



Burt Lazarin
Chair

Jesse R. Bodine
District Manager

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.nyc.gov/mcb4

June 27, 2018

Marisa Lago
Chair
Department of City Planning
120 Broadway, 31st Floor
New York, NY 10271

**Re: Special Permit 090436 ZSM Renewal for Western Rail Yards Parking
Permit of 1,600 Spaces**

Dear Chair Lago,

Manhattan Community Board 4's (MCB4) Clinton/Hell's Kitchen Land Use Committee (CHKLU) held a duly noticed public hearing regarding the Special Permit Renewal for the Western Rail Yards Parking Permits, Application #090436 ZSM on June 13, 2018. At its regularly scheduled Executive Committee (EXEC) meeting on June 25, 2018, the Committee voted, by a vote of 10 in favor, 0 opposed, 0 abstaining and 0 present but not eligible to vote, that the special permit not be renewed. This letter is subject to ratification by the Full Board to be held on Wednesday, July 25th.

Pursuant to §11-43 of the Zoning Resolution, the City Planning Commission may renew a special permit provided that the Commission finds that the facts upon which the authorization or special permit was granted have not substantially changed. Manhattan Community Board 4 believes that some of the facts underlying the findings in the original permit have changed significantly.

We ask that the permit for 1,600 residential parking spaces not be renewed as is: that the capacity be reduced to 1,300; that a new restrictive declaration be added to guarantee that the garage will be for accessory use only; and that the applicant commit to allocate sufficient underground space for garbage staging, moving and contractors. We also request a meeting with the developer early in the process to evaluate the design of the proposed parking garages and their interface to the streets.

The permit was granted in 2009 for two parking garages at the Western Rail Yard, (Eleventh to Twelfth Avenues, and 30th to 33rd Streets) with a total of 1,600 spaces (275 commercial and 1,325 accessory). One garage will be accessed from 30th Street and the other from 33rd Street. The garages would serve approximately 5,000 residential units including 20% affordable, 2 million square feet in one commercial building and 210,000 square feet for retail. Using the standard parking ratios¹ in the Zoning Resolution would have produced a maximum of approximately 1,300 spaces, or 300 less than the approved permit.

The Planning Commission granted the permit with the following restrictive declarations:

- Parking spaces must not become available all at once, but rather in phases to match the rate of occupancy of the towers
- Parking garage will be equipped for electric vehicles, car share and bike parking

Manhattan Community Board 4 recommended denial of the special permit, which exceeds the as-of-right ratios by 19%.

There has been substantial change in the conditions affecting four of the five Special Permit Findings, under ZR 13-561

The Commission based its findings on two studies that are now outdated — the FEIS analysis, whose projections were based on a parking survey conducted in 2008, and then-existing auto-ownership ratios that formed the basis of a 2009 settlement of *HKNA v. Bloomberg*, which governs parking in other parts of the Special District. In both cases the studies will be more than ten years old by the time the parking garages that are the subject of this application will have been completed. The facts underlying both studies have changed in the meantime, in the following ways:

Changes to facts underlying the findings

(a) (that) such parking spaces are needed for, and will be used by, the occupants, visitors, customers or employees of the #use# to which they are #accessory#;

- The introduction of ride sharing and car sharing has changed driving habits and vehicle ownership especially for the new generation.
- The modes of transportation that residents use are changing rapidly no matter their level of wealth and this significantly reduces the demand for parking.

¹ Because of the unusual number of buildings on a single lot, the standard zoning would have produced 275 accessory parking spaces. If the one-lot restriction is ignored, the standard ratio for accessory residential parking is capped at 20% of the number of residential units.

In its 2016 Automotive Report,² McKinsey & Company indicates that “the growth of the automotive sector will be halved and this drop will be largely driven by macroeconomic factors and the rise of new mobility services, such as car sharing and e-hailing. A detailed analysis suggests that dense areas with a large, established vehicle base are fertile ground for these new mobility services.”

And the parking business in New York is not immune: “in the past 18 months, despite a healthy economy and record employment in a city that’s more crowded than ever, business is down across the board— other parking industry leaders show a sector on the verge of a shakeup — The past year and a half has seen a 10% slide in the number of “transient units” {...}; New Yorkers are changing how they get around. Parking operators have been hit by a one-two punch: more people using Lyft and Uber, which has slowed Manhattan traffic to a crawl and thus discouraged those with personal vehicles from driving into the city.”

“Some architects and developers, in anticipation of the shift to autonomous vehicles—which experts say are more likely to be shared than privately owned—have begun future-proofing building designs so garages can be converted to other uses”³

- In 2016, the City recognized the changes in trends and allowed the City Planning Commission to issue a waiver of parking in development that includes at least 20% of income restricted housing as will be the case in the Western Rail Yards.

The applicant recently provided Census numbers from the American Community Survey to demonstrate that the vehicle ownership rate remained the same for household renters (14%) but increased for Household owners (39%). However, we question the validity and relevancy of these statistics:

1. At this time it is not clear how many units will be owned versus rented in the complex
2. Although the statistics were presented as being census tract-specific, the ACS provides only countywide estimates for the vehicle ownership. The census tract where the parking will be located is not included in that study.

(b) (that) within the vicinity of the site, there are insufficient parking spaces available;

² <https://www.mckinsey.com/industries/automotive-and-assembly/our-insights/disruptive-trends-that-will-transform-the-auto-industry>

³ <http://www.crainsnewyork.com/article/20180221/FEATURES/180219923/uber-and-lyft-crushed-taxis-is-the-commercial-parking-garage-industry-next>

- The insufficiency of parking spaces projected in the FEIS was largely a result of no-build developments. But the subsequent settlement of *HKNA v. Bloomberg* projected that there would be no insufficiency due to other developments. Therefore, this project should have been considered on its own.

The applicant recently provided an analysis of the Hudson Yards special parking district to demonstrate that 786 parking spaces were eliminated. This statistic in itself does not demonstrate insufficient parking availability:

1. In the special parking district, there is the opportunity to add 840 units of parking as of right;
2. MCB4 has already demonstrated — and the City Planning Commission agreed — that in areas such as West Chelsea and Hudson Yards, where parking was ubiquitous not because it was needed, but as a default land use, the substitution of new development to parking lots cannot be counted as “loss of parking” as envisioned in the zoning text for an already developed area.

(c) the facility will not create or contribute to serious traffic congestion nor will unduly inhibit vehicular and pedestrian movement;

(d) the facility is so located as to draw a minimum of vehicular traffic to and through local #residential streets#;

- In 2013, the City revised the zoning section related to parking and added section 13-21, Public Use and Off-Site Parking. “All #accessory# off-street parking spaces may be made available for public use.” This means that the limitations to an accessory use would not be valid any longer. The 1,600 space garage could be operated as a transient public facility, especially if the occupancy by residents is lower than expected. Such facility would attract much more traffic to the area, and a new study should be made to assess the impact on traffic.

We ask that a new restrictive declaration be added with a commitment that the operation of the garage will not be sub-contracted, but retained by the developer.

- The increase in parking spaces will prevent the developer from locating a centralized garbage facility and an indoor loading area for movers and contractors to the residents and the complex in general. There is insufficient curb space for such activities for 5,000 apartments and a commercial tower. Such activities at the curb will wreck havoc on the traffic, not to mention the dangerous situation created for pedestrians.

At a minimum, the Commission would need a new survey of current parking conditions similar to the study that was conducted for the FEIS before it can be reasonably certain that conditions have not changed in the intervening decade since the FEIS.

Please find enclosed our past resolution on the matter.

We ask that the permit for 300 excess parking spaces not be renewed, that a new restrictive declaration be added to guarantee that the garage will be for accessory use only and that the applicant commit to allocate sufficient underground space for garbage staging, moving and contractors. We also request a meeting with the developer early in the process to evaluate the design of the proposed parking garages and their interface to the streets.

Sincerely,



Burt Lazarin
Chair
Manhattan Community Board 4



Jean-Daniel Noland
Chair
Clinton/Hell's Kitchen Land Use Committee

Enclosure

Cc: Hon. Corey Johnson, Speaker, City Council
Hon. Gale A. Brewer, Manhattan Borough President
Melanie Meyers, Partner, Fried, Frank, Harris, Shriver & Jacobson LLP

**ULURP NOS. C090435 ZSM SPECIAL PERMIT FOR ACCESSORY PARKING
(NORTH) and
C090436 ZSM SPECIAL PERMIT FOR ACCESSORY PARKING (SOUTH)**

CB4 recommends denial of the proposed special permits for accessory parking. The Board believes that the number of as-of-right accessory off-street parking spaces is appropriate for the Western Rail Yard development.

The proposed Western Rail Yard development includes one commercial building with between 1.5 and 2.2 million square feet of Class A office space or a hotel, and seven residential buildings with a combined total of 3.8 to 4.8 million square feet and 4,624 to 5,762 residential units. Depending on the distribution between residential and commercial uses and the type of commercial use, the applicant would be entitled as-of-right to between 1,024 and 1,332 accessory off-street parking spaces (see below). Applicant is requesting to exceed that limit, and has applied for special permits under ZR 13-561 for a maximum of 1,600 accessory off-street parking spaces in two garages.

CB4 makes the following recommendations:

- The application for special permits for accessory off-street parking spaces in excess of that allowed as-of-right should be denied.
- The capacity of the south garage should be limited to a maximum of one-fourth of the total number of parking spaces provided by the two garages, and access to the south garage should be restricted to one entrance on the Southern Road.
- If the special permits are granted, the total number of parking spaces should be limited to 1,330, which would fulfill both residential and commercial demand.
- During build-out of the proposed development, the number of parking spaces available should be proportionate to the degree of completion of the development. For example, if the two garages were allowed a total of 1,330 parking spaces, when 50% of the residential units and commercial space had been completed, one-half of the total number of parking spaces, 665 spaces, would be allowed to operate.
- The garages should not be allowed to operate as public parking garages at any time; all parking spaces should be accessory off-street parking.
- Both garages should include sufficient bicycle parking to accommodate both residential and commercial demand, including people working in building maintenance and in the ground floor commercial operations.
- Both garages should be built with the necessary infrastructure to accommodate currently envisioned electrical vehicles, and with sufficient flexibility to enable the reasonable installation of entirely new, unanticipated infrastructure.

Before presenting our specific arguments against the special permits we would like to note two relevant general issues.

- i) **Transportation-Oriented Development.** Much has been made of the proximity of the Hudson Yards, both east and west, to Pennsylvania Station and its unparalleled transportation alternatives, as well as to the ability of the extended No.7 subway line to provide access and open up the far west side of Manhattan. We believe that the “Hudson Yards Corridor,” from the river to Pennsylvania Station, offers the city’s best opportunity to practice transportation-centric development and that the focus should be on facilitating access to Amtrak, ARC and the city’s subways, not on encouraging the use of individual vehicles by increasing the availability of parking beyond that permitted as-of-right.
- ii) **Elasticity of Demand.** We have seen a fundamental assumption in this and other applications for special permits for parking garages that the demand for parking spaces is inelastic, that a specific, fixed percentage of people in a given socioeconomic class will demand parking spaces without regard to cost or convenience. In reality, demand clearly is much more complex. 2000 census data show that the rate of car ownership varies significantly between renters and owners, while stories abounded during the recent spike in the cost of gasoline of people abandoning cars for public transportation. We believe that limiting the number of parking spaces to that permitted as-of-right would complement the focus on transportation-oriented development and facilitate the city’s traffic and congestion reduction goals.

As-of-Right Accessory Off-Street Parking Spaces

- **Residential.** ZR 13-12 limits the number of accessory off-street parking spaces to the lesser of 20% of the number of new dwelling units in the development or 200 spaces. Considering the seven residential buildings individually, the number of spaces would be limited to a total of 924 to 1,152, 20% of the total projected residential units.
- **Commercial – Hotel.** ZR 13-131 limits the number of accessory off-street parking spaces to 150 or 225 for transient hotels with one or two entrances, respectively, but to no more than 15% of the number of transient hotel rooms. If the commercial space is developed as a hotel, the number of parking spaces would be limited to 150 spaces for a hotel with a single entrance, or to 180 for a hotel with two entrances, the 15% limit for a 1,200-room hotel.
- **Commercial – Office.** ZR 13-133 limits the number of accessory off-street parking spaces for commercial developments to the lesser of one space per 4,000 square feet or 100 spaces. If the commercial space is developed as the Class A office space alternative, the number of parking

spaces by the square footage criterion ranges from 377 to 550, and thus would be limited to 100.

• **Summary.** Combining the high and low figures for each use yields a range of 1,024 to 1,332 accessory off-street parking spaces permitted as-of-right:

Use	Low	High
Residential	924	1,152
Hotel	150	180
Commercial	100	100
Total – Residential and Hotel	1,074	1,332
Total – Residential and Commercial	1,024	1,252

Application for Special Permits for Accessory Off-Street Parking Spaces

Under ZR 13-561 the City Planning Commission may grant a special permit for an accessory off-street parking facility of any capacity if it finds that the proposed facility meets each of five required conditions. As presented below, CB4 believes that the applicant has failed to demonstrate that the proposed parking garages meet all of the required conditions and recommends that the City Planning Commission deny the applications for special permits. If the Commission determines that the applicant meets the findings, we recommend that special permits limit the total number of accessory off-street parking spaces in the two parking garages to 1,330, which would be sufficient to satisfy both residential and commercial demand. We also recommend that the number of spaces in the south garage be limited to a maximum of one-fourth the total spaces and that because of the extreme traffic conditions on West 30th Street access to the south garage not be permitted from West 30th Street but be restricted to entrances on the Southern Road.

Special Permit Findings Under ZR 13-561

(a) (that) such parking spaces are needed for, and will be used by, the occupants, visitors, customers or employees of the #use# to which they are #accessory#;

(b) (that) within the vicinity of the site, there are insufficient parking spaces available;

We believe that the applicant does not meet the required findings because estimates of future demand do not properly take into account the benefits of transportation-centric development or the elasticity of demand in the face of increasing costs of different types. However, even

without those considerations, the permit applications exaggerate the number of parking spaces needed.

The estimate of need comes from the DEIS, but the faulty analysis presented in the DEIS produces significant overestimates. First, the DEIS estimate for residential parking is based on auto ownership in high income areas of the city, ignoring the much lower auto ownership for the 20% of units that will be lower income. With a balance of higher and lower income units, the auto ownership rate would be about 25% of units, rather than the 32% used in the DEIS.

Second, the DEIS estimate for commercial parking relies on a thirty-year-old Regional Plan Association (RPA) study.² At that time, the floor space per worker in office buildings was 190 sq. ft.,³ while the current number used in the Hudson Yards FGEIS is 250 sq. ft. (HY FGEIS, Tables 5-32–37). By relying on the forty-year old 190 sq. ft. instead of 250 sq. ft., the calculated number of employees, and consequently the number of automobile trips and parking spaces needed, was overestimated by 34%.

The settlement between the Department of City Planning and HKNA regarding Hudson Yards parking represents a much more realistic estimate of parking needs in the area. The parties agreed that parking demand generated by the full Hudson Yards development program will be no more than 6,086 spaces, consisting of 3,606 spaces for 13,272 housing units and 2,480 spaces for 26.3 million square feet of office and hotel development. These figures represent parking spaces equivalent to approximately 27% of residential units and one space per approximately 10,600 square feet of commercial space.

Applicant states that residents are expected to use approximately 1,330 spaces, 23-29% of the number of residential units, which is consistent with the DCP/HKNA analysis. But the requested 270 commercial spaces exceed the approximately 150 spaces needed based on the DCP/HKNA analysis. The north garage will house a maximum of 1,100 residential and commercial parking spaces. If a total of 1,330 spaces is distributed so that a maximum of 330 spaces, 25% of the total, are located in the south garage, the north garage could serve at least 1,000 overnight residential parkers. Since the DEIS analysis concludes that 14% of residential spaces will be vacant during the day, the north garage would accommodate 140-156 daytime commercial parkers, enough to satisfy the commercial demand based on the DCP/HKNA analysis. If both garages were open to commercial parkers, as many as 186 commercial daytime spaces would be available based on the 14% daytime vacancy rate.

Since 1,330 parking spaces distributed as described above satisfies both residential and commercial demand, special permits, if granted, should be limited to a combined maximum of 1,330 spaces.

(c) (that) the facility will not create or contribute to serious traffic congestion nor will unduly inhibit vehicular and pedestrian movement;

The 30th Street parking garage site will create and exacerbate serious traffic congestion and will inhibit both vehicular and pedestrian movement.

A motorist making a left turn from 12th Avenue onto West 30th Street currently experiences delays of five and six minutes in the AM and PM peak periods, respectively. In addition, the intersection of 12th Avenue and West 30th Street had two fatalities in the last three years, the highest of all intersections studied, and 33 injuries, the fifth highest number in the studied area. There were 24 injuries over the same period at the intersection of 11th Avenue and West 30th Street.

From the DEIS, volumes and delays would increase significantly under the build scenario:

- By 24% in the PM peak period at 12th Avenue and West 30th Street, and by 21% and 19% in the AM and PM peak hours, respectively, at 11th Avenue on West 30th Street;
- 510 cars will each idle for seven minutes in the AM, and 627 cars will each idle nine minutes in the PM at 12th Avenue and West 30th Street;
- 1,131 cars will each idle six minutes in the AM and 1238 cars will each idle five minutes in the PM on West 30th Street between 12th and 11th Avenues, increases of 484% and 515%, respectively;
- 914 cars will each idle for 16 minutes in the AM and 1,310 cars will each idle 23 minutes in the PM at the intersection of West 30th Street and Tenth Avenue, an increase of 27% in the AM; and
- Furthermore, West 30th Street is part of the overall bike lane plan for New York City, which will further reduce its capacity.

Among the mitigation proposals offered, the DEIS proposes to remove the northern parking lane of 30th Street, thus making that location unfit for a school bus stop and pick up area for children.

We believe that the applicant does not meet the required finding and that all of these factors support our recommendation that only the as-of-right parking be allowed. Furthermore, given the tension inherent in West 30th Street's role as a connector to the Lincoln Tunnel and its proposed role as the host to a new school, we recommend that the size of the south parking garage be restricted to no more than one-fourth of the total spaces approved by the Commission, and that access to the south garage not be permitted from West 30th Street but be restricted to one entrance on the Southern Road.

(d) (that) the facility is so located as to draw a minimum of vehicular traffic to and through local residential streets#;

Between its entrances on West 30th Street and on the Southern Road, the south parking garage will draw 100% of its vehicular traffic through residential streets. If the block bounded by West 33rd and West 34th Streets and 11th and 12th Avenues develops as recently proposed, the north parking garage will draw 100% of its vehicular traffic through residential streets as well.

We believe that the applicant does not meet the required finding and that only as-of-right parking should be allowed.

² Regional Plan Association, "Urban Space for Pedestrians," The MIT Press, 1975.

³ Department of City Planning, "Economic Development in New York City: Manhattan Office Development," October, 1973, p. 13.