



The City of New York
Manhattan Community Board 1
Tammy Meltzer CHAIRPERSON | Lucian Reynolds DISTRICT MANAGER

New York City City Planning Commission
Public Hearing on 250 Water Street Draft Environmental Impact Statement (DEIS)
Testimony by Diana Switaj, Director of Planning and Land Use
September 1, 2021

In July 2021 Manhattan Community Board 1 (CB1) adopted a resolution strongly opposing the 250 Water Street ULURP application (attached). We recommend referencing the resolution for the full scope and context of comment regarding this proposal.

In July 2021, CB1 invited the applicant to present on the 250 Water St DEIS and collected feedback from the public. This testimony specifies CB1's comment on the DEIS for the 250 Water Street project, and those that were most prominent during our engagement with the community. Certain impacts may not be captured within the technical thresholds of CEQR analysis, but these impacts are real and have cascading impact throughout the community. The problems must be studied and addressed comprehensively, and we count on our City Planning Commissioners to understand these impacts and respond accordingly.

Construction

The community has expressed great concern over impacts from the construction of a project at this scale at 250 Water Street, as there are many vulnerable residents in the immediate vicinity including elderly and children. Specifically, there is widespread community concern over the impact on children in school during the environmental remediation and construction of this project. The applicant has indicated that construction is expected to take three years which will have major impacts for children learning at the Peck Slip School and Blue Schools, which are immediately adjacent to the project site. Additionally, the Peck Slip School uses their rooftop and the Peck Slip Playstreet as recreational areas which will be extremely vulnerable during construction. The applicant has stated that the intention is for the Peck Slip Playstreet to remain open during construction of 250 Water Street, but that will require intensive mitigation measures.

It is imperative for the applicant to work with the school communities as soon as possible to make commitments to specific mitigation strategies. The applicant should study similar cases of major construction next to school buildings, such as PS234 and PS51, to better understand what worked well and what did not, and should utilize current best practices. The applicant should also work with schools to develop a specific plan to ensure that school families, and children in particular, understand what is happening during construction.

The South Street Seaport area has experienced an influx of young couples, families and children in the recent past. COVID drove many families out of the City, and this is a precarious time as the community attempts to stabilize. CB1 has concerns that if adequate mitigation measures are not identified and implemented, it will become another factor that drives families out of our community.

CB1 requests to see specific plans as to how trucks taking contaminated soil away from the site will be staged, and requests that staging is done within the site in a protected area to minimize potential exposure and negative environmental impacts.

Shadows

The DEIS has identified that the open spaces of Southbridge Towers are expected to experience significant adverse impacts as a result of this project, requiring mitigation measures such as replacing plantings and maintenance. The applicant has stated that mitigation measures regarding private open spaces are implemented through a Restrictive Declaration. CB1 requests that the applicant reach out to the Board and/or ownership of Southbridge Towers as soon as possible to work out a mitigation plan for the open spaces at Southbridge Towers so that it can be memorialized within the project's Restrictive Declaration.

Though not identified within the DEIS as having a significant adverse shadow impact, CB1 is concerned about the impact to local playgrounds and the Peck Slip Play Street. The Peck Slip community fought hard to establish the Peck Slip Play Street because of such limited recreational opportunities. The Play Street is not identified as a formal playground as part of the DEIS, but it will experience massive impacts as a result of this project and should be studied and mitigated accordingly.

Sustainability and Resiliency

CB1 has concerns over the purported sustainability and resiliency of the building. While the applicant has outlined many potential sustainability/resiliency measures, such as landscaped roofs or high-albedo roofs, submeters for large energy users and apartments to track and optimize electricity usage, regenerative braking on elevators to conserve electricity, lighting controls to ensure efficient usage, sustainable design guidelines for tenant buildouts, meeting or exceeding city and LEED requirements for stormwater retention along with reuse for irrigation, MEPs have been designed to accommodate fully electric systems for commercial/office spaces, with the ability to convert for residential spaces- all of those potential measures are described as those that "could" be included in the project. The applicant has portrayed that, aside from meeting legal requirements, many sustainability and resiliency measures will be worked out through the

design process, and certain building requirements will determine the level of efficiency and what level of environmental innovation can be achieved. Otherwise, that sustainability and environmental measures can be retrofitted into the project at some point in the future. CB1 is disappointed by this unclear plan, and encourages the applicant to prioritize the level of environmental innovation that will be incorporated into this project.

Specific measures, such as using the building sub-levels as stormwater retention space, building to a passive house standard, or incorporating green roofing, have been suggested since the early stages of this project. CB1 is disappointed that the applicant has chosen to use the sub-level space as personal and commercial vehicular parking, which we believe is counterintuitive to the mission towards greater sustainability. We again encourage the applicant to prioritize environmental innovation as part of this project and revisit the potential for the ideas raised in the past.

Transportation

CB1 is concerned about larger traffic impacts that may not be captured by the DEIS, or would not be addressed by the “spot mitigation” proposed in the DEIS. Lower Manhattan is already a highly dense area with uniquely narrow streets. The area already experiences a good deal of congestion, exacerbated by the nearby access to the Brooklyn Bridge. There are likely to be residual impacts to Fulton St, John St, South St, and other nearby streets, as well as impacts from opening the Pier 17 service drive for for-hire vehicle passenger drop-offs that may not be captured during the environmental review process. CB1 requests that the applicant continue to analyze traffic impacts, and additional potential mitigation measures, including for any traffic impacts within the DEIS that have been documented thus far to remain unmitigated.

COMMUNITY BOARD 1 – MANHATTAN
RESOLUTION

DATE: JULY 27, 2021

COMMITTEE OF ORIGIN: LAND USE, ZONING & ECONOMIC DEVELOPMENT

COMMITTEE VOTE:	12 In Favor	1 Opposed	0 Abstained	0 Recused
PUBLIC VOTE:	0 In Favor	0 Opposed	0 Abstained	0 Recused
BOARD VOTE:	31 In Favor	2 Opposed	1 Abstained	1 Recused

RE: 250 Water St ULURP Application

WHEREAS: A series of ULURP and non-ULURP actions to facilitate the development of a new, 324-foot tall, 550,000 ZSF, mixed-use building with approximately 376,300 ZSF of residential use, 4,800 ZSF of community facility use, 153,000 ZSF of commercial/office and 15,900 ZSF of retail being sought by a private applicant, 250 Seaport District LLC, at 250 Water Street (Block 98, Lot 1) in the South Street Seaport Special District, within the Lower Manhattan Special District, Community District 1, Manhattan; and

WHEREAS: In December 2020 and March 2021, CB1 adopted resolutions urging the Landmarks Preservation Commission (LPC) to reject the application for the 250 Water Street proposed development. On May 4, 2021, LPC voted to approve HHC's third 250 Water Street design as appropriate for the Seaport Historic District; and

WHEREAS: The application package (M130053BZSM; N210439ZRM; N210446ZCM; N210441ZAM; M210442LDM; N210443LDM; N210445ZAM; N210440ZCM; C210438ZSM) was certified as complete by the City Planning Commission (CPC) at its May 17, 2021, meeting, triggering the start of the Uniform Land Use Review Procedure, the public review process known as ULURP; and

WHEREAS: The Howard Hughes Corporation (HHC)'s application for its privately owned 250 Water Street site seeks major changes to the Seaport zoning and the City's de-mapped public streets; and

WHEREAS: CB1 played a major role in putting into place the existing C6-2A Seaport zoning in 2003 when it sponsored a ULURP action to change the zoning and won overwhelming support for this zoning from the community, Seaport property owners, the South Street Seaport Museum, the Downtown Alliance, the CPC, and all local and Citywide elected officials; and

WHEREAS: The current zoning caps the height of new buildings at 120' and is meant to maintain the low scale size of the buildings that populate the Seaport Historic District, which average 4-5 stories in height and make it such a unique part of NYC; and

- WHEREAS: CB1 has adopted multiple resolutions indicating it would support the construction of a new building at 250 Water Street that complies with the existing zoning and is extremely troubled by the proposed HHC building that would be roughly three times taller than what is permitted by zoning in this low scale district; and
- WHEREAS: In 2014, the Seaport Working Group outlined as one of its eight guiding principles Building Heights and Views, encouraging “the transfer of development rights to incentivize lower buildings and public open space in the immediate vicinity of the South Street Seaport Historic District in conformance with the design objectives of the 1998 Urban Renewal Plan Area;” and
- WHEREAS: This proposal involves expanding the existing Pier17 Large Scale General Development area (LSGD), using the de-mapped City streets around the Seaport’s Fulton Plaza core to provide a physical connection between the 250 Water Street development site and the Pier 17/ Tin Building sites. This one action provides the link to unused development rights at the Pier17/Tin Building waterfront necessary for achieving the desired density at 250 Water Street; and
- WHEREAS: HHC’s proposal to expand the LSGD has been designed as a way to circumvent at least two problems: it connects the 250 Water Street site physically to the Pier 17 site, which attempts to address adjacency for development rights transfer; and it uses the expanded LSGD as a vehicle for redistributing unused development rights within the LSGD bounds, thus avoiding having to deal with the issues of granting and receiving sites of the 1972 Seaport Transfer Mechanism specifically designed to control how development rights are transferred throughout the Seaport area; and
- WHEREAS: The Brooklyn Bridge Southeast Urban Renewal Plan (BBSE-URP) has been in effect since 1968. Alongside ongoing public involvement in preservation efforts, it has provided some guidance and controls over the development that has taken place in the South Street Seaport area since then. It will expire in 2068; and
- WHEREAS: This timing is relevant to an application that NYC Small Business Services (SBS) will be filing shortly to extend the Seaport Lease (HHC interests) for another 99 years until 2120; and
- WHEREAS: Unless significant changes are incorporated, the extension of HHC’s amended 2013 Marketplace Lease beyond its final current expiration date of 2072, in conjunction with its 250 Water Street proposed expansion of the Pier 17 LSGD, will place a major portion of the South Street Seaport Historic District in the hands of a sole private developer with little counter-balance in place from competitors, or from City agencies that should be protecting the Seaport’s public assets; and
- WHEREAS: From the Rouse Corporation to General Growth Properties, the City has established a history of relying on private developers in the South Street Seaport area, only to result in a pattern of failure; and
- WHEREAS: CB1 has great concerns over how EDC has historically managed City assets in Lower Manhattan. There have been missed opportunities to generate affordable housing and provide community facilities and amenities with the disposition of

various properties; including 49-51 Chambers Street, 346 Broadway and 137 Centre Street; and

WHEREAS: In December 2019, CB1 voted on a resolution regarding a proposed SBS/Economic Development Corporation (EDC) concession agreement via the NYC Franchise and Concession Review Committee (FCRC) for demapped pedestrian streets in the Historic South Street Seaport district, where EDC represented to CB1 that the funds would be restricted so that they cannot be spent outside of the Historic South Street Seaport district and that, in coordination with the Manhattan Borough President's Office and CB1, the revenue would be used to contribute back to the character of the South Street Seaport, specifically for improving maritime history, boat maintenance, etc. To date, no funds generated by this concession agreement have been used for such purposes, and the Seaport Museum has represented that they have not yet received any funding via this agreement; and

WHEREAS: Regarding the transfer of development rights from Pier 17, the applicant has represented that an open procurement process is not required; and that since the development rights are within HHC's leasehold, HHC is entitled to exclusive use of them. However, a January 2020 letter from EDC to the New York City Comptroller's office states that: "If the City were to consent to the transfer of development rights from Pier 17 and the Tin Building sites, the development rights would first need to be alienated from HHC's leasehold through negotiation, and then disposed of through a public procurement process;" and

WHEREAS: When asked to comment on this discrepancy, EDC reported that "upon further review by City Law Department and EDC, it was determined that a competitive process would not be warranted because most of the development rights associated with Pier 17 are included in HHC's lease and therefore would not be available for use by others until 2072," and that

WHEREAS: Since HHC's first activities in the South Street Seaport, CB1 has made repeated requests for the developer to provide a master plan for its properties throughout the entirety of the South Street Seaport area. It puts the community at an inherent disadvantage to review segmented, piecemeal applications in a vacuum without the contextual understanding of broader plans for the area. This is exacerbated by the fact that the community has not received sufficient information, nor had sufficient time for review or meaningful discussion regarding the pending Seaport Disposition ULURP/Marketplace lease renewal which directly impacts the areas currently under consideration; and

WHEREAS: Last year, a private developer expressed interest in purchasing city-owned development rights and the plan was presented to the Manhattan Borough President and local Council Member by CB1, but there was no interest or follow-up from the City; and

WHEREAS: HHC had initially stated that the South Street Seaport Museum would receive a \$50 million endowment as a result of the proposed 250 Water Street development. HHC proposes to purchase from the City unused development rights from Pier 17, the proceeds of which the City would then transfer as funding to the Museum. After the LPC review and corresponding reduction in total square footage, it is

unlikely- if not impossible- for \$50 million to be generated from the disposition of unused development rights by the applicant for the 250 Water Street project. There is no plan for how the additional funds will be sourced and there are no contractual agreements in place to guarantee that the Museum will receive *any* funding, let alone funding at the levels represented as part of this proposal. Further, there is no guarantee that the Museum will be able to complete the John Street expansion as a result of this proposal; and

WHEREAS: CB1 held a public hearing on this application during the June 14, 2021 Land Use, Zoning & Economic Development Committee meeting with 64 speakers (67% in support, 30% in opposition and 3% undecided). CB1 also collected over 90 written comments on this application (73% opposed, 26% in favor and 1% undecided). Additionally, CB1 has received one petition in opposition which has gathered 1,004 signatures, and a second petition in opposition with 9,840 signatures; now

THEREFORE
BE IT
RESOLVED

THAT: CB1 fully opposes this extremely complex and convoluted package of zoning actions intended to up-zone this site to allow for the proposed oversized building at 250 Water Street, based on the issues outlined above and for the following additional reasons:

- The proposed development would undermine years of carefully crafted zoning regulations meant to guide the orderly growth of the Seaport through modifications proposed by HHC which reconfigure the rules to advance a private, profit-driven agenda.
- Given that the 1972 Seaport Transfer Mechanism was created to maintain the very unique low-scale character of this 11-block historic district, where the average building is four to five stories in height, by creating a mechanism to move such development rights to sites *outside* the Seaport Historic District, CB1 opposes the proposed zoning text amendment to make 250 Water Street into a receiving site. This runs completely counter to the intention of the existing Seaport Transfer Mechanism and to the community's long-standing and well-documented desire to maintain this unique part of Lower Manhattan. Further, allowing such a radical change creates a dangerous precedent for other Seaport property owners who may wish to follow suit.
- There is critical concern over the fact that there is nothing in writing to guarantee the Seaport Museum's endowment (at \$50 million or any other level) or the pledged John Street expansion as a result of this proposal. CB1 has identified in our April 2021 resolution a series of workable, alternative ways to generate income for the Seaport Museum that can be done without the approval of an inappropriate building in the South Street Seaport Historic District and continues to lobby for additional needed affordable housing in Lower Manhattan and in numbers far greater than what is contemplated at 250 Water Street at 5 WTC and at other sites.
- Our comments are at best incomplete at this time, and at worst subject to massive change, as we have not received full information, nor had time for review or meaningful discussion regarding the Disposition of Seaport Properties ULURP and the proposed amended Marketplace lease. We are also still in the process of discussing the DEIS for

250 Water Street, and the 250 Water Street Brownfield Cleanup Program Remedial Action Work plan that was only released to the public on June 25, 2021. These applications are being rushed through the review and approval process at the benefit of HHC, and the City should postpone review of all of these related applications until CB1 and the community have full information on all HHC, EDC and SBS Seaport applications that City Planning is aware of, so we have a full understanding and sufficient opportunity to review.

- This proposal is not in line with the guiding principles developed by the Seaport Working Group, particularly as it relates to building heights and density.
- CB1 is disturbed by the discrepancy and lack of transparency surrounding whether or not the transfer of development rights from Pier 17 would require an open bidding process, and we object to the City's opaque processes surrounding this question as well as the conflicting explanations we have received. This suggests that the applicant and the City have created a "work around" to sell the purported public assets known as "air rights" to the applicant in a single-source transaction without an RFP to solicit competitive bids.
- CB1 rejects these actions which give HHC even more control of the South Street Seaport area and maintains that a single profit-driven developer will exert outsized power over how the Seaport evolves.
- CB1 believes that the proposed actions to expand the LSGD and incorporate the de-mapped portions of Fulton Street to allow for the transfer of development rights from Pier 17 to 250 Water Street is a particularly egregious means of skirting the long-standing 1972 Seaport Transfer Mechanism.
- CB1 strongly opposes the proposal to redefine de-mapped portions of Fulton, Front and Water Streets as a "zoning lot," which is being done solely to create a physical connection to the 250 Water St site and enable HHC to move development rights from Pier 17 to the 250 Water Street site. These de-mapped streets are City owned, are intended to serve the public interest, and should not be used as a tool to boost a private developer's profits. CB1 maintains that the City should continue to control use of these important streets as they indicated in 2019 with the FCRC plan to activate these streets and make them even more accessible with additional recreational, cultural and educational public events.
- CB1 views these major proposed zoning changes as an attempt by HHC to impose new controls over even more Seaport assets than are currently locked into its existing lease arrangements with the City. CB1 believes that the expanded LSGD would set the stage not only for a vastly large and out-of-context building at 250 Water Street, but also has the potential for HHC to have future undue influence over the de-mapped portions of Fulton Street via its inclusion in the LSGD area.
- CB1 believes HHC's claim that transferring unused development rights from Pier 17 would save the waterfront from inappropriate overbuild is false and self-serving, and CB1 opposes the transfer of development rights from Pier 17, which is being done solely to generate additional square footage for the 250 Water Street site. The waterfront sites are City-owned, and the City has full control over what could and would get built there. In recent years, the City's direction, in line with full community backing, has been and continues to be towards opening the waterfront for full public access and water-

dependent and water-enhancing uses. Furthermore, the NYC Parks Department has been given control of the marginal streets underneath the FDR Drive to the water's edge. By definition, parkland would need to be alienated by the NYS Legislature for "development" to take place there.

- CB 1 objects to the proposal to allow the service road on Pier 17 (the "Access Drive") to be utilized for passenger pickup and drop-off instead of only for loading and deliveries. Use of the Access Drive was the subject of discussion during the Pier 17 renovation project development and the Tin Building site merged into the project in 2015-16. After consideration of the pedestrian concerns, it was decided that only delivery vehicles within controlled access hours, and emergency vehicles would use the access drive, and a lay-over area along the marginal street area in front of the Tin Building would be available for other drop-offs. If anything has changed, it is that more pedestrians are now using the waterfront, and there is no justification to change the type of use or access hours.
- Since there is now active litigation to overturn the LPC Certificate of Appropriateness for this specific design, City Planning should strongly consider delaying any action on this until a final determination is made by the Courts. This is particularly relevant to the various actions sought regarding height and setback or street wall regulations to allow for construction of the LPC approved building.

BE IT
FURTHER
RESOLVED

THAT: CB1 strongly opposes the 250 Water Street ULURP application for all the reasons stated above.