



March 2, 2009

Dear Constituents:

Several hundred Brooklynites like you have written to me, presented testimony, and/or attended my January 27 land use hearing at Brooklyn Borough Hall on the Two Trees proposal for the development of its property known as 10 Dock Street in DUMBO. Pursuant to the New York City Charter, on February 25, 2009 I submitted my advisory recommendations for this proposal to the City Planning Commission and the City Council. I have enclosed a copy of the report for your review.

Your comments were very helpful in informing me of the community's issues and shaping my recommendation. *Most importantly, as is the case with all of my policy decisions, I am guided by the stated concerns of our community and my experience with the City's land use (ULURP) processes.*

The community has effectively spoken loud and clear about its concerns. I most whole-heartedly agree that the iconic views of the Brooklyn Bridge must be protected and that the open feeling created by what the community has termed the "bowl" surrounding the bridge must be preserved. My primary consideration in reviewing these land use actions was based on what was expressed repeatedly — that the Brooklyn Bridge would be adversely impacted by the proposed building. This was exactly what I expressed in my comments on the 2004 proposal; and, I am reinforcing that concern in response to the project as presented to me in 2009.

Therefore, I recommended that the City Planning Commission and the City Council support only the concept of residential, retail and parking at this site. However, let me be very clear, I do not support this current project. In fact, I have rejected the proposed building as it is currently configured.

As I noted, my goal is to respect the Brooklyn Bridge— by not allowing a "rival" structure to rise too close to it and to preserve public views; the open "bowl;" and, a continued smooth transition from Fulton Ferry Landing to DUMBO.

A very important matter that I had to consider, however, is what the developer may currently construct under the existing manufacturing zoning. I asked my architectural and planning staff to carefully examine this matter. They reported to me that the developer is able under current zoning (known as "as of right") to build a very tall hotel — in excess of twenty stories tall to within 70 feet of the bridge. Alternatively, the developer could construct a hotel at a lower height, but making up for lost height by providing additional building length to be so wide that it would block more even views from the bridge than the currently proposed building! If I rejected the Two Trees proposal outright, followed by

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possible rejections by the City Planning Commission (CPC) and the City Council, the result could be that development could proceed with zero community input. However, based on what I have experienced over my tenure as borough president, it is more likely that the proposal will proceed through CPC and finally the City Council with minimal modifications occur. Rarely does the City Council overrule or significantly modify the recommendations of CPC. It is unacceptable to me when it comes to the iconic Brooklyn Bridge to have such uncertainty when there is an opportunity to steer the developer to revise plans voluntarily.

However, because Two Trees is seeking zoning changes, public officials like me have the ability to ask for design changes that significantly protect more views than an as-of-right project. So, after reviewing the applications and public testimony, my staff spent weeks conducting “digital modeling” and simulation and personally visiting the site to calculate all design options.

In order to preserve public views — I have called for the tower be made more slender—reducing it to 57 percent of its proposed girth. I have not — as has been incorrectly reported — called for “more height.” Indeed I have done no such thing. What I have acknowledged is that if Two Trees makes the building narrower and in effect “gives back” much of the view from the bridge — they would then have the option, *according to what is allowed by zoning* — to build the narrower structure up to 25 stories. Thus, in combination with my recommendations, if Two Trees pursued the height allowed by zoning, the project would still be reduced by nearly **35,000 square feet**. Such height would approach the height of the “Clock Tower” building at One Main Street.

My recommendations allow for much better views than the proposed building — from many more vantage points — of Manhattan, the Manhattan Bridge, and the Brooklyn waterfront— and of course, the Brooklyn Bridge. This is the balance we were trying to strike.

In order to respect the bridge and preserve the sense of the “bowl” — I recommended the following: that the tower be set back 70 feet from Front Street— increasing the distance from the Brooklyn Bridge from 98 feet to 150 feet; that the building’s wing along Water Street be reduced by two floors (which is consistent with my 2004 recommendation) so that it would be not higher than 80 feet; and; I have asked that the section along Front Street be lowered to 85 feet. Such heights are below the height of the bridge’s walkway.

As I have done with every single residential zoning application that has come before me — I have also asked for affordable housing. The developer has pledged to include it — but my recommendation calls for a legal mechanism to “lock in” the 20 percent affordable housing units promised.

Lastly, regarding the developer’s pledge to include a middle school at the site — which I know was of interest to many families — this was not part of the official application before my office.

I certainly applaud Two Trees’ willingness to build a school — whatever their motivation was — thus I have recommended that the Department of Education consult with Community Education Council 13, Community Board 2, and local elected officials — to analyze the current capacity levels of surrounding elementary and middle schools in order to ascertain which grade configuration will best serve the needs of the community two years prior to the projected occupancy of school space within the dock street project, as well as investigate other available spaces for the location of a school in the neighborhood.

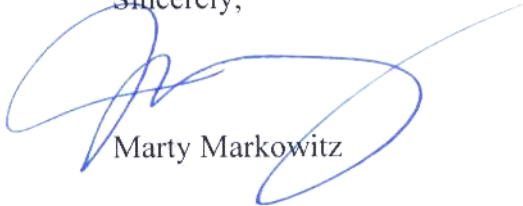
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I hope that you will take the time to read the recommendation report and the accompanying graphics. I am proud of the work and care that went into this recommendation.

I believe my recommendation absolutely reflects the opinions expressed at my public hearing and written submissions provided to me. My goal was very clear of striving towards the best possible outcome to safeguard the residents of DUMBO while doing my best for the Brooklyn Bridge. I tried my very best. My hope is that CPC and the City Council will be guided by the recommendations that I have set forth so that what is approved reflects the community to the fullest extent.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Marty Markowitz', is written over the typed name. The signature is stylized and cursive.

Marty Markowitz

RECOMMENDATION FOR THE PROPOSED DEVELOPMENT OF A MIXED-USE BUILDING AT 10 DOCK STREET

090181 ZMK – 090182 ZRK – 090183 ZSK – 090184 ZSK

The applications by Two Trees are for the following actions: amendment to the Zoning Map and text; and the granting of special permits. Approval of these actions are being sought in order to facilitate a mixed-use development consisting of approximately 323 residential apartments (130 affordable units); 465 space public parking; a 300-seat public middle school (community facility use); and, 12,733 square feet (sq. ft.) for retail.

PUBLIC HEARING AND COMMENTS

On January 27, 2009 Brooklyn Borough President Marty Markowitz held a public hearing for a proposal by Two Trees Management Corporation (Two Trees) which garnered approximately 300 attendees of which 101 provided testimony. The hearing lasted over 4 hours. Subsequent to the hearing, the borough president received a number of letters, e-mails and other forms of communication that have been taken into account for this recommendation.

There were 30 speakers in favor of the application and 68 speakers against the application. Speakers in opposition and in support included Council Member Bill de Blasio and Council Member David Yassky, as well as representatives for Council Member Letitia James and Assemblyman Hakeem Jeffries.

Council Member de Blasio said that the Two Trees proposal was not the best way to address the need for affordable housing and additional schooling in the area. The council member believes that achieving more than the standard 20 percent affordable housing set aside would be more beneficial to the community. He also spoke of possibly relocating the school and mentioned Brooklyn Bridge Park as a potential site. Lastly, the council member discussed the importance of the Brooklyn Bridge as an icon throughout the world and urged not to compromise the views of and from the bridge.

Council Member David Yassky testified regarding the use of the proposed school as being the crux for the proposal. The council member noted that while there were other sites available for a school, these sites were turned down by the School Construction Authority (SCA).

Representatives speaking on behalf of Council Member Letitia James and Assemblyman Hakeem Jeffries expressed their support of the project because it includes both affordable housing and a new middle school.

Proponents for the application commented on the importance of bringing a new school to the area. The 'green' elements of the project were cited as being a model for future development projects. Supporters of the project also spoke of the importance of building affordable housing in the DUMBO area.

Many opponents declared that losing any available views of and from the bridge were unacceptable. Other speakers questioned the appropriateness of siting a school within this project and whether this location was the best site. Another concern expressed by opponents was increased traffic congestion generated by the proposed project's residential density, middle school and public parking garage.

CONSIDERATION

The borough president supports the concept of rezoning the property to allow residential development, which is consistent with the current transformation that created the vibrant DUMBO neighborhood as it is today. The existing zoning permits a limited range of retail uses and service establishments – limited in size, restaurants and banquet facilities, hotels, offices, 150 space public parking garages, amusement uses, health facilities, houses of worships, motion picture studio museums, warehousing and light manufacturing. Such uses would remain permitted under the requested zoning, though the applicant proposes to restrict the uses to retail and public parking garage. The proposed zoning would also permit the use of the school as planned by the applicant.

The borough president also supports the concept of a public parking garage exceeding 150 spaces as a means to support current and future activities at Brooklyn Bridge Park. However, he has concerns with the proposed building in regards to: how it impacts the views from and to the iconic Brooklyn Bridge; its affect on the transition between Fulton Ferry Landing and DUMBO; and, the context of Front Street. Furthermore, the affordable housing is not sufficiently guaranteed; the borough president is against charging fees for public bicycle parking in the garage; and, steps must be taken to prevent congestion and unsafe pedestrian crossings due to the parking garage. Finally, the issue concerning the creation of a school deserves further analysis regarding the appropriateness of the site and student utilization.

2004 PROPOSAL

In 2004, Two Trees submitted a proposal for a portion of this site, which it owned at that time. The residential building was entirely along Water Street rising to a height of 178 feet without setbacks. The borough president recommended against that application because the height of the buildings would have obstructed views of the Brooklyn Bridge.

CURRENT PROPOSAL

The current proposal is larger than the 2004 application. The additional land, in conjunction with the requested special permits, would allow a building configuration that shifts more of the height away from Water Street, oriented as proposed between Water and Front Streets. With the exception of the 16-story “tower” segment, the street wall along Water Street would have a height of approximately 97 feet. The height of the “tower” as proposed is approximately 184 feet along Water Street and 176 feet along Front Street (i.e., because of the difference in elevation of these streets).

The proposed “tower” requires four waivers of zoning bulk requirements. These include allowing the tower to: rise above the street height of 85 feet within the required street setback area of 15 feet; be within the required rear yard (this also pertains to the height of the gymnasium/auditorium of the proposed school); and, be within the area that would meet the compliance of inner court areas, and distance requirements for legal windows and walls while satisfying light and air requirements by establishing an easement east of the lot line. The resulting proposed development would be below the height of the Brooklyn Bridge roadway at Water Street. The nearest point of the “tower” to the bridge will be approximately 98 feet from the bridge.

AS-OF-RIGHT DEVELOPMENT

A key factor considered by the borough president is the as-of-right permitted uses of the property. The development of a "tower" is not precluded by the existing M1-2 zoning.

When the property was considered for development in 2004, its configuration in combination with the height restricted area (within 70 feet of the span of the Brooklyn Bridge) imposed by the Department of Transportation (DOT), did not make a tall as-of-right building feasible. With the additional property purchased by Two Trees since the 2004 attempt, a sufficient portion of the site could be developed with a building in excess of 200 feet tall while staying beyond the area regulated by DOT.

VIEWS OF THE BRIDGE

The Brooklyn Bridge is the borough's gift to the world as an engineering marvel from the late 19th century. Its masonry arched towers, architectural icons in themselves, are tied together by a graceful cable suspension system. The Brooklyn Bridge is represented by more than just the towers, anchorages and spans between them.

Views of the span, representing the whole bridge, must be protected as well. Of equal concern are the incredible views from the bridge's pedestrian walkway of the East River and the Brooklyn and Manhattan skylines. The borough president believes that these views should not be obscured. The project, as proposed, though much improved from the proposal in 2004, would impede these views. The borough president agrees with the concern of many residents that as proposed, the building does not adequately address the following: its proximity to the "iconic" Brooklyn Bridge; respecting the "bowl"; the contextual transition between Fulton Ferry Landing and DUMBO neighborhoods; and an appropriate street wall setback height. In addition he has other concerns regarding the commitment to provide affordable housing, egress from the public parking garage and the proposed school.

Proximity to the "Iconic" Brooklyn Bridge

The borough president believes that the linear distance of approximately 98 feet separating the "tower" and the Brooklyn Bridge is inadequate (see attached illustration #1). The "tower" would loom over the bridge and significantly obscure views from the pedestrian walkway. As noted previously, the existing M1-2 zoning would allow an as-of-right building taller than 200 feet within 70 linear feet of the bridge. He believes that no building should be taller than the bridge within 150 linear feet of the span.

Setting the tower at least 70 feet from the street wall along Front Street appears to be sufficient (see attached illustration #2). By substantially reducing the footprint of the "tower" the extent where views would be obscured would be diminished.

Respecting the "Bowl"

The low-rise building context of the buildings adjacent to the Brooklyn Bridge has, in essence, established a valley underneath and alongside the structure, referred to residents as the "bowl." This area extends from taller structures such as the Eagle Warehouse in Fulton Ferry Landing (approximately 100 feet) and 30 Main Street (approximately 155 feet) in DUMBO, thus the bridge is the area's most prominent

feature. From the bridge's pedestrian walkway, nearby buildings are below the site lines to the East River; thus opening the expanse of views from the bridge. The proposed street wall height of approximately 97 feet along Water Street is just below the span height of the bridge. Therefore the building would obstruct views from the bridge to the surrounding area (see attached illustration #3). The borough president believes that limiting the street wall height to 80 feet along Water Street would adequately preserve these views.

As previously noted, the borough president recognizes that the existing M1-2 zoning allows for a very tall building. In such a scenario, there would be limited zoning controls that effect building placement within the bowl, though the tower footprint would be substantially less than what is proposed. In consideration of the as-of-right possibility, the borough president believes that restricting the tower to 150 linear feet of the Brooklyn Bridge in combination with a street wall height limit of 80 feet along Water Street would substantially preserve the bowl effect (see attached illustration #4).

Transition between Fulton Ferry Landing and DUMBO

The Water Street section of the site is framed by the context of the four-to-six story buildings located at 64-72 Water Street and the Civil-War era Empire Stores and Tobacco Warehouse located across the street in Fulton Ferry State Park. As the borough president noted in his 2004 recommendation, this area serves as a transition zone between the taller industrial buildings found along Main Street to the two-three story buildings in Fulton Ferry Landing. The appropriate street wall height along Water Street must not result in a canyon-like effect between the project and the Empire Stores as this is the prime pedestrian link from DUMBO into neighboring Fulton Ferry Landing. The historic character of the Tobacco Warehouse and Empire Stores should not be flanked by a building massing that would distract from their significance. The proposed street wall height of approximately 97 feet substantially deviates from the building context of the area (see attached illustration #5). The borough president believes that the street wall should not exceed a height of 80 feet, consistent with his recommendation to preserve the "bowl" (see attached illustration #6). Such height limitations would increase the visibility of the bridge from Water Street.

Street Wall Height Along Water Street

In the current proposal, along Water Street the tower is 59 feet wide and 184 feet tall; there are no setbacks (see attached illustration #5). The proposed zoning district requires a setback of 15 feet at a height of 85 feet. However, the applicant is seeking a special zoning bulk permit to waive the setback requirement.

The applicant notes that such a vertical street wall is in context with nearby buildings on Water Street at Main Street. In addition, the applicant suggests that such buildings contribute to the distinctive urban character of DUMBO. The borough president disagrees. The character of the area at Water and Main Streets is "canyon-like." At Water, Front and Dock Streets, the character is more open. Therefore, the borough president believes that any resulting tower footprint must respect the mandatory setback of 15 feet above the street wall along Water Street (see attached illustration #6). Respecting the setback requirement further supports the borough president's objective of maximizing views of the bridge from Water Street. With the

setback prescribed from Front Street, the tower would be reduced from a length of 200 feet as proposed, to 115 feet.

Street Wall Height along Front Street

The proposed tower of 56 feet on Front Street, as previously noted, should setback at least 70 feet from the street wall rather than the proposed zoning height of 180 feet (see attached illustration #7). The height of this street wall should be consistent with the buildings east of the site on this block (see attached illustration #8). Those buildings, zoned M1-2/R8A, would mandate a zoning street wall height up to 85 feet. This is reflective of the recent construction at the corner of Front and Main Streets.

Building Tower

The primary concerns expressed to the borough president were about the effect of the proposed project on the neighborhood context; its proximity and visual impact on the bridge; and, views from the pedestrian path.

The issue of height was not voiced as a primary concern. The zoning proposed by the applicant allows for a building that can reach approximately 254 feet in height above Water Street. In addition, as previously noted, an as-of-right structure could significantly exceed 200 feet. Many of the borough president's proposed bulk modifications would collectively reduce the proposed residential floor area by approximately 68,000 square feet; this includes slimming the tower's girth to 57 percent of its proposed size and the loss of two floors of the building along Water Street.

The zoning proposed by the applicant would allow the developer the option of adding more floors to the tower. When taking into account the borough president's recommended bulk changes, the project would still be reduced by approximately 35,000 square feet from Two Trees' current proposal. The borough president believes that making the tower more slender respects the iconic Bridge and will preserve the views and 'bowl' effect within Fulton Ferry Landing and DUMBO.

Affordable Housing

The applicant proposes that 20 percent of the 323 dwelling units would be affordable housing if undertaken pursuant to the 80/20 bond financing program and 421-a affordable housing requirements. Two Trees has an excellent track record of developing affordable housing, including the development of Brooklyn's first 80/20 building at Court Street and Atlantic Avenue. That project includes 65 low-income affordable housing units. However, such intent and track record does not guarantee that affordable housing would result if the requested rezoning were to be granted for this site. The developer would be free to pursue all the units as market rate if the perceived value of such a development was thought to be more lucrative than the financing benefits through the bonds and the reduced real estate tax payments.

The borough president's policy is that all new residential developments subject to ULURP provide a minimum of 20 percent affordable units for area residents. The borough president believes that a restrictive covenant that runs with the land is the best way to ensure that affordable housing is ultimately constructed. The applicant should file such documents prior to any final consideration by the City Council.

Public Parking Garage

The applicant proposes 465 parking spaces of which 129 are accessory to the proposed residential units. In order to exceed 150 public parking spaces, the applicant seeks a special zoning use permit. In addition, the zoning floor area may be modified subject to a zoning waiver. Should the City Planning Commission and City Council adopt the Department of City Planning's proposed Bicycle Zoning Text Amendment, the development would be required to provide bicycle parking within the garage. Such bicycle accommodations support "green" principles of sustainability. The issue of traffic congestion imposed on DUMBO's narrow street system from such a garage was noted at the borough president's hearing. The borough president understands that adding traffic to the area may not be desirable. However, this must be balanced with the need to provide public parking for Brooklyn Bridge Park, including the ongoing activities at the Tobacco Warehouse and the future reuse of the Empire Stores. Public parking would also serve residents of nearby buildings seeking convenient parking and provides for shared car ownership opportunities such as Zipcar.

Providing bicycle parking in the public garage permits the developer to charge a usage fee. As this garage would serve Brooklyn Bridge Park and be in proximity to the proposed Brooklyn Waterfront Greenway route, the borough president believes that the developer should not charge user fees as a means of encouraging bicycle users to attend functions at the park and encouraging greenway riders to visit DUMBO and Fulton Ferry Landing establishments.

While residents of DUMBO and adjacent communities may have access to public transit to minimize the need for a car, access to cars and places to store them are important to many households, even if used infrequently. Utilization of the public parking by nearby residents is not likely to result in congested streets. Though certain park related events, including those associated with Empire Stores and the Tobacco Warehouse could result in many cars entering or exiting the garage in bunches. Therefore, congestion on DUMBO streets cannot be dismissed. Though the borough president supports the parking garage, he has concerns that will be discussed in the traffic section of this report.

Schools

The applicant proposes to include a 300-seat middle school as part of this project. The president of the School Construction Authority (SCA), in a letter dated December 1, 2008, advised the borough president of its intent to locate the school facility within this project for Community School District 13 (CSD 13). Many of those who testified expressed an interest in a new middle school in CSD 13. Some speakers noted their support for the project because of the inclusion of the school.

The issue of the middle school is not part of the application before the borough president. The borough president commends the applicant for its commitment to construct the raw space for a school and he has every expectation that the SCA will fulfill its pledge. In this current economic climate, it is possible that other properties not evaluated by SCA would be equally or more appropriate to serve CSD 13. Should a project be constructed at this site or another more appropriate location, the Department of Education (DOE) should determine the most appropriate grade configuration and type of school that will best serve the community. These actions should occur before proceeding with the design of the school. In doing so, the

review should be based on up-to-date information on enrollment, capacity and capacity pipeline considerations. In order to obtain the most current information, the DOE should work with Community Education Council 13, Community Board 2 and local elected officials to analyze the latest capacity levels of surrounding elementary and middle schools.

Assuming it takes one year to construct the school within the shell of the development, such planning should begin two years prior to the expected date of occupancy.

Traffic Concerns

A drawing of the garage layout, provided with the applications, indicates that all vehicles leaving the garage would exit by turning left (eastbound) onto Front Street. This would force cars leaving the garage to drive through the streets of DUMBO. One of the exit routes from the garage is Water Street. At Water and Old Fulton Streets there are many major attractions such as the Fulton Ferry Landing Pier, New York Water Taxi and area restaurants that draw hundred of pedestrians to the area. When Brooklyn Bridge Park opens in 2010, Fulton Ferry will become its gateway attracting many more pedestrians. The borough president believes that such a pedestrian/vehicular conflict can and should be avoided.

To prevent this problem, the borough president believes that a right-turn exit from the garage can be achieved if the Department of Transportation (DOT) made relatively minor changes to the intersection of York and Front Streets. Thus, vehicles heading towards Downtown Brooklyn, the Brooklyn-Queens Expressway and the Brooklyn Bridge need not drive through DUMBO and could stay to the edge of the Fulton Ferry Landing community. Therefore, DOT should evaluate such changes in consultation with Community Board 2, the DUMBO and Fulton Ferry Landing civic associations and local elected officials.

RECOMMENDATION

Be it resolved that the Brooklyn Borough President, pursuant to section 197-c of the New York City Charter, recommends that the City Planning Commission and the City Council support land use actions to facilitate residential, retail and public parking garage uses proposed by Two Trees Management; however, he rejects the project as presented and seeks modifications based on the following conditions:

1. That the following bulk modifications be made, That,
 - A. The tower be not less than 150 feet from the span of the Brooklyn Bridge in lieu of the approximately 98 feet proposed; and, a setback of not less than 70 feet from Front Street (disapproval of the General Large Scale Special Bulk Permit setback encroachment request) as opposed to no setback as proposed.
 - B. The Water Street street-wall elevation not exceed 80 feet, as opposed to the 93 feet proposed, with no setbacks except for bulkhead and the tower section of the building.
 - C. The tower along Water Street be setback at least 15 feet as opposed to no setback as proposed (i.e., disapproval of that portion of the General Large Scale Special Bulk Permit [090183 ZSK] regarding the setback encroachment request).

- D. The Front Street tower street wall elevation not exceed 85 feet as opposed to the 180 feet as proposed (i.e., disapproval of that portion of the General Large Scale Special Bulk Permit [090183 ZSK] regarding the setback encroachment request).
2. That the affordable housing be codified by a covenant or other legal instrument to run with the property, stating that twenty percent of the residential floor area will be developed as affordable housing.
 3. That for bicycle parking spaces within the public parking garage, such parking shall be provided without fees.

Be it further resolved that the borough president calls on:

4. The Department of Education to consult with Community Education Council 13, Community Board 2, and local elected officials:
 - To investigate other available spaces for the location of a school.
 - To analyze the current capacity levels of surrounding elementary and middle schools in order to ascertain which grade configuration will best serve the needs of the community two years prior to the projected occupancy of school space within the Dock Street project.
5. The Department of Transportation (DOT) to consider, shifting the location of where Front Street currently terminates as a two-way street to a point further east; thus, facilitating westbound Front Street vehicular movement exiting from the Dock Street project's proposed public parking garage. DOT should consult with Community Board 2, the DUMBO and Fulton Ferry Landing civic associations and local elected officials.

Illustration: 1

Brooklyn Bridge

Manhattan Bridge

Proposed Building

Empire Stores

Approximately 98 feet

Front Street

Two Trees Management – Dock Street Proposal

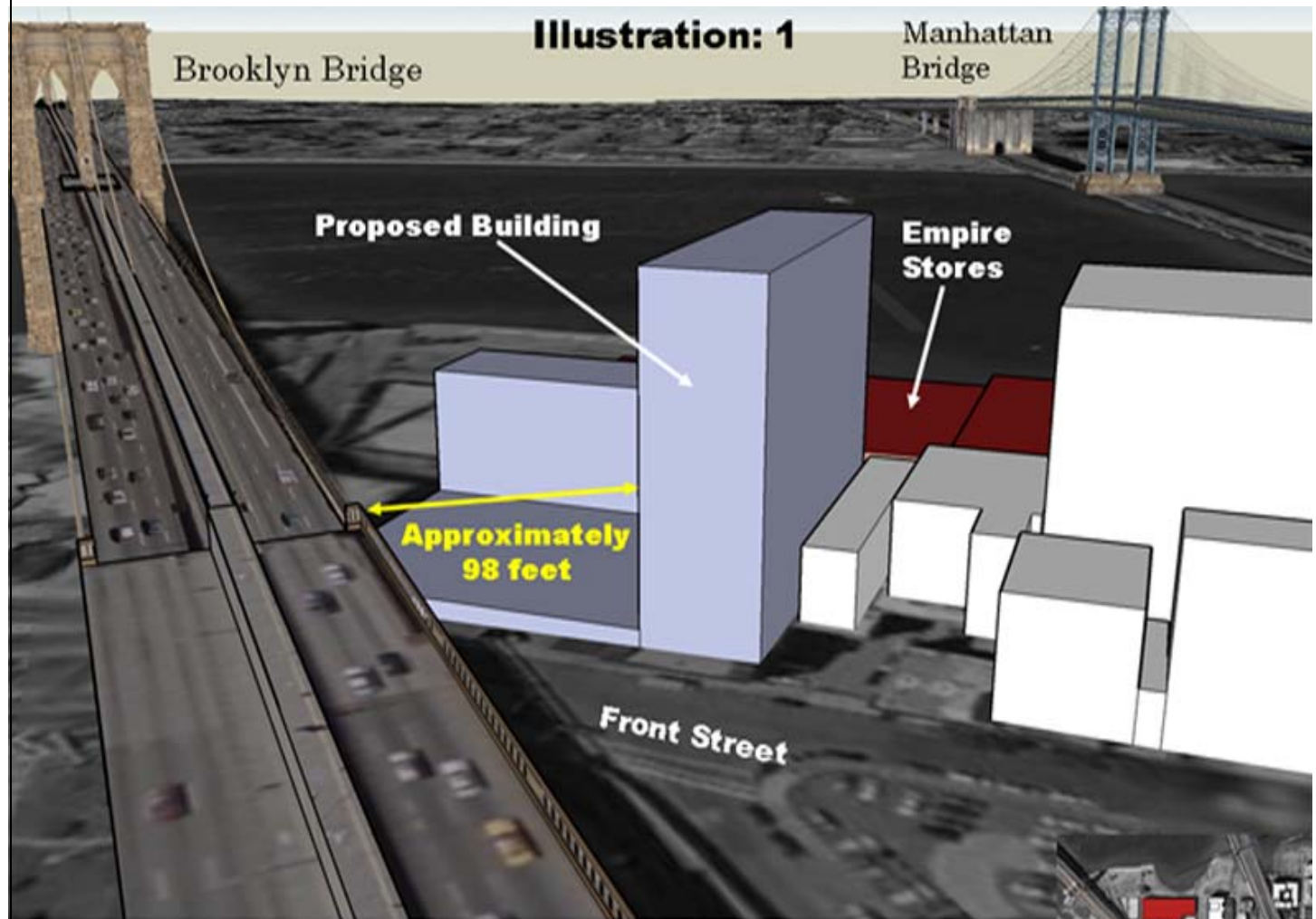
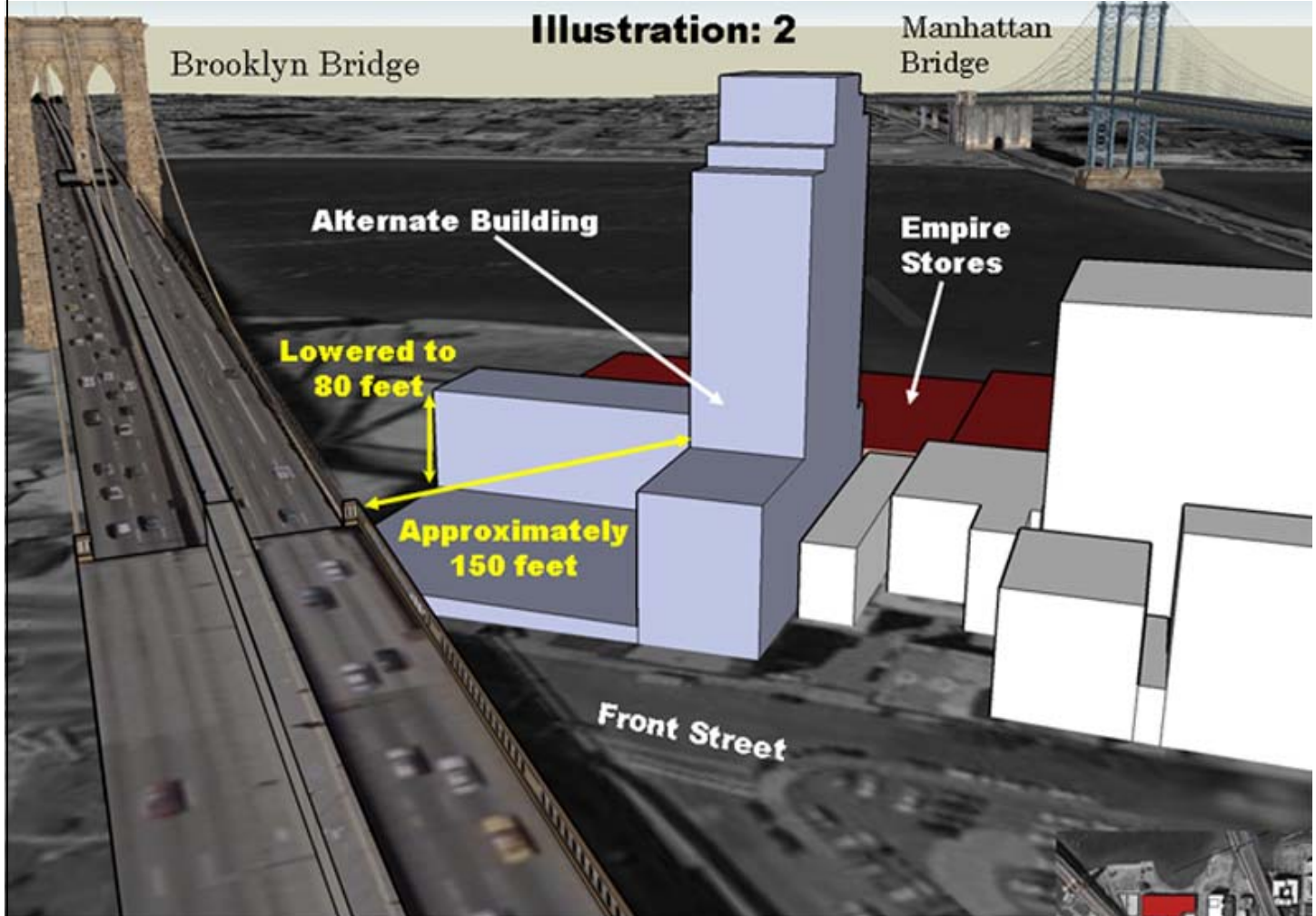


Illustration: 2

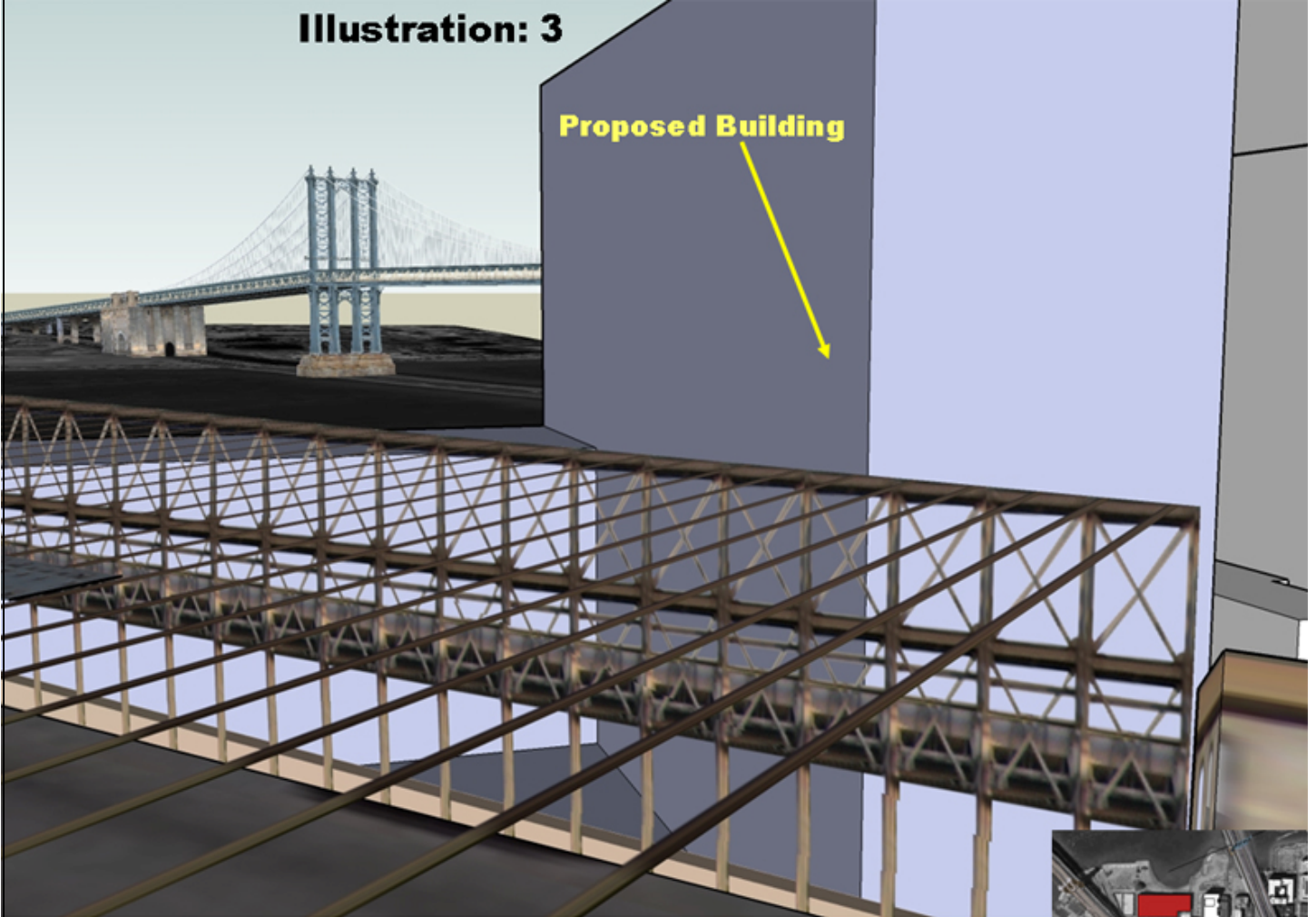


Brooklyn Borough President – Alternate Proposal



Illustration: 3

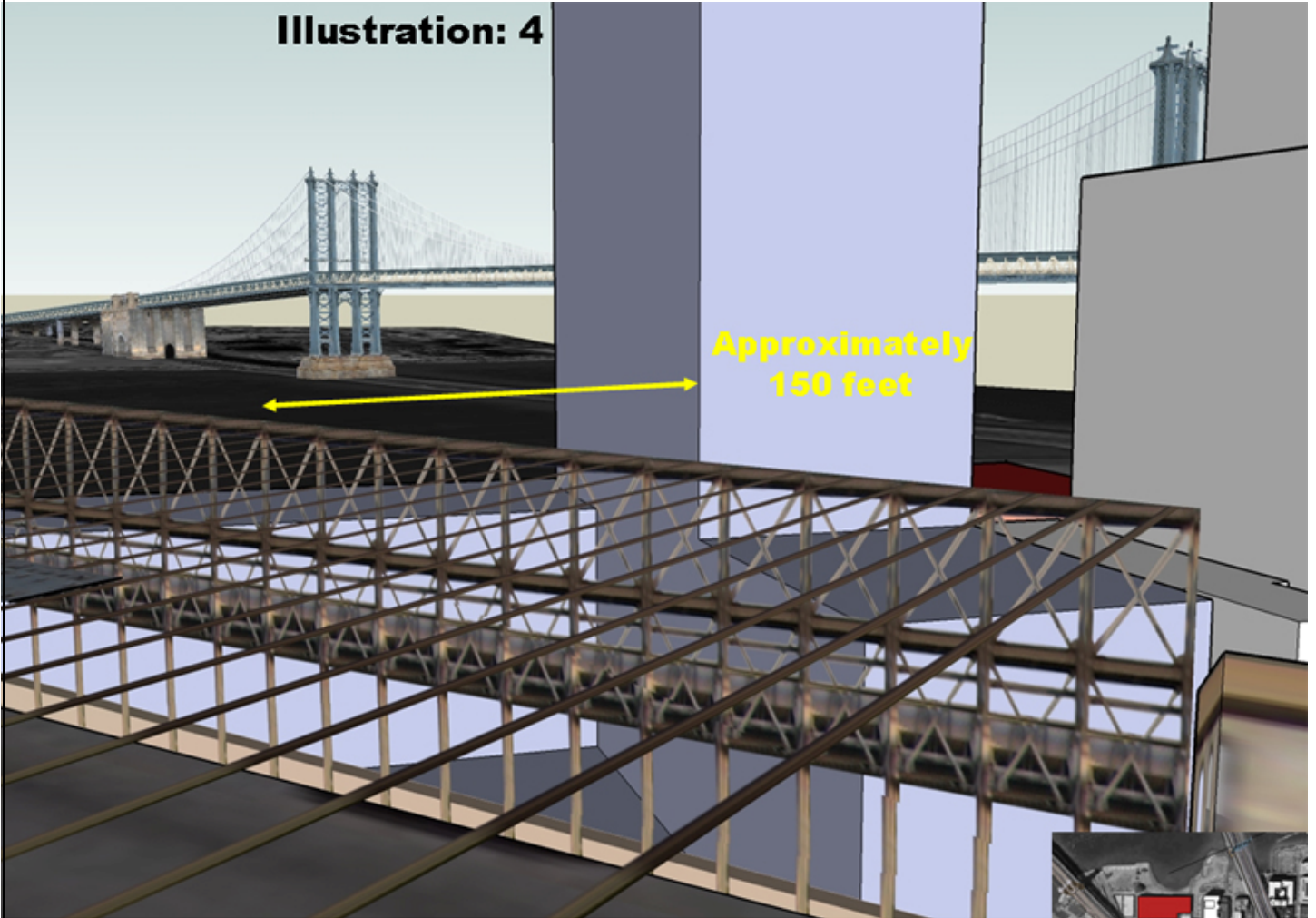
Proposed Building



Two Trees Management – Dock Street Proposal



Illustration: 4



Brooklyn Borough President – Alternate Proposal



Illustration: 5

Proposed Building

No setback

**Approximately
97 feet high**

**Empire
Stores**

Two Trees Management – Dock Street Proposal



Illustration: 6

Alternate Building

**Setback of
15 feet**

**Lowered to
80 feet high**

**Empire
Stores**

Brooklyn Borough President – Alternate Proposal



Illustration: 7

**180 feet
in height**

Front Street

**View along Front Street East of Main Street
-Two Trees-**

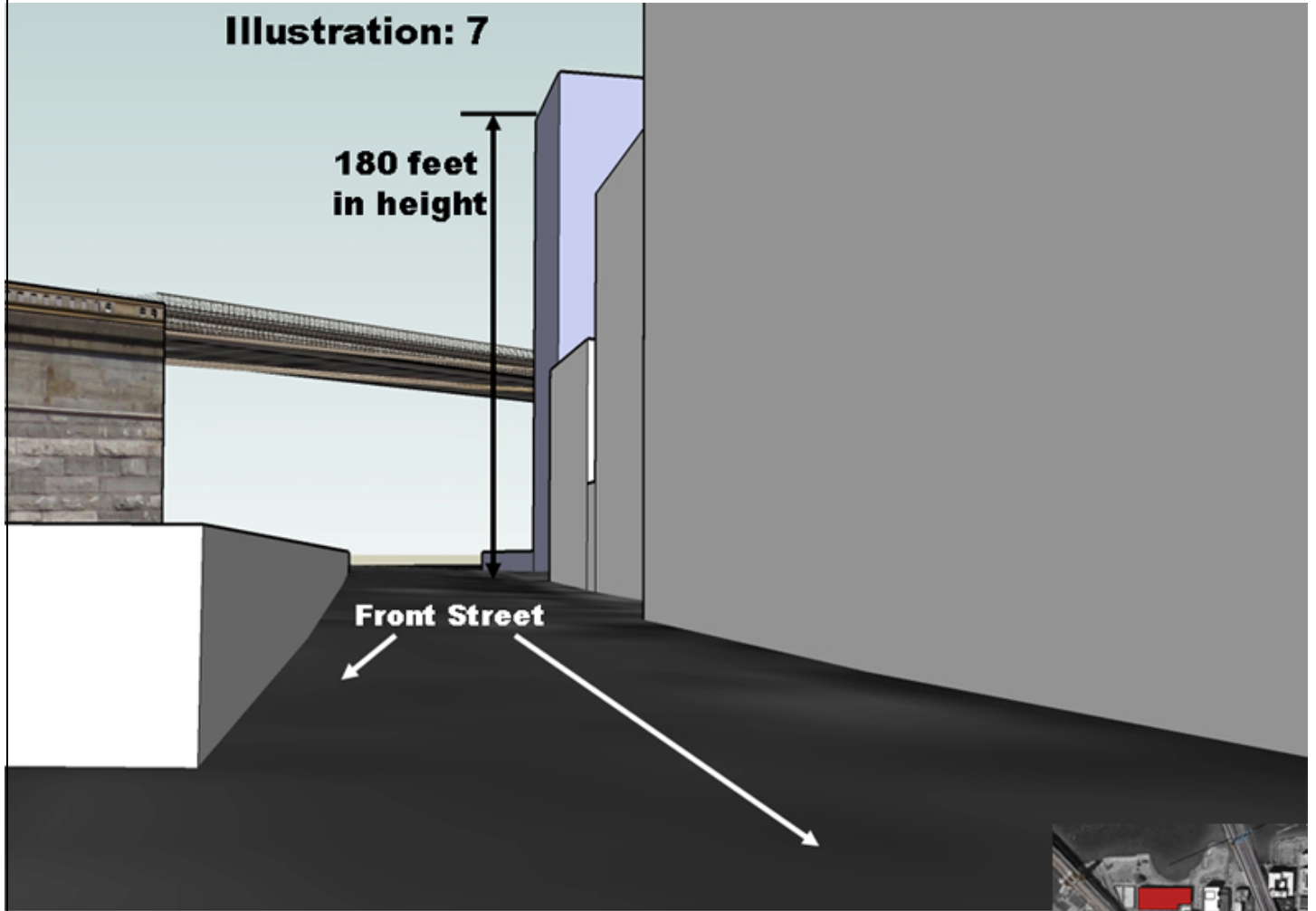
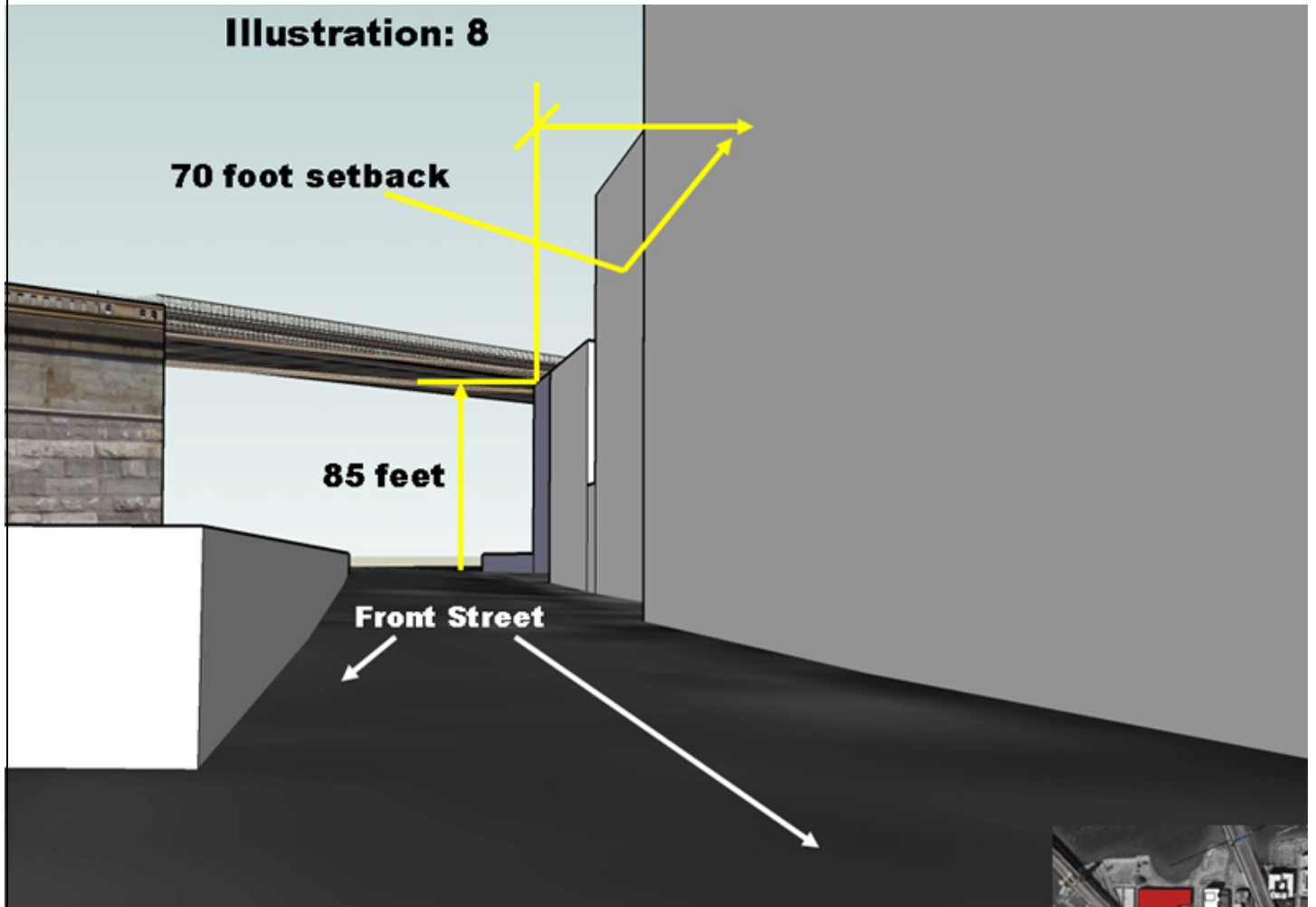


Illustration: 8



**View along Front Street East of Main Street
-BP Recommendation-**

