

October 18, 2004

Hon. Amanda M. Burden, AICP
Chair
City Planning Commission
22 Reade Street
New York, NY 10007

**Re: Clinton Green Mixed Use Development – 51st to 53rd Streets, West of Tenth Avenue -
ULURP Applications No. 050050 ZMM, 050051 ZRM, 050052 ZSM, 050053 ZSM, 005054
ZSM and 005055 HAM**

Dear Chair Burden:

At the recommendation of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board No. 4, having held a duly noticed public hearing on ULURP applications number 050050 ZMM, 050051 ZRM, 050052 ZSM, 050053 ZSM, 005054 ZSM and 005055 HAM, adopted the following resolution by roll call vote at its meeting on October 6, 2004 (29 in favor, 0 opposed, 1 abstentions and 2 present but not eligible to vote).

These are applications by the New York City Department of Housing Preservation and Development (HPD) and The Dermot Company (Dermot) for a series of land use approvals to facilitate the development of a mixed-use, primarily residential project on portions of Sites 8 and 9C within the Clinton Urban Renewal Area between 51st and 53rd Streets west of Tenth Avenue.

This project will be one of the last major developments within the Clinton Urban Renewal Area, completing a more than 30-year planning and urban renewal effort by the City and the Clinton community. It is the result of a Request for Proposals issued by HPD on December 3, 2001.

THE PROPOSED DEVELOPMENT

The proposed development will involve the construction of approximately 627 residential rental units in two 24 story (plus mezzanine) towers located in the midblock portion of the development site, on a platform to be constructed over the Amtrak rail cut, and a seven story building with frontages on Tenth Avenue and 53rd Street to house theater, gallery and administrative space for INTAR Hispanic American Arts Center and Ensemble Studio Theater (EST). Seven residential condominium loft units will be located above the theater space.

Twenty percent of the rental apartments, which amounts to 128 units, will be affordable to families with incomes up to 80% of the area median income for at least 30 years. The condominium units will be sold at market rates.

The development will also include approximately 21,700 square feet of public open space, including an approximately 7,000 square foot linear park between 51st and 52nd Streets, and an approximately 6,500 square foot central open space adjacent to the Oasis Community Garden.

THE COMMUNITY'S CONCERNS

Since its selection as the developer for this project, Dermot has met many times with various members of the Clinton community to present their plans, listen to the community's responses and revise their plans accordingly. The Dermot team has won the respect of this community for its willingness to shape its plans to address our concerns, for its indefatigable optimism about this project despite its many planning challenges, and for the overall quality of the design that has emerged from the process.

Our concerns about this project relate to three main subjects: the theater space, the open space and the project's overall density.

The Theater Space

Theater space for INTAR and EST was included in the RFP in order to facilitate further redevelopment of the Clinton Urban Renewal Area. Both organizations are vested tenants of City-owned space in the Clinton Urban Renewal Area and entitled to relocation benefits if they are to be displaced. INTAR occupies a four-story building at 508 W. 53rd Street that will be demolished to make way for the proposed development. EST is housed in space at 549 W. 52nd Street.

The RFP therefore required the developer to "construct and fund the complete build out of theater spaces." Subsequently, Addendum #4 to the RFP was issued, which stated that the developer would be "required to construct the core and shell of each theater space, provide the utility service system and set aside a total of \$4 million to partially cover theater build out." Details concerning the program of required spaces, features and qualities for the theaters were attached to the addendum. Those details had been developed by this Board and the two theaters because it had been jointly realized that the RFP did not fully reflect the theaters' physical needs as required by labor agreements and each theater's unique program. It was fully expected that \$4 million would cover most of the cost of building out the theaters.

Though Dermot has not yet been able to provide detailed estimates of the cost of building out the theaters, it is becoming clear that that cost may reach or even exceed \$10 million. We all have sticker shock.

INTAR and EST both recognize that the Clinton Green project represents a tremendous opportunity and a springboard to the future. Both recognize that they will be required to raise a significant amount of money on their own, and they are taking steps to prepare their organizations to do so. They are not looking for undeserved handouts. But it is also clear that their own fundraising, even at its most effective, is likely to fall short of the amount needed to make their new space minimally operational.

INTAR and EST have the support of this Board. They are part of the cultural vitality of the neighborhood and the City, and will contribute significantly to the vitality of the Clinton Green project. We call on all of the stakeholders in this project – HPD, Dermot, the Department of Cultural Affairs, INTAR, EST and our local elected officials to work together to make this project succeed over the long term.

The RFP also indicated that the theater companies were to have leases for no less than 20 years at break even rent. Addendum #4 added an option for at least one 10 year renewal. Thirty years is an unrealistically abbreviated period of time, especially if INTAR and EST are expected to engage in private fundraising to cover their capital costs. The expectation of this community has always been that this space would be available for use by not-for-profit theaters in perpetuity. If Dermot can forgo commercial rent on this space for 30 years, it can do so indefinitely. We do recognize, however, that provision must be made for the transfer of the space to other not-for-profit theater groups should INTAR or EST cease active operations. We call on the same stakeholders to develop a binding agreement that will ensure the permanent operation of the theaters on a not-for-profit basis.

The Open Space

This Board is generally satisfied with the linear park proposed between 51st and 52nd Streets. On the other hand, the landscaping plan for the central open space on the north side of 52nd Street requires reconsideration. In addition, there are unresolved issues concerning the relationship of that central open space to the adjacent Oasis Community Garden and concerning the boundaries and operational structure of the community garden. These are largely separate from the land use actions that are the subject of this letter, but are discussed here in some detail in order to encourage their satisfactory resolution.

Dermot is to be commended for locating such a significant portion of the project's open space next to the Oasis Community Garden. Though they are to function separately, having them next to each other will enhance their effectiveness as public open space.

The proposed landscaping plan for the central open space has not met with a favorable response in this community. The berm along 52nd Street will remove usable open space and will discourage passersby from entering. The lawn beyond the berm would appear to serve the theaters' patrons and the buildings' residents more than the community at large. It is a defensive open space design, and we ask that it be redesigned to be more inviting and usable to the community. The day of the Board's meeting, Dermot delivered a revised landscaping plan to the

Board office. This revised plan includes a number of changes intended to address the community's concern. There was not adequate time for proper consideration of the revised plan before the Board's vote on this resolution. We will organize a public meeting to consider the revised plan in the next few weeks and will provide the community's response in due course.

As a starting point, the boundaries of the existing Oasis Community Garden must be respected. The garden was founded in 1970 and is a member of the City's Green Thumb program. Originally known as Oasis II, it was expanded in 2002 when the Oasis I community garden at 755-765 Tenth Avenue was vacated in order to make way for the Encore West Residence, which will provide housing for low income elderly persons. The Oasis I gardeners joined the Oasis II garden, and the garden expanded into an additional lot at 503 W. 52nd Street, which was made available to the garden as part of Clinton Housing Development Company's redevelopment of 501 W. 52nd Street and 733-777 Tenth Avenue. That lot continues to be owned by CHDC.

The Oasis Community Garden is subject to the community garden settlement agreement that was entered into in 2002 between the State of New York and the City of New York concerning the preservation and development of City-owned Green Thumb community gardens. According to that agreement, the Oasis Community Garden is to be offered to a not-for-profit land trust organization to be preserved as a community garden or open space. If it must be temporarily closed and disturbed during construction of an adjacent development project, as will certainly be the case here, reasonable efforts must be made to return it to the condition that existed prior to the commencement of construction. HPD and Dermot have recognized the requirements of this agreement, and Dermot has committed to digging out remaining rubble, and providing new topsoil, fencing and water and electrical sources.

There is confusion about the boundaries of the garden, and how much of the garden is covered by the settlement agreement. The gardeners have indicated a willingness to reconsider those boundaries in order to allow for a better relationship between the Clinton Green project and the Oasis Community Garden so long as the overall space allotted to the community garden is not diminished.

Finally, arrangements must be made to transfer the community garden to the not-for-profit land trust organization required by the settlement agreement and to establish its rules of operation so that it can be supported, used and enjoyed as widely as possible. This Board will convene a meeting with the gardeners in the coming weeks to begin that process, and will expand the discussion to include other interested community members as well as representatives of HPD and Dermot.

Overall Density and Design Issues

The overall scale of the project and the height of the proposed towers has generated significant concern in the community, especially since the RFP limited overall building heights to 19 stories. The RFP also initially called for a minimum of 350 housing units. However, by the time Dermot was selected as the developer, the expected number of units had been increased significantly, to

the present level. HPD's increase in the expected number of residential units made the 19 story height limit unachievable.

The area surrounding the project site has historically contained a mix of low- and mid-rise residential, commercial and industrial buildings, and this is the architectural context that we wish to maintain in the area. Two buildings that we have long considered architectural "sore thumbs" bracket the project site: the 38 story Harbor View residential development on 51st Street to the south, and the 400 foot AT&T Switching Building on 53rd Street to the north. The fact that the Clinton Green towers will be lower than these buildings has helped us accept the height of the proposed towers at this location. Such height would be entirely out of context almost anywhere else in the area, and must not be considered a precedent for future development.

Dermot's architects have made several design choices to fit the project into its surroundings as gracefully as possible: the towers have been placed as far from Tenth Avenue as possible, with their narrow sides fronting on the side streets, and the Tenth Avenue frontage has been kept low, consistent with the adjacent row of tenement buildings. The facades of the towers will have different window and material treatments, both related to the windows and materials of surrounding buildings. All of these measures should help minimize the overall mass of the project and create visual interest.

For these reasons, after a series of meetings with Dermot and its architects, the Board's Clinton/Hell's Kitchen Land Use Committee reluctantly accepted the scale of the project, along with Dermot's commitment that it would not get any bigger. We are adamant that that commitment be kept, as the application indicates is the case.

The proposed design includes a pedestrian arcade running from Tenth Avenue west to the entrance of the north tower. Dermot has been insistent that the project requires an entrance from Tenth Avenue, and has assured us that the arcade will be attractively designed and actively used. We are very concerned that the reality may be somewhat starker, and that the passageway could turn out to be more like a dark alley and a security hazard. Dermot has committed to filling the Tenth Avenue frontage in with a storefront if the arcade proves to be unsuccessful, and has retained sufficient unused development rights to do so.

This Board commends HPD for including a "green building" requirement in the RFP and Dermot for meeting that requirement. This Board wishes to encourage all developers to use design and construction practices that significantly reduce or eliminate a building's negative impacts on the environment and on occupants, and is pleased that HPD has taken the lead in implementing these "green" building practices as a matter of policy.

The southern tower contains a small amount of commercial space. We understand that The 52nd Street Project has been in discussions with Dermot to relocate a portion of its operations, which are now housed at 500 W. 52nd Street, to this commercial space. We hope that Dermot and The 52nd Street Project will reach such an agreement. The 52nd Street Project is a thriving member of

our community that serves many of the neighborhood's children. Having them at street level on 52nd Street would enliven 52nd Street and enhance the Clinton Green development and The 52nd Street Project itself.

CONSTRUCTION IMPACTS

The development site is surrounded by residential uses and a school. To protect residents in the immediate area, demolition and construction activity must be limited to work hours permitted by City regulations: weekdays between 7 am and 6 pm. The applicant must notify the Board in advance of any applications for after-hours or weekend work permits. We also request that a construction liaison be made available throughout the construction period so that the inevitable impacts upon the surrounding area can be immediately addressed and minimized.

THE APPLICATIONS

The applications are for the following land use actions:

- A rezoning of a portion of the site from M1-5 and R8 to C6-3;
- Disposition of City-owned property;
- A UDAAP Designation for the project site;
- A text amendment adding new ZR Section 96-40 to the regulations governing the Special Clinton District to allow for the modification of open space requirements as part of a general large-scale development special permit;
- A special permit to allow for the location of floor area and dwelling units without regard to zoning lot lines and to permit modification of open space, yard, height and setback and distance between building regulations;
- A special permit to allow for commercial uses to be located on the second floor mezzanine of the southern residential building; and
- A special permit for development over the Amtrak cut.

We have examined and generally agree with the applicant's statements of the justifications of these actions. The proposed rezoning is consistent with the existing zoning on Tenth Avenue and will not establish a precedent that would challenge residential development at R-8 densities on the balance of the block. We are satisfied that the proposed text amendment could apply only as intended here.

Now, Therefore, Be It Resolved that Manhattan Community Board No. 4 recommends approval of ULURP Applications No. 050050 ZMM, 050051 ZRM, 050052 ZSM, 050053 ZSM, 005054 ZSM and 005055 HAM, subject to the following conditions:

1. Binding agreements are reached to ensure that the theaters are built-out in a way that is financially sustainable to all concerned, and that the theaters will be permanently available for use as not-for-profit theaters.

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2. The landscaping plan for the central open space is redesigned to be more open, inviting and usable to the community.
3. The issues concerning the Oasis Community Garden are resolved.

Sincerely,



Walter Mankoff
Chair
Manhattan Community Board No. 4



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



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

Cc: City Planning Commission, Calendar Information Office, 22 Reade Street, Room 2E
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Elected officials
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Dan Kaplan - Fox & Fowle Architects
HPD – Susan Ponce de Leon, Juan Barahona, Serita McFadden
DCA – Kathleen Hughes
INTAR – Paul Slee, Eduardo Machado, Stanley Stairs
EST – Curt Demster
Oasis Community Garden – c/o Katherine Gray
Clinton Housing Development Company
52nd Street Project – Carole Ochs
Encore Community Services – Sr. Elizabeth Hasselt
Housing Conservation Coordinators – Sarah Desmond