



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

GALE A. BREWER
BOROUGH PRESIDENT

February 18, 2014

Vice Chair Kenneth J. Knuckles, Esq.
City Planning Commission
22 Reade Street
New York, NY 10007

Re: N 140191 ZRM and N 140192 ZCM – Manhattan West Text Amendment

Dear Vice Chair Knuckles:

I write in support of Brookfield Office Properties' application for a zoning text amendment and Chair certifications to facilitate a modified development plan for the block bounded by West 31st and 33rd Streets between Ninth and Tenth Avenues. The affected area includes the development site (Block 729, Lots 50 and 60), a 213,600 square foot site containing an active, below-grade rail yard over which the applicant is currently constructing a platform. Additionally, the text amendment will affect the zoning lot to the immediate west, which contains a 14-story commercial building, 450 West 33rd Street (450 Site). The proposed text amendments will increase the amount of publicly accessible area on the site, and will provide for a pedestrian-accessible deck over Dyer Avenue.

The project site is located across Eighth Avenue from the future Moynihan Station and sits one block west of Penn Station. To the west, across Tenth Avenue, is the Eastern Rail Yards site of the Special Hudson Yards District, which will feature two large office towers and a shopping mall along Tenth Avenue. The remainder of the surrounding area is a mix of residential, commercial, retail, public facility, and transportation uses. The development site and the 450 Site are separated by Dyer Avenue, a below-grade access road to the Lincoln Tunnel. Dyer Avenue is owned by the applicant as part of the 450 Site but is subject to a 1954 easement by the Port Authority of New York and New Jersey.

Both the development site and the 450 Site are zoned C6-4 and are within the Farley Corridor Subdistrict of the Special Hudson Yards District. The Special Hudson Yards District was established in 2005 to extend the Midtown central business district by offering substantial new opportunities for office and hotel development, and to encourage new housing on the west side of Manhattan. The development site is within the Central Blocks Subarea B2 and the 450 Site is within the Central Blocks Subarea B1. These subareas permit a base floor area ratio ("FAR") of 12 and 10, respectively, which can be increased to a maximum of 19 and 21.6 through the

provision of affordable housing and other amenities. The districts allow buildings to rise without a setback to a height of 150 feet with a mandatory setback above that height of 15 feet on a wide street and 20 feet on a narrow street. The existing zoning requires a number of public access areas on the block, including a public plaza at Ninth Avenue and 33rd Street, a 60-foot wide covered pedestrian space along the continuation of 32nd Street from Ninth Avenue to Dyer Avenue, and a 20-foot wide through-block connection from 31st to 33rd Street along Dyer Avenue.

The applicant proposes to develop four buildings on the development site. Along Ninth Avenue will be two skyscraper office buildings, to the southwest will be a residential building, and to the northwest a mixed office and hotel building. Upon completion, the development site will contain approximately four million square feet of floor area, of which 3.2 million will be commercial space including office, hotel and retail uses. Notably all of these buildings, at their proposed size, would be allowed under the current zoning. The applicant proposes to construct a network of open-air public areas on the site. Along Ninth Avenue the applicant proposes two large plazas in front of the proposed office towers, the southern of which will include an art installation. Along the continuation of 32nd Street, the applicant proposes a central plaza between 80 and 100 feet wide that will include a landscaped area, large planters, and movable chairs and tables. Under one potential configuration of this space, a one-story retail pavilion would sit in the center of the central plaza. Also within the central plaza would sit an event space that would be closed no more than 12 times a year for private events. The applicant further proposes a landscaped plaza on a platform over Dyer Avenue that would connect the central plaza to the 450 Site and would connect 31st and 33rd Streets. Finally, the applicant proposes a breezeway through the southern end of the 450 Site that would connect the Dyer Avenue platform to Tenth Avenue.

In order to facilitate this site plan, the applicant seeks text amendments to the Special Hudson Yards District and Chair certifications to allow the residential component of the project to be developed first. First, the text of ZR § 93-221 will be amended to prohibit the transfer of floor area between the 450 Site and the development site. The text amendment will also alter the public access requirements to match the proposed set of public spaces. Previously, any development or enlargement of the 450 Site required the inclusion of a passageway through the building along the prolongation of 32nd Street. The text amendment changes this requirement, making it only necessary for enlargements over 10 FAR. The proposed text also modifies the phasing requirements that dictate which of these public spaces must be open based on the timing of construction of the buildings on the site. Finally, the text amendment will allow for existing parking to remain on the site, despite the fact the buildings to which this parking will be accessory will not be completed for more than two years, as is currently required. The zoning text allows 4 FAR of residential space on the site only if 15 FAR of commercial space has been developed. The applicant is applying for certifications to (1) confirm that the minimum amount of commercial square footage has been provided and (2) allow that the residential space be constructed first, as part of a phased development plan.

At a full board meeting on February 5, Manhattan Community Board 4 (CB4) approved a resolution recommending conditional approval of the application. The Board noted that it welcomes the addition of new public space to the district, but that “public space should not be expanded solely to provide access corridors to retail venues.” As such, the Board recommended

a number of changes to the proposed development. First the Board requests that the applicant agree to a restrictive declaration mandating the use of the Inclusionary Housing program. In addition, the Board requests that the Inclusionary Housing include a wide range of income levels, that the affordable units be distributed throughout the building, that the affordable tenants have access to all building amenities, and that the affordable units include all of the same finishes as the market rate units. Additionally, the Board recommends that the public access areas on the site be open 24-hours a day and that, other than the 12 private events a year, all events in the event space be free and open to the public. The Board also asks that the applicant work with the Board and the Department of Transportation to improve 31st and 33rd Streets. Finally, the Board requests that the applicant continue to work with the CB4 Construction Taskforce to address any issues that come up over the course of construction.

The new site plan proposed by the applicant represents a significant improvement over the previously mandated through-block atrium and Dyer Avenue bridge. The new public spaces will be a boon to the community, which is currently lacking in quality open spaces. The CB4 resolution, however, questions whether these new spaces will be truly public. The applicant is not building a park that will be managed by the public, but rather a series of open-air accessways to its large commercial, residential, and retail facilities. These access areas will serve these particular buildings, but will also serve as critical connections between Penn Station to the east and Hudson Yards to the west. Additionally, it is currently unknown what will occupy the western half of the Farley Post Office, but the space could accommodate a particularly intensive use, including potentially a new home for Madison Square Garden. As such, the CPC should ensure that the spaces that are being built can serve the diverse functions of circulation, passive recreation, and direct access to retail and commercial buildings. The applicant, who has a history of being unable to maintain control over a 24-hour, privately-owned public space, is proposing to close the spaces overnight. Much like city parks, the provision to post open and closed hours is appropriate, but does present some issues. Though the applicant currently plans to keep the plazas open to passing pedestrians during overnight hours, the City should include provisions in the text to prevent future owners of the space from changing these plans. These provisions should mandate that the spaces never be physically gated off. This could be especially important as the neighborhood changes to include more residential uses and late-night establishments like convenience stores and eating and drinking establishments.

The applicant is proposing to create a new retail area fronting on the proposed central plaza. The applicant proposes that this area will be similar in nature to the Winter Garden Atrium at the World Financial Center, which is a quality public space that includes many locally-owned restaurant options. This type of public space is a true amenity to the neighborhood. Though the applicant plans to build a high-quality, amenity-filled area, the proposed zoning text does not sufficiently mandate this type of space. The proposed text for ZR § 93-73(b)(2)(vi), for example, currently mandates that retail spaces have a minimum depth from the plaza of 30 feet. There is no provision for the maximum size of individual retail spaces, however, which leaves open the possibility of large chain stores and restaurants. Though the applicant does not currently plan for these types of retail uses, plans for the entire site are not fully developed at this time, and the public has no assurance that potential future owners of the space maintain the current plans of the applicant. Such assurances should be included in the proposed zoning text amendment. Additionally, the applicant's plans for retail spaces on the site all face inward,

towards the plaza. The applicant should ensure, as plans are further developed, that this does not leave the 31st and 33rd Street facades as purely commercial and residential lobbies. As these streets will provide the connections between Hudson Yards and the rest of Midtown, the applicant should make sure that they are quality pedestrian environments.

Finally, the Community Board asks that the applicant agree to a restrictive declaration mandating the use of the Inclusionary Housing program. Though the applicant has intentions of using this program, the inclusion of this commitment in a restrictive declaration will provide assurance that, down the road, these intentions will be honored. Further, the applicant will be building a significant amount of very profitable office space on this site and the CPC should explore whether this restrictive declaration, or the proposed text amendment, should include more ambitious affordable housing plans than the typical Inclusionary Housing project. These plans should include a wide range of income levels and affordable units representing more than 20 percent of the building's floor area.

The project being proposed, if altered to ensure true public access, retail diversity, and ambitious affordable housing goals, will be far superior to the project that could be built under the existing public access requirements. The proposed text amendments and certification to allow a phased development are thus appropriate and beneficial to the community. I look forward to continuing to work with the CPC and the applicant to ensure that the final design for the project meets the lofty goals of the applicant and the needs of a quickly-changing neighborhood.

Sincerely,

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, flowing style.

Gale A. Brewer
Manhattan Borough President