



THE CITY OF NEW YORK MANHATTAN COMMUNITY BOARD 3

59 East 4th Street - New York, NY 10003

Phone (212) 533-5300

www.cb3manhattan.org – info@cb3manhattan.org

Alysha Lewis-Coleman, Board Chair

Susan Stetzer, District Manager

April 24, 2019

Anthony Notaro, Jr.
Chairperson, Manhattan Community Board 1
1 Centre Street, Room 2202 – North
New York, NY 10007

Dear Chairperson Notaro,

At its April 2019 monthly meeting, Community Board 3 passed the following resolution:

TITLE: CB 3 Recommendations on Mitigations for Manhattan Detention Center Facility

WHEREAS, in April 2017, the Independent Commission on New York City Criminal Justice and Incarceration Reform, chaired by Judge Jonathan Lippman, issued a significant report titled *A More Just New York City* which included a number of recommendations to improve New York City's criminal justice system, which was then followed by a report by the NYC Mayor's Office for Criminal Justice entitled *Smaller, Safer, Fairer*, outlining a plan to pursue a modern and more humane borough-based jail network in New York City; and

WHEREAS, these plans included the closure of the Rikers Island jail complex, where conditions are known to frequently be inhumane and often quite violent, and where the geographic isolation makes it difficult for loved ones to visit detainees and for lawyers to meet with clients they are preparing defenses for; and

WHEREAS, these plans for a modern, more humane criminal justice system also called for the reduction of the overall number of incarcerated people in the New York City jail system through State-level legislative reforms to cash bail and pretrial detention, the discovery process, and speedy trial provisions, which have now been implemented, and City-level reforms which have already led to upwards of 15% reductions in the incarcerated population on Rikers Island; and

WHEREAS, there are opportunities to continue to reduce this population through additional changes in policing practices, removal of low-level offenses from the criminal justice system, legislative reforms for parole revocation, and the transition of individuals with mental health needs or substance abuse issues away from incarceration and toward therapeutic treatment; and

WHEREAS, the proposed borough-based system intends to use current best practices to ensure new facilities are more humane and better serve the incarcerated population, including "clustered housing" models, the reduction of barriers between staff and inmates, improved facilities and services for medical care, behavioral health care services, therapeutic services, and vocational and educational

programs, improved visiting areas, and locations near court facilities in transit-rich civic centers that are more accessible for visitors and which would reduce system-wide transportation costs; and

WHEREAS, the New York City Department of Corrections and the Mayor announced in August 2018 that the plan to close the Rikers Island Complex and pursue a borough-based jail system would include a Manhattan facility to be located at 80 Centre Street; and

WHEREAS, that plan has since been revised, and the Manhattan jail facility is now being proposed for 124-125 White Street, replacing the current Manhattan Detention Complex commonly known as "The Tombs"; and

WHEREAS, in order to develop this facility, a zoning text amendment to create a special permit for borough jail facilities to modify zoning requirements is being pursued, and in addition, several site-specific land use actions are necessary to develop the Manhattan facility, including the site selection for a public facility and a special permit to modify regulations pertaining to bulk and parking, both of which trigger public review through the Uniform Land Use Review Procedure (ULURP); and

WHEREAS, although the proposed facility is located in Community District 1 and therefore Community Board 1 has jurisdiction over the ULURP, the proposed facility is just across Baxter Street from Community District 3 and will have significant impacts within that district as well; and

WHEREAS, CB 1 and CB 3 have been working collaboratively and CB 3 will send its resolution to CB 1 for inclusion in their ULURP response;

THEREFORE BE IT RESOLVED, Community Board 3 believes the following recommendations must be incorporated into the proposal for the Manhattan detention facility at 124-125 White Street:

Scale and Capacity

The detention facility proposed for Manhattan would be a hyper-dense vertical jail containing approximately 1,437 beds in 1,270,000 gross square feet of floor area. The scale of the proposed Manhattan detention facility must be reduced from its current iteration to have the smallest feasible footprint at 124-125 White Street, including design re-considerations, relocating various programming to existing off-site facilities, and the pursuit of additional criminal justice reforms that would create a pathway to lessen capacity needs by reducing the incarcerated population in New York City to levels significantly below what is currently projected.

In the period since the Draft Scope of Work for this project was issued, NYS criminal justice reforms have been passed that address bail and pretrial detention, the discovery process, and speedy trial provisions¹, and New York City passed legislation that would no longer require marijuana drug testing as a condition for probation and parole². All of this will contribute to a smaller incarcerated population than was original projected, and with more reforms anticipated in the near future, it is clear that a smaller facility must be considered at this time.

¹ McKinley, Jesse and Vivian Wang. "New York State Budget deal Brings Congestion Pricing, Plastic Bag Ban and Mansion Tax." March 31, 2019. <<https://www.nytimes.com/2019/03/31/nyregion/budget-new-york-congestion-pricing.html>>

² Rayman, Graham. "City Council poised to pass bill barring drug tests for people on probation." April 8, 2019. <<https://www.nydailynews.com/new-york/nyc-crime/ny-city-council-poised-to-bar-marijuana-drug-tests-for-probationers-20190408-rqlyeohrvzbi3n7rxyknuhwo6a-story.html>>

Off-site Treatment for Mental Health, Drugs, and Complex Medical and Safety Needs

The scale of the proposed Manhattan detention facility and its current projected population should be further reduced by locating specialty care off-site for criminal defendants with mental health, drug-related, and otherwise complex or unique medical needs at separate "therapeutic housing" facilities, or when possible, at nearby existing institutions that currently provide similar services. Generally, these individuals should be moved toward treatment, where better care and services can be provided, rather than incarceration, which would also contribute to the reduction of capacity needs and the overall size of the proposed Manhattan facility.

While the City committed to opening 12 specialized care units through the Program to Accelerate Clinical Effectiveness (PACE) by 2020, they have fallen behind the anticipated siting and construction schedule, which would result in the proposed Manhattan facility requiring more capacity to compensate.³

Further, in April 2018 the NYC Department of Correction and NYC Commission on Human Rights announced plans to maintain a separate safe housing option for transgender and gender non-confirming inmates and it has not been disclosed at this time where that housing would be located, though an off-site location could facilitate a further decrease in necessary capacity at the proposed 124-125 White Street facility.

Impact on Local Senior Citizen Population, Low-Income Senior Residence at 96 Baxter Street, and Chung Pak LDC

Chung Pak LDC has 50-year ground lease at 96 Baxter Street (the lot adjacent to 124-125 White), a concession from the City that emerged out of the 1982 MDC North Tower development. Chung Pak LDC constructed and maintains (through Everlasting Pine HDFC) an 88-unit low-income senior housing residential building on this site at 96 Baxter Street, which includes one of the highest concentrations of centenarians in any HUD complex in the nation. This includes 105 residents ranging in age from 62 to 105 years old, with a current waiting list of nearly 4,600 applicants at a time when the City has failed to fund new senior housing units in the most recent budget.⁴ The long-term viability of this community asset must be maintained in any proposal for a Manhattan detention facility at 124-125 White Street, with the current low-income senior residents' safety and quality of life insured to the highest extent possible.

During the construction phase, this must include air quality and dust monitoring and full mitigation of sound and vibration impacts for all residents and staff.

Further, the building itself must be protected from any potential compromising of its structural integrity or acceleration of infrastructural wear during the proposed Manhattan detention facility construction phase.

During the construction phase, adjacent sidewalks must be safe and accessible for senior residents getting to commercial businesses on Baxter Street, and access to heavily used Columbus Park, as well as a route to greater Chinatown, must be maintained.

³ Blau, Reuven and Rosa Goldensohn. "City Scrambles to Open Special Units for Mentally Ill Inmates." April 10, 2019. <<https://thecity.nyc/2019/04/new-special-jail-units-for-mentally-ill-are-off-pace.html>>

⁴ Smith, Greg B. "De Blasio Slammed for Leaving Senior Housing Funds Out of Budget." The City. April 10, 2019. <<https://thecity.nyc/2019/04/mayor-left-usd500-million-in-senior-housing-out-of-city-budget.html>>

The financial viability of the Chung Pak LDC commercial operation at 125 Walker Street must also be guaranteed in order to protect much needed affordable senior housing in perpetuity. Chung Pak LDC is the leaseholder of 6,300 square feet of retail space in MDC North at 124 White Street, which is proposed for acquisition by DCAS in order to facilitate demolition and new construction on the current MDC North site. In this proposal, Chung Pak would be permanently losing 6,300 square feet of revenue generating commercial space.

To mitigate these impacts, the City must begin by immediately reassessing PILOT fees for the retail businesses at MDC North, as the speculation around redevelopment and commercial displacement is impacting the ability for Chung Pak to collect the pass-through fee and collect monthly base rents from existing tenants, and making it challenging retain commercial tenants at all.

Further, the current 50-year land lease for the 96 Baxter Street site should be bought out and the property sold back to Chung Pak LDC so that the senior residences, as well as the existing CPC Early Childhood Center at Chung Pak, Charles B. Wang Community Health Care facility, and other non-profit office spaces at 125 Walker Street, with deed restrictions to guarantee current uses including senior housing, remain affordable community assets in perpetuity.

Impacts on Small Businesses

The demolition and redevelopment of the existing MDC North tower would result in the direct displacement of 5 ground floor retail businesses, all of which provide significant revenue to Chung Pak LDC, and would result in the loss of employment of an estimated 28 workers. There has been no plan disclosed for the relocation of the displaced businesses, and there must be a guarantee for either appropriate compensation or a relocation plan that mitigates all undue burden carried by the displaced businesses during relocation. This should include, but not be limited to, relocation within a ¼ mile area to a space of comparable size, with any relocation expenses paid for by the City, and an option for a right of first return for displaced businesses in the new MDC retail space, with the rent per square foot at the time of displacement honored in the new lease terms.

As current leaseholders of 6,300 square feet of revenue generating retail space at 124 White Street that will that will be lost in the current proposal, Chung Pak LDC should be appropriately compensated, including but not limited to, the provision by the City of an equivalent amount of leasable commercial space, and/or direct financial compensation at an equivalent value to the amount of revenue that would be generated by the 6,300 square feet of retail space in the remaining years of the current lease term.

In addition, there are approximately 15 small businesses on Baxter Street that will not be directly displaced as part of the proposed Manhattan detention facility construction, but which will face significant adverse impacts as the street is closed for construction staging, and while scaffolding and sidewalk obstructions inhibit access and visibility, and the customer base of existing MDC staff temporarily disappears. During construction, they must be provided with appropriate wayfinding and advertising signs, with costs borne by the City, and grant funding should be made available to assist any businesses suffering undue hardship as a result of the proposed facility's construction.

Residents in Impacted Area

In addition to the 15 small businesses on Baxter Street, there are 8 tenement buildings with over 180 residential units, many of which are rent stabilized and are home to senior citizens who may have significant language barriers. There must be direct, trilingual outreach to residents before and during

the construction phase, with at minimum, quarterly community meetings to update residents on construction progress and provide a forum to address any issues and unanticipated impacts.

Community Facility Space and/or Retail Space

The proposed Manhattan detention facility would generate 20,000 square feet of community facility and/or retail space along the north and south sides of White Street, and while it has been suggested that a community-led process will determine the uses and possible tenants at these location, there are practical limitations on the use and establishment type that could be sited here due to the size and layout of the ground floor spaces. Much of the proposed space along White Street is very narrow and likely can only be used for certain types of limited retail uses. There must be an exploration of different ground floor layouts than what is currently proposed to offer a wider range of options for the community space.

Off-site Community Benefits

The original Draft Scope of Work for the proposed Manhattan site projected that the facility would be located at 80 Centre Street. In that scenario, in addition to the anticipated 20,000 square of community facility and/or retail space, there was exploration of a future reuse or redevelopment of the MDC North tower, potentially with a significant amount of community-serving resources located there. With this option now off the table, there must be an immediate discussion of additional off-site community benefits to compensate for this loss, whether that is through investing in existing but underfunded community resources, and/or directly providing additional community facility space, and/or affordable housing.

Community Role in Long-term Advisory Boards and Taskforces

There must be a memorialized process for an ongoing Manhattan Detention Center taskforce, which must include Community Board representation, that would both monitor plans and represent community for input for:

- Determining appropriate design and future tenants for the 20,000 square feet of community facility and/or retail space
- Determining how the pedestrianized White Street arcade between Centre Street and Baxter Street will be used, including the design, programming, and long-term management of the space
- Participating in the design-build process itself, including feedback and vetting of future design and construction plans that are otherwise unknown at the time of public review through ULURP

The SPURA/Essex Crossing Task Force⁵ is a successful model to base this off of. In addition to elected officials and the community board representatives, given the number of Baxter Street small businesses (15) and residential buildings (8) directly impacted by the proposed project, they should be appropriately represented on such a Task Force.

Design-Build Process

Given the criminal justice reform initiatives at work on the State- and City-level, there may be reductions in projected inmate population compared to what is being assumed today. There must be regular benchmarks during the Design-Build process to re-evaluate the necessary capacity of the

⁵ The Essex Crossing Task Force included 5 community board members, 2 local stakeholder representatives, representatives from the local City Councilmember's offices, a representative from the Borough President's office, and 1 former site tenant.

facility and consider options for a reduced bulk, height, and capacity. Design-Build RFP responses are anticipated to be chosen in Summer/Fall 2020, and there may be significant legislative action and other criminal justice reforms and programming alternatives conceived in the interim that could present an opportunity for significant bulk, height, and capacity reduction.

In addition, the City has committed to forming a Design Advisory Group to monitor the Design-Build process following certification through to final RFP selections in Fall 2020. As currently conceived, this group would include representatives from the Department of Design and Construction, the Mayor's Office of Criminal Justice, the Department of Corrections, the Department of City Planning, the Public Design Commission, the four Borough Presidents of the impacted boroughs, and the City Council Speaker's office. In addition, there must be Community Board representation on this Design Advisory Group to ensure that local input and a community perspective on the progress of the Design-Build process is represented.

The building masterplan developed by Perkins Eastman is very detailed and restrains the design process in such a way that it is unlikely this process would result in a new landmark for our community that follows the Design and Construction Excellence (DCE) approach. The layout of the proposed building scheme and the diagrams for circulation and programming do not leave real opportunity for a meaningful DCE process. All this is further aggravated by the fast-paced timeframe for planning, design, and construction and by the untested Design-Build process. It is conceivable that the architectural firm hired for the jail will only have freedom to design the façade and tweak the building envelope.

Urban Design, Neighborhood Character, and Historic and Cultural Resources

The proposed project would be disproportionately large and non-contextual when compared to the adjacent buildings, where views would be blocked, and street character irreparably changed.

The proposed jail would be 146-foot taller than the tallest structure currently present in the primary study area (the tower section of the Manhattan Criminal Courts Building). The DEIS references other Civic Center buildings with comparable height, however, the majority of those buildings were planned with open space surrounding them and/or are not adjacent to small residential streets. Bridging over White Street will add to the non-contextual massing, resulting an exceptionally long building, 2 city blocks in length, which would create a significant and imposing street wall.

The Art Deco/Art Moderne-styled South Tower of the current Manhattan Detention Center is NYC Landmark eligible, and the Manhattan Criminal Courts Building and Prison at 100 Centre Street have previously been determined to be New York State State National Registry-eligible. These eligibilities suggest that the proposed demolition and redevelopment would be an inappropriate and significant loss of historic and architectural resources. The 100 Centre Street building, which retains some Egyptian Revival architectural details from the original "Tombs" building, as well as 80 Centre Street and 125 Worth Street constitute a coherent architectural group in Civic Center. The demolition of "the Tombs" would undermine the value of a visible piece of the criminal justice history and the historical development of NYC. Therefore, there is a further responsibility to preserve the remaining buildings if the Manhattan facility is realized as currently proposed.

Part of the proposed Manhattan detention facility would also include the creation of a car-free, pedestrianized arcade on White Street. There are few details at this time of how this space will be designed, maintained, and managed, include significant questions of programming, use, accessibility, potential of revenue generation, and long-term management and maintenance of this space. These

questions must be addressed and resolved through a process that includes community representation and appropriate stakeholder involvement.

Construction Period

One of the most disruptive conditions in construction can be caused by staging. This is clearly a difficult area to stage trucks—the current plan of staging on both the east and west sides of the project site along Baxter and Centre Streets does not appear to be adequate for the anticipated scale of the project, which at peak would include nearly 30 trucks daily in the most conservative estimate.

The DEIS describes the highest impact hours at 6:00 am to 7:00 am but in reality staging may start much earlier than 6:00 am (such as a cement pouring for many hours that must be completed in one day), and staging with a high volume of trips may and does often last until much after 7:00 am. The streets and intersections adjacent to the construction site are already congested and this will be exacerbated by the necessary street closures. At peak times there will be over 1,000 workers in the area. To mitigate traffic and congestion impacts, it is imperative that workers not just be prohibited from parking on site, but not be allowed to bring personal vehicles into the area at all.

We know there will be constant construction issues that must be dealt with, and we have an excellent working model to address this in the Lower Manhattan Construction Command Center (LMCCC). Although the area of work is not as large as Lower Manhattan after 9/11, this will nonetheless this will be very intensive work in much more crowded area and have higher impact on traffic, seniors, children, businesses and all other daily activities. Therefore, there must be an interagency construction working group based on the model of LMCCC. Community Boards must participate in the working group and represent resident complaints and issues. Additionally, there should be a quarterly community meeting to update and hear issues. There should be weekly e-mail blasts that anyone can sign up for that will give schedule and describe work for the upcoming week.

The proposed construction would impact some of our most vulnerable, low-income seniors at the adjacent Chung Pak facility, several of whom are more than 100 years old. Construction noise alone will have a daily negative impact and will outlast some of the seniors. To mitigate this, there must be a commitment to not having any noisy work on weekends or during overnight hours. In addition, trucks should use "white noise" back up alerts—not traditional beeping. Given the vulnerable senior population and nearby childcare facility, monitoring of dust must be for fine particulates (2.5 micrometer Particulate Matter) as this is proven to have serious impacts on pulmonary and cardiac health.

All of this must be memorialized in a detailed construction mitigation plan, including a detailed timeline and phased mitigation plan for the entire construction period, including traffic, noise, and monitoring and mitigating for dust and other particulate matter at each phase, with regular oversight through the LMCCC-model interagency group. Additionally, the RFP for construction should require the contractor to work with the City and local organizations to hire locally with prevailing wages.

Public Health

No significant adverse impacts were identified in the public health analysis in the DEIS. However, air quality is likely to be impacted during the construction phase, as fine particulate matter (at the 2.5 micrometers level) can come from vehicles using diesel fuel such as construction vehicles and buses, which can aggravate asthma and contribute to coughing, lung irritation, chronic bronchitis and cardiovascular hospital admissions. According to the NYC Department of Health and Mental Hygiene "NYC Community Air Survey" report from April 2017, the concentration of P.M. 2.5 in lower Manhattan was already high. Therefore, there must be regular and robust air quality monitoring during all

construction phases of the proposed facility, and idling vehicles must not be allowed during operational phase of proposed project.

In addition, exposure to hazardous materials must be fully mitigated. MDC South was built in 1941 but the federal government did not ban the use of lead paint for consumer use and for residential housing until 1978. Before demolition, the presence of lead and lead paint must be studied, disclosed, and if necessary, fully mitigated to protect residents and workers. There is a similar concern for asbestos in the older MDC South building, which also must be studied, disclosed, and fully mitigated.

Transportation

In the DEIS, uniformed DOC staff are projected to generate the most significant number of vehicle trips to the proposed Detention Facility site. Because proximity to public transportation and the reduction of transportation burdens was part of the land use and policy rationale for this proposal, and because it is consistent with the City's OneNYC climate change and carbon reduction goals, no personal vehicles should be used by staff during the construction or operations phase except those which are essential to facility operation. Traffic congestion is a concern of residents and an identified significant adverse impact, therefore staff and workers should be required to use the robust public transportation that is in close proximity to 124-125 White Street which was part of the site selection rationale.

Furthermore, with the anticipated increased traffic impacts, appropriate signal timing changes and an improved and robust traffic enforcement plan must be developed to reduce congestion, guarantee timely and reliable bus service to the proposed facility and in the area in general, and to ensure emergency vehicles have 24/7 unobstructed access to residential buildings on Baxter Street where a large number of potentially vulnerable senior citizens live, as well as the low-income senior residential building at 96 Baxter Street.

Placard Parking Enforcement Plan

There are currently 140,000 official parking placards in circulation, with 42,000 placard violation fines issued in 2017.⁶ Given that placard abuse is largely concentrated in Lower Manhattan and the Civic Center area where off-street parking costs are high and there is a large number of City employees, the expanded staffing needs at the proposed Manhattan detention facility is a situation primed for placard abuse. There must be a commitment to a multi-agency plan for placard parking enforcement on the surrounding streets and pedestrianized plazas surrounding the proposed facility. Given the ongoing issue of placard abuse and its impact in the area today, this is a mitigation that must begin immediately, rather than at the start of construction or beginning of operations.

Noise – During Operations

The DEIS does not require the disclosure of noise generated by the mechanical systems such as elevator, water and sewage, heating, ventilation, and air conditioning systems during normal facility operations. Because of the proximity to low-income senior residences at the Chung Pak LDC building at 96 Baxter Street, as well as residential tenement buildings across Baxter Street, there must be study, disclosure, and mitigation of any significant noise levels that could impact nearby residents during normal facility operations.

Alternatives

The alternatives disclosed in the DEIS as required by CEQR did not present the full range of options that could reasonably meet stated project goals. To begin, there was no alternative considered that included a Staten Island facility, despite opportunities to provide a humane facility in that borough that

⁶ Meyer, David. "De Blasio's Placard 'Crackdown' is Actually More Parking Perks for Cops!" February, 21, 2019. <<https://nyc.streetsblog.org/2019/02/21/de-blasios-placard-crackdown-is-actually-more-parking-perks-for-cops/>>

would offer improved conditions for those who work and are detained there, while also being assets to the neighborhood and borough, as well as having proximity to court facilities and local transit infrastructure that exist in that area. A 5-borough scenario with Staten Island included should be considered as an alternative scenario.

The "No Unmitigated Significant Adverse Impact Alternative" only considers project goals that include the current projected capacity for a Manhattan facility, and therefore is not considered feasible as this facility would be forced to decrease capacity were it to be built with no significant adverse impacts. However, this in and of itself may be a viable and quite realistic alternative. Criminal justice reform advocates and City and State legislators have been making significant gains in reducing the incarcerated population in New York City, and there is a legislative and policing pathway for further reductions. Therefore, an alternative scenario should be considered with no adverse impacts that meets all project goals and includes a significantly smaller number of beds than is currently being projected.

Additional Mitigations and Off-site Community Benefits

There has been discussion of additional plans for mitigation and the identification of off-site community benefits. Per the DEIS, Columbus Park will be impacted by noise, with noise levels potentially elevated to the "marginally unacceptable" range. This is already a very densely used park, especially by seniors at nearby facilities, and is the major park in the area, and will experience increased use during construction. Mitigations for this park should include the priorities that have been pending for years, beginning with addressing long-standing capital budget. The capital priorities at Columbus Park identified in Community Board 3's most recent budget priorities include:

- Upgrading of heating system at Columbus Park pavilion, with flooring that needs replacement and air conditioning installed to make the lower level of the pavilion useable for programming.
- Repair and upgrade of bathrooms and lighting which have dilapidated fixtures and require better lighting
- Upgrade of Columbus Park multi-purpose field to replace the synthetic turf multi-purpose field, a popular location for multiple sports and general recreation and relaxation.
- Installation of new permanent fencing on Baxter Street between Hogan Place near children's playground

These upgrades must occur before the construction period begins to allow for additional and well-served senior and youth programming while the area experiences significant disruption.

Ensuring All Mitigations Are Realized

All proposals and mitigations presented here must be formally memorialized in order to ensure they are acted on as a condition of any project approvals and permitting. Were the project to be approved, this should begin by including all relevant recommendations as conditions in the City Planning Commission report and the City Council ULURP resolution, as well as in restrictive declarations that run with the land to bind the owner to particular commitments to mitigating actions and to control future uses and alterations.

Please contact the Manhattan Community Board 3 office with any questions.

Sincerely,



Alysha Lewis-Coleman, Chair
Community Board 3



MyPhuong Chung, Chair
Land Use Zoning, Public & Private Housing Committee

cc: Gabrielle Dann-Allel, Mayor's Community Affairs Unit
Office of New York City Councilmember Margaret Chin
Office of Manhattan Borough President Gale Brewer