development.

Transportation

Traffic and Parking

CB4 supports the proposed mitigation, as described in the DEIS, for significant adverse traffic impacts at four intersections during the AM, midday and PM peak hours. Additionally, CB4 recommends the reduction of on-site parking to further mitigate anticipated traffic impacts. We request that the police department consider parallel, rather than perpendicular parking for its precinct on the south side of West 42nd Street, at a minimum of 100 feet west from 10th Avenue and West 42nd Street.

Transit and Pedestrians

CB4 requests increased pedestrian crossing time at 10th Avenue and West 42nd Street as well as pedestrian-only crossing time at the east-west crossing on the north side of the intersection. To further support the use of public transit in the area, CB4 requests the study of an 11th Avenue bus line. The residential and commercial space that will be generated by the development of Hudson Yards and large residential developments projected along 11th Avenue by 2019 demand a new 11th Avenue bus line.

Noise

The Applicant surveyed noise levels at four sites surrounding the Project Site and found all of them to be in the “marginally unacceptable” category, with traffic noise being the dominant noise source. The practical implications of these findings are specific window-wall attenuation requirements for facades on the different streets and avenues. We note, however, that in order to achieve the required dB levels in the new buildings the windows must be closed, and residents must rely on “alternative means of ventilation.” We regret that opening one’s window for fresh air would expose a resident to unacceptable traffic noise.

Chapter 10: Natural Resources

No Comments

Chapter 11: Hazardous Materials

A Phase I Environmental Assessment identified multiple conditions involving hazardous materials, including underground gasoline and oil storage tanks, lead and mercury waste, various asbestos-containing materials, lead paint, and electrical equipment likely to contain PCBs or mercury.

In order to avoid adverse impacts on human health from demolition activities and site preparation the applicant will perform a Phase II subsurface investigation and then treat each identified hazardous conditions in an appropriate manner. All aspects of the Phase II investigation and subsequent treatments would be governed by Health and Safety Plans, Remedial Action Plans and Construction Health and Safety Plans submitted to and approved by the NYC Department of Environmental Protection. We note that the SCA is required to follow these same steps for the construction of the new P.S. 51.

We request that copies of the findings of the Phase II investigation and the DEP-approved plans be submitted to the CB4 prior to initiation of remediation.

Chapter 12: Infrastructure

The discussion relating to infrastructure is limited to water and sewer usage. Given the full scope of proposed future development in this area, the DEIS lacks any meaningful analysis of future needs with regard to its impact upon future police, health and fire services. The collective impact of all proposed development within the district must be evaluated.

Chapter 13: Solid Waste and Sanitation Services

No comments.

Chapter 14: Energy

No Comments

Chapter 15: Traffic and Parking

CB4 supports the proposed mitigation, as described in the DEIS, for 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.

Additionally, CB4 recommends the reduction of on-site parking to further mitigate anticipated traffic impacts. Based on the DEIS quantitative analysis, the parking supply within a ¼-mile radius of the Project Site will be underutilized in the Build scenario, with the exception of weekday midday use. The analysis of midday availability of midday availability, which indicates a shortage in the Build scenario, uses an unlikely assumption that vehicles displaced from parking lots on the Project Site will need to park with ¼-mile of this location. Among the vehicles currently parked at the Project Site are long-term vehicles that could find an alternative location.

As indicated in the DEIS, the left turn from West 42nd Street to 10th Avenue will be at an "F" LOS. This is caused by the single, east-bound traffic lane on West 42nd Street between 11th and 10th Avenues. We request that the police department consider parallel, rather than perpendicular parking for its precinct on the south side of West 42nd Street, at a minimum of 100 feet west from 10th Avenue and West 42nd Street.

Chapter 16: Transit and Pedestrians

CB4 requests increased pedestrian crossing time at 10th Avenue and West 42nd Street as well as pedestrian-only crossing time at the east-west crossing on the north side of the intersection.

To further support the use of public transit in the area, CB4 requests the study of an 11th Avenue bus line. Extensive development is projected along 11th Avenue both North and South of the proposed project. Community District 4 has seen the construction of over 5,000 residential units within ½ block of 11th Avenue since 2000, including the recently completed, 1,359-unit Silver Towers between 41st and 42nd Streets⁴. The Western Rail Yard FEIS includes projections of growth by 2019: combined, the Eastern and Western Rail Yards are expected to generate as many as 7,660 residential units and 6.7 million s.f. of commercial space. The FEIS forecasts an additional 5,680 residential units and 3.2 million s.f. within a ½ block of 11th Avenue in Community District by 2019⁵. We believe these developments provide sufficient demand for a new bus line. HPD, in

⁴ Manhattan Borough President's Office, "School Daze: Fuzzy Numbers Mean Overcrowded Schools," September 2009

⁵ Metropolitan Transportation Authority and New York City Department of City Planning, "Western Rail Yard Final Environmental Impact Statement," October 2009, pg. 2-1 – 2-18

conjunction with CB4 and Gotham, should work to establish a dialogue with the MTA and Project Site tenants/visitors as new phases of the site are constructed to ensure transit needs are being met, in particular, mitigating the impact on the bus system through a new 11th Avenue bus line.

Chapter 17: Air Quality

Based on an analysis of existing and projected air quality, the applicant concludes that the pollutant concentrations and concentration increments resulting from the Proposed Project are all below applicable criteria and that there would be no significant adverse air quality impacts.

We note the following:

- The SCA will incorporate specifications on fuel use and stack placement in order to preclude the potential for significant adverse air quality impacts from the HVAC system of the new P.S. 51 on the new residential buildings. We request a presentation of these specifications and placements when plans have been prepared.
- While below the applicable threshold level of 19 truck trip equivalents for PM_{2.5}, the 15 truck trip equivalents generated by the Proposed Project is close to requiring a formal analysis and underscores the crucial need to consider the cumulative effects of all such “negligible” increases. New York City has been classified as a Non-Attainment Area for PM_{2.5}. Any increase, even if below the statutory threshold, worsens a recognized hazardous condition and delays attaining compliance.
- Table 17-2, Maximum Background Pollutant Concentrations, presents background concentrations for the area of the development parcels. We request an explanation of why P.S. 59, the Beekman Hill International School on E63rd Street, was used for these determinations rather than P.S. 51, which is a component of the Proposed Project. We also would have liked to have seen data from the P.S. 51 site included in Table 17-4 for comparison with the data from P.S. 59, P.S. 19, JHS 126 and IS 52.

Chapter 18: Noise

The Applicant surveyed noise levels at four sites surrounding the Project Site and found all of them to be in the “marginally unacceptable” category, with traffic noise being the dominant noise source. The practical implications of these findings are specific window-wall attenuation requirements for facades on the different streets and avenues. We note, however, that in order to achieve the required dB levels in the new buildings the windows must be closed, and that residents must rely on “alternative means of ventilation.” We regret that opening one’s window for fresh air would expose a resident to unacceptable traffic noise.

Chapter 19: Construction Impacts

The sheer scope of this project, which will encompass the demolition and reconstruction of almost an entire city block, will have an unavoidable impact on local businesses, residents and especially students given the fact that P.S. 51 will remain operational throughout the duration of this project.

All steps necessary to minimize disruption, lessen health impacts and ensure regular communication with the community must be taken, including, but not limited to:

Minimal disruption to P.S. 51:

- Assurance that demolition and hazardous material removal will be completed during the summer months when school is not in session, particularly given the fact that the DEIS states that construction activities may exceed certain safety thresholds set forth by CEQR.
- Students must have access to a playground while school is in session. An interim outdoor play space within three blocks of P.S.51 must be identified. Access to the existing P.S.51 playground will be unavailable during the construction period, meaning the school would be without both indoor and outdoor play space during this time.
- All deliveries or debris removal for the project should be made on W 44th Street or Eleventh Avenue entrances to minimize any noise disruptions and health concerns to PS 51.

Health and safety:

- In light of the fact that Hell's Kitchen/ Clinton has one of the highest asthma rates⁶ in New York City, a firm commitment must be made to protecting air quality. All precautionary measures must be taken to minimize emissions from construction activity. One form of mitigation is the installation of an insulated window system on all windows at PS51.
- The electrical system must be evaluated to ensure that air conditioning units can run effectively so that windows can remain closed throughout the duration of the construction period. Air conditioners must be installed throughout to reduce particle dust, as recommended by the P.S.51 Administration in its September 21, 2009 letter.

Traffic:

- Department of Transportation "No Standing Anytime" signs should be installed on both W 44th & 45th Streets between Tenth and Eleventh Avenues. This will help to alleviate congestion and minimize the traffic impact on neighborhood residents, businesses and PS 51.

Construction Task Force:

- A construction task force must be formed to oversee the Proposed Project. This task force should include members of Gotham, the Block Association, local businesses, P.S.51 Administrators, P.S.51 PTA members and CB4.

⁶ New York City Department of Health and Mental Hygiene, "Community Health Profiles: Take Care, Chelsea and Clinton, Manhattan", 2006

Chapter 20: Public Health

In order to preserve air quality, restricting the placement of HVAC exhaust stacks and the type of HVAC fuel used must be committed to prior to construction.

CB4 would like to be apprised of the results of the comprehensive asbestos survey that will be done by Gotham prior to demolition and be advised as to what protocols and procedures will be followed to remove any asbestos from the site.

Chapter 21: Mitigation

With regard to the significant adverse impact anticipated on day care facilities, CB4 requests that the City work with CB4 to identify a suitable location for day care facilities. HPD should review the multiple projects proposed in the Clinton Urban Renewal Area to find resources to house the deficit of daycare facilities. Additionally, mitigation should incorporate funding measures similar to the mechanism approved by the City Planning Commission as a requirement of the rezoning approval of "Clinton Park" at 770 11th Avenue developed by Two Trees Management LLC.

As stated above, CB4 supports the proposed mitigation, as described in the DEIS, for 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. Additionally, CB4 recommends the reduction of on-site parking to further mitigate anticipated traffic impacts. Based on the DEIS quantitative analysis, the parking supply within a ¼-mile radius of the Project Site will be underutilized in the Build scenario, with the exception of weekday midday use. The analysis of midday availability of midday availability, which indicates a shortage in the Build scenario, uses an unlikely assumption that vehicles displaced from parking lots on the Project Site will need to park with ¼-mile of this location. Among the vehicles currently parked at the Project Site are long-term vehicles that could find an alternative location.

Chapter 22: Unavoidable Significant Adverse Impacts

No comments

Chapter 23: Alternatives

No comments

Chapter 24: Growth-Inducing Aspects of the Proposed Actions

No comments

Chapter 25: Irreversible and Irretrievable Commitment of Resources

No comments

Thank you for considering these comments.

Sincerely,



John Weis, Chair
Manhattan Community Board 4



Elisa Gerontianos, Co-Chair
Clinton/Hell's Kitchen Land Use Committee



Sarah Desmond, Co-Chair
Clinton/Hell's Kitchen Land Use Committee

cc: City Planning Commission
DCP – Edith Hsu-Chen, Erika Sellke
HPD – Sara Levenson
MBPO – Anthony Borelli, Deborah Morris
NYC Council Speaker Christine Quinn
NYC Council Speaker Quinn's Office – Kate Seeley-Kirk, Melanie Larocca
NYC Council Land Use Division – Danielle DeCerbo
NYS Senator Thomas K. Duane
NYS Assemblyman Richard Gottfried
The Gotham Organization (Melissa Pianko) & Attorneys
NYS HFA
P.S. 51 - Nancy Sing-Bock,
P.S. 51 Parent Teacher Association - President

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Shino Tanikawa
Lisa Urban

October 26, 2009

CECD2 Comments on PS 51's Proposed New School

The PS 51 community has long-anticipated a new school facility as part of the 2005 Hudson Yards rezoning project. PS 51 The Elias Howe School is located at 521 West 45th Street, between 10th and 11th Avenue. A visit to the current school site, where the first-floor all-purpose room serves as the "cafetorium," it is clear that this community will benefit greatly from a state-of-the-art building with a dedicated cafeteria, auditorium, gymnasium, outdoor terrace and playground.

Community Education Council District 2 (CECD2) is cognizant of many of the issues the PS51 New School Committee has raised with and before the School Construction Authority (SCA), Gotham Developers, Community Board 4 and local elected officials. Consequently, it is our intent to support the community's needs regarding several issues critical to the New School Committee and to the West Side Neighborhood Alliance.

Accordingly, the CECD2 asks the SCA to consider the following priorities in its current stage of new school construction planning:

(1) **School Overcrowding:** As expressed by the New School Committee in its September 21, 2009 letter to the City Council et al., many PS51 parents, faculty and staff are opposed to the conversion of the school to include middle school students, maintaining that this will not solve long-term-overcrowding issues. Consequently, we

ask the Department of Education and the SCA to consider strongly the community's concerns and needs regarding current and future school overcrowding.

Current development projects in Hell's Kitchen will attract thousands of new residents. Population projections indicate that within ten years, an estimated additional 950+ elementary school children will need seats in the area currently zoned for PS51. A pre-kindergarten-8th grade school designed for 610 students will yield the equivalent of one section for each of its 6th, 7th and 8th grades. Therefore, this community maintains that expanding the school to include middle school grades will not address the neighborhood's ongoing overcrowding crisis.

(2) **Reduction of Size of Playground:** While current plans for the new PS 51 school call for doubling the school's enrollment, current designs show an outdoor playground that is smaller than the existing one. This school community is also concerned about light and shadows, and respectfully requests that the SCA work with them to address all of these concerns.

(3) **Health and Safety:** Since the PS51 school community will be living in a construction site for the three years the project will take to complete, the PS51 New School Committee is extremely concerned about health and safety issues. The committee maintains that before breaking ground a plan needs to be in place to deal with the dust, noise and possible ground contamination that construction would involve. They have requested air conditioners and air purifiers in each room, including the cafeteria, to keep the school environmentally safe for children and staff. They have also expressed the need for a safe playground to be planned and located for the duration of the school construction.

(4) **Task Force:** CECD2 supports the agreement among various stakeholders to form a task force including members from the PS51 school community, Gotham Developers, the SCA, CB4 and Housing Preservation and Development. This task force will be in a position to address the issues raised above and any other construction-related issues that emerge going forward.

Finally, CECD2 requests that the PS51 New School Committee keep our council members apprised of its needs and concerns as this important school construction project develops.

Hello my name is Katherine Consuelo-Johnson and I am parent of a third grader at P.S.51. I have been on The New School Committee for the last three years. I just want to say that the P.S.51 community is happy and thrilled to be part of the process of building a new school for our children and future generations. With that being said here are some concerns and requests from the P.S. 51 community about the upcoming development site with Gotham and School Construction Authority.

P.S.51 needs to have a temporary playground for students during construction. This playground must be available and safe before construction begins in September 2010.

P.S. 51 would like a larger playground filled with sunlight. We want back the entire current playground. Not the Canyon described in current blueprints that is smaller in size for twice as many students.

The current P.S.51 would like placement of air purifiers and air conditioners throughout the entire building and maintained during the entire construction process.

The current P.S.51 would like frequent air quality studies of the school and site conducted before and during school hours during the entire time the site is under construction.

The current P.S. 51 requests regular studies of noise levels in school during school hours. As a community we want to make sure noise levels during construction while school is in session do not exceed EPA recommendations.

I ask the City of New York to please review all of P.S.51 concerns and requests. Thank you very much.

Testimony at City Planning Commission Hearing Room on December 3rd, 2009

Marlie Buehler, President and Co-Founder of Abundant Waters Inc., after-school program at PS 51 since 2005, previously at PS 111 since 1993. Tennis pro at Manhattan Plaza Racquet Club since 1980.

There are two main points that are critical to consider in the present planning of a new school for PS 51: **outdoor space and sunlight**. In a city where the mayor says that children are put first, in this proposed construction project they are being put last. At a school where presently they have a jewel of a back yard, where they can enjoy vast amounts of sunlight all through the day, and ample space to run and play, this project is taking all that away. The children will lose most of the space and have no sunlight, in fact no light at all. This great wonderful playground with a view of the Empire State Building will be completely lost to private housing. What will be retained is a small corridor in shadows, where no games and running would be possible. During the school year the children will begin school, and if they go to after-school, which is what most do, they will not see the light of day all day long.

There are many studies that show children require light to learn. Even common sense without the benefit of expert research knows that light is essential to all ages. But particularly to the young who are still growing, whose minds are forming. We say in this great city that we want our children's education to be improved. But then we allow a proposal like this to even come forth, when it is totally against what is right and reasonable. Children require space to move for their bodies to grow stronger and light for their minds to expand and learn. It doesn't matter if there's a new gym or auditorium, they should have that anyway. They shouldn't lose their right to sun and space in exchange.

Finally, a non-profit public concern, which is what an elementary public school is, should not be sold out by the city government to a private profit seeking concern, which is what Gotham Developers is. A school is a public concern under the protection of the city government for a reason. The profit seekers have too many conflicting interests to safeguard our precious children. That's why we have government. It should never come to this point that we have to beg for the protection of our children.

I am hopeful and prayerful that the children of PS 51 will have what should be their right: **appropriate space and light to grow and learn.**

Thank you for your attention in this important matter.

12/11/09

Dear City Council,

I am a 5th grade student at P.S. 51 in Manhattan. I am very glad that there is going to be a new school building but I was **not** happy when I heard that the playground is going to be smaller than our current yard. I will not be attending the new school but I know many younger students who were & will be in the new school. I know they like the huge playground we have. It has a lot of space to run and play. I do not think they would be happy to see the large yard turn into a small play area. Why are you making the yard smaller when it is the only place where the number of students they have now? Please do not turn our huge playground into a small area where you can't run & play as much!!

We also understand that the new school will be built around our new school. I am worried that we will have no sun light if we are surrounded on all sides.

In summary, we want a new school that is large & in the sun.

Sincerely,

Timothy Lawrence

Testimony for City Planning Commission Hearing About the West 44th Street/
11th Avenue Site, Nos. 14, 15, 16, 17 & 18
December 2, 2009

Shelley Grant, Member of P.S. 51 New School Committee

My name is Shelley Grant and I am a member of the P.S. 51 New School Committee and the Literacy Coach of P.S. 51. I am here today as one of the representatives of the P.S. 51 school community.

The P.S. 51 community feels strongly that the new school should remain a pre-K to grade 5 school, and not be changed to a pre-K to 8 school as currently planned. From the report by New York State Senator Tom Duane and Manhattan Community Board 4 on August 11, 2009, the following data was presented at the press conference which was attended by many local politicians, neighbors, and parents: "In the best case scenario, a planned expansion of P.S. 51 and existing capacity at P.S. 111, both of which currently serve the area, will provide seats for an additional 324 students. Unfortunately, public school enrollment will soon exceed capacity as new developments come online. In fact, by 2019, unless additional classrooms are created, 1,026 elementary school-age students will be without seats."

In School Construction Authority's plans, the new school building for P.S. 51 has the capacity of 610 students for grades pre-kindergarten to 8th grade. If the school includes grades 6-8, it would only allow for a minimal expansion in the elementary school, where there will still be a shortage of seats due to the projected population growth of elementary school-aged students in the P.S. 51 zone, which extends from 34th Street to 48th Street between 5th and 12th Avenues. Therefore, P.S. 51 is requesting that the new school be solely a pre-K to 5th grade school in order to expand the number of elementary school seats that will be needed in the future. This may be our last change for a long time to solve this problem of elementary school overcrowding on the West Side. If we don't provide school seats for our pre-K-5 students in the P.S. 51 new school building, we may be faced with overcrowding soon after the new school opens.

The P.S. 51 community also believes that the rezoning of schools on the West Side will be necessitated by the development of the Hudson Rail Yards, and, hopefully, the building of a new school in the Rail Yards neighborhood.

Another essential issue for P.S. 51 is the size of the planned playground. At 12,200 square feet, the planned playground is much smaller than the current P.S. 51 playground, which is over 16,000 square feet. Yet this smaller playground is expected to accommodate about double the number of students that are now enrolled in P.S. 51. According to a citation in "No Room in the Playground: A Report Examining Playground Space in New York City Elementary Schools," by Jeffrey Klein, Chair, New York State Assembly Committee on Oversight, Analysis and Investigation, in September 2003, the Department of Education's preferred minimum square footage for an outdoor playground is:

A playground with an area of 30 square feet per pupil to a maximum of 30,000 square feet for primary and intermediate schools.

This means the outdoor playground for our new school with 610 students should be at least 18,300 square feet.

The city selected Gotham as the developer of this site. The city could require Gotham, as a condition of developing this site, to ensure that P.S. 51 have at least an 18,300 square foot outdoor playground so that the playground will be large enough to accommodate the number of students that will be in our school.

The P.S. 51 community is excited about the new school building. Let's get it right!

PS 51
The Elias Howe School
520 west 45th Street
New York, New York, 10036

To the members of City Planning Commission;

I am writing this letter on behalf of my children, their friends, classmates and neighbors. As residents of this city and Hell's Kitchen community, we feel it is necessary to voice our concerns for the development that is planned for West 44th/45th streets between 10th and 11th Avenue. As this year ends and a new one begins we hope that you will consider our requests so that the new year will bring us hope for a more socially equitable and economically just city. As representatives of the people and not the corporations we expect you to make decisions that will benefit the citizens even if it means less profits for those who already have too much.

As we have stated at previous meetings, we are not anti-development. What we are against is developments in the city that benefit corporations that disrupt a community and then move on to their next project. Both the developer of this project and their elected officials have told us, that what the community gains outweigh all the "adverse" problems it will inherit. Problems like an overburdened infrastructure, traffic disruption and increased congestion, poor air quality, increased noise pollution and loss of sunshine. And imbedded among these problems are gentrification and social economic segregation. Therefore we are asking that you consider the negative long-term results that we, our children, their friends, classmates and neighbors will have to live with if this project is allowed to proceed as they, the developers and their elected officials, have planned.

Gotham Developers has stated that they too will have to live with this project and that it has invested a great deal of time and money into it. I would ask, then why are you doing it? If this development will cause a negative impact on the city, the neighborhood and its residents, why do it? But we already know the answer.

The Mayor and others speak of a better future. A future where our city is green, sustainable and a future that embraces all people. Well here is an opportunity for the city to set an example for others to follow. During this difficult economic period when other high rise developments stand with vacancies, you must insist that developers consider negative long-term environmental and social economic impacts(effects).

Demand that developments will benefit the citizens and not just the corporations. Insist that the adverse impacts a community will sustain are not written off as collateral or acceptable damage.

During the 30 months of planned construction, it is expected that hundreds of trucks will pass by the school on a daily basis. The exact numbers can be found in the EIS. Just this will have an immediate adverse impact in our neighborhood. And because excavation for the site must be done during the school year, the students will be left

without a schoolyard to play in during recess. It has been suggested that we take them somewhere else. The question is where? And how do we get them there? With all those trucks coming and going throughout the day, how safe will it be?

I ask you to imagine your children having to live with this for the next three years. What will you say to them? What should I tell my children and their friends, classmates, and neighbors?

A handwritten signature in cursive script, appearing to read 'Rafael Mejia'.

RAFAEL MEJIA,

NEIGHBORHOOD RESIDENT

PARENT OF STUDENTS AT PS 51

P.S.51 "ASKS"

1. P.S. 51 would like a larger playground filled with sunlight. We would like back the entire playground. Not the Canyon described in current blueprints that is smaller in size for twice as many students.
2. P.S. 51 would like to formally request a task force with parents and school staff, local elected officials, Community Board 4, along with Gotham, School Construction Authority, and Department of Education. This task force would meet on an agreed schedule to discuss all upcoming issues of construction and problems during construction.
3. P.S.51 would like to have a temporary playground for students during construction. This playground must be available and safe before construction begins in September 2010.
4. P.S.51 would like to request a full time crossing guard during the entire time the site is under construction.
5. The current P.S.51 would like placement of air purifiers and air conditioners throughout the entire building and maintained during entire construction process.
6. The current P.S.51 would like frequent air quality studies of the school and site conducted before and during school hours during the entire time the site is under construction.
7. The current P.S. 51 requests regular studies of noise levels in school during school hours. As a community we want to make sure noise levels during construction while school is in session do not exceed EPA recommendations.
8. P.S. 51 requests that it continue to be a Pre-K thru Fifth grade elementary school after construction is completed.
9. P.S. 51 ask that a green roof for the school be taken into consideration.
10. P.S.51 asks the City of New York to take into consideration that the current P.S.51 building is over one hundred years old. P.S.51 is concerned about the impact of simultaneously building the Gotham buildings and the new school.

12-09-09

Dear City Council,

I was really thrilled when I heard from my teacher that there is going to be a new P.S. 51 very soon. I also heard that the classrooms will be really big! I have a first grade little sister who is also in this school, who also is really thrilled moving to a new school. Although I couldn't be here next year (because I am in fifth grade now), I wish my little sister will have a happy time in her next four years in the new P.S. 51. But a few weeks later after my teacher, Mrs. Perias, told us the good news, she told us the bad news.

Mrs. Perias explained to us that because the classrooms are so big, it will take up half of the playground. I thought over and over again, how could my little sister play around here in such small area? I pictured her playing soccer, squeezing and bumping into each other. Or maybe she will fall and hurt herself. The school wouldn't want a child to be injured. So please make the school yard extra bigger. Thank you!

Sincerely,

Erica Wong

December 9, 2009

Dear City Council,

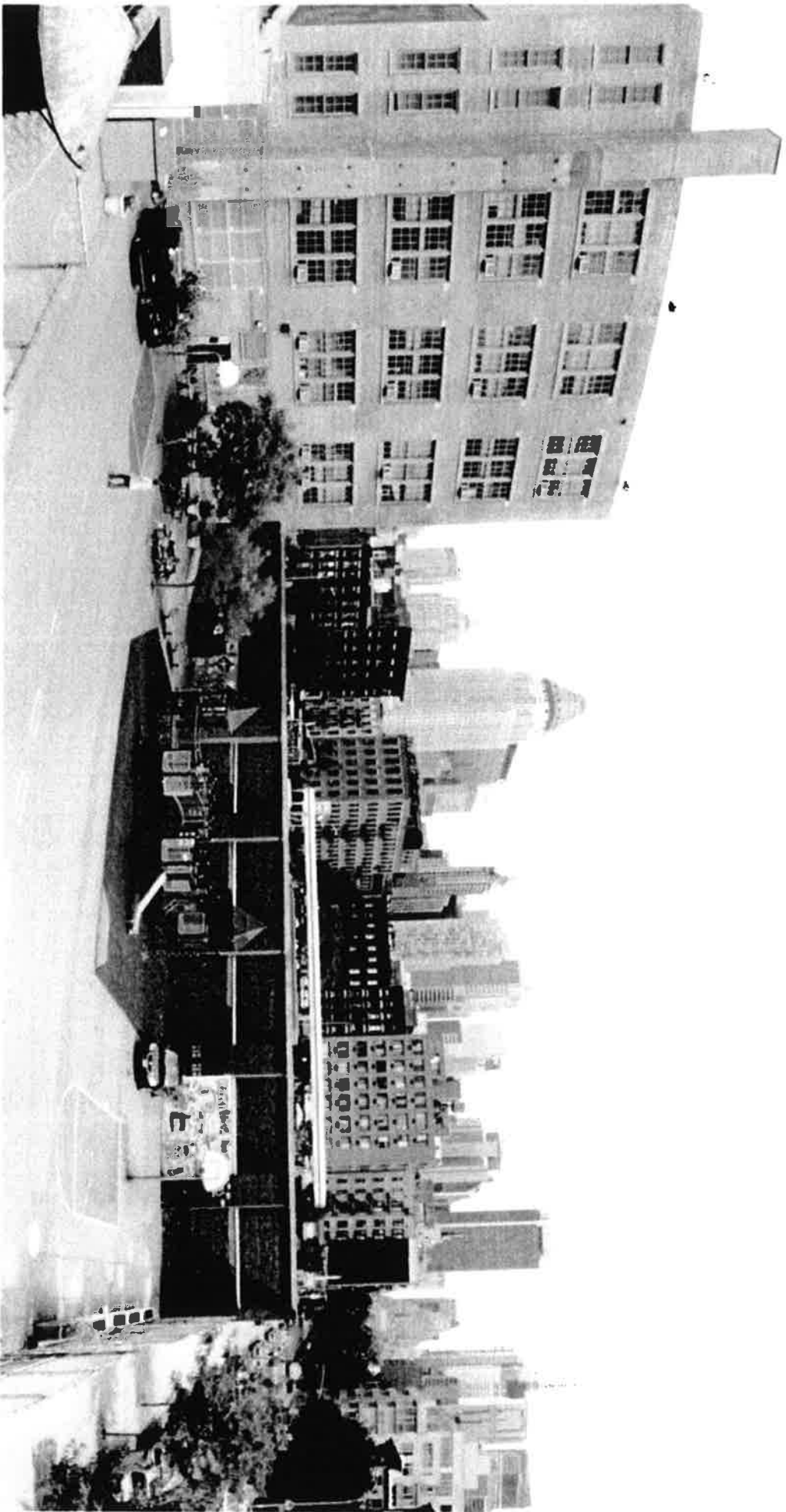
Thank you for the new school.
But we need a bigger playground
for all the students! If the playground
is small, injuries could happen often
because of the lack of space. Some
people playing different games
can run into each other.

Also there wouldn't be much
room to play. If kids were
playing soccer in a small space,
it would be too easy to score
and easier to hurt each other.
It wouldn't be a nice recess!

Would you like kids being
sent to the nurse every day?
Well if you don't, make the
playground bigger!

Well... Anyways thanks for
the new school.

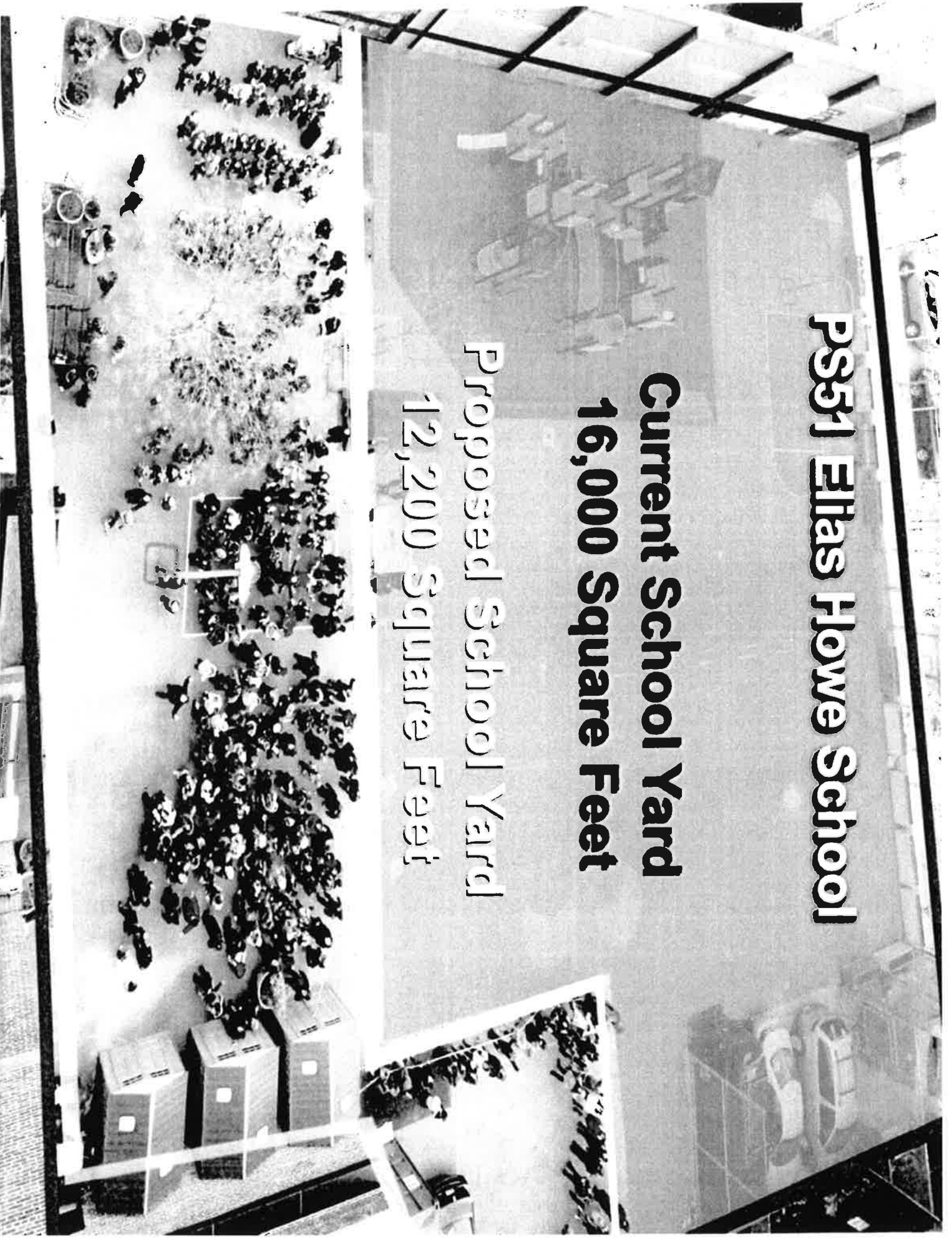
Sincerely,
Jenny Zheng



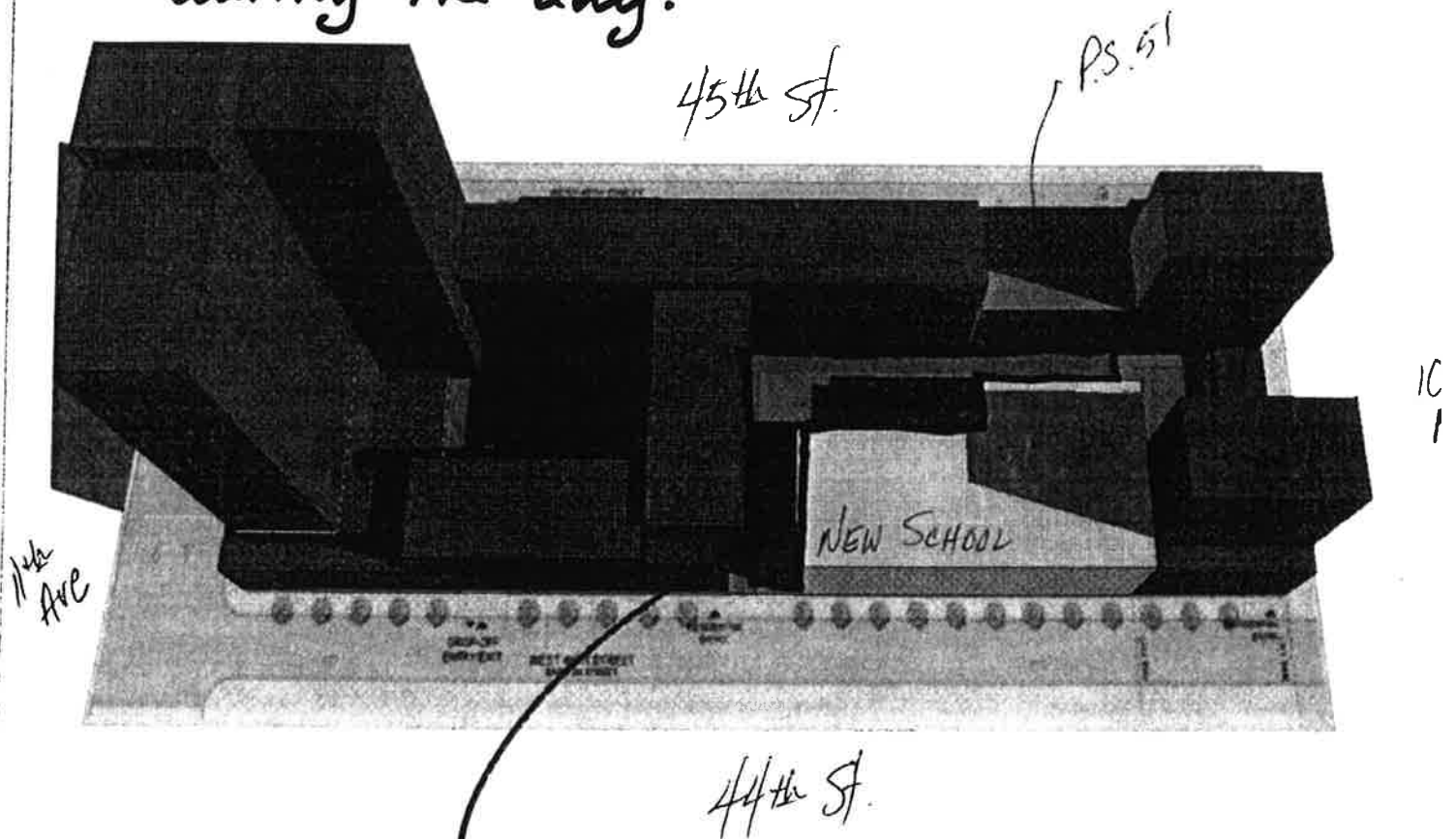
PS351 Elias Howe School

**Current School Yard
16,000 Square Feet**

**Proposed School Yard
12,200 Square Feet**

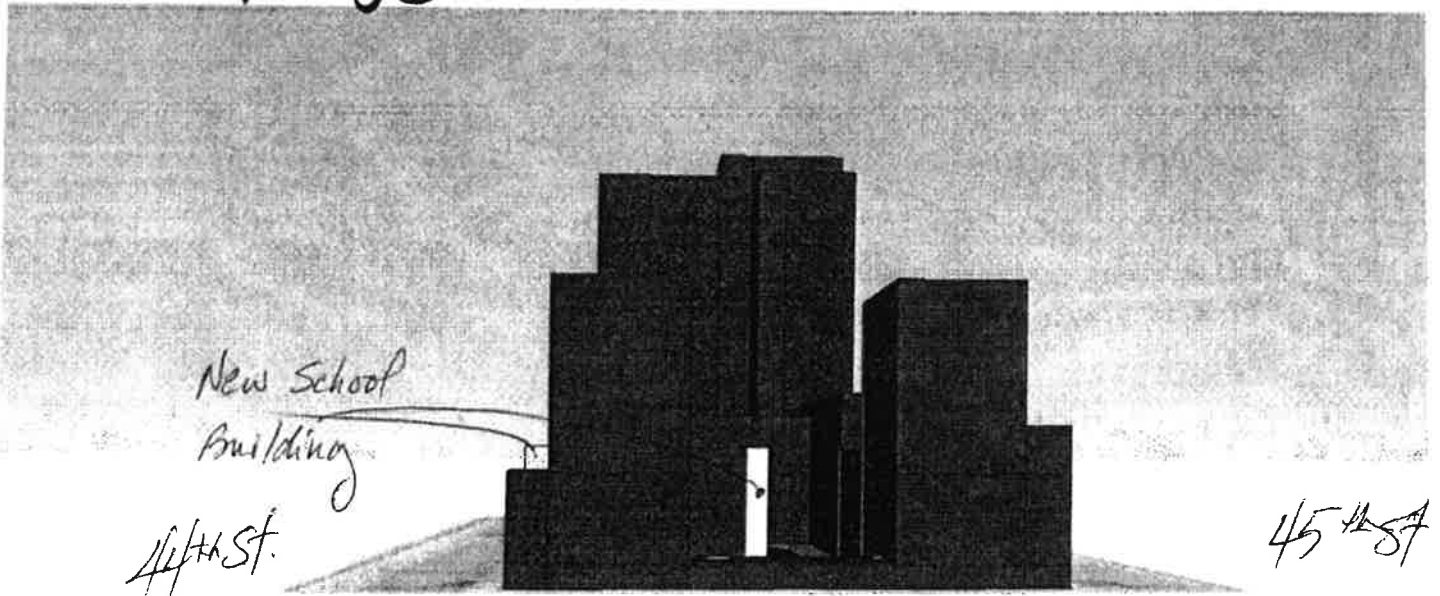


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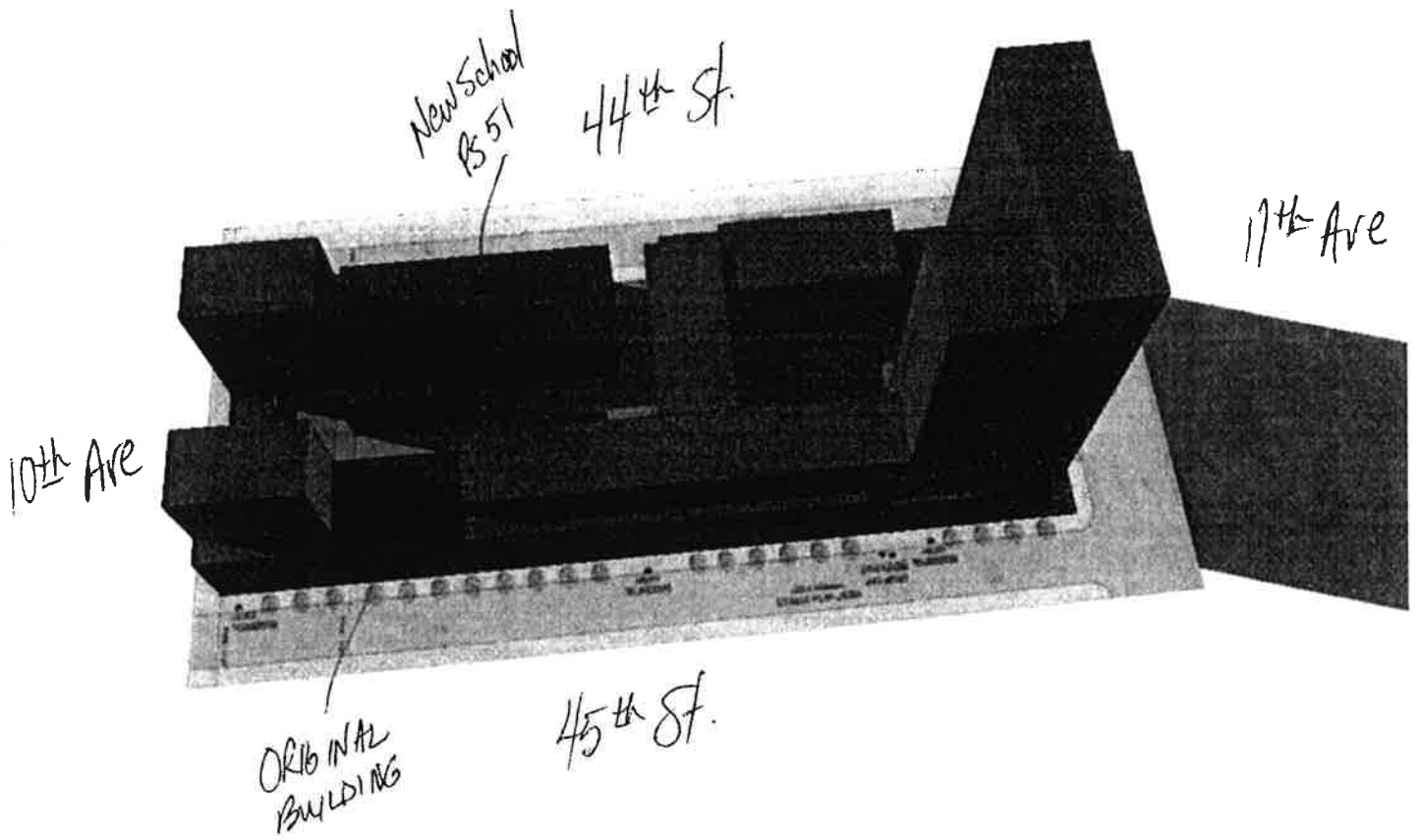


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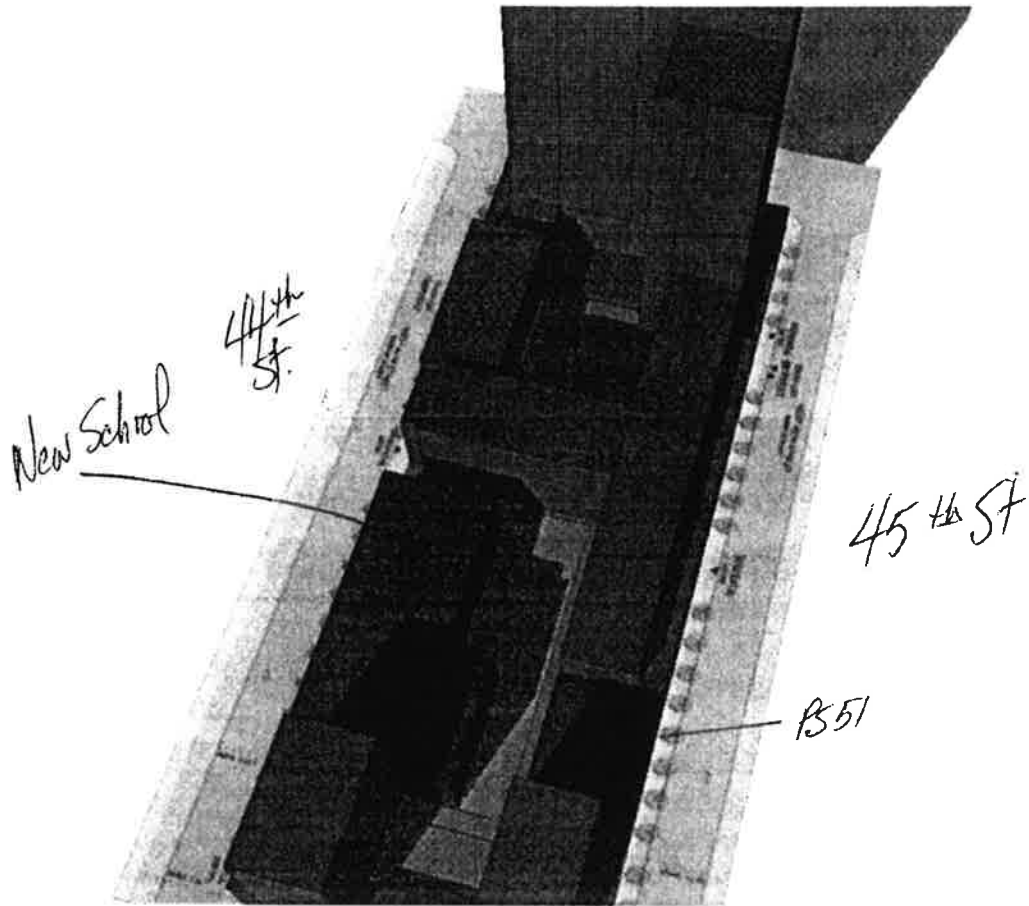
Our new school building in
the shadows, a canyon for
a playground, & no green space



10th Ave.



11th Ave



New School

44th St.

45th St

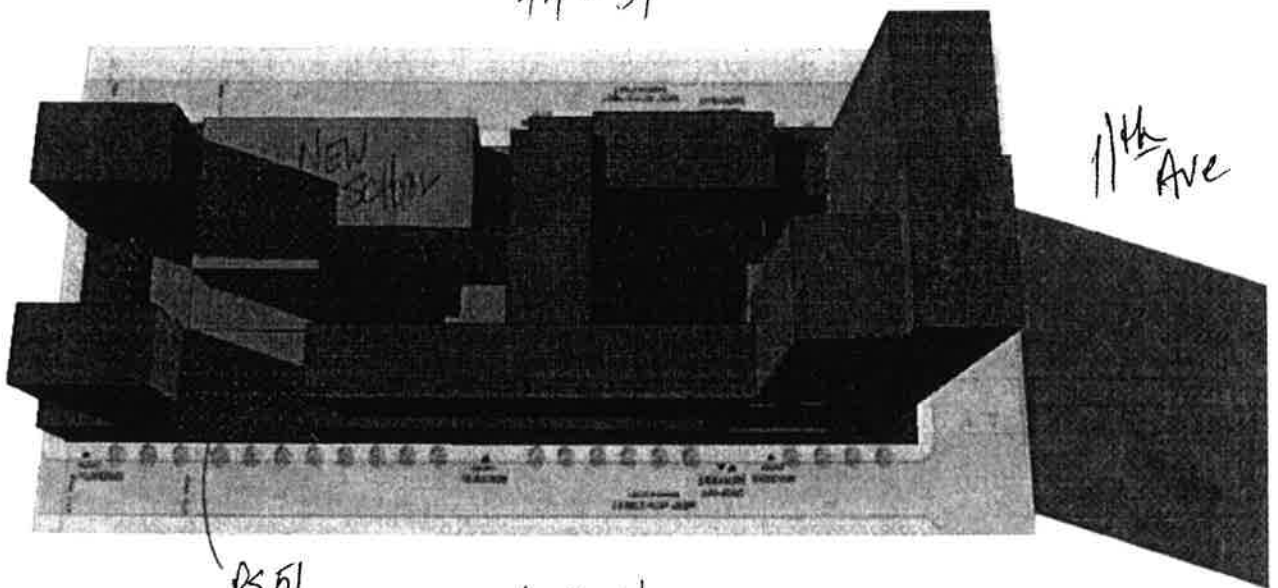
B51

10th Ave

10th
Ave

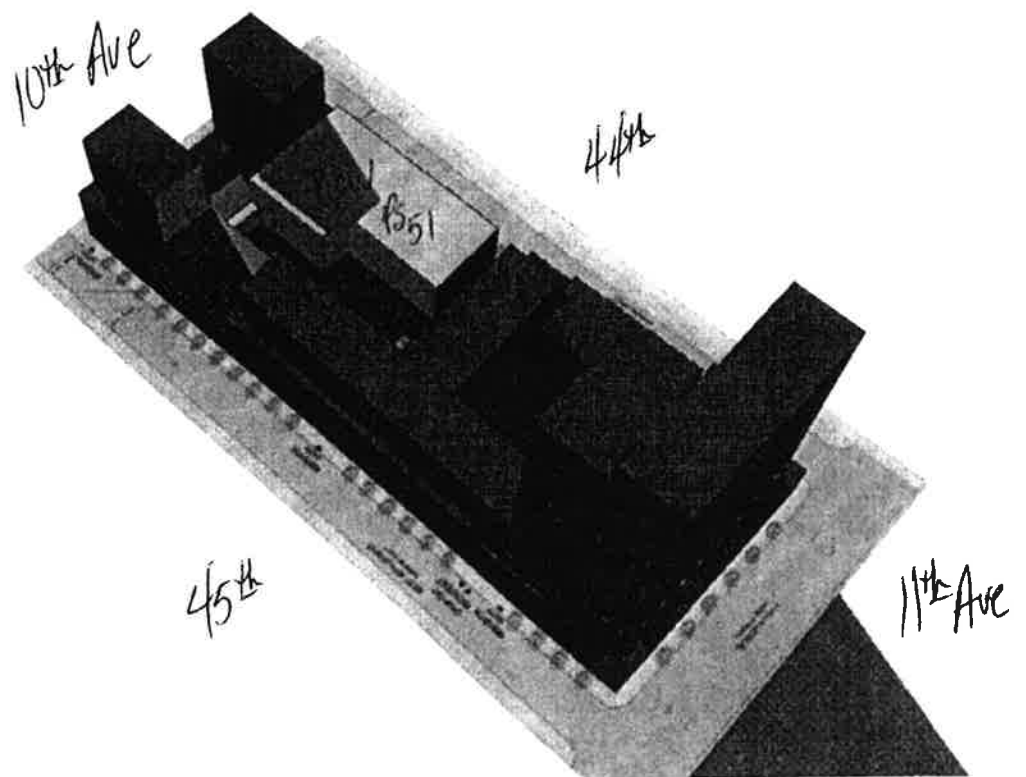
44th St.

11th
Ave

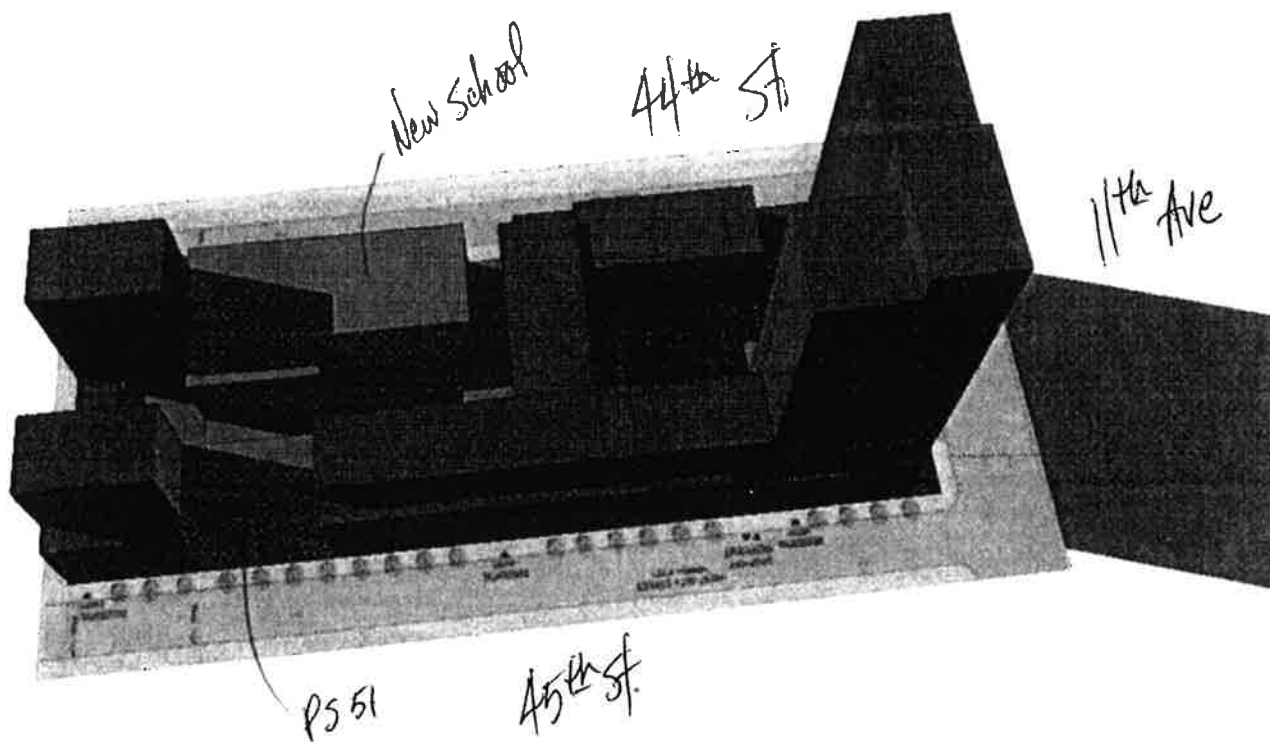


PS 51

45th St.



10th Ave



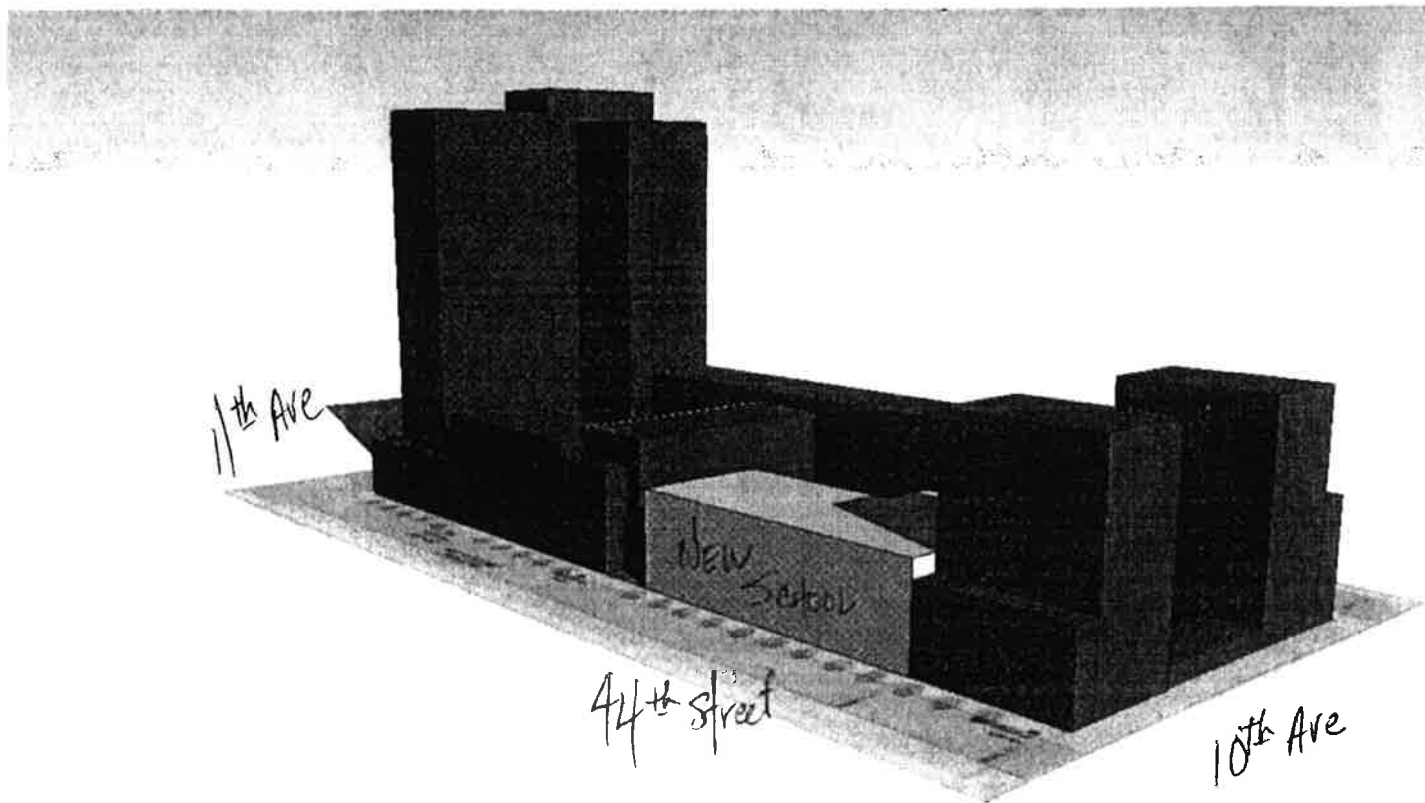
PS 51

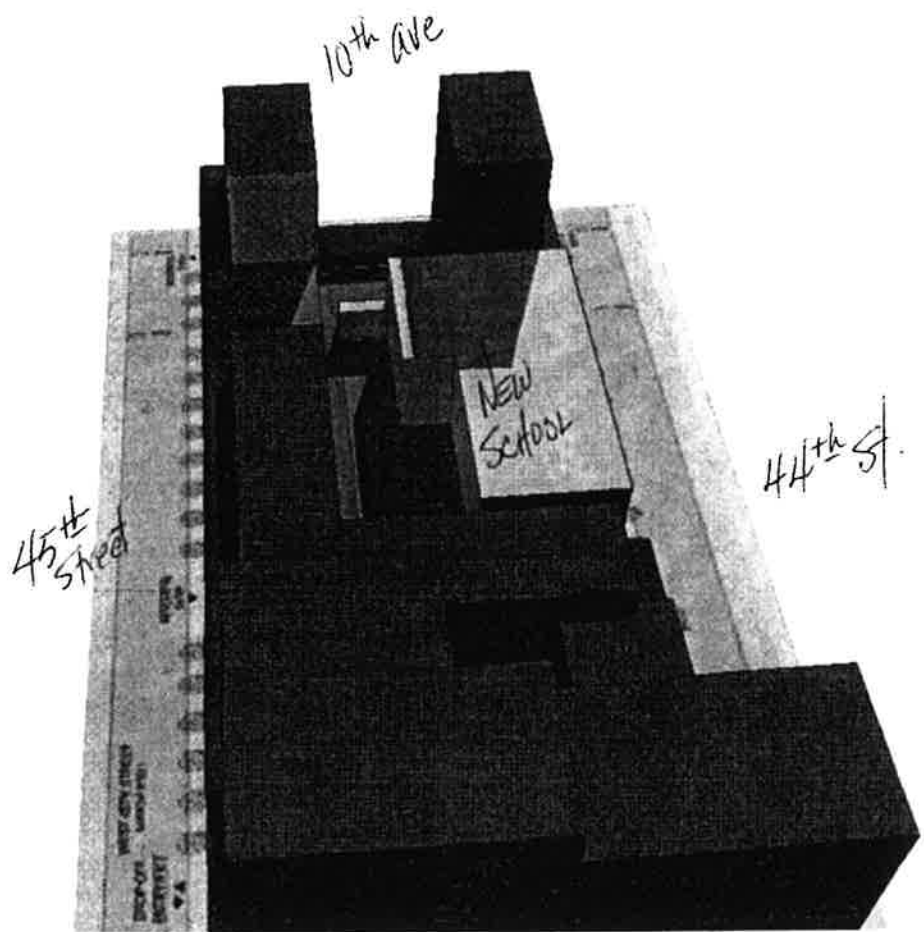
45th St

11th Ave

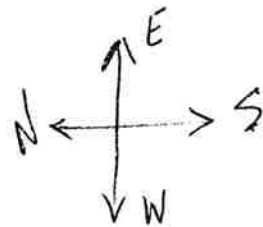
New School

44th St





11th Ave.



P.S. 51
The Elias Howe School
520 West 45th Street
New York, NY 10036
212-757-3067

September 21, 2009

Dear City Council, District 2 Council, Daria Rigney, Superintendent of District 2,
Manhattan Community Board 4, Clinton/Hell's Kitchen Land Use Committee
Gotham Organization, NYC Department of Housing Preservation and Development,
School Construction Authority, West Side Neighborhood Alliance,
John White, Office of Enrollment

Dear Friends of P.S. 51,

This letter is a summary and a response by the New School Committee to the meeting with Gotham Developers on September 3, 2009 and the Manhattan Community Board 4 Clinton/Hell's Kitchen Land Use Committee Public Forum/Meeting about P.S. 51 on September 16 where I discussed concerns from the school's perspective about issues regarding the development and construction of the new school.

From the Report by NYS Senator Tom Duane and Manhattan Community Board Four on August 11, 2009, the following data was presented at the press conference where many local politicians attended: "In the best case scenario, a planned expansion of P.S. 51 and existing capacity at P.S. 111, both of which currently serve the area, will provide seats for an additional 324 students. Unfortunately, public school enrollment will soon exceed capacity as new developments come online. In fact, by 2019, unless additional classrooms are created, 1,026 elementary school-age students will be without seats." As the West Side Neighborhood Alliance discussed in the P.S. 51 Campaign Background summary: "The school overcrowding crisis on the West Side is expected to get much worse, especially for children in grades K-5. Development projects underway in Hell's Kitchen will bring in thousands of new residents over the next decade. Within 10 years, an estimated additional over 1,000 elementary school aged children will need school seats in the area currently zoned for P.S. 51."

The planned new school has the capacity of 610 students for grades pre-kindergarten – 8th grades. If the school includes grade 6-8, it would only allow for a minimal expansion in the elementary school, where there will still be a shortage of seats due to projected population growth of elementary school aged students. The need for more Pre-K-5 seats is based on the pending residential construction in the P.S. 51 catchment area, which extends from 34th Street to 48th Street between 5th-12th Avenues. Therefore P.S. 51 is requesting that the new school be solely a Pre-K – 5th grade school to expand the number of elementary school seats that will be needed in the future given all the planned residential construction that is taking place in the next few years.

During the September 3, 2009 meeting with Gotham Developers and HPD, the New School Committee expressed concerns over the size and location of the playground. We made three different requests to expand the proposed playground. For the first request, to extend the playground over the railroad cut between the two buildings, Gotham stated in the P.S. 51 New School Committee – Meeting Minutes that this request would not be possible because of required residential open space per zoning regulations. Is not Gotham requesting zoning regulations to be changed in order to provide P.S. 51 a smaller school yard than current zoning regulations require? We feel that the modification in zoning regulations that would allow P.S. 51 to have a smaller playground should not be permitted.

In the second request to reduce the space buffer around between the residential buildings and the school playground, Gotham had the following post meeting note: Gotham consulted its architects and zone counsel to determine if the second request was feasible. They state that the change is not possible for several reasons: (i) it would be a change to the ULURP application which is not possible at this juncture; (ii) a portion of the buffer space is required to meet residential open space requirements on-site (iii) reducing the buffer to under 12 feet would create bad conditions within the apartments themselves where living and bedroom windows face the playground. However, Gotham is willing to locate landscaping and fence on the residential side of the buffer, creating the maximum amount of accessible/open space within the playground itself. How much space would this add to the playground?

In the third request to expand the playground, Members of the New School Committee asked whether it would be possible to expand the playground to the site area where the existing school currently sits, leaving only the building's façade intact. Gotham explained that a building eligible for designation as a State Historic site requires that the entire structure remain standing and would not allow the façade only to remain.

Is there not a way to expand the proposed school yard given the fact that we are still in the planning phase of the project? The proposed school yard will be much smaller than the current school yard, although our school population will be about twice the size as our current school population. The school yard will also be in shadows. It will be enveloped by buildings that will block out light from the yard.

P.S. 51 is also extremely concerned about the health and safety of the school community when the construction takes place. During our meeting with Gotham Developers on September 3, 2009 and the CB4 Public Hearing on September 16, the school agreed that construction of the new residential buildings and new school would be disruptive to the current school community. At the September 3 meeting, Gotham and the New School Committee agreed to form a task force including members of the school community, Gotham's development and construction teams, the School Construction Authority, representatives of Community Board 4 and HPD, which would meet regularly before and during construction.

The school would like Gotham to provide a 30-day construction look-ahead stating what anticipated construction activities would take place each month once construction begins.

Gotham offered to set up a telephone hotline and email address for the school and neighborhood community to provide everyone with a set communication mechanism.

P.S. 51 would like Gotham, SCA, with representatives from CB4, HPD and the school to come up with a site safety plan since we would, in essence, be living in a construction site, for the entire school day for the duration of the project, which will take 3 years to complete. We need to have a plan in place before any ground is broken about dealing with the dust, noise and possible ground contamination that construction would involve.

Before construction begins, we need air conditioners and air purifiers in each room, including the cafeteria, to keep our school environmentally safe for children and staff.

During the construction, where will the students play during recess for three years? A safe playground needs to be located for the duration of the school construction.

We look forward to working together with Gotham Developers, School Construction Authority, HPD, CB4, local politicians, and community organizers to have a state of the arts school building with a cafeteria, auditorium, gymnasiums, outdoor terrace, playground as well as the other amenities that schools have in the 21st century.

Sincerely,

Nancy Sing-Bock

Nancy Sing-Bock
Principal of P.S. 51

Julie Symanski
School Leadership Team

W. Lepi auto
P.T.A. Executive Bd.

New School Committee

P.S. 51
The Elias Howe School
520 West 45th Street
New York, NY 10036
212-757-3067

December 11, 2009

Dear City Council,

P.S. 51 is very happy about the new school we will have in the near future. However, we have some concerns as a school community that we would like to let the City Council know about as you vote on the present proposal for the P.S. 51 site.

From the Report by NYS Senator Tom Duane and Manhattan Community Board Four on August 11, 2009, the following data was presented at the press conference where many local politicians attended: "In the best case scenario, a planned expansion of P.S. 51 and existing capacity at P.S. 111, both of which currently serve the area, will provide seats for an additional 324 students. Unfortunately, public school enrollment will soon exceed capacity as new developments come online. In fact, by 2019, unless additional classrooms are created, 1,026 elementary school-age students will be without seats." As the West Side Neighborhood Alliance discussed in the P.S. 51 Campaign Background summary: "The school overcrowding crisis on the West Side is expected to get much worse, especially for children in grades K-5. Development projects underway in Hell's Kitchen will bring in thousands of new residents over the next decade. Within 10 years, an estimated additional over 1,000 elementary school aged children will need school seats in the area currently zoned for P.S. 51."

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We look forward to working together with Gotham Developers, School Construction Authority, HPD, CB4, local politicians, and community organizers to have a state of the arts school building with a cafeteria, auditorium, gymnasiums, outdoor terrace, playground as well as the other amenities that schools have in the 21st century.

Thank you for listening and valuing the concerns and issues of the P.S. 51 school community as we go forward with the ULURP Process. We are very excited about the new school we will have in the near future.

Sincerely,

Nancy Sing-Bock
Principal of P.S. 51

Nancy Sing-Bock

School Leadership Team

Dana Maloney

P.T.A. Executive Bd.

Martha Savage

New School Committee

Shelley Grant

Jon Erika

Testimony for City Planning Commission
Hearing About the West 44th Street/ 11th Avenue
Site, Nos. 14, 15, 16, 17 & 18
December 2, 2009

From:
P.S. 51 New School Committee
Nancy Sing-Bock
Rafael Mejia
Shelly Grant
Katherine Consuelo-Johnson
Marlie Buehler
P.S. 51 Students

12-09-09

Dear City Council,

I was really thrilled when I heard from my teacher that there is going to be a new P.S. 51 very soon. I also heard that the classrooms will be really big! I have a first grade little sister who is also in this school, who also is really thrilled moving to a new school. Although I couldn't be here next year (because I am in fifth grade now), I wish my little sister will have a happy time in her next four years in the new P.S. 51. But a few weeks later after my teacher, Mrs. Perlas, told us the good news, she told us the bad news.

Mrs. Perlas explained to us that because the classrooms are so big, it will take up half of the playground. I thought over and over again, how could my little sister play around here in such small area? I pictured her playing soccer, squeezing and bumping into each other. Or maybe she will fall and hurt herself. The school wouldn't want a child to be injured. So please make the school yard extra bigger. Thank you!

Sincerely,

Erica Wong

December 9, 2009

Dear City Council,

Thank you for the new school.
But we need a bigger playground
for all the students! If the playground
is small, injuries could happen often
because of the lack of space. Some
people playing different games
can run into each other.

Also there wouldn't be much
room to play. If kids were
playing soccer in a small space,
it would be too easy to score
and easier to hurt each other.
It wouldn't be a nice recess!

Would you like kids being
sent to the nurse every day?
Well if you don't, make the
playground bigger!
Well... Anyways thanks for
the new school.

Sincerely,
Jenny Zheng

December 2004

Dear City Council Members,

My name is Lesh Johnson and I

am in 3rd grade at P.S. 51. We

would love to have a bigger

school but I hope it

includes a gym! But I don't

like that the playground

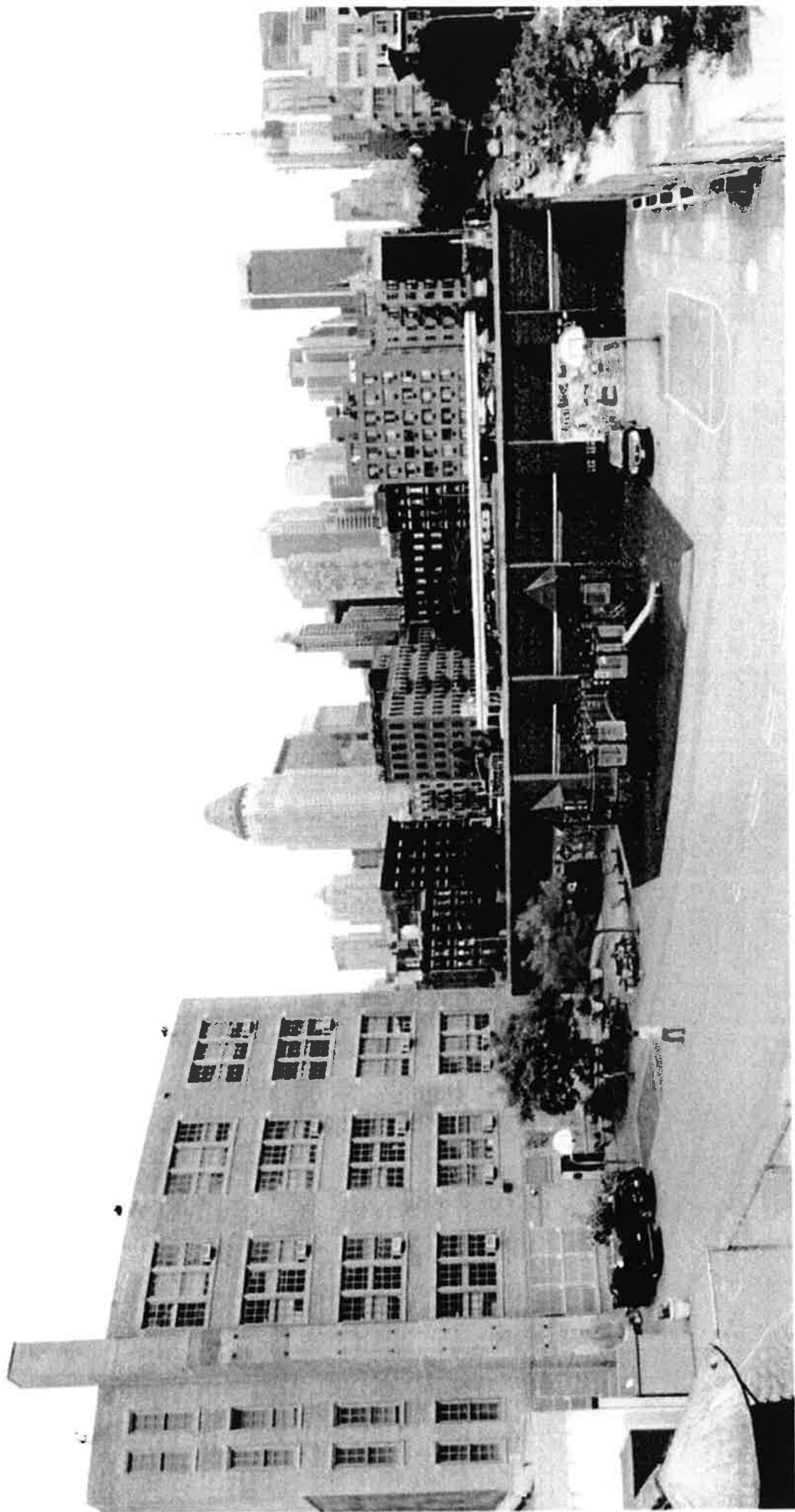
is going to be so small and

small. If we have more kids

we need a bigger playground.

Love

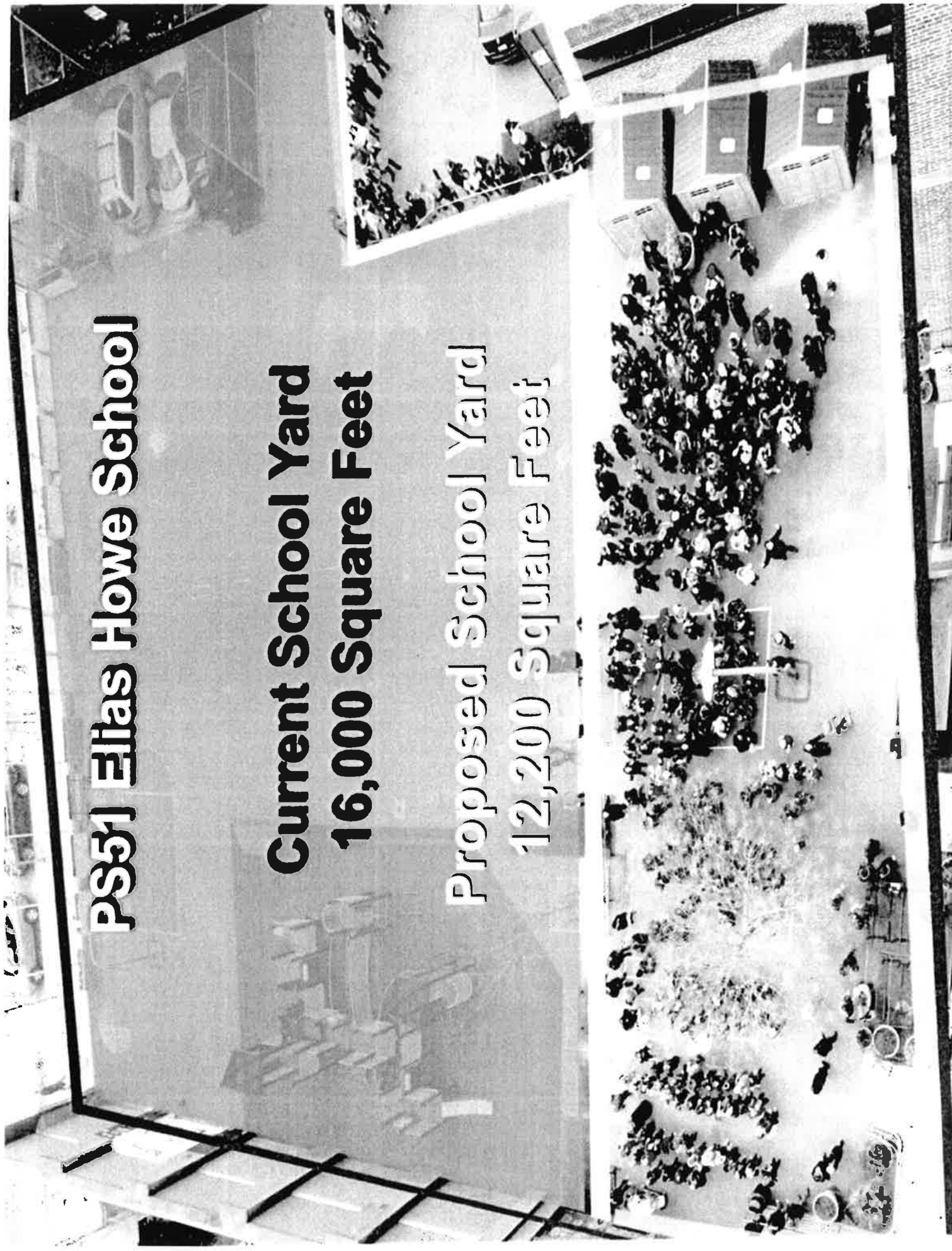
Lesh Johnson
P.S. 51



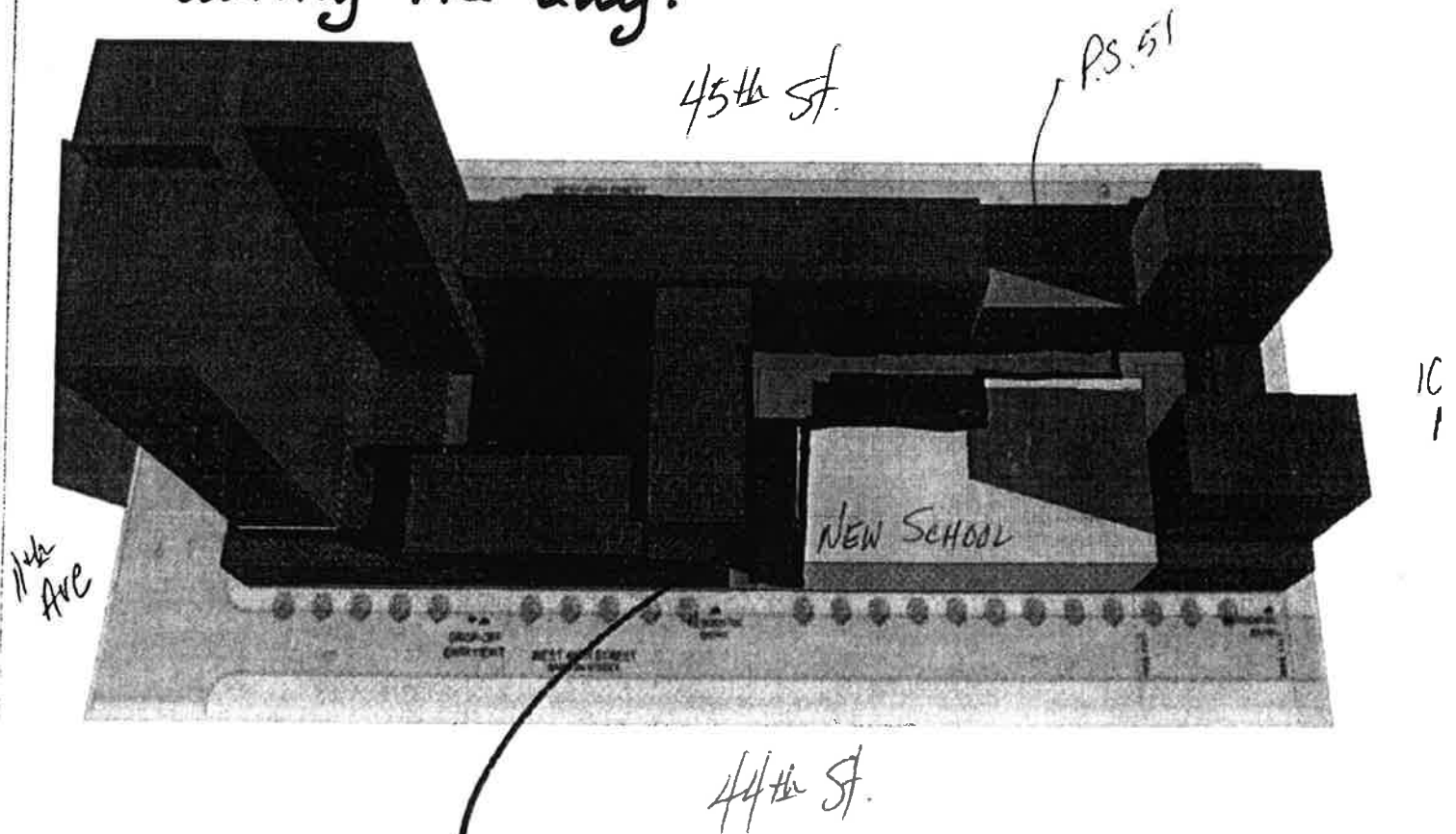
PS51 Elias Howe School

**Current School Yard
16,000 Square Feet**

**Proposed School Yard
12,200 Square Feet**

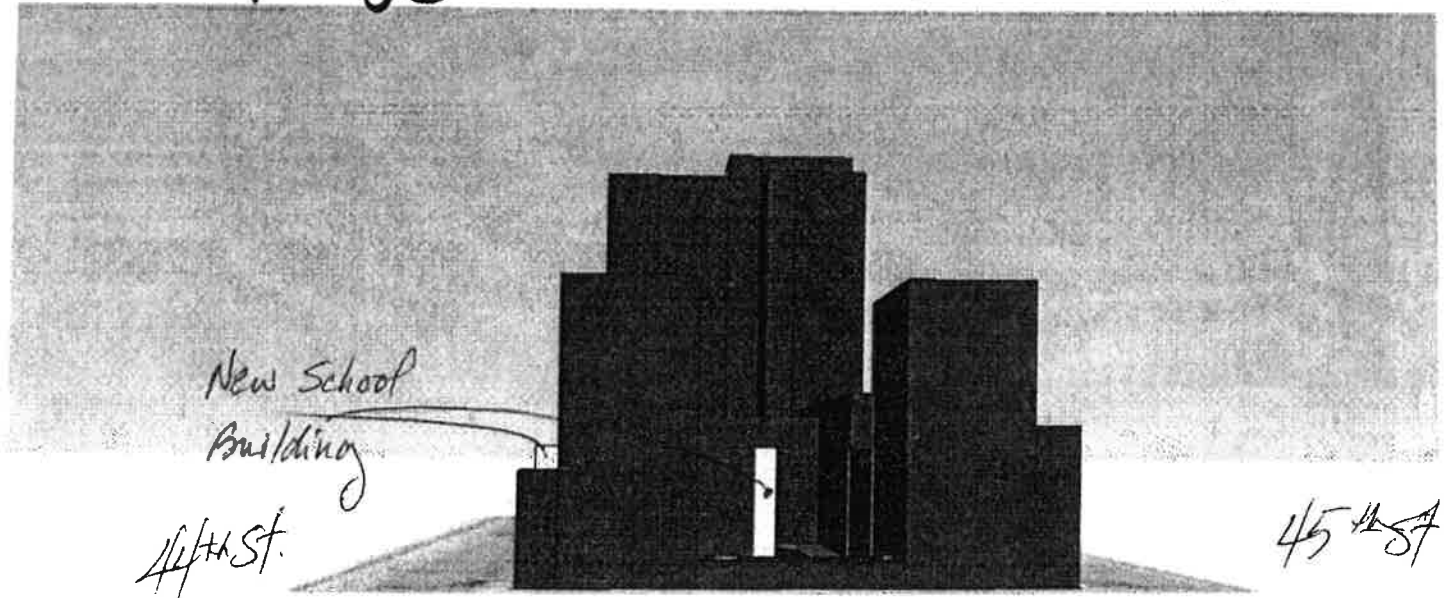


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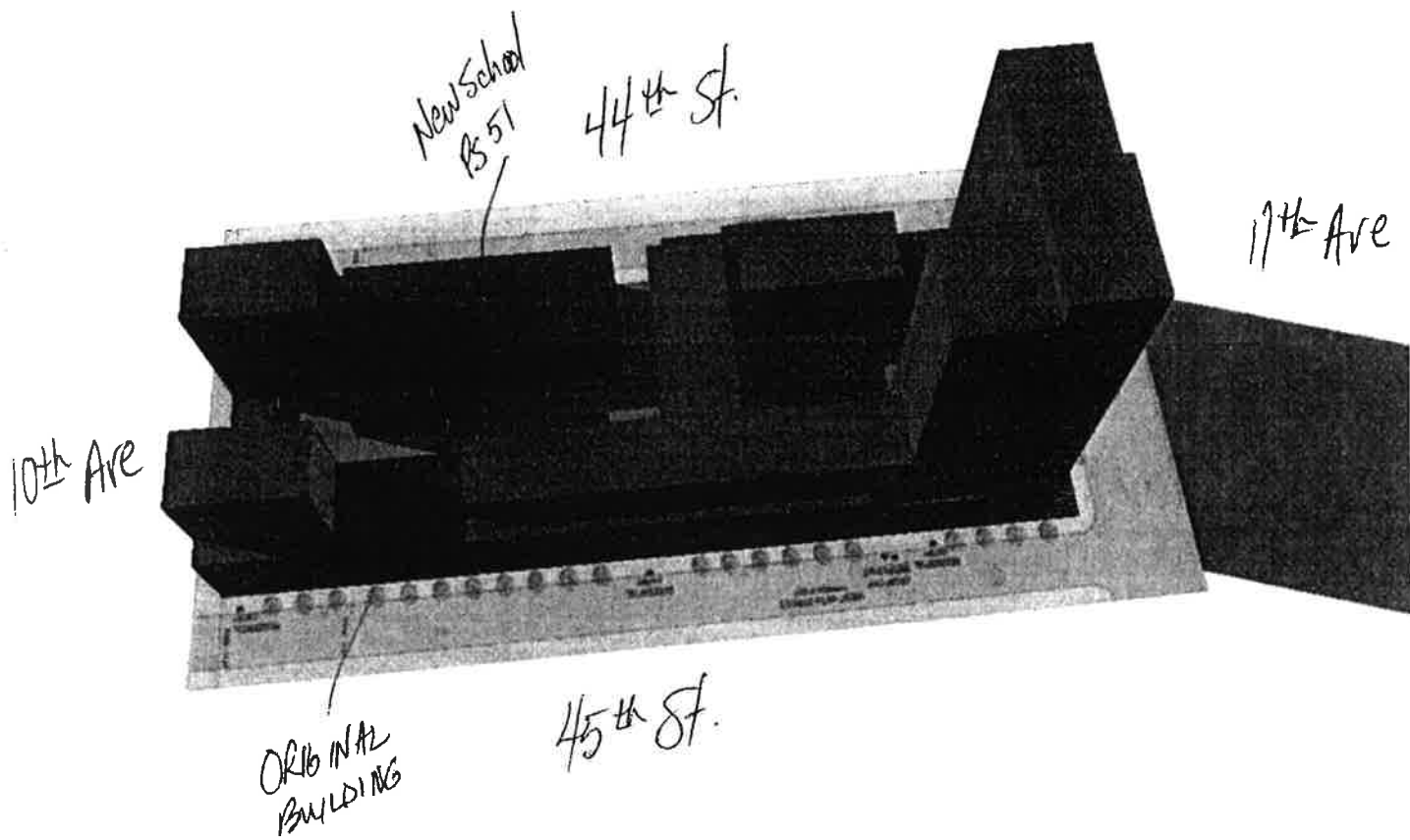


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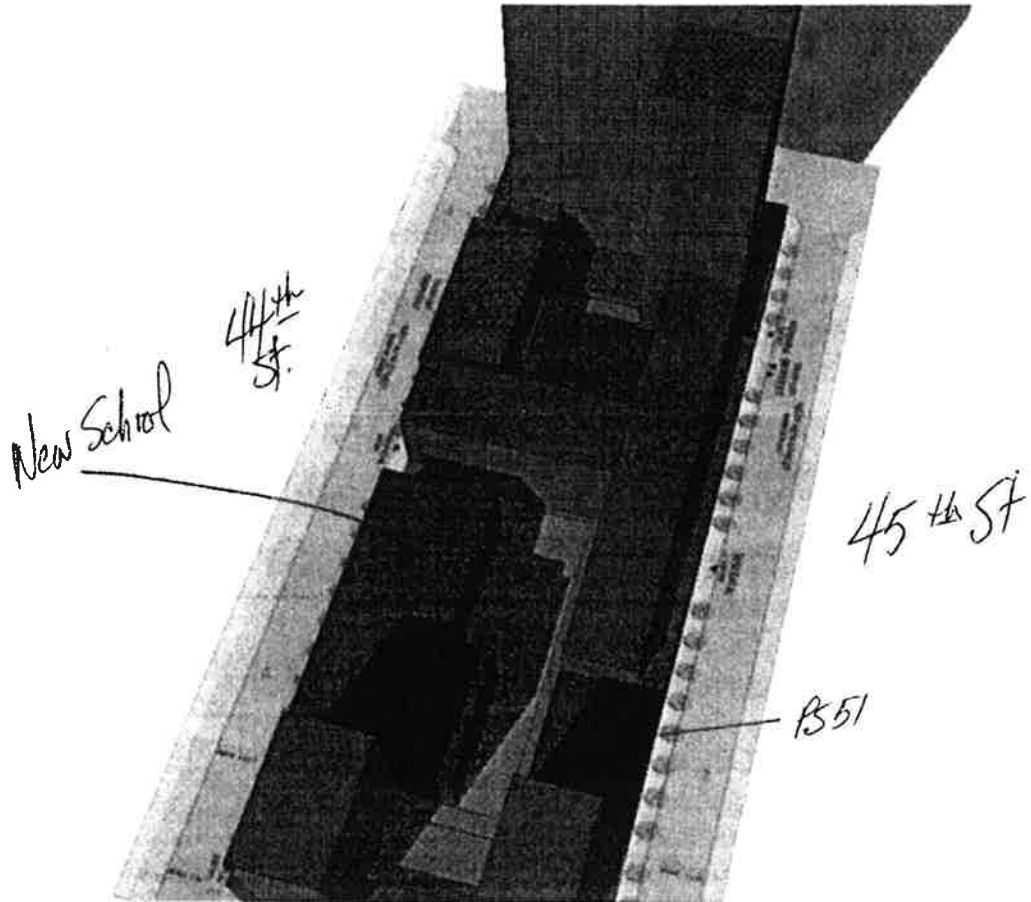
Our new school building in
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10th Ave.



11th Ave

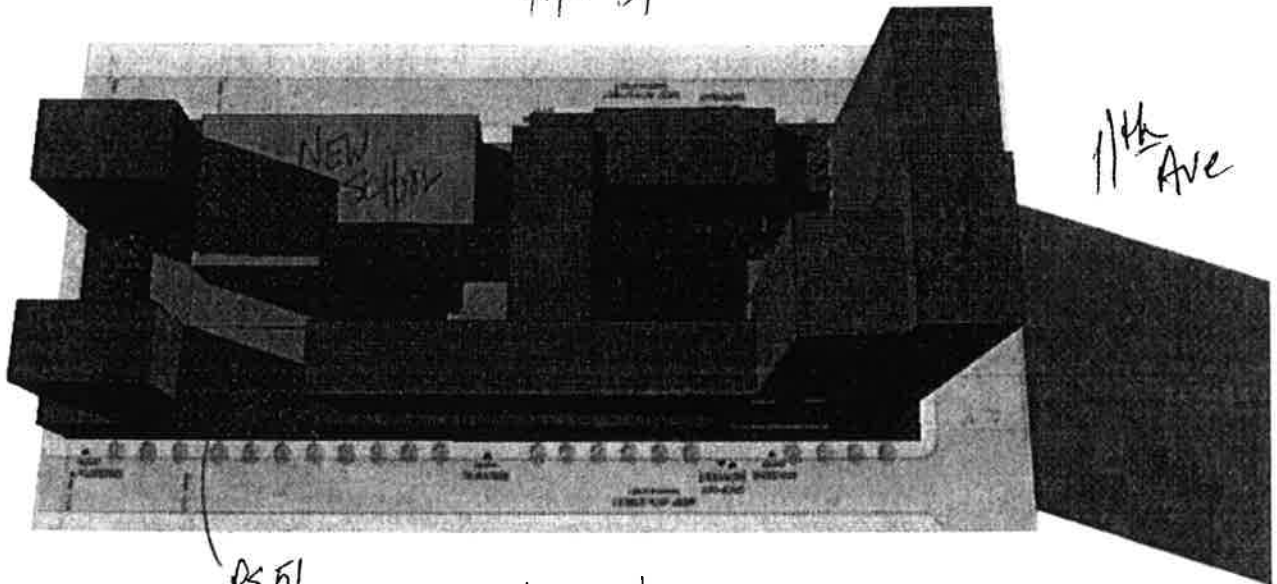


10th Ave

44th St.

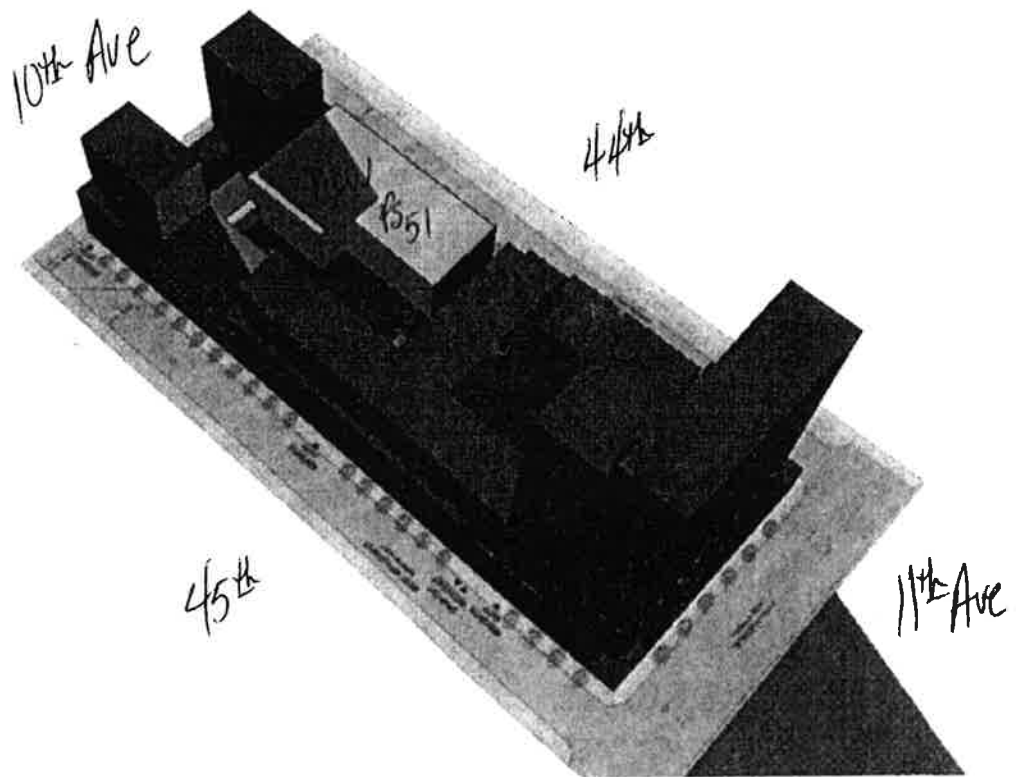
10th Ave

11th Ave

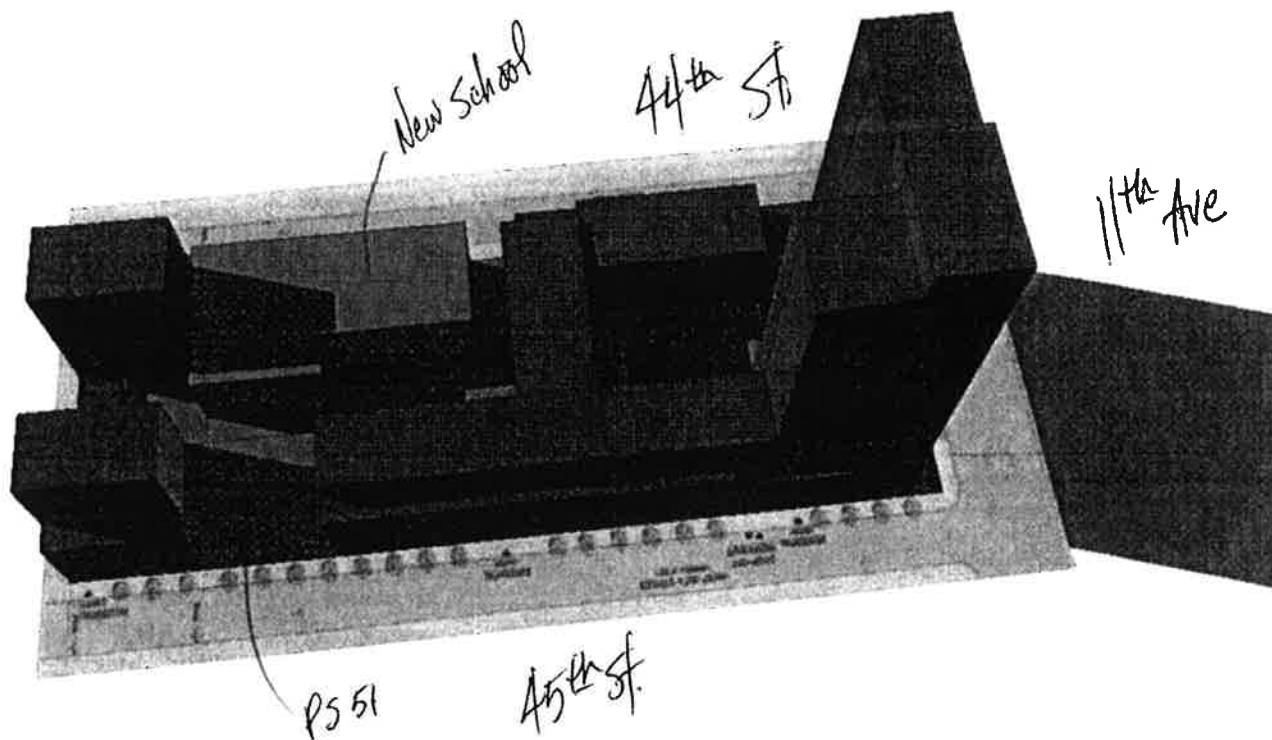


PS 51

45th St.



10th Ave



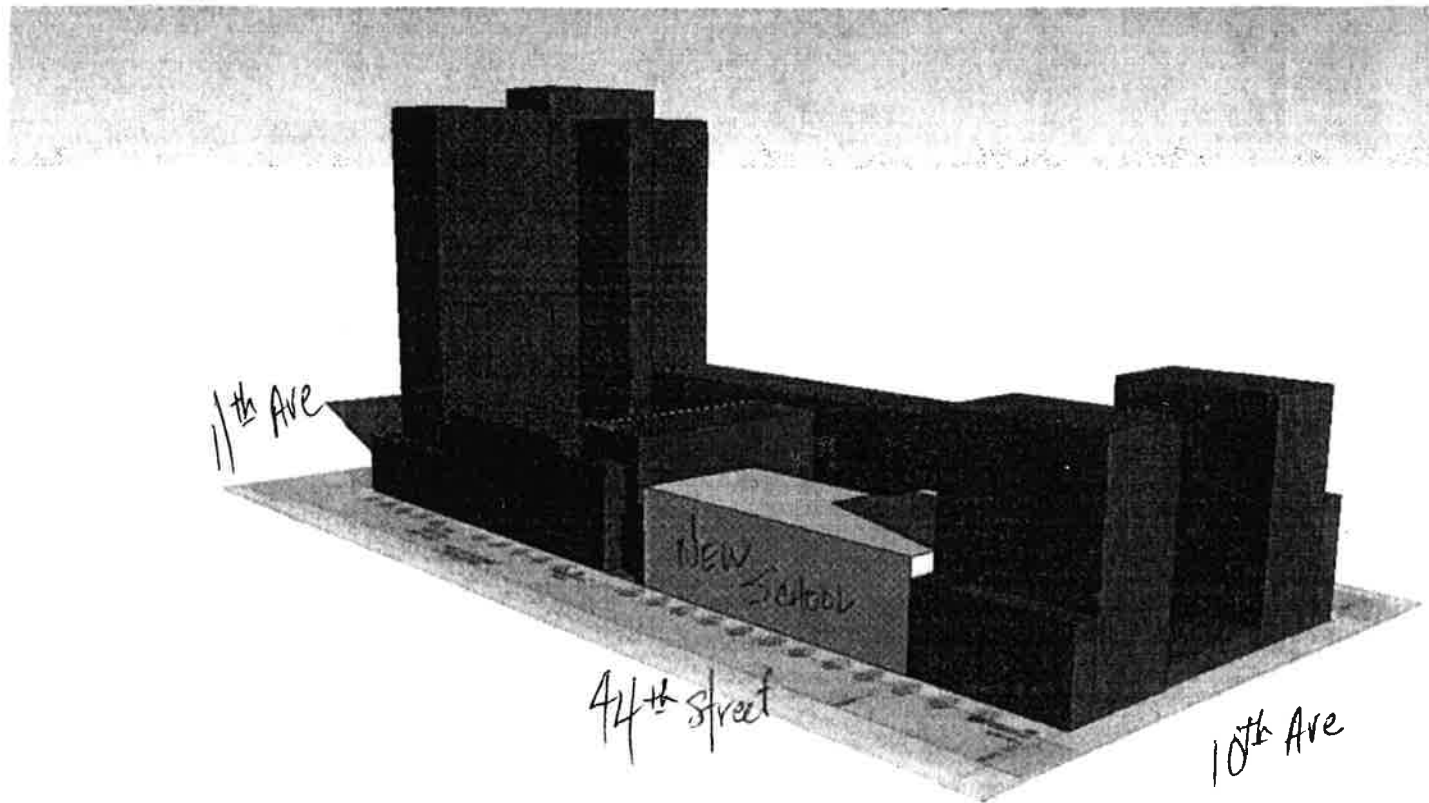
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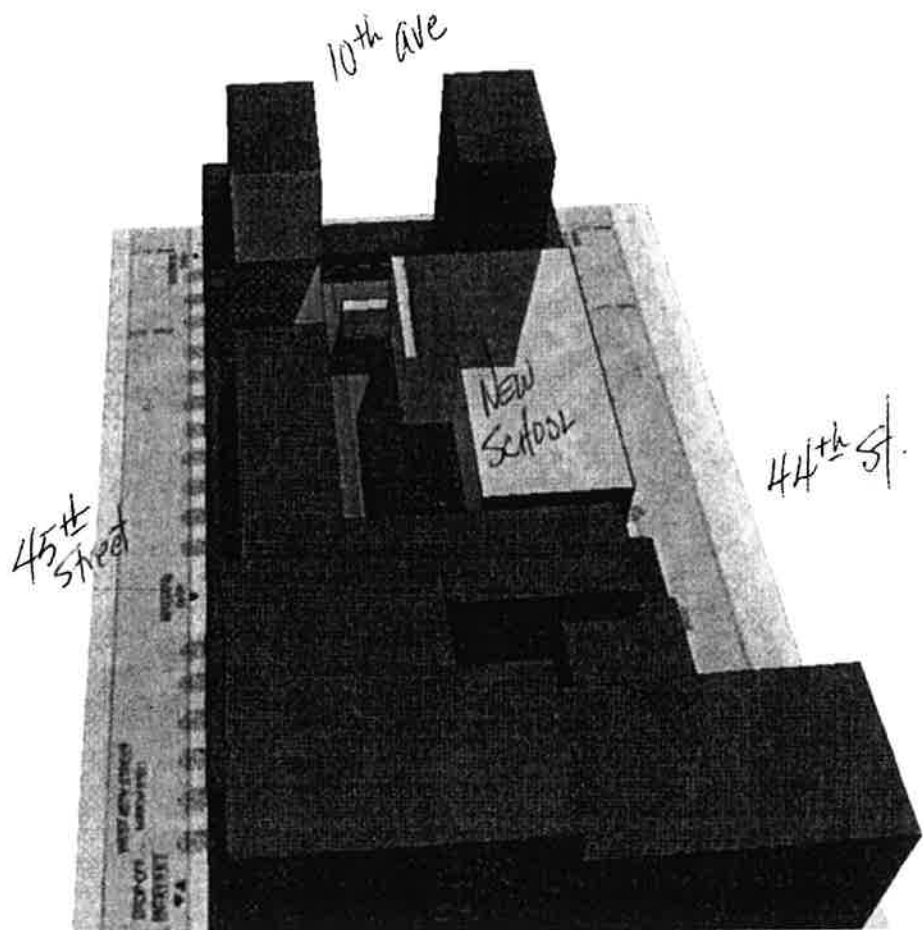
45th St

44th St

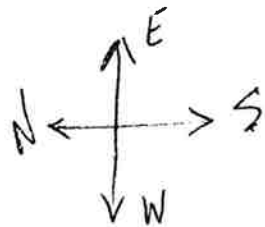
11th Ave

New School





11th Ave.



1 1

2 THE CITY OF NEW YORK

3 CITY PLANNING COMMISSION

4 -----X
ULURP PUBLIC HEARING

5 RE: WEST 44TH STREET/ELEVENTH AVENUE

6 Nos. 14, 15, 16, 17 & 18

7 (CD 4 C 100051 ZMM)

8 -----X
22 Reade Street
9 Spector Hall
New York, New York

10

11 December 2, 2009
10:45 a.m.

12

13

14

15 B e f o r e:

16

17

18

19 AMANDA M. BURDEN,

20 The Chair

21

22

23

24

25

212-840-1167 _____ ROY ALLEN & ASSOCIATES, INC.,
100 Church Street, 8th floor, New York, New York 10007
626 RXR Plaza, Uniondale, New York 11556

1

2

2 A P P E A R A N C E S:

3 New York City Department of
City Planning Commissioners in attendance:

4

Angel a M. Burden, the Chair

5

Kenneth J. Knuckles, Vice Chairman

6

Angel a M Battaglia

7

Rayann Besser

8

Irwin G. Cantor

9

Alfred C. Cerullo, III

10

Betty Y. Chen

11

Maria M. Del Toro

12

Richard W. Eaddy

13

Nathan Leventhal

14

Anna Levin

15

Shirley A. McRae

16

Karen A. Phillips

17

18 Yvette V. Gruel, Calendar Officer

19 Other City Planning Staff

20

ALSO PRESENT:

21

The Public

22

The Press

23

The Media

24

Kari L. Reed

25

Reporter

212-840-1167 _____ ROY ALLEN & ASSOCIATES, INC.,

100 Church Street, 8th floor, New York, New York 10007

626 RXR Plaza, Uni ondal e, New York 11556

1

3

INDEX OF SPEAKERS

SPEAKER	PAGE
Shampa Chanda.....	6
Housing Preservation and Development	
Melissa Panko.....	11
Gotham Developers	
Kenrick Ou.....	35
School Construction Authority	
Robert Davis.....	50
Gotham's Land use counsel	
Gloria Glas.....	51
Chris Calvert.....	52
AKRF, Inc.	
Eilan Chi u.....	53
HPD	
Elisa Gerontianos.....	54
CB 4	
Sarah Desmond.....	59
CB 4	
Jean Daniel Nolan.....	63
CB 4	
Joe Restucci a.....	65
CB 4	
Rafael Mejia, teacher, P. S. 51.....	70

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100 Church Street, 8th floor, New York, New York 10007

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3	SPEAKER	PAGE
4	Lucas Shapiro.....	73
5	Shelley Grant.....	77
6	Mary Ann Savage.....	80
7	PTA President, P.S. 51	
8	Katherine Consuelo Johnson.....	83
9	Anthony Borelli.....	86
10	For Manhattan Borough	
11	President Scott Stringer	
12	Seth Robert Berliner.....	88
13	For State Senator Thomas K. Duane	
14	Kathleen Treat.....	92
15	Chair, Hell's Kitchen	
16	Neighborhood Association	
17	Marlie Buelier.....	94
18		
19		
20		
21		
22		
23		
24		
25		

_____ ROY ALLEN & ASSOCIATES, INC.,
 212-840-1167 _____ 100 Church Street, 8th floor, New York, New York 10007
 626 RXR Plaza, Uniondale, New York 11556

5 Calendar number 14, CD 4, C 100051
6 ZMM;
7 Calendar number 15, N 100052 ZRM;
8 Calendar number 16, C 100053 ZSM;
9 Calendar number 17, C 100054 ZSM;
10 Calendar number 18, C 100055 HAM; a
11 public hearing in the matter of the applications
12 for amendments to the zoning map and the zoning
13 resolution for the granting of a special permit and
14 for the ULURP designation and disposition of
15 property to facilitate the development of mixed use
16 buildings tentatively known as West 44th Street and
17 Eleventh Avenue.
18 Notice: A public hearing is also
19 being held by the Department of Housing
20 Preservation and Development in conjunction with
21 the above ULURP hearings to receive comments
22 related to the Draft Environmental Impact
23 Statement. This hearing is being held pursuant to
24 the State Environment Quality Review Act and the
25 City Environmental Quality Review.

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100 Church Street, 8th floor, New York, New York 10007
626 RXR Plaza, Uniondale, New York 11556

1
2 THE CHAIR: Let's just get the
3 drawings set up. So the first speaker is Shampa
4 Chanda.
5 MS. CHANDA: Good morning, Madam

6 Chairman Burden and Commissioners. I am pleased to
7 be here this morning to present our rezoning
8 proposal of the nearly four block site located in
9 the Clinton neighborhood of Manhattan.

10 The Department of Housing
11 Preservation and Development remains on track to
12 create and preserve 165,000 units of affordable
13 housing under the new housing market based plan by
14 2014, and by doing so making New York a more
15 affordable city for all its residents. To date we
16 have completed or started work on more than 94,000
17 homes. This project falls into that number, and we
18 are looking forward to moving along on this
19 project. It has been a while for us to come this
20 far.

21 The subject parcel is located
22 between West 44th and West 45th Street between
23 Tenth and Eleventh Avenues. The development
24 program of this site has undergone several changes
25 over time as programmatic needs of the various

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100 Church Street, 8th floor, New York, New York 10007
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1 7
2 stakeholders has evolved. It started back in 1975
3 when the City had assembled and acquired the site
4 for the purpose of creating a mixed used
5 development by the educational construction fund,
6 which was going to include a replacement school
7 facility.

8 Subsequently in 1999, the sponsor
 9 was awarded the site to the New York City's
 10 Economic Development Corporation RFP proposal to
 11 facilitate development of a television studio. An
 12 application for the disposition for a portion of
 13 this site was approved by the City Planning
 14 Commission. However, the project did not proceed
 15 amidst community opposition.

16 In January 2005 until then, as the
 17 committee knows, there wasn't any activity on this
 18 site until 2005 when the site was identified as an
 19 affordable housing site as part of the Hudson Yards
 20 points of agreement. And in the points of
 21 agreement with the City Council, city
 22 administration agreed to identify this site as
 23 affordable housing with conditions that there be a
 24 floor area limit placed on this site of 8.54 FAR,
 25 that at the minimum 600 units of permanent

212-840-1167 _____ ROY ALLEN & ASSOCIATES, INC.,
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1 8
 2 affordable housing be provided specific to income
 3 targets between 60 percent of area median income up
 4 to 165 percent of area median income, and create a
 5 city-wide affordable housing fund of up to \$45
 6 million for the development of moderate to middle
 7 income housing in the Hudson Yards area and
 8 city-wide, and a portion of this fund will also be

9 used towards the construction of or renovation of
10 the P.S. 51 school which is located on this site.

11 Following the points of agreement,
12 Gotham Organization was designated to develop this
13 site. Since that time Gotham has served at the
14 city's site developer and has been working with
15 HPD, Department of City Planning, School
16 Construction Authority, Department of Education,
17 Community Board 4 and City Council on the
18 development of this plan. The current site plan is
19 the result of many years of collaboration and
20 achieves a delicate balance which accommodates all
21 of the programmatic needs of the various
22 stakeholders.

23 (Bell rings)

24 THE CHAIR: Just conclude your
25 sentence.

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2 MS. CHANDA: All right. We have
3 representatives from others.
4 What I would like to say is that
5 this is a delicate balance of all the various
6 constraints that are being placed on this site.
7 There are physical constraints on this site, there
8 is the Amtrak railway located on it, and the
9 existing P.S. 51 is a fairly old building, and the
10 community board wanted the building to be

11 preserved. They are also addressing the Community
12 Board request by reducing the building height from
13 41 stories to 33 stories. And the new school that
14 is going to be built on this has an expanded
15 footprint, which has put severe constraint on this
16 site and has resulted in this complex set of site
17 plan with the various City Planning Commission
18 special permit actions we have here in front of
19 you. So I hope if you have any questions I will be
20 more than happy to answer them.

21 THE CHAIR: There probably will be
22 questions, and I think there's one other speaker
23 from HPD that --

24 MS. CHANDA: Right. We have several
25 speakers from HPD and from the developer, Gotham,

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2 and from SCA.

3 THE CHAIR: Good, okay. So let me
4 see if there are questions for you.

5 MS. CHANDA: Sure.

6 THE CHAIR: Nat Leventhal.

7 COMM. LEVENTHAL: Just procedurally,
8 we have the Community Board's recommendations with
9 many conditions, many specific issues. We have a
10 letter from you. Does that letter respond to all
11 of those conditions or will we have an opportunity

12 to receive more information in response to the
13 conditions of the Community Board as placed on
14 their recommendation for the project?

15 MS. CHANDA: Sure. The letter that
16 we had sent were really in response to the
17 questions that were based on certification.

18 COMM. LEVENTHAL: Right.

19 MS. CHANDA: We will follow up with
20 a response to the comments that we received from
21 the Community Board and Borough President's office.

22 COMM. LEVENTHAL: Okay, thank you.

23 THE CHAIR: Any other questions for
24 Shampa?

25 (No response)

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1 11

2 THE CHAIR: Okay, great. Thanks a
3 lot.

4 The next speaker is Melissa Panko,
5 followed by Kenrick Ou.

6 MS. PANKO: Hi. I'm Melissa
7 Panko. I'm here on behalf of Gotham Organization,
8 the developer for the project. Gotham became
9 involved first with this project about four and a
10 half years ago. I've been personally involved
11 since that time.

12 This is a textbook case of an
13 underutilized site. It's in the middle of

14 Manhattan. It's 135,000 square feet. It's a
15 30,000 square foot school building, a parking lot,
16 cables and a couple vacant warehouses. What we're
17 proposing here is a million square feet roughly of
18 affordable housing, market rate housing, a brand
19 new school that would service a community that's
20 been suffering from a school from 1905, for the
21 last 104 years, and will create 600 units of
22 permanently affordable housing.

23 To take you through a brief tour
24 of the site, to the east is a railroad cut where we
25 plan to situate two 14 story buildings.

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2 This is the existing P.S. 51
3 school, which is the CBJ Schneider school;
4 therefore, historically significant. We have
5 committed to keeping this existing school in place
6 and rehabilitating it to residential use.
7 This is additional affordable
8 housing over here.
9 And then this C shaped building
10 over here with the 31, 30, 28 towers on the avenue
11 is an 80/20 building. The brand new school takes
12 up roughly 25 percent of the site area, including
13 the playground and the school building itself.
14 There have been a lot of

15 metamorphoses of this project. When we first
16 started the project the assumption was that we'd be
17 doing a 44 story tower on the corner of Eleventh
18 Avenue and that the project would stop here. The
19 railroad cut would be left as a cut. Then we
20 learned that the school wanted to expand onto the
21 rail cut, leaving the existing school standing over
22 here. We altered our site plan to accommodate that
23 need.

24 We then learned that the school
25 actually can't be located on a railroad cut for

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2 programmatic reasons for the school itself. So we
3 relocated housing in a rather inefficient design as
4 two different buildings on the railroad cut, and
5 provided a much more expanded site area for a brand
6 new school, while at the same time committed to
7 saving the existing school. The result of all
8 that, plus the fact that the Community Board
9 requested that we reduce the height on the avenue
10 from 44 to 31 stories, was a strict ban.

11 At the same time, we were still
12 required to provide 8.54 FAR and 600 permanent
13 affordable housing units, plus the fact that the
14 project did not receive any direct subsidy from
15 HPD. And we are also paying for the land and cross
16 subsidizing the affordable housing through the

17 market rate housing for the project, and also
18 paying for a portion of the new school, plus
19 contributing funds for affordable housing elsewhere
20 in Manhattan.

21 The changes that I've just
22 described above didn't come without sacrifice. As
23 anyone who has read our very long ULURP application
24 will know, there are a lot of waivers. Part of the
25 reason for the waivers is that to accommodate the

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2 community we shifted from a C to an R designation
3 in the zoning. It's an R10 over here and an R8
4 over here, but with the C5 overlay throughout the
5 entire site. A lot of the waivers that we are
6 requesting are direct accommodations to allowing
7 for the many uses on site, including the school.

8 (Bell rung)

9 THE CHAIR: I know you have a lot
10 to cover. Just stay up there because there may be
11 questions for you. Any concluding sentence you
12 have?

13 MS. PIANKO: I guess --

14 THE CHAIR: You were very thorough.

15 MS. PIANKO: The concluding sentence
16 would be that a lot of the reasons for the waivers,
17 while they seem long, are all programmatic in

18 nature and they are all to accomplish the many
19 different goals for the project site, including the
20 600 units of permanently affordable housing, a
21 brand new school which expands from 30,000 square
22 feet of the existing school to 95,000 square feet,
23 expanding from 270 student capacity to 630, and it
24 creates permanently affordable housing per mixture
25 of income in a community that desperately needs it.

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2 THE CHAIR: Thanks very much. Let
3 me ask if there are questions. Ken Knuckles first.

4 THE VICE CHAIR: My question is
5 somewhat premature but I'll ask it since I may not
6 have the opportunity to ask it when it's more
7 relevant. And that is, the existing school which
8 is in operation right now, you are going to develop
9 this property around this school. I'm just
10 wondering, you know, what efforts are you going to
11 make to minimize what obviously is going to be
12 disruption.

13 MS. PIANKO: Yes, it's obviously an
14 issue.

15 THE VICE CHAIR: Yeah.

16 MS. PIANKO: And something we have
17 thought about a lot. There are couple of ways
18 we're going to mitigate it. We're going to
19 establish a construction task force that includes

20 members of the School Construction Authority will
21 be building this orange building over here, and
22 members of the P.S. 51 school community, the
23 Community Board, the Block Association and Gotham.
24 One thing that I consider important
25 about the Gotham Organization is that we're

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1 16
2 vertically integrated, meaning that we are both a
3 development and a construction firm. So our
4 construction guys have been involved in this
5 project from the get-go, thinking logistically
6 about how best to stage the site in order to
7 minimize the disruption to the existing school. We
8 are very familiar with building in difficult
9 conditions.

10 THE CHAIR: Is there another
11 question over here? Karen. And Anna.

12 COMM. PHILLIPS: Oh, sorry. One of
13 the things is that I know you're still working on
14 the final approval from Amtrak. When do you
15 anticipate that that will be met, they haven't
16 really reviewed it yet.

17 MS. PIANKO: We haven't submitted it
18 to them because they're not far enough in the
19 design phase to come up with the plans for the
20 structural plans that are going to be needed to

21 support the railroad cut. We'll do it in adequate
22 time so that it's done when the BOD permit is
23 issued.

24 COMM. PHILLIPS: My other question
25 was, you mentioned that you were doing an 80/20 on

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2 Eleventh Avenue. And the building that's in the
3 middle of the block is more of affordable housing,
4 is that right?

5 MS. PIANKO: Yeah. I mean this is
6 the 80/20 tower building over here.

7 COMM. PHILLIPS: Right, okay.

8 MS. PIANKO: Then if you go
9 backwards on the block, this is partially 80/20,
10 then it integrates into the middle and moderate
11 income affordable housing portion of it.

12 COMM. PHILLIPS: Okay. Which is in
13 the old school as well?

14 MS. PIANKO: No. The old school is
15 going to be converted into market rate housing.

16 COMM. PHILLIPS: All right, okay.

17 MS. PIANKO: So when the unit counts
18 reach 1,210 units, that's only inclusive of the new
19 construction.

20 COMM. PHILLIPS: Okay. And on Tenth
21 Avenue are those mixed income, are they --

22 MS. PIANKO: Those are purely --
Page 16

23 they are mixed income because it ranges from 165 to
24 40 percent AMI.

25 COMM. PHILLIPS: Okay.

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1 18

2 MS. PIANKO: But they are all
3 permanently affordable.

4 COMM. PHILLIPS: And all rentals,
5 the whole project?

6 MS. PIANKO: I'm sorry?

7 COMM. PHILLIPS: All rentals?

8 MS. PIANKO: All rentals, except for
9 potentially this building, but it depends on what
10 the market is when we actually start looking at it.

11 COMM. PHILLIPS: Okay. Thank you.

12 THE CHAIR: Anna.

13 COMM. LEVIN: Madam Chair, I
14 actually have four questions, about open space,
15 about the unused development rights, about the day
16 care impact that was revealed by the EIS, and about
17 commercial use. I don't want to take up too much
18 time. Would you like me to ask them all at once or
19 one at a time?

20 THE CHAIR: Can you answer all of
21 those subjects?

22 MS. PIANKO: I can answer most of
23 the subjects, yes.

24 THE CHAIR: Okay. Anna.

25 COMM. LEVIN: Melissa, on the open

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2 space we are being asked to allow, you have too
3 little open space in the R8 portion of the site and
4 more than you need on the R10 portion of the site,
5 and we are being asked to allow that whole package
6 to be put together. The end result is you've got
7 more open space --

8 MS. PIANKO: Right.

9 COMM. LEVIN: -- than you need for
10 the whole project. But my question is whether the
11 people who live in the portion of the project with
12 too little open space will have access to the open
13 space in the --

14 MS. PIANKO: Right.

15 COMM. LEVIN: -- tower portion.

16 MS. PIANKO: Let me give a little
17 bit of the background here. This is the R8 portion
18 over here and this is the R10 portion over there.
19 The R8 portion doesn't have enough open space
20 because the playground logically needs to be
21 situated next to the school, which is in the R8
22 portion. So what would have been open space
23 available for residential development has become
24 the playground. So the residential development
25 open space is here and over here. And one of the

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2 waivers we have asked for is the transfer of open
3 space from being located in the R8 zone to being
4 located in the R10 zone.

5 Everybody will have access to all
6 the open space areas. These people, my guess is
7 they'll predominantly want to use the open space
8 that's over here, but they have the ability to go
9 through building B over here, down on an elevator
10 or stairs, and out into the open space over here,
11 which will also accommodate the residents of
12 building B. And then building BA will have the
13 ability to go to the open space over there. So
14 everybody can access it if they want to.

15 COMM. LEVIN: Okay, great.

16 Next, about the unused development
17 rights. I think both the Community Board and the
18 Borough President have asked for commitments that,
19 there's a small portion of development rights that
20 are available on the site, particularly after the
21 inclusionary housing bonus that you don't propose
22 to use in this project.

23 MS. PIANKO: Right.

24 COMM. LEVIN: And both the Borough
25 President and the Community Board have asked that

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2 you commit not to using them or selling them
3 elsewhere in the community. Is that something you
4 can agree to?

5 MS. PIANKO: This is a
6 self-contained project. We are not going to
7 generate actually any more developments rights than
8 we actually need on site. We are only going to
9 designate a sufficient number of inclusionary
10 housing units to be able to accomplish the 8.54
11 FAR.

12 COMM. LEVIN: Okay.

13 MS. PIANKO: We can commit to that.

14 COMM. LEVIN: Next, the issue of the
15 commercial overlay. I understand your mapping C2-5
16 commercial overlay over the entire site which I
17 understand is driven by the need to do it so you
18 can get the large scale plan. Yet your, in the
19 zoning calculations it looks like you have
20 relatively little plan for commercial space. The
21 Community Board has asked for this commitment about
22 locating that commercial space on the Eleventh
23 Avenue side, which I think to me also makes sense.
24 I think we know that commercial activity on
25 residential side streets is often very problematic.

1 22

2 Are those limitations that you can agree to?

3 MS. PIANKO: I think the
4 community's request was two-fold. It was one for
5 the FAR for the 2.5, for one X instead of two X.
6 And secondarily it was to limit the commercial use
7 to 75 feet from Eleventh Avenue. And the Borough
8 President made similar requests in their letters.
9 What we can say is right now what we are planning
10 is very limited commercial space. It's all going
11 to be located over sort of in this direction.

12 Two caveats to that is that we know
13 the community would really love a grocery store.
14 And if we'd be able to put a grocery store and
15 extend a little further into this space, we want
16 the flexibility to do that, which is slightly
17 larger than 75 feet.

18 And the second caveat is that the
19 existing P.S. 51 school, we are five years or four
20 years away from developing that building. At the
21 time it may make sense to put some sort of
22 commercial use on the ground floor, not a
23 restaurant or a bar, but some sort of complementary
24 use to the rest of the surrounding community, and
25 we'd like the flexibility to be able to do that if

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2 it makes sense at the time. What we can commit to
3 doing is not having any noxious uses on the block.
4 So I don't think -- I think the concern is
5 partially for bars and restaurants and things of
6 that nature. And that's not our intent.

7 COMM. LEVIN: Okay.

8 MS. PIANKO: I mean we could have a
9 cafe on the corner of Eleventh Avenue but not on
10 the side streets.

11 COMM. LEVIN: But I think the
12 concern is, God forbid something goes blooey with
13 this project and, you know, the mapping is in place
14 and another developer comes along and we are
15 talking about an auto showroom or something
16 significantly different, something that would fit
17 within the C2-5 overlay but is significantly
18 different than the package uses.

19 MS. PIANKO: I think it's going to
20 be difficult to do that given that we have only
21 asked for 17,000 square feet of retail. So I think
22 you're protected. And I very much hope we don't go
23 blooey.

24 COMM. LEVIN: And my last question
25 is about the negative impact on day care slots that

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2 was revealed by the EIS.

3 This is an enormous project and a
4 lot of the kids are going to be, those slots are
5 going to be living in this project. And so I'm
6 curious about what Gotham's thoughts might be about
7 accommodating those, that day care need on site,
8 whether there isn't some space that might be made
9 available for that or how else you are going to
10 address that.

11 MS. PIANKO: I'm going to defer the
12 day care to answer that question in terms of the
13 actual day care results of the analysis. But what
14 I can say is that even though we do the math, at
15 first we only looked at 1,200, 1,300 square feet
16 that we would actually need to accommodate the
17 overrun of kids for the day care. No one wants to
18 run a 1,200 square foot day care, for obvious
19 reasons. So it becomes something more like ten or
20 15,000 square feet. And for us to give up that
21 much FAR or even that much rentable area, and it
22 would only come out of the market rate housing at
23 this point since we are committed to the affordable
24 housing breakdown, it may make the project
25 financing very difficult for us. I mean obviously

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2 we are in a very difficult financial environment.

3 So it would be difficult for us to commit to that
4 now.

5 AKRF will address a little bit
6 more sort of what the exact impacts were. And also
7 the fact my understanding is that City Planning is
8 reviewing their calculations for day care, and that
9 under the new system we may not actually have an
10 impact, although I think that's still -- it may not
11 be done by the Final Environmental Impact
12 Statement.

13 COMM. LEVIN: So maybe that's
14 something we can hear about in follow-up.

15 I'm done, thank you.

16 THE CHAIR: Richard.

17 COMM. EADDY: Hi, good morning.

18 One, I just want to clarify, I
19 understood from your presentation that there are no
20 direct subsidies from the City for affordable
21 housing?

22 MS. PIANKO: That's correct.

23 COMM. EADDY: This is all cross
24 subsidies?

25 MS. PIANKO: That's correct. We're

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1 26
2 getting subsidies, but the subsidies are tax
3 exempt.

4 COMM. EADDY: Right.
Page 24

5 MS. PIANKO: Tax exempt bonds at
6 four percent tax credits.

7 COMM. EADDY: Right, right, they're
8 not --

9 MS. PIANKO: Under 421A but there's
10 no direct funds coming.

11 COMM. EADDY: The other question I
12 had regarding some of the Community Board's
13 questions about the affordability in terms of the
14 80/20 and the fact that that's only for 30 years,
15 whether or not there's been any review of seeing
16 whether or not it could be done for a longer period
17 of time. And then also they had some concerns
18 about the size of the units and making sure that at
19 least 50 percent were two bedrooms. I just wanted
20 you to have the opportunity to respond.

21 MS. PIANKO: So I mean there's a
22 couple more --

23 COMM. EADDY: No, there were, but --

24 MS. PIANKO: Yeah. But the first
25 question was the permanent affordability --

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1 27
2 COMM. EADDY: Right.
3 MS. PIANKO: -- for the housing in
4 the 80/20 component.
5 Just to give an overview of the

6 affordable housing generally, there are 540 units
 7 of permanently affordable housing located in
 8 buildings B and C, or the north and south as we
 9 decided to call them for now. And in addition to
 10 that there are approximately 675 units in building
 11 A, of which roughly 135 are affordable units. And
 12 60 of those 135 are permanently affordable and the
 13 remainder, which is the portion in question, the 75
 14 units are only affordable so long as the
 15 requirements for the 421A, the tax exempt bonds and
 16 the four percent credits remain outstanding.

17 The question has been from both the
 18 community as well as the Borough President whether
 19 it's possible for us extend the affordability on
 20 the 75 units to go out, you know, in perpetuity
 21 rather than only 30 years. The answer we can give
 22 at this point is that we understand the request, we
 23 understand the logic of the request. We are in a
 24 very troubling financial environment and it's had a
 25 financial impact on the project. If we can get it

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1 28
 2 financed and allow for that permanent affordability
 3 we'll do so, but if it's something that precludes
 4 the financial viability of the project, we can't
 5 commit to it at this point. It's unfortunately
 6 something -- it may not impact it, but we're
 7 looking for close to \$600 million of financing from

8 banks that don't really want to lend money right
9 now, so it's a challenge.

10 COMM. EADDY: Right. If I
11 understood you correctly, you're saying if it
12 doesn't negatively impact --

13 MS. PIANKO: Right.

14 COMM. EADDY: -- the project, --

15 MS. PIANKO: Or doesn't --

16 COMM. EADDY: Or the financing.

17 MS. PIANKO: Right.

18 COMM. EADDY: -- you'd be willing to
19 consider it.

20 MS. PIANKO: Right.

21 COMM. EADDY: Okay.

22 MS. PIANKO: I mean if it's a little
23 impact maybe we can handle it. But if it's a huge
24 impact it's going to be much more difficult for us
25 to handle.

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1 29

2 COMM. EADDY: And when do you think
3 you'll have an answer to that question?

4 MS. PIANKO: At the, you know, my
5 hope is that we'll have an answer in the early part
6 of next year, but a lot of it is dependent on a lot
7 of market forces that we really can't control in
8 terms of the financial, the way banks are going to

9 handle the request.

10 COMM. EADDY: Okay. Then regarding
11 the apartment size.

12 MS. PIANKO: The apartment size in
13 the request has been 50 percent two and three
14 bedrooms, rather than being 40 percent, which is
15 what we are currently offering.

16 We understand the community's
17 request there as well, and the answer is two fold.
18 The first is that the way the 80/20 program works
19 or 421A and the tax credits is that you have to
20 mirror the breakdown of the units in the market
21 rate housing. Whether or not that's the right
22 policy is not for me to make a comment on. But it
23 has to mirror it. And the market rate housing
24 doesn't really reflect two and three bedroom units
25 because that's not what drives rent in this

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2 particular area.

3 The second answer is that these
4 buildings have already gone through a DAIS (sic)
5 review process, which included 540 unit layouts
6 through the HPD system to make sure they comply,
7 and we have gotten additional approval from DAIS.
8 At this point to change it would be, A, a
9 tremendous amount of work, and B, we wouldn't be
10 able to fit the same 540 units into these buildings

11 that we are anticipating, so we end up with fewer
12 affordable units, which wasn't an answer that was
13 acceptable to HPD.

14 COMM. EADDY: Okay, thank you,
15 that's it.

16 THE CHAIR: Maria De Toro.

17 COMM. DEL TORO: Thank you for your
18 testimony. I want to follow up on the vice chair's
19 comments regarding the negative, possible negative
20 impacts on the school. And I was wondering if you
21 could talk some more about the phasing of the
22 development.

23 MS. PIANKO: The intention right now
24 is to do the entire project simultaneously in terms
25 of the residential.

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2 THE CHAIR: I don't think that's
3 working.

4 MS. PIANKO: I can talk really
5 loudly if you want.

6 THE CHAIR: You are perfectly
7 audible to us, so go ahead, Maria. Okay, the
8 phasing.

9 MS. PIANKO: The phasing. So the
10 new school, we are contributing \$15 million to its
11 development, so in some ways it can't start until

12 we start because we can't pay for a portion of the
 13 new school until we close on the rest of the loan.
 14 Our intent right now is to build the entire project
 15 simultaneously through one financing and one, you
 16 know, one construction period.

17 COMM. DEL TORO: Because you did
 18 mention something about five years, about --

19 MS. PIANKO: Because by the time we,
 20 you know, another -- hopefully we break ground by
 21 the end of 2010, and then it's a roughly three year
 22 construction period depending on when the school is
 23 then vacated, because the kids are going to be in
 24 there until the new school is ready. And depending
 25 on whether the -- at what point in the year that

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1 32
 2 happens, my understanding is that the SCA may not
 3 move the school mid year, so it could tack on a
 4 little bit more time to it. So between four and
 5 five years I would think before we are able to go
 6 in and actually do this building.

7 COMM. DEL TORO: Thank you.

8 THE CHAIR: Are there any other
 9 questions?

10 COMM. CANTOR: Let me just continue
 11 on that. Let me just continue on that if I might.

12 If I heard you correctly, the school
 13 cannot start until you guys start because you're

14 coming up with \$15 million seed money. Has the SCA
15 got the rest of the money?

16 MS. PIANKO: I should let Kenrick Ou
17 address that in more detail because he's from the
18 SCA. But from my understanding it is in the five
19 year capital plan.

20 COMM. CANTOR: Okay. And you also
21 mentioned that you intend to do a total build out
22 at one time. Would you be building the school?

23 MS. PIANKO: No.

24 COMM. CANTOR: Okay.

25 MS. PIANKO: I mean there's a

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1 33
2 possibility we would because there's a competitive
3 bidding process, but there's no way -- we're not
4 grandfathered in.

5 COMM. CANTOR: So to go back to
6 the vice chair's question, the first question of
7 the morning, you will be building everything to the
8 west essentially of the existing building and the
9 west of the school building, and you don't know
10 whether or not that site will be built simultaneous
11 with yours?

12 MS. PIANKO: My understanding is
13 that the SCA's intent is to build their school
14 simultaneous with ours. We will be doing

15 everything that's yellow and the SCA will be doing
16 the orange building.

17 COMM. CANTOR: In your most
18 optimistic view when would you be -- when would you
19 be breaking ground?

20 MS. PIANKO: It would be October,
21 between October and the end of 2010.

22 COMM. CANTOR: At the end of next
23 year?

24 MS. PIANKO: Yeah.

25 COMM. CANTOR: Okay.

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1 34
2 There was a comment made before with
3 regard to open space and the trading of open space.
4 And if I remember correctly in my bracket, the
5 packet, excuse me, there was a suggestion that the
6 school roof might be used as open space. Is that
7 something for you to address or SCA?

8 MS. PIANKO: Not for me to address,
9 for the SCA.

10 COMM. CANTOR: Okay. Thank you.

11 MS. PIANKO: Okay.

12 THE CHAIR: Any other questions?

13 (No response)

14 THE CHAIR: Thanks so much for the
15 really thorough presentation.

16 The next speaker is I think --

17 MS. PIANKO: These are the pictures
18 of the building, to the extent that matters.

19 THE CHAIR: Oh, okay. -- Kenrick Ou
20 from School Construction Authority.

21 MR. OU: Good morning, Chair Burden
22 and Commissioners. My name is Kenrick Ou. And I
23 am director of real estate services for the New
24 York City School Construction Authority, and I'm
25 here to speak with respect to some of the issues

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1 35
2 related to the school that is part of the West 44th
3 and Eleventh Avenue rezoning project.

4 As previous speakers have
5 testified, these applications really are the result
6 of extensive collaboration between various
7 agencies, the developer, community stakeholders, in
8 order to redevelop this large, underutilized parcel
9 of land that actually was originally condemned, as
10 Shampa Chanda had mentioned, from HPD in the 1970s,
11 in part to provide a replacement facility for P.S.
12 51. At that time P.S. 51 was already approximately
13 seventy years old. And I'm not sure how many of
14 you may be aware of this, but the existing P.S. 51
15 building was originally constructed to serve as an
16 annex to an even older school building that stood
17 on the current school yard, which accounts in part

18 for its very limited size. During the 2008 and
 19 2009 school year the P.S. 51 building was
 20 overutilized and accommodated nearly 320 students
 21 in a building whose target capacity was only 276
 22 seats, which translates into a utilization rate of
 23 116 percent.

24 This proposal would allow us, being
 25 the City School Construction Authority, to provide
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1 36
 2 a new approximately 100,000 gross square foot,
 3 state of the art replacement facility for the P.S.
 4 51 school community. This would serve not only
 5 over 600 students but would also provide
 6 significant qualitative upgrades over the existing
 7 facility. For example, the new building would
 8 provide larger classrooms than the existing
 9 building, which were designed in a very different
 10 time, as well as specialized instructional spaces
 11 for science, art and music instruction.

12 While the existing school building
 13 has a very well used multi purpose room that serves
 14 at various times of the day as the school's
 15 cafeteria, play room and assembly space, the new
 16 building will have a separate cafeteria and
 17 approximately 5,400 square foot gymnasium and
 18 another space that can serve and be flexible as
 19 either a secondary gymnasium or an assembly space.

20 The new building will be fully accessible, air
21 conditioned, and will comply with the green schools
22 requirements established under Local Law 86.

23 And you're aware, school sizes are
24 subject to a review and approval process
25 established in the SCA's enabling legislation in

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1 37
2 the Public Authorities Law. And we thank the
3 commission for its favorable recommendation earlier
4 this year with respect to the proposed replacement
5 facility siting. And I want to confirm in response
6 to Commissioner Cantor's question, the capital
7 funding from the Department of Education's five
8 year capital plan for fiscal years 2010 through
9 2014 would indeed be paired with the financial
10 contribution from the developer to make this new
11 school facility available. In early November the
12 Department of Education issued its most recent
13 proposed amendment to that capital plan, and that
14 funding in that plan is -- the plan itself is
15 available on SCA's web site.

16 We look forward to the
17 Commission's favorable consideration of these
18 applications and also working closely with HPD,
19 Gotham, our school community and the surrounding
20 neighbors to create this great new school building.

21 If I could just take the final
 22 moments to speak to the question that was raised
 23 before regarding how all of this could be
 24 coordinated. The answer is this is, I think
 25 Melissa mentioned, this is going to be a very

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1 38
 2 complicated effort in order to stage, potentially
 3 concurrently, construction all around an occupied
 4 school building.

5 (Bell rung)

6 THE CHAIR: Conclude, go ahead.

7 MR. OU: To try to address that, we
 8 have already spoken with the Community Board on
 9 this. We brought the SCA safety unit into this.
 10 So we are equally committed to participating in a
 11 task force that will include the school occupants
 12 in it. And as -- today we have also committed as
 13 part of the SCA's construction project of the new
 14 school building that we will provide air
 15 conditioning for the rear side of the school in
 16 order to try and get mitigate some of the dust and
 17 noise that will be associated with this very
 18 extensive construction.

19 THE CHAIR: Thanks very much. Let
 20 me see if there any questions for you.

21 COMM. CANTOR: Yes.

22 THE CHAIR: Irwin.
 Page 36

23 COMM. CANTOR: Thank you for your
24 response. My follow up question on that, obviously
25 you have thought out the program quite well. Do

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1 39
2 you have the architect working?

3 MR. OU: Yes. We have retained a
4 design firm, RMJM, and they have recently completed
5 the schematic design phase.

6 COMM. CANTOR: How do you foresee
7 going through the schematic into working drawings?
8 And the reason I ask is simply because if indeed
9 you broke ground at the end of next year or even at
10 the beginning of 2011, it seems to me that you
11 would require just about all that time to do your
12 design work and get the plans ready for bid and to
13 go out for bid.

14 MR. OU: That's correct. What we
15 would also hope to do, and this is still subject to
16 some other factors, is if possible to work with HPD
17 and the developer to initiate a separate demolition
18 package. Because, as you may see, on one of the
19 photos within the school building footprint is in
20 fact a vacant warehouse that would have to be
21 demolished before we can actually begin work on the
22 school.

23 COMM. CANTOR: In terms of the plan,

24 is it your plan that the school be completed about
25 the same time that the towers are completed or --

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1 40

2 MR. OU: For a typical school this
3 size it would take us approximately three years to
4 construct, which I think coincides with the
5 duration that Gotham is forecasting for its
6 project.

7 COMM. CANTOR: Okay. And finally
8 the question I had asked Melissa earlier with
9 regard to the open space issues, are there any
10 possibilities of using the roof?

11 MR. OU: That was an area where the
12 Community Board I think expressed a very, very
13 strong opinion and strong recommendation. What we
14 had explained to the Community Board, and we do
15 have our architects and engineers looking at it
16 more closely, but to be perfectly honest the way
17 that the new school, the green schools requirements
18 have been applied to new school construction
19 generally results in the placement of very large
20 rooftop mechanical units at strategic locations
21 spread across a building's roof in order to provide
22 the heating and the cooling. Generally they're
23 placed over corridors and over large volume spaces
24 like the gymnasium. That combined with the
25 requirement for certain ducting based on what our

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41
2 architects and engineers have looked at makes it
3 very, very challenging to provide any, any sizable
4 contiguous space given the clearances that are
5 required. But we did commit to the Community Board
6 and we are asking our architects and engineers to
7 look again more closely at whether we can get
8 something on the roof.

9 COMM. CANTOR: And you're saying
10 that green requirements are causing this more
11 expansive use of the roof?

12 MR. OU: Well, in part. In response
13 to the requirements from the green schools guide
14 the SCA has developed standards that are used for
15 school design across the City. And one of the
16 areas in which the standards were developed was
17 with respect to using natural gas. And I am not an
18 architect or engineer so I can't explain, you know,
19 the process for how those standards were developed,
20 but this entire generation of schools buildings
21 that we are constructing since the adoption of the
22 green schools standard pretty much are due to the
23 utilization of these roof top units. I think it's
24 a combination of the cost and the efficiency with
25 respect to the green requirements.

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1 42

2 COMM. CANTOR: Thank you.

3 THE CHAIR: Ken and then Nat.

4 THE VICE CHAIR: Ms. Pianko earlier
5 had indicated that the determination of who would
6 ultimately build the school had not been made yet.
7 Without telling you or the SCA how to do
8 procurement, I would merely ask would it be more
9 efficient if it was the same entity that developed
10 the entire site?

11 MR. OU: I think we actually had
12 explored that, that was an idea that the Community
13 Board had suggested. We had explored the idea of
14 perhaps returning to the educational construction
15 fund model, which was originally something that was
16 contemplated for the site in the seventies.
17 Unfortunately that model just did not turn out to
18 be feasible. And, as we have indicated, because
19 the SCA is responsible for this project and we do
20 have our public procurement requirements, even
21 though it might ideally be best that we be able to
22 specify and designate Gotham, that is something
23 that I think our legal department indicated was
24 just not legally possible because we have to go
25 through a lump sum bid.

1 43

2 THE CHAIR: Nat.

3 COMM. LEVENTHAL: Thank you. Thank
4 you for your testimony.

5 In its official recommendation the
6 Community Board listed many other issues concerning
7 the school, both its construction and its
8 operation, some which are well beyond the ability
9 of this Commission to deal with in any event. But
10 I wonder if you have engaged the Community Board on
11 those issues or if you haven't, as I suggested to
12 the assistant commissioner of HPD, if you just let
13 us know what your position is on the community's
14 various concerns about the school, just so we know
15 and that they know if they don't already know. As
16 I say, many of these are beyond what we can do
17 here, but it would be of interest to us as to what
18 the SCA position is.

19 MR. OU: Well, in terms of process I
20 think we, along with HPD, are going to be
21 submitting a follow-up, a written response. The
22 Borough President's comments were recently
23 received, so we'd like to coordinate a response.
24 But.

25 If I could just spend a few moments

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1 44

2 to touch on some of the recurring themes that we
3 have heard --

4 COMM. LEVENTHAL: Please.

5 MR. OU: -- through the consultation
6 efforts.

7 The first is certainly the concern
8 about trying to maximize open space and the
9 rooftop, the use of the rooftop. We have also
10 heard concerns about light, of the limitations in
11 the area. Publicly accessible open space, whether
12 that school yard could be committed to being
13 available outside of school hours.

14 What I can tell you is that this
15 something that the Department of Education is not
16 prepared to commit to at this time. In part
17 because as a result of our discussions with the
18 current school administration, with the school
19 principal, there are concerns about that. And I
20 think that, you know, we will probably need to be
21 much closer to the school opening date in order to
22 really assess whether that's something that is
23 feasible, because there are also costs that are
24 attached to the Department of Education.

25 And additional items where I think

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2 we have really heard some recurring ideas and
3 concerns really relate to construction. We have
4 heard it from our school community, we have heard
5 it from the neighbors and internally, even within
6 the SCA we are of course very concerned because we
7 have a very conservative safety policy when it
8 comes to construction to the extent, to the extent
9 that we have, as I mentioned, discussed and
10 explored the idea of the SCA actually perhaps
11 taking over responsibility for demolition of the
12 existing on-site structures just because we know
13 what our protocols are and we have a lot of
14 experience working with occupied schools across the
15 City.

16 And so to the extent that we can
17 commit we have committed to working through a task
18 force where other informative, you know, a
19 stakeholder engagement process. We have committed
20 to making investment in the existing building to
21 try and mitigate the impacts and as well as
22 continuing to work with the school as we have in
23 the design process. So I think those are really
24 three of the key areas that we have heard.

25 COMM. LEVENTHAL: Thank you.

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3 Yes.

4 COMM. LEVIN: I think one of the
5 last programmatic issues that came out of the
6 comments from the Community Board and the Borough
7 President had to do with what kind of a school this
8 is, whether it is for elementary or middle school
9 kids. And I think the census data that has emerged
10 in that neighborhood shows in particular a need for
11 additional elementary school seats. Are you able
12 to respond now to that issue?

13 MR. OU: Well, there is. And let me
14 just be careful to try and distinguish between
15 what's being constructed and the building as well
16 as and the user population.

17 The Department of Education's policy
18 and its five year capital plan is that for larger
19 school buildings, of which this one would qualify,
20 is that we, because we are making multimillion
21 dollar investments that will be available for the
22 City across decades, that those buildings be
23 designed to be flexible. In other words, that they
24 be baked into the original design some of the
25 programmatic features, like science labs, like a

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1 47
2 larger gymnasium that would be appropriate to serve
3 students up through grade eight are actually
4 installed in the facility. So as demographic needs

5 change across 30 years we are not finding ourselves
6 going into an occupied school and being disruptive,
7 and also expending capital resources inefficiently.
8 So this building is going to be designed to meet
9 the programmatic requirements from pre-kindergarten
10 through eighth grade instruction.

11 The P.S. 51 school organization is
12 currently I believe a pre-K, serves pre-K through
13 five. And we certainly have heard a lot of
14 concerns from the school as well as from the
15 Community Board and other stakeholders that that
16 school continue, even once it moves into the new
17 building, to remain a pre-K to five organization.
18 There is a process by which the Department Of
19 Education, which has, actually that process has
20 evolved even since we had started our engagement
21 with the Community Board to the recent changes in
22 the State Education Law related to the
23 reauthorization of mayoral control. Effectively
24 What that means is that any change to the grade
25 configuration of P.S. 51, if the idea would be to

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1 48
2 make it a pre-K through eighth grade organization,
3 would have to go through not just the existing
4 stakeholder consultation process but actually a
5 formal process where the educational council would

6 have to hold a hearing and the educational policy
7 would have to approve that grade reconfiguration.

8 At this point, since we are
9 several years out from the opening of a school
10 building, the Department Of Education would not be
11 in a position to make a proposal as to whether to
12 change the school organization into a pre-K to
13 eight organization at this time. It really becomes
14 data dependent. A lot of what -- which is why our
15 buildings are flexible, because we forecast, just
16 like the IS's do. But sometimes the facts on the
17 ground change or evolve in ways that we couldn't
18 have anticipated.

19 So just to clarify, the building is
20 going to be able to serve pre-K to eight. Right
21 now P.S. 51 is pre-K to five, and we do not have
22 plans, DOE has not officially promulgated any plans
23 to change that school's grade configuration.

24 THE CHAIR: Thanks so much, Ken, we
25 appreciate it.

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1 49

2 MR. OU: Thank you.

3 THE CHAIR: The next speaker is
4 Robert Davis, to be followed by Glori a Glas.

5 MR. DAVIS: Good morning, Madam
6 Chair and the members of the Commission. I'm Bob
7 Davis. I'm Gotham's land use counsel.

9 questions for Bob Davis?
10 (No response)
11 THE CHAIR: No.
12 MR. DAVIS: If not I will just wish
13 you all a good day.
14 THE CHAIR: Thanks a lot.
15 Gloria Glas, who then will be
16 followed by Chris Calvert.
17 MS. GLAS: Good morning. Gloria
18 Glas, head of the architects for the applicant for
19 this project, and I am here to answer any other
20 open questions.
21 THE CHAIR: Are there any questions
22 for Gloria Glas?
23 (No response)
24 THE CHAIR: Nope. Thanks very much
25 for being here.

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1 51
2 MS. GLAS: Thank you very much.
3 THE CHAIR: Chris Calvert, to be
4 followed by Mei lan Chi u.
5 MR. CALVERT: Good morning. Thank
6 you. I'm Chris Calvert from AKRF. We are the
7 environmental consultant for the applicant, HPD, on
8 the EIS.
9 I just wanted to add to the comment
10 or question about the day care issue and the part

11 that Melissa deferred to me.

12 Currently the EIS looked at a study
13 area of two miles from the project site for
14 available ACS facilities. There are eight. They
15 currently have a combined available open slots of
16 56. In the no built condition, as you're aware,
17 there's a lot of development proposed on the West
18 Side, including affordable housing. So that
19 generates an additional 581 children in school who
20 would qualify for ACS day care. So when we get to
21 the build condition, we have no capacity. Our
22 project itself generates 56 kids. So we're a small
23 addition to what will be there in the no build.

24 And then I can answer any follow up
25 questions you might have.

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1 52

2 THE CHAIR: Great. Let me see if
3 there are any.

4 (No response)

5 THE CHAIR: There are not. Thanks
6 very much for being here.

7 MR. CALVERT: Thank you.

8 THE CHAIR: Mei Lan Chi u from HPD.

9 MS. CHI U: Good morning, Madam
10 Chair, Commissioners. My name is Mei Lan Chi u and
11 I'm from HPD, I'm director of Manhattan planning,

12 and I'm here to answer any questions the Commission
13 might have for HPD.

14 THE CHAIR: Okay. Thanks for being
15 here. Let me see if there are any questions.

16 (No response)

17 THE CHAIR: There are not. Thanks.

18 MS. CHIU: Thank you.

19 THE CHAIR: Elisa Gerontianos to be
20 followed by Sarah Desmond.

21 MS. GERONTIANOS: Hi, good morning.
22 And thank you, Chair Burden and Commissioners. My
23 name is Elisa Gerontianos. I'm the co-chair of
24 Community Board 4's Clinton, Hell's Kitchen and
25 use committee. And I'm here today to testify on

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1 53
2 behalf of Community Board 4 regarding the sweep of
3 ULURP applications that are currently before you
4 for a project you all know today as Gotham West,
5 which has also been known as P.S. 51, and
6 originally known as Studio City.

7 Briefly, this project grew out of
8 the 2005 Hudson Yards points of agreement entered
9 into by the City Council and the administration.
10 The site itself is a publicly owned site and was
11 identified as a good site to implement various
12 mitigations arise out of the Hudson Yards points of
13 agreement.

15 has ultimately produced a proposal that works, will
 16 benefit the neighborhood, and will satisfy some
 17 specific mitigations identified in the Hudson Yards
 18 points of agreement.

19 Affordable housing. This site is
 20 going to generate 675 units of affordable housing,
 21 targeting the underserved middle income band. We
 22 look to this as a success, since the community is
 23 diverse and this will ensure a broad spectrum of
 24 economic bands throughout Community Board 4. While
 25 the 600 units we all know are going to be

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1 55
 2 designated as permanently affordable, we are asking
 3 that the balance of 75 units, also affordable, be
 4 designated as permanently affordable.
 5 Additionally, the Hudson Yards
 6 points of agreement commits to creating an
 7 affordable housing fund in the amount right now of
 8 \$20 million to be used for future affordable
 9 housing projects. We ask that this money
 10 specifically be earmarked for use in Community
 11 District Four before it's disbursed to be used
 12 throughout New York City, which currently it's
 13 allowed to be dispersed as such.
 14 Finally, the community is thrilled
 15 to see a new and larger P.S. 51. Currently P.S. 51
 16 is operating at 114 percent capacity. This site

17 alone is going to generate, the proposed site alone
18 is going to generate an additional 150 elementary
19 seats. The community is insistent that each child
20 have a proper seat in school, and therefore urges
21 that P.S. 51 be used solely for elementary
22 students.

23 In sum, affordable housing, 675
24 units at the middle income bands, is beneficial.
25 However, they all need to be in perpetuity,

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1 56
2 affordable and in perpetuity. The housing trust
3 fund must be earmarked for projects generating
4 affordable housing within CD 4. And, finally, the
5 new elementary school really must service the needs
6 of our elementary school students.

7 Thank you very much.

8 THE CHAIR: Thank you very much.
9 Let me see if there are any questions for you. Nat
10 Leventhal.

11 MS. GERONTIANOS: I'll do my best.

12 COMM. LEVENTHAL: Yes?

13 THE CHAIR: Yes.

14 COMM. LEVENTHAL: Thank you for your
15 testimony and for your letter. As usual, very
16 thorough.

17 How do you respond to the testimony

18 of the developer, however, that the question of
19 making 75 additional housing units permanently
20 affordable is a question of how it will affect the
21 financing and it could possibly endanger the
22 financing, it's going to make it more difficult.

23 MS. GERONTIANOS: I have to defer to
24 Joe Restuccia on that. He is here from our
25 affordable housing, from our housing committee.

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1 57

2 COMM. LEVENTHAL: Okay.

3 MS. GERONTIANOS: And he's the chair
4 for that, and I think he'd be better able to
5 answer.

6 COMM. LEVENTHAL: Fine, thank you.

7 THE CHAIR: Other questions? Anna.

8 COMM. BATTAGLIA: In regards to the
9 funds being used from Community Board 4, have you
10 received any sponsor feedback?

11 MS. GERONTIANOS: To my knowledge we
12 have not. But we have earmarked in our October 22
13 letter to this Commission several sites that have
14 been designated within CB 4, again arising out of
15 mitigation from the Hudson Yards points of
16 agreement that we'd like to see that money used
17 for, for the NYCHA parking lot sites at Fulton,
18 Elliot, Chelsea and Harbor View Houses.

19 COMM. BATTAGLIA: Under whose
Page 54

20 jurisdiction would it be to make a decision whether
21 or not to appoint the targeted funds to CB 4, HPD
22 or the City?

23 MS. GERONTIANOS: HPD.

24 COMM. BATTAGLIA: Thank you.

25 (Laughter)

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1 58

2 THE CHAIR: Thank you. Nice to see
3 you.

4 MS. GERONTIANOS: Thanks so much.

5 THE CHAIR: The next speaker is
6 Sarah Desmond, who will be followed by Jean Daniel
7 Nolan.

8 MS. DESMOND: Good morning. Thank
9 you for the opportunity to testify. My name is
10 Sarah Desmond. I'm the executive director of
11 Hudson Conservation Coordinators based in Hell's
12 Kitchen. And I'm the co-chair of the Clinton Land
13 use committee of Community Board 4. I'm pleased to
14 testify in favor of the proposed Gotham West
15 project.

16 We are excited to finally realize
17 this project that will realize the commitments that
18 were made during the Hudson Yards rezoning almost
19 five years ago. Actually five years ago January.
20 The project before you today is the result of more

21 than two years of really active negotiations and
 22 meaningful engagement with Gotham, the community
 23 and the Community Board. While their design may be
 24 taller than CB 4 normally would support, we
 25 recognize that this project includes enormous

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1 59
 2 community benefits. We are pleased that they have
 3 lowered the height from its original design to fit
 4 more within the community context. And we are very
 5 excited that the proposed Eleventh Avenue rezoning,
 6 which should take place shortly, will limit heights
 7 in the future along the avenue so that the project
 8 does not become the norm along Eleventh Avenue but
 9 more the exception because of the benefits that it
 10 carries.

11 However, we do have some concerns,
 12 as were noted in our multipage letter, that we need
 13 to address today.

14 The proposed project presents a
 15 C2-5 overlay. I know there's been a lot of
 16 discussion already this morning about the overlay.
 17 We're looking for a resolution similar to that
 18 which was achieved in the recent MTA rezoning for
 19 the Ninth Avenue site that came before this
 20 Commission as part of the western railroad yards
 21 off site affordable housing. That resolution
 22 included limiting the amount of the overlay so that

23 they were able to achieve the large scale
24 residential, the general large scale plan, but also
25 to respect the wishes of the community to limit the

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1 60
2 commercial on the avenue and to be in keeping with
3 the context.

4 While Gotham represented that
5 there were plans or may be a future use for a
6 supermarket, those are plans that we had discussed
7 long ago with Gotham and had been removed off the
8 table because it was not feasible in this project.
9 And so we're concerned that if a commercial overlay
10 is permitted across the entire site, that will have
11 more than the norm of the commercial uses or retail
12 uses along the side streets, which have been really
13 growing and will exacerbate a growing problem
14 within our community. We feel very strongly that
15 we want the commercial uses restricted only to the
16 avenue and not permitted along the side streets.

17 The school building is a number of
18 years away. It is going to be the additional
19 market rate units, it's not going to include an
20 affordable component. We are asking that there be
21 no commercial use that's permitted along the side
22 streets.

23 The day care, which was identified

24 as a mitigation within that was required as an
25 adverse finding in the DEIS, has been discussed

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1 61
2 also today. There will be a need for day care as a
3 result of this project. We are looking for a
4 resolution that's very similar to that which was
5 proposed by this Commission for 77 Eleventh Avenue,
6 the Clinton Park project, in which there's a
7 facility that is located and that the day care
8 slots are funded.

9 (Bell rung)

10 MS. DESMOND: While this
11 project -- while this project is tight, we
12 understand that there have been discussions ongoing
13 with HPD to find a location within the community on
14 City Land to identify a project.

15 THE CHAIR: Okay, let me see if
16 there are any questions for you.

17 (No response)

18 THE CHAIR: There are not. Thanks
19 so much for your testimony.

20 Jean Daniel Nolan.

21 MR. NOLAN: Good morning. My name
22 is Jean Daniel Nolan. I am a member of Community
23 Board 4, the former chair of Board 4. Thank you,
24 Madam Chair, for this opportunity to speak on the
25 open public space at the P.S. 51 site as I'll call

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1 62
2 it. Since there is no public open space on the
3 site, I'm going to be brief.
4 Open space in Clinton, Hell's
5 Kitchen is sort of an oxymoron, sort of like
6 breathable air. And this project is going, as it
7 is, is going to further reduce the ratio of open
8 space to residents of the community. I want to get
9 technical for just one second if you will permit.
10 The study area of the project site has a ratio of
11 .44 acres of total open space per thousand
12 residents. DCP guidelines recommends 2.5 acres.
13 If you consider active open space, it's even worse.
14 DCP guidelines suggest two acres per thousand
15 residents. The study area has .22 acres. Point
16 two two of active open space. Ten times less than
17 the recommended. Even the DEIS admits that the
18 introduction of 2,600 new residents without any
19 added public open space is going to fall beneath
20 DCP's recommended goals.
21 But, the DEIS points out there
22 already is some open space for passive recreation
23 in the area. There is the plaza at 555 West 57th
24 Street. That's the BMW dealership where they park
25 their cars. The Clinton Tower Plaza on Eleventh

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1 63

2 Avenue, you may have walked through, it's really a
3 sidewalk. And then there's something called Bob's
4 park on 35th Street. It's a locked park. About
5 three people can get in when it's open. All, for
6 some reason all of these were left out of Ken
7 Burns' National Parks documentary.

8 We have to admire the logic,
9 though, of this project, which is consistent. This
10 project has even reduced the open space of the
11 playground as it is now, but in hopes you won't
12 notice, because the new playground is in shadow.
13 Which is good for the kids who want to grow
14 mushrooms, but otherwise not so good.

15 I'd like to nominate the DEIS for
16 a National Book Award under fiction. This
17 Community Board in conclusion suggests three
18 things.

19 One, to mitigate the insufficiency
20 of open space in the area. CB 4 requests that the
21 school yard be opened to the public as a public
22 playground, consistent with Plan NYC's open space
23 initiative. I think there's a category of open
24 space in deep shadow.

25 Two, during the construction

1 64

2 period we must have a temporary playground in the
3 immediate vicinity for these kids of P.S. 51. And
4 we can achieve that.

5 And, three, let the sun shine in.
6 And not just for the market rate units on the upper
7 floors. Fifty percent of that roof area must be
8 redesigned to permit use as a sunny playground for
9 our children. It can be done, it has been done, it
10 must be done.

11 Thank you, Madam Chair.

12 (Bell rung)

13 THE CHAIR: Good timing. Any
14 questions for -- okay.

15 The next speaker is Joe Restuccia,
16 to be followed by Rafael Mejia.

17 MR. RESTUCCIA: My name is Joe
18 Restuccia. I'm the co-chair of the housing
19 committee of Community Board 4.

20 First I would like to thank both
21 Gotham and HPD for working with the community
22 really seriously over a period of two years to
23 resolve the massing problems and the zoning
24 problems on this site. We are at a point where we
25 can safely say we support this project with

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1 65

2 conditions. And I would like to list a few items
3 on those conditions.

4 First is the off site day care.
5 We believe we can work with HPD to identify the
6 buildings on the urban renewal area to satisfy the
7 location to be a landing site for the off site day
8 care when it's needed. We began those discussions
9 with HPD, we would like it to continue.

10 The school construction I think is
11 the biggest issue here that we should grapple with.
12 School construction simply does not make sense for
13 procurement purposes alone to build an entire site
14 and not build that school. Gotham should build
15 that school, whether it's with BCF or SCA. It must
16 be done at the same time by the same developer so
17 no fingers can be pointed during construction when
18 there will be the inevitable problem that will
19 arise of who is doing what and who is responsible
20 for what that will affect the kids in the existing
21 P.S. 51. Contrary to the statement that it is
22 impossible for SCA to do this procurement, they
23 have signed a letter to Related regarding the
24 western rail yards, saying in fact they are going
25 to have Related build the school, build a part of

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2 the shell of the new school. It is a matter of
3 political will and it should be done this way for
4 obvious purposes. Plain old practicality.

5 The same thing goes for the
6 playground and the roof. Of course there's green
7 requirements. Of course there's piles of air
8 conditioning and HVAC and ventilation that will be
9 required. However, it's a piece of paper. It's
10 not a design that has been fleshed out yet, as
11 Irwin said. It's going to be working drawings.
12 Those equipment activities could be segregated to
13 one portion so we can get a rooftop school
14 playground of some size. It doesn't have to be
15 perfect. This whole project is not perfect. But
16 we need to have the kids in sun. Major, major
17 issue for us.

18 As for the financing with housing,
19 to speak to Commissioner Leventhal's question, the
20 75 units, the financing that is done is for the 30
21 year portion of the bonds, so those units are
22 static rents that will be affordable for the 30
23 year portion of the bond. It's what happens to
24 them afterward. That is not a matter of financing,
25 it's a matter of public policy.

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1 67
2 A public site should be affordable

3 in perpetuity. It will not affect the ongoing
4 financing issue. Afterward is a tax exemption.
5 And I believe the City of New York is able to deal
6 with how to build future tax exemptions after the
7 30 year bond expires so those units will be carried
8 with low rents. That is the underlying cross
9 issue. So I ask again, and we just thank Gotham
10 for doing a very good job to get these specific
11 things resolved.

12 And the C2-5 overlay, by the way, an
13 auto showroom is enabled under a C2-5 overlay. We
14 did that with 77 Eleventh Avenue, the Two Trees
15 proposal. So our concern is, again, in keeping the
16 residential, the commercial overlay just to
17 Eleventh, nothing mid block. And it's not about
18 what happens in the future and preserving Gotham's
19 options. We want to preserve our community's
20 flavor and feel and the quiet residential character
21 of the mid blocks.

22 Thanks.

23 THE CHAIR: Thanks, Joe. There
24 might be questions. Yes.

25 COMM. EADDY: Just one.

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1 68
2 Joe, thank you. With regards to the
3 75 affordable units, and I agree with you that once
4 the bond is paid off the financing should have no

5 impact, so I assume you will continue to work with
6 the developer in terms of trying to find a way to
7 make those units permanently affordable?

8 MR. RESTUCCIA: Yeah. We want to
9 come to a conclusion, a favorable conclusion for
10 the developer, because the truth is for the
11 developer they're looking at the upside of those
12 units after the 30 years.

13 COMM. EADDY: Okay.

14 MR. RESTUCCIA: And our side is,
15 well, the upside is not the issue, it's public
16 policy.

17 COMM. EADDY: The developer earlier
18 today just mentioned that if it didn't negatively
19 impact the financing they were willing to make
20 those units permanently affordable. So assuming
21 that we were correct and it won't impact the
22 financing, maybe the real estate taxes remain an
23 issue, and I assume you'll continue to work with
24 them --

25 MR. RESTUCCIA: Yes, we will.

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1 69

2 COMM. EADDY: -- to see that
3 through. Thank you.

4 THE CHAIR: Thanks, Joe.

5 MR. RESTUCCIA: Thanks very much.

6 THE CHAIR: Nice to see you.

7 Rafael Mejia.

8 MR. MEJIA: Good morning. My name

9 is Rafael Mejia. I am a resident of Hell's

10 Kitchen. I am also a teacher at P.S. 51 and the

11 parent of two students who attend P.S. 51.

12 I am here on behalf of my children,

13 their friends, classmates, and neighbors. As

14 residents of the City and Hell's Kitchen

15 communities we feel it necessary to voice our

16 concerns for the development that is planned for

17 West 44th and Eleventh Avenue. As this year ends

18 and a new one begins, we hope that you will

19 consider our request that the new year will bring

20 us hope for a more socially equitable and

21 economically just city.

22 As we have stated at previous

23 meetings, we are not anti development. What we are

24 against is the developments in the city that

25 benefit corporations that disrupt a community and

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1 70

2 then move on to their next project. Both the

3 developer of this project and their elected

4 officials have told us that what the community

5 gains will outweigh all the adverse problems it

6 will inherit, problems that can overburden

7 infrastructure, traffic disruptions and increased

9 Demand that the development will benefit the
 10 citizens and not just the corporations. Insist
 11 that the adverse impacts the community will sustain
 12 are not written off as collateral damage or
 13 acceptable damage.

14 We want and need a new school.
 15 During the 30 months of planned construction it is
 16 expected that hundreds of trucks will pass by the
 17 school on a daily basis. Just this will have an
 18 immediate adverse impact on our neighborhood. And
 19 because excavation for the site must be done during
 20 the school year, the students will be left without
 21 a school yard to play in during recess.

22 It has been suggested that we take
 23 them somewhere else. The question is where and how
 24 do we get them there. With all those trucks coming
 25 and going through the day, how safe will it be. So

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1 72
 2 I ask you to imagine your children having to live
 3 for the next three years, what will you say to
 4 them. What should I tell my children, their
 5 friends, their classmates and neighbors.

6 THE CHAIR: Thank you very much.
 7 No questions.

8 Lucas, I can't read it, Shopin or
 9 Shepin. And then Shelley Grant and Mary Ann
 10 Savage.

11 MR. SHAPIRO: It's Lucas Shapiro.

12 THE CHAIR: Shapiro, okay.

13 MR. SHAPIRO: Good morning,
14 everyone. I'm Lucas Shapiro. I'm a community
15 organizer at Housing Conservation Coordinators,
16 which is a neighborhood based affordable housing
17 organization that works to advance tenants rights
18 and to ensure that new development on the West Side
19 of Manhattan also includes affordable housing for
20 our community. I'm going to speak mostly about the
21 process going forward.

22 I've been working for a couple of
23 years now with the different stakeholders, going to
24 the school on a regular basis, meeting with the
25 PTA, the administration, neighborhood residents,

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1 73
2 working with people to come out and provide
3 testimony at the different hearings and really
4 engaging the community so that they can participate
5 meaningfully in this process. So there are a lot
6 of things that I'm very happy about this project.
7 And of course coming from an affordable housing
8 organization the 600 units of permanently
9 affordable housing is fantastic. And also the new
10 school.

11 As some of you might know, that

12 the current school has a cafe-tor-nasium (sic),
 13 which is all collapsed into one space. It's a
 14 hundred year old building. And it's really, it's a
 15 shame that the kids are put in a place where they
 16 have to put up with that day to day. So the new
 17 school is really exciting. There's some things
 18 that we just want to make sure going forward that
 19 can improve upon the existing proposal.

20 Of course the lack of playground
 21 space that has sunshine is a big one. And I think
 22 we can find some creative solutions to dealing with
 23 that, including looking at the roof space, the
 24 mechanics and the footprint of the school itself.

25 Also, the issue around the school

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1 74
 2 staying pre-K through five is absolutely key. And
 3 we want to make sure that the City and elected
 4 officials have a plan to deal with the overcrowding
 5 crisis that we know is only going to grow. So this
 6 site relates to that. And of course more long term
 7 we have to identify solutions and identify
 8 locations to build new schools.

9 The process moving forward I think
 10 is really key. And I know that the parents and the
 11 folks with the school are very sensitive about this
 12 I think for very obvious reasons as well. We want
 13 to make sure that the developers commit to being

14 part of a community advisory committee and that the
15 other stakeholders are present as well. That would
16 include the School Construction Authority, the
17 Department of Education, the P.S. 51
18 administration, the PTA members, obviously our
19 locally elected officials, and the Community Board.
20 That's really key, just to make sure that there's
21 an open, transparent process where the voices of
22 the community are respected, that all of the
23 concerns that you have heard and more that you'll
24 hear from here on out, that those can be dealt with
25 in an open fashion.

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1 75
2 I'm very pleased that Gotham has
3 said that they are committed to establishing a
4 construction task force. Of course there's a lot
5 of sensitivity. It's a unique site and the kids
6 are actually going to be there as students as the
7 building is being built adjacent to where their
8 current school is. So that would be really great
9 in terms of making sure that all the health and
10 safety concerns are addressed in an open fashion.
11 Just in closing I'm really excited
12 about this project. I think we can make it even
13 better. And I think if we can make some of the
14 recommended changes from the Community Board, from

15 the school and from other community advocates that
16 this can be something that we're really all proud
17 of for generations to come.

18 Thank you.

19 THE CHAIR: Thank you. The next
20 speaker is Shelley Grant, and then Mary Ann Savage
21 and then Katherine Consuelo Johnson.

22 MS. GRANT: Hi. My name is Shelley
23 Grant. And I'm a member of the P.S. 51 new school
24 committee. I'm also a literacy coach for P.S. 51.
25 I'm here today as one of the representatives of the

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1 76
2 P.S. 51 community.
3 The P.S. 51 community feels
4 strongly that the new school should remain a pre-K
5 to grade five school and not be changed to a pre-K
6 to eight school as currently planned. From the
7 report by New York State Senator Tom Duane and
8 Community Board 4 on August 11, 2009, the following
9 data was presented at a press conference, which was
10 attended by many local politicians, neighbors and
11 parents. In the best case scenario, the planned
12 expansion of P.S. 51 and existing capacity of P.S.
13 111, both of which currently serve the area, will
14 provide seats for an additional 324 students.
15 Ultimately, public school enrollment will soon
16 exceed capacity as new developments come on line.

17 In fact, by 2019, unless additional classrooms are
18 created, 1,026 elementary school age students will
19 be without seats.

20 In SCA's plan, the new school
21 building for P.S. 51 has the capacity of 610
22 students for grades pre-K to eighth grade. If the
23 school includes grades six to eight, it would only
24 allow for minimal expansion in the elementary
25 school, where there would still be a shortage of

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1 77
2 seats due to the projected population growth of
3 elementary school aged children in the P.S. 51
4 zone, which extends from 34th Street to 38th Street
5 between Fifth and Twelfth Avenues. Therefore, P.S.
6 51 is requesting that the new school be solely a
7 pre-K to fifth grade school in order to expand the
8 number of elementary school seats that will be
9 needed in the future. This may be our last chance
10 for a long time to solve this issue of elementary
11 school overcrowding on the West Side. If we don't
12 provide school seats for our pre-K to five students
13 in the P.S. 51 new school building, we may be faced
14 with overcrowding soon after the new school opens.

15 The P.S. 51 community also
16 believes that the rezoning of schools on the West
17 Side will be necessitated by the development of the

18 Hudson Rail Yards and hopefully the building of a
19 new school in the rail yards neighborhood.

20 Another essential issue for P.S. 51
21 is the size of the planned playground. The planned
22 playground is much smaller than the current P.S. 51
23 playground for about double the number of students.
24 According to a citation in No Room in the
25 Playground, a report examining playground space in

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1 78
2 New York City elementary schools by Jeffrey Klein,
3 Chair, New York State Assembly Committee on
4 oversight, analysis and investigation in September
5 2003, Department of Education preferred minimum
6 square footage for an outdoor playground is a
7 playground with an area of 30 square feet per pupil
8 to a maximum of 30,000 square feet per primary and
9 intermediate schools. This means that the outdoor
10 playground for our new school with 610 students
11 should be at least 18,300 square feet.

12 The City selected Gotham as the
13 developer of this site. The City could require
14 Gotham as a condition of developing this site to
15 ensure that P.S. 51 have at least an 18,300 square
16 foot outdoor playground so that the playground will
17 be large enough to accommodate the number of
18 students that will be in our school.

19 (Bell rung)

20 MS. GRANT: The P.S. 51 community is
21 excited about the new school, but let's get it
22 right.

23 THE CHAIR: Thanks very much.
24 Mary Ann Savage.

25 MS. SAVAGE: Good morning. My name

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1 79
2 is Mary Ann Savage. I am the PTA president at P.S.
3 51. I am on the new school committee. I am also a
4 resident of Hell's Kitchen. And most importantly
5 my daughter is a student at P.S. 51.
6 We are here to request the
7 formation of a committee called community advisory
8 committee. This group would monitor progress of
9 the school construction and progress on our P.S.
10 new school site. Included in this committee would
11 be representatives from the most important
12 stakeholders. These committees would include the
13 Community Board 4, local elected officials, P.S. 51
14 principal Nancy Sing-Bock, and a PTA
15 representative, West Side Neighborhood Alliance,
16 CEC, Department of Education, the SCA, and LT, the
17 school leadership team, with someone elected or
18 appointed to their position, District Two consul
19 with a limited number of people, possibly two
20 people per unit. Gotham and the developer of our

21 school should be invited to join our meetings. We
 22 need to formalize a point person from one of the
 23 aforementioned groups to distribute the information
 24 generated at the meetings. Open communication is a
 25 must. Open communication is imperative to all

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1 80

2 interested parties.

3 We would like to have our first
 4 meeting in January or February of 2010. Please
 5 remember, our children work very hard at school and
 6 they all need a break. After a healthy lunch our
 7 children need fresh air, and most importantly they
 8 require sunlight for vitamin D production to help
 9 maintain their good health. The current design of
 10 the outdoor playground is insufficient. We need
 11 18,300 square feet, not the proposed 12,658 square
 12 feet.

13 Oh, I just want to say I agree
 14 with the previous speaker that said let the sun
 15 shine in.

16 Thank you.

17 THE CHAIR: Thank you very much.

18 Karen Phillips has a question for
 19 you. Wait a second, Ms. Savage.

20 MS. SAVAGE: Oh, I'm sorry.

21 COMM. PHILLIPS: Hi, I'm sorry.

22 The developer designated a similar

23 type of committee, but you think that committee
24 should be expanded?

25 MS. SAVAGE: Well, I think we need a

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1 81
2 chat about that. I think it's important to get
3 everybody included in the committees. I don't know
4 if we can incorporate, you know, the same
5 committee, everybody together, I would have to see.
6 We're, I guess the biggest thing is we are
7 requesting to get everybody involved and make sure
8 everybody knows what's going on, get everybody on
9 the same page.

10 COMM. PHILLIPS: And you wanted
11 elected officials to be representatives?

12 MS. SAVAGE: Yeah, definitely,
13 definitely.

14 COMM. PHILLIPS: All right, thank
15 you.

16 MS. SAVAGE: Any other questions?

17 THE CHAIR: Thanks very much.

18 Katherine Consuelo Johnson, to be
19 followed by Seth Robert Berliner and then Kathleen
20 Treat.

21 MS. JOHNSON: My name is Katherine
22 Consuelo Johnson and I am the parent of a third
23 grader at P.S. 51. I've been on the new school

24 committee for the last three years.

25 I also just wanted to say that the

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1 82

2 P.S. 51 community is happy and thrilled to be part
3 of the process of building a new school for our
4 children and future generations. But saying that,
5 here are some of our concerns and requests from the
6 P.S. 51 community about the upcoming development
7 site with Gotham new school construction authority.

8 P.S. 51 needs to have a temporary
9 playground for students during construction. This
10 playground must be available in stage before
11 construction begins in September of 2010. P.S. 51
12 would like a larger playground filled with
13 sunlight. We want back the entire current
14 playground, not the canyon described in the current
15 blueprints that is smaller in size for twice as
16 many students.

17 The current P.S. 51 would like
18 placement of air purifiers and air conditioners
19 throughout the entire building and maintained
20 during the entire construction process.

21 The current P.S. 51 would like
22 frequent air quality studies of the school inside
23 conducted before and during school hours during the
24 entire time the site is under construction.

25 The current P.S. 51 requests regular

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1 83

2 studies of noise levels in school during school
3 hours. As a community, we want to make sure noise
4 levels during construction while school is in
5 session do not exceed EPA recommendations.

6 I ask the City of New York to
7 please review all of P.S. 51's concerns and
8 requests. Thank you very much.

9 THE CHAIR: Thank you very much.

10 Question from Anna Levin.

11 COMM. LEVIN: Hi, Katherine. I have
12 a question. You know the neighborhood better than
13 any of the rest of us. Do you have any ideas where
14 the temporary playground might be?

15 MS. JOHNSON: I'm glad you asked. I
16 do, I have two ideas. The first one would be the
17 most obvious, on 45th Street, well, between Ninth
18 and Tenth Avenue between 45th and 46th Street. I
19 believe the correct playground name now is the May
20 Matthews Alexander Palmer Playground. Now, that
21 playground is super close to the school. But it
22 also has a relief station, is that the correct
23 term? A comfort station, which many taxi drivers
24 and local people like to hang out in. So we would
25 have to perhaps work with our local precinct in

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1 84

2 making that place safe or perhaps having a police
3 officer during recreation hours.

4 And my second choice for a
5 playground would be the Hell's Kitchen playground
6 on Tenth Avenue between 47th and 48th Street.

7 COMM. LEVIN: So those are both
8 public parks?

9 MS. JOHNSON: They are, they are.
10 And they are within blocks of the school.

11 Now, this would only be during nice
12 weather. We also have four months of winter of
13 what are we going to do with those kids.

14 So any other questions?

15 THE CHAIR: Thanks very much.

16 Somehow unbelievably I forgot to
17 call Anthony Borelli, so he goes next. Sorry.

18 MR. BORELLI: That's quite all
19 right. I was not going to leave the room without
20 testifying. This would have been the first time I
21 missed a hearing on a Borough President item, and
22 for a project as important as this I did not want
23 it to be the first time.

24 My name is Anthony Borelli. I am
25 the director of land use in the office of Manhattan

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1 85

2 Borough President Scott Stringer.

3 Good afternoon. A lot has been
4 said already. There have been excellent questions
5 from the Commissioners, which show that you guys
6 have really read the Community Board recommendation
7 and the documents submitted by the Borough
8 President. The answers are equally very helpful in
9 identifying the important issues and clarifying the
10 concerns of the developers and the community
11 members. So there's not much more I can add in
12 terms of issues and concerns.

13 But I do want to reiterate the
14 Borough President's conditional support for the
15 project. It is important. It's a long time in the
16 making. And I think one aspect of the project that
17 he is very proud of is the fact that it really is a
18 product of community based planning, not
19 traditional based planning process, but it happened
20 organically. It happened because, as you know, the
21 West Side is very insistent about having their
22 voices heard. They were heard by government
23 agencies, by the elected officials, by this
24 commission, by the developer. And the Borough
25 President and I would hope that that sort of

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1 86

2 collaboration continues through the work of the
3 various task forces that have been proposed.

4 The Borough President thinks that
5 both the construction mitigation task force and a
6 task force for the design, construction programming
7 of the school is really important. So we would
8 like to see that collaboration and cooperation
9 continue as the project becomes better in all that
10 it can be. And our office and the Borough
11 President looks forward to being a part of that
12 process. So thank you.

13 THE CHAIR: Thanks, Anthony.
14 Always good to see you, and thank you for coming on
15 behalf of the Borough President.

16 MR. BORELLI: Thank you.

17 THE CHAIR: The next speaker is Seth
18 Robert Berliner.

19 MR. BERLINER: My name is Seth
20 Berliner. I'm here on behalf of State Senator Tom
21 Duane. Before I start his testimony I'd like to
22 answer Commissioner Phillips' question to PTA
23 President Savage about the various committees.

24 My understanding is that the
25 developer has agreed to a construction task force.

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2 What PTA President Savage was asking for was an
3 ongoing community advisory committee to discuss
4 various aspects of the school, specifically the
5 programming. And now I'll start.

6 (Reading:) My name is Thomas K.
7 Duane. I represent New York State's 29th Senate
8 District. Thank you for the opportunity to
9 testify. I want to express my gratitude to Gotham,
10 HPD, DCP and SCA for their commitment to working
11 with the community. I am pleased with many aspects
12 of the current proposal, but I also wish to
13 highlight some concerns that remain.

14 I am delighted that the project
15 will include the 600 permanently affordable
16 apartments that the community was promised during
17 the Hudson Yards rezoning. Unfortunately, only 40
18 percent of these units will have two or more
19 bedrooms and thus provide homes for families who
20 are, as CB 4 has noted, the backbone of our City.
21 While I appreciate that Gotham has modified its
22 plan to accommodate even that number, the community
23 and I would like to see at least 50 percent of the
24 units be made family sized. I also urge Gotham to
25 make the 75 additional affordable units it plans to

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1 88
2 build under the 80/20 program affordable in

3 perpetui ty.

4 In a similar vein, I look forward
5 to the creation, as promised, of an affordable
6 housing fund from the proceeds of the disposition
7 of City owned land. It is important that that
8 money be reserved first for those affordable
9 housing developments in CD 4, to which Mayor
10 Bloomberg has already committed, but which have
11 been not able to proceed due to gaps in funding.

12 Generally Gotham's proposed
13 buildings are contexturally designed, with
14 appropriate facade treatments and a low, broad
15 outline. Unfortunately, the project will include
16 one building with towers reaching 14 stories each,
17 as well as another with two towers reaching 30 and
18 31 stories respectively. While it seems that some
19 compromise on height will be necessary in order to
20 house the community's desired volume of affordable
21 units, and I am grateful that the heights have
22 already been lowered considerably, I urge all
23 parties to continue to work to ensure that the
24 buildings are contextual to our neighborhood's
25 low-rise character. Any compromise on height in

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1 89
2 this development, though, highlights the urgency of
3 the proposed Eleventh Avenue rezoning and its
4 associated height limits, and I hope that DCP will

5 move forward on that rezoning with due speed.

6 Also, I appreciate that Gotham has
7 agreed not to transfer off site the excess
8 development rights that this project will generate,
9 and I hope to see that agreement codified.

10 I'm also concerned that the
11 proposed zoning amendment map includes a C2-5
12 overlay, which would permit commercial uses on the
13 entire site at two floor area ratio. I urge DCP,
14 CB 4 and Gotham to develop a means by which
15 Gotham's commitment to one FAR may be embodied in
16 an enforceable agreement.

17 The DEIS projects that even without
18 this development, the area will see a shortage of
19 525 publicly funded child care slots by 2013. This
20 project will add 56 children to that number. And
21 the DEIS suggests that these 581 children be
22 accommodated by filling 71 open slots at Hartley
23 House, by using ACS vouchers for private child
24 care, and by sending the remainder to publicly
25 funded facilities over a mile away from home.

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1 90
2 These suggestions would be laughable if they were
3 not so seriously inadequate.
4 (Bell rung)
5 MR. BERLINER: That was quick. I'm

6 going to skip ahead.

7 THE CHAIR: You have to conclude.

8 We'll be reading it, so why don't you read the last
9 sentence and then give the written testimony to the
10 secretary and we'll sure to read it.

11 MR. BERLINER: Sure. It behooves
12 the DOE and SCA to look at the area's long term
13 school needs, including eliminating its planned
14 potential introduction of intermediate school
15 seats, as well as considering making every
16 conceivable effort to include open space on the
17 roof.

18 Thank you for the opportunity to
19 testify. I look forward to working with all
20 stakeholders.

21 THE CHAIR: Thank you. Thank you
22 for coming on behalf of the senator and we look
23 forward to reading his remarks in full. Did you
24 give a copy to the secretary?

25 MR. BERLINER: Yeah, I will.

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1 91

2 THE CHAIR: Okay, Kathleen Treat is
3 the next speaker.

4 MS. TREAT: Good afternoon. Thank
5 you very much for the opportunity to speak today.

6 I am Kathleen Treat, Chair of the
7 Hell's Kitchen Neighborhood Association. And I

8 have seen you all so many times over the years ever
9 since the football stadium. It's nice to see you
10 again.

11 While it is true that Gotham has
12 worked with Community Board 4 on this project,
13 there is still a great deal left to be done for the
14 neighborhood. Where is any open land? Any space
15 that could be reasonably called a park? We have
16 the wonderful Hell's Kitchen Park on Tenth Avenue
17 and 48th Street. That's it. Until you go down
18 Tenth Avenue to 21st Street in Chelsea. Nothing in
19 between. That's 27 blocks without open space.

20 A rooftop playground, which sounds
21 like a fabulous idea for a public school, does not
22 benefit the community. Without adequate open space
23 this project more and more resembles a 19th century
24 tenement block, much like the overcrowded, airless,
25 pre law Hell's Kitchen tenements of years ago.

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1 92
2 Where are mothers to walk their baby carriage?
3 Where are toddlers going to play? Where are old
4 folks going to sit and sit in the sun and chat?
5 How about teens? I don't see a basketball court
6 anywhere in these plans. A playground in the dark
7 simply does not answer.
8 Thank you.

9 THE CHAIR: Thank you very much.

10 The next speaker is Marlie Buehler.

11 MS. BUEHLER: Hi. I got here just
12 in time. I just got off the subway and they told
13 me I could be the last speaker, so thank you.

14 I'm a professional tennis player
15 actually and I have an afterschool program since
16 1993. And since 2005 I have it at P.S. 51. And
17 I've come to appreciate that small little school
18 for the jewel that it is. And one of the jewels is
19 it has lots of light outside.

20 I just want to make two points and I
21 will leave you to go to wherever you have to go to.

22 The first point is that in a city
23 where they say that children should be first, this
24 whole operation is putting the children last it
25 seems to me. I have nothing else to -- I have no

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1 93

2 outside interests or conflict of interest here, I
3 just have the children at heart. So the way that
4 it's being drawn about, the building of it, the
5 children aren't being put first.

6 Secondly, the lights situation.

7 There are numerous studies about light and children
8 and learning, that if they don't get enough light
9 they're not going to learn. And in a city where we
10 want the kids to learn and we are trying to do

11 everything we can to better the schooling, again,
12 this one is backwards. From what I understand of
13 the whole situation, the kids are in the middle of
14 the block and no light is going to get to them,
15 especially if they're in afterschool they're not
16 going to see the light of day for a lot of their
17 months.

18 So that's all I have to say. God
19 bless you, bye-bye.

20 THE CHAIR: Is there anyone else
21 who would like to speak on this item?

22 (No response)

23 THE CHAIR: The record will remain
24 open for ten days to receive testimony on the Draft
25 Environmental Impact Statement, and the hearing is

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1 94
2 closed.

3 (Time noted: 12:15 p.m.)
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1 95

2 C E R T I F I C A T E

3

4 STATE OF NEW YORK)
5 COUNTY OF ORANGE) SS:

6

7 I, KARI L. REED, a Registered
8 Professional Reporter (Stenotype) and Notary Public
9 with and for the State of New York, do hereby
10 certify:

11 I reported the proceedings in the
12 within-entitled matter and that the within
13 transcript is a true record of such proceedings.

14 I further certify that I am not
15 related, by blood or marriage, to any of the
16 parties in this matter and that I am in no way
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand this ____ day of December 2009.

20

21

KARI L. REED, RPR

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23

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