# LR Item 3. Description of Proposal

# The Lirio – 806 Ninth Avenue, Manhattan

## 1. Introduction

The applicant, the New York City Department of Housing Preservation and Development ("HPD") and the co-applicant, the Department of Citywide Administrative Services (DCAS) propose several ULURP actions to facilitate the development of a new nine-story, mixed-use building containing approximately 111 affordable and supportive housing units, plus one superintendent's unit, ground-floor retail space, and new office space for the Metropolitan Transportation Authority ("MTA") ("Proposed Development") in the Clinton/Hell's Kitchen neighborhood of Manhattan, Community District 4. The Proposed Development will be developed on the northwestern corner of the City-owned property located on Manhattan Block 1044, Lot 3 ("Development Site"). The portion of the Development Site that will be developed with the Proposed Development is approximately 22,379 sf and currently used as a surface parking lot for the adjacent MTA and New York City Transit Authority ("NYCT") operated Rail Control Center ("RCC") and Power Control Center ("PCC"). The Proposed Development will also include the air rights from the portion of the Lot 3 above the existing NYCT RCC and PCC building. Approval of the proposed actions will facilitate the construction of the Proposed Development and will also impact the remaining portion of Lot 3, as well as six other lots, including p/o Lot 2, Lot 22, Lot 24, Lot 25, p/o Lot 38, and p/o Lot 7501 (formerly Lot 29) (collectively, "Rezoning Area"). Lots 3, 22, and 38 are City-owned. Lots 2, 24, 25, and Lot 7501 are privately-owned. The following actions are proposed:

1. Zoning map amendment to the Rezoning Area to change the C1-5/R8 and R8 districts to a C6-2 district;
2. Zoning text amendment to establish a new City Planning Commission ("CPC") Special Permit (ZR Section 96-112) to consolidate the existing special permit provisions under 96-104 for height and setback and additional allowance for other lot coverage modifications applicable to the Development Site;
3. CPC Special Permit pursuant to ZR § 96-112, as established by the proposed Text Amendment to:
    a. Modify height and setback regulations set forth in in ZR § 96-104 (c) (Height and Setback) on the Development Site; and
    b. Modify lot coverage regulations as set forth in ZR § 96-102 (Lot Coverage Regulations) on the Development Site
4. Disposition by the City of a negative easement allowing the approximately 35,518 square feet of excess development rights appurtenant to the NYCT facility to be used in the Proposed Development on the Development Site; and
5. Acquisition of approximately 30,466 sf of the Development Site by the City for the expansion space for the existing NYCT facility within the Proposed Development ("Acquisition Area"), following disposition to a Sponsor to be determined by HPD. The Acquisition Area is anticipated to be included in the lease between the MTA and the City of New York, dated June 1, 1953 as amended from time to time (the "Master Lease").

## 2. Background

The Rezoning Area is located within the "Neighborhood Preservation Area" established by the CPC on August 1, 1973 under the "Neighborhood Preservation Program" (CP-22388). The Neighborhood Preservation Area encompassed the Clinton neighborhood, and was later replaced on November 15, 1973 by the Special Clinton Interim District ("CI") (CP-22435/CP-22436), which was an experimental, but temporary action to save a viable but vulnerable residential community. On October 21, 1974, the Special Clinton District ("CL") was enacted and implemented many of the regulations that remain applicable today (CP-22758). As part of that application the underlying zoning for the Rezoning Area was changed from C6-2 to R8 and R8/C1-5 (mapped at a depth of 100 feet from Ninth Avenue) (CP-22759). Height limits (the

lesser of 66 feet or seven stories) were imposed along the midblocks of the Preservation Area beyond 100 feet of wide streets. A CPC special permit was also established to allow an increase in height above 66 feet but no higher than 99 feet.

On November 23, 2004, (N 050030 ZRM), a City-sponsored text amendment expanded height limitations to the Ninth and Tenth Avenue frontages within the Preservation Area and established street wall location requirements along all streets. Height and setback within 100 feet of wide streets were previously regulated by the underlying non-contextual R8 and C6-2 district regulations. Most notably, this text amendment established the now-applicable 85-foot height limit for as-of-right buildings within 100 feet of wide streets. Consistent with the existing regulations governing developments along the midblocks, the text amendment also modified the CPC special permit to allow buildings to rise above the 85-foot height to 115 feet.

In 2009, as part of the Western Rail Yard (WRY) rezoning (C 090433 ZMM) and text amendment (N 090429 ZRM), the portion of the Development Site on which the Proposed Development will be located and the Proposed Development received Urban Development Action Area ("UDAA") designation, Urban Development Action Area Project ("UDAAP") approval, and disposition approval (C 090423 HAM). Additionally, the WRY rezoning included a zoning map amendment to extend the existing C1-5 overlay over the Development Site (C 090430 ZMM). It was contemplated at the time that the extension of the C1-5 overlay paired with a future Large Scale General Development (LSGD) would allow bulk waivers to be sought and provide the needed flexibility for the future site planning, given the lot coverage and configuration of the existing NYCT facility. The CPC report related to the WRY rezoning (C 090433 ZMM) noted that the CPC believed that the project would address the need for permanent affordable housing and, along with the DEP Site, fulfill the requirement for off-site affordable housing as set forth in the Memorandum of Understanding between the City Administration and the MTA. The rezoning, intended to facilitate high-density mixed-use developments in an underutilized area, was the result of a collaborative planning process undertaken by the City, the MTA, the Hudson Yards Development Corporation, and the community.

The applicable portion of the Development Site was subject to HPD's Clinton/Hell's Kitchen Request for Proposal ("RFP"), issued in April 2018. The goal of the RFP was to further the City's broader development goals and provide much-needed affordable housing, community amenities and services, and other improvements for the community through high-quality, mixed-use development.

## 3. Description of the Surrounding Area

The Rezoning Area is located within the Clinton neighborhood in Manhattan Community District 4. Land uses in the surrounding area include a mix of residential, commercial, and community facility uses as well as institutional facilities. Zoning districts in the surrounding area include R8, C1-5/R8, C6-2 and C6-4. These districts, with the exception of the C6-4 district, mapped within the Perimeter Area of CL and the Special Midtown District ("MiD"), are all located within the Preservation Area.

Due to the bulk modifications of the Preservation Area, the R8 district maximum Floor Area Ratio ("FAR") for both residential and community facility uses is limited to 4.2 and special height limits apply (66 or 85 feet, depending on proximity to a wide street). The C1-5/R8 district, mapped on both sides of Ninth Avenue, permits residential, commercial, and office space uses. Such permitted commercial uses are limited to 2.0 FAR; the maximum total for all permitted uses is 4.2 FAR. The C6-2 districts, in addition to allowing residential and community facility uses, permit a range of commercial uses including but not limited to transient hotels, large retail establishments, dance studios and entertainment uses such as movie theaters. All permitted uses have a maximum FAR of 4.2 and all developments and enlargements are subject to the same height limits as the R8 district (66 or 85 feet, depending on proximity to a wide street). C6-4 districts permit the same uses that are allowed in C6-2 districts. In both the CL and MiD, the C6-4 district permits a base FAR of 10.0 for all permitted uses. Because the Perimeter Area does not

modify height and setback regulations for this portion of Eighth Avenue, the underlying provisions remain applicable.

The north section of the surrounding area between West 54th and 56th Streets is characterized by elevator, multi-family apartment buildings ranging from six to 23 stories. The south and east sections of the surrounding area are characterized by a cluster of three- to six-story walk-up apartment buildings with ground-floor retail space and several fully commercial office buildings ranging from eight to 14 stories. The C1-5/R8 district, which encompasses the majority of the surrounding area and is mapped on the majority of Block 1044 between West 54th and West 53rd Streets, except within 150 feet of Eighth Avenue, is consistent with existing conditions. It is characterized by five-story walkup apartment buildings with ground-floor retail space. Additionally, the west portion of the surrounding area is also characterized by multi-family buildings. The mapped C6-4 district within the Eighth Avenue Corridor of the Theatre Subdistrict of the MiD, has generated, with the exception of a few commercial office buildings, elevator multi-dwelling buildings with ground-floor retail space ranging from 19 to 43 stories. Industrial and public utility uses, and additional multi-family residential uses are also concentrated on the western section of the surrounding area, west of Ninth Avenue between West 53rd and West 56th Street.

There are several community facilities and public institutions in the surrounding area. The Midtown Health Center is located at the southwest corner of West 52nd Street and Ninth Avenue. Schools in the surrounding area include PS 111 (Adolph S. Ochs School), located on the western half of the block bounded by West 51st and West 52nd Streets and Ninth and Tenth Avenues, and PS 35 and Manhattan High School, located on West 52nd Street between Eighth and Ninth Avenues. Nearby houses of worship include the St. Benedict the Moor Church located across West 53rd Street from the Rezoning Area and the Saint George Greek Orthodox Church located across West 54th Street from the Rezoning Area. The Alvin Ailey American Dance Theater, located on the northwest corner of West 55th Street and Ninth Avenue, is a notable cultural institution within the surrounding area.

In terms of open space, the surrounding area includes the privately owned public space, Balsley Park, located north of the Rezoning Area on the west side of Ninth Avenue between West 56th and West 57th Streets. Although outside the surrounding area, an entrance to Central Park is located five blocks northeast of the Rezoning Area at the northeastern edge of Columbus Circle.

The surrounding area is well served by public transit. Nearby subway stations include: the 50th Street C/E subway station, located 0.3 miles to the southeast at the intersection of West 51st Street and Ninth Avenue; the 57th Street N/Q/R/W subway station, located 0.4 miles to the northeast at the intersection of West 57th Street and Seventh Avenue; and the Columbus Circle A/B/C/D/1 subway station, located 0.3 miles to the northeast at the intersection of West 59th Street and Eighth Avenue. In addition, bus routes serving the area include the M11, M12, M20, M31, M57 and M104. There are also Citi Bike stations located within walking distance of the Rezoning Area at the corner of West 54th Street and Ninth Avenue and also at West 52nd Street and Eighth Avenue. There are bike lanes located on Eighth and Ninth Avenues and West 54th and West 55th Streets.

## 4. Description of the Rezoning Area

The Rezoning Area constitutes seven lots on Manhattan Block 1044, which is bounded by Eighth and Ninth Avenues and West 53rd and West 54th Streets, with the exception of the area within 150 feet of Eighth Avenue. The Rezoning Area is zoned R8, with a C1-5 commercial overlay mapped along the Ninth Avenue frontage at a depth of 150 feet. Beyond 150 feet from Ninth Avenue, the C1-5/R8 district boundary extends along the centerline of the block with the C1-5/R8 district mapped on the southern portion of the block. The Rezoning Area is located within the Preservation Area of the CL.

The Rezoning Area contains approximately 118,250 sf of lot area and comprises the City-owned Lots 3, 22, and p/o 38 and privately-owned p/o Lot 2, 24, 25, and p/o Lot 7501.

The Development Site has a total of approximately 92,057 square feet of lot area and has approximately 136 feet of frontage along Ninth Avenue, 525 feet of frontage along W 54th Street, approximately 275 feet of frontage on West 53rd Street, and where the through lot portion of Lot 3 occurs, the lot depth is approximately 200 feet from West 53rd to West 54th Streets. Lot 3 contains the five-story NYCT RCC and PCC building pursuant to the Master Lease. The building has approximately 372 feet of frontage along W 54th Street, approximately 275 feet of frontage on West 53rd Street, and where the through lot portion of Lot 3 occurs, the building depth is 200 feet from West 53rd to West 54th Streets. The Proposed Development will be located on the northwestern corner of the Development Site, which currently contains an approximately 22,379 sf surface parking lot.

Lot 22 is an approximately 10,000 sf through lot with 50 feet of frontage on West 53rd and West 54th Streets and contains the four-story Midtown Community Court, which adjoins the existing-to-remain NYCT RCC to the east and is a landmarked site. Lot 38 is an approximately 17,000 sf interior lot containing the four-story New York City Police Department's Midtown North Precinct with 100 feet of frontage on West 54th Street. With the exception of approximately 25 feet where the police precinct is located beyond the Rezoning Area (i.e. in the C6-4 district), both of these public institutions are partially zoned C1-5/R8 and partially zoned R8.

The remaining lots within the southeast portion of the Rezoning Area comprise Lots 24, 25 and p/o Lot 7501 (formerly Lot 29), all of which are mapped within the C1-5/R8 district. Lots 24 and 25 are shallow lots with lot depths ranging from approximately 30 to 32 feet from West 53rd Street, with lot areas of 800 sf and 775 sf, respectively. Lot 24 is a currently zoning noncompliant office building with a commercial FAR greater than 2.0 and Lot 25 is a single triplex apartment with ground floor commercial use. The approximately 900 sf portion of Lot 7501 (formerly Lot 29) that is within the Rezoning Area is part of an approximately 26,535 sf lot improved by a 25-story apartment building. The approximately 26,535 sf remainder of Lot 7501 (formerly Lot 29) is situated within the adjoining C6-4 district.

C1-5/R8 districts permit residential, community facility, transient hotel, office and local retail uses (UG 1 through 6). Where any building contains residential and/or community facility use on its upper stories, permitted commercial uses are limited to the first story of the building. Permitted uses in the R8 district are limited to residential and community facility uses. Generally, the underlying use regulations are not modified by the special purpose district. Lots 3, 22, and p/o 38 would be brought into conformance with the proposed zoning text amendment as the existing zoning does not permit Use Groups 6D or Use Group 12C. Lots 3, 22, 24, and p/o 38 would be brought into zoning compliance with the proposed zoning map amendment, which permits commercial FAR up to 4.2.

The bulk regulations applicable to the Preservation Area substantially modify the underlying provisions including FAR, lot coverage and height and setback. Residential and community facility uses have a maximum permitted FAR of 4.2 in both the C1-5/R8 and R8 districts. Permitted commercial uses in the C1-5/R8 district are limited to 2.0 FAR. *See* ZR §96-101. Lot coverage provisions are applicable to all buildings notwithstanding the building's use or the underlying zoning district in which it is located. Within 100 feet of a wide street, the maximum permitted lot coverage is 70 percent. Beyond 100 feet of a wide street, the maximum lot coverage is 60 percent.[1] *See* ZR §96-102. With regard to height and setback regulations, the maximum base and total heights within 100 feet of a wide street are 66 and 85 feet, respectively. The portion between 66 and 85 feet must be set back 10 feet within 100 feet of a wide street and 15 feet beyond 100 feet of a wide street. For the area beyond 100 feet of a wide street, the maximum base and building heights are both 66 feet. *See* ZR §96-104. A 30-foot rear yard is required for all buildings or portions thereof located beyond 100 feet of a wide street.

## 5. Description of the Development Site

[1] In C6-2 Districts, for the purposes of determining lot coverage, any part of a building that is listed as a permitted obstruction in open space or in a rear yard shall not be included in lot coverage

The Development Site is located on Block 1044, Lot 3. The Development Site extends west from the mid-block of West 54th Street, a narrow street, to Ninth Avenue, a wide street. The Development Site is an underutilized and irregularly shaped rectangular City-owned parcel with approximately 136 feet of frontage on Ninth Avenue and approximately 525 feet of frontage on West 54th Street. The Development Site is also occupied by the NYCT RCC and PCC building and the Proposed Development will be constructed on the portion currently used as surface parking for MTA emergency vehicles.

The Development Site is located within a C1-5/R8 district, which was described above.

**6. Description of the Proposed Development**

The Proposed Development is a nine-story building with approximately 111 affordable units, plus one superintendent's unit. The Proposed Development is expected to include a mix of studios, one-bedroom, and two-bedroom units. Approximately 67 units will be designated for formerly homeless households, with approximately 59 units for households with special needs. The Proposed Development will contain approximately 92,108 square feet of residential floor area (1.0 FAR). The Proposed Development will also include 30,466 square feet of commercial/office space that will be used by the MTA and approximately 6,935 square feet of commercial space for an anticipated retail use (0.41 FAR). The Proposed Development would also include approximately 1,500 square feet of community facility space for support services for tenants living in the building. Support services will include on-site case management, counseling and conflict resolution, structured activities, and life skills training.

The portion of the Development Site on which the Proposed Development will be located generates approximately 93,992 square feet of the Proposed Development on its own. The existing five-story NYCT RCC and PCC building on the Development Site contains approximately 180,937 square feet of commercial floor area (1.97 FAR). The Proposed Development will utilize approximately 35,518 square feet of unused development rights (0.39 FAR) from the adjacent NYCT RCC and PCC building located on the remaining portion of the Development Site (consisting of air rights above the existing building). Prior to closing, the portion of the Development Site where the Proposed Development will be located and the remainder of Lot 3 (where the existing NYCT RCC and PCC building is located) will be subdivided into two separate tax lots, but will remain on the same zoning lot. In total, the Proposed Development will be approximately 129,509 square feet with a mix of residential and commercial uses.

The majority of the building bulk beyond 50 feet of Ninth Avenue on West 54th Street will have an initial base height of approximately 85 feet before setting back approximately 15 feet and rising to approximately 95 feet. A small portion of the building beyond 50 feet of Ninth Avenue on West 54th Street will rise to 33 feet before setting back approximately 30 feet and rising to 95 feet. Within 50 feet of Ninth Avenue, the building with rise to 66 feet before setting back approximately 15 feet and rising to 85 feet. Along Ninth Avenue, the majority of the building will have a maximum base height of 85 feet before setting back 50 feet, and on the northern portion, rising to 95 feet. A portion of the building fronting Ninth Avenue will have a maximum base height of 66 feet before setting back 50 feet. Finally, a portion of the building fronting Ninth Avenue will rise to a maximum base height of 66 feet, then set back 15 feet, and rise to 85 feet.

The Proposed Development will additionally include an approximately 5,600 square foot landscaped terrace, green roofs, and rooftop solar. The project is expected to be built to Passive House standards. Under the Zoning Resolution, no parking is required for this project; however, the cellar of the Proposed Development would provide space for approximately 15 emergency response vehicles. NYCT monitors the operations and safety of the subway system 24 hours a day from the RCC. The RCC vehicles are currently located both inside the existing RCC building and in the adjoining surface parking lot where the Proposed Development (containing expansion space for the RCC) is proposed to be located.

**7. Actions Necessary to Facilitate the Project**

HPD proposes the following actions to facilitate the Proposed Development:

a. Zoning map amendment: Zoning map amendment to change the C1-5/R8 and R8 zoning district to a C6-2 zoning district in the Rezoning Area.

b. Zoning text amendment to establish a new CPC Special Permit (ZR Section 96-112) to consolidate the existing special permit provisions under 96-104 for height and setback and additional allowance for other lot coverage modifications applicable to the Development Site;

c. CPC Special Permit pursuant to ZR § 96-112, as established by the proposed Text Amendment to:
    a. Modify height and setback regulations set forth in in ZR § 96-104 (c) (Height and Setback) on the Development Site; and
    b. Modify lot coverage regulations as set forth in ZR § 96-102 (Lot Coverage Regulations) on the Development Site

e. Disposition of a Negative Easement on City-Owned Property: the City seeks to dispose of a negative easement allowing the approximately 35,518 square feet of excess development rights appurtenant to the NYCT facility to be used in the Proposed Development on the Development Site. The City proposes to enter into a Zoning Lot Development Agreement ("ZLDA") pursuant to which approximately 35,518 square feet of development rights appurtenant to the existing-to-remain NYCT RCC and PCC building will be used on the Proposed Development on the Development Site.

f. City Acquisition of a portion of the Development Site: The City proposes to acquire approximately 30,466 square feet of the proposed Development Site. The City intends to acquire space in the cellar, first and second floors of the Development Site to provide additional space within the Proposed Development for the existing RCC, which will be leased to the MTA as part of the Master Lease.

**8. Conclusion**

The proposed zoning map change would affect the entire proposed Rezoning Area. The existing R8/C1-5 zoning district permits commercial uses up to a commercial FAR of 2.0. Under existing zoning, no commercial FAR could be generated and used by the Proposed Development. The existing RCC and PCC building, the four-story Midtown Community Court and the four-story New York City Police Department's Midtown North Precinct, which are currently zoning non-compliant because the built commercial FAR exceeds 2.0. The proposed C6-2 district is an appropriate zoning district that permits a wider range of commercial uses than the C1-5/R8, and will allow the existing RCC and PCC building, the Midtown Community Court building and the New York City Police Department's Midtown North Precinct to become zoning compliant. The proposed C6-2 zoning district would permit these buildings existing commercial FAR by increasing the maximum permitted commercial FAR from 2.0 to 4.2. Because the Preservation Area regulations of the CL would be retained, the proposed C6-2 district will not change existing height and setback limitations, yards and lot coverage regulations. The proposed C6-2 district would also maintain the current total maximum FAR of 4.2.

Buildings constructed for the sole purpose of local and regional government offices and functions are typically designed to be cost effective and to address the needs of their occupants, which generally results in shorter buildings with high lot coverage. Given the RCC's and PCC's purpose of facilitating public transportation and promoting public safety, and the fact that lot coverage regulations would not ordinarily apply to commercial buildings in commercial districts, creating a mechanism for the CPC to modify the stringent Preservation Area lot coverage regulations in the limited context of a block dominated by essential municipal services that do not require open space is appropriate.

The disposition action would allow for excess development rights generated from the existing-to-remain NYCT RCC and PCC buildings be used to facilitate the construction of the Proposed Development. The acquisition action would allow the City to lease an approximately 30,466 sf portion of the Proposed Development to the MTA as part of the City's Master Lease.

In conclusion, the proposed actions will facilitate the development of a new mixed-use building with approximately 111 new affordable housing units, plus one unit for a superintendent. The Proposed Development will also advance the development of a longstanding underutilized vacant site with much needed affordable housing. The Proposed Development is a direct response to Mayor de Blasio's Housing New York 2.0, a plan to preserve and develop 300,000 affordable units in 12 years.