Appendix D

Comments Received on the Draft Environmental Impact Statement

THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT STRINGER
BOROUGH PRESIDENT

November 15, 2006

Recommendation on
ULURP Application Nos. N 060103 ZRY, C 060104 ZMM, C 060105 ZSM,
and C 060106 ZSM — 60th Street Rezoning
by West 60th Street Associates LLC

PROPOSED ACTION

The applicant seeks a **special permit for bulk modifications for a general large-scale development (C 060105 ZSM),** pursuant to section §74-743(a)(2) of the Zoning Resolution, for a development mid-block between West End and Amsterdam avenues, from West 60th to West 61st street (Block 1152, Lot 5, 6, 10, 11, 12, 13, 43, 52, 53, 55, 56, and 57). The application would permit the location of buildings without regard for applicable rear yard depth, outer court width, minimum distance between buildings, and height and setback regulations. The Commission may grant this special permit provided that the modifications satisfy certain findings outlined in ZR §74-743(b), including that the modifications will result in a better site plan and a better relationship between the development and the surrounding area than would otherwise be possible, and will thus benefit the occupants of the development, neighborhood and the City; that the modifications will not obstruct light and air; that the streets are adequate to handling resulting traffic flow; and that a plan for any required additional public facilities has been provided.

The applicant also seeks **a text amendment (N 060103 ZRY),** which would allow the City Planning Commission to grant the maximum floor area ratio without regard to height factor or open space ratio requirements.

The applicant also seeks a **zoning map change (C 060104 ZMM),** pursuant to ZR §197-c and § 201 of the New York City Charter, to change the area bounded by West 61st Street, a line 100 feet east of West End Avenue, West 60th Street and West End Avenue from an M1-6 District to a C4-7 District; and to change an area bounded by West 61st Street, a line 400 feet east of West End Avenue, West 60th Street and a line 100 feet east of West end Avenue from an M1-6 zoning District to a C6-2 Zoning District.

Lastly, the applicant seeks **a special permit (C 060106 ZSM)** pursuant to ZR §74-52 to grant a public parking garage of 200 spaces including 121 accessory spaces on the ground floor, cellar and sub cellar of the development. In order to grant the special permit the Commission must find that the garage will have a minimal impact on surrounding uses; that it will not contribute to

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congestion or inhibit pedestrian flow; that it will not direct traffic through local streets; that there are adequate reservoir spaces; and that the streets are adequate to traffic generated.

PROJECT DESCRIPTION

The proposed actions will facilitate the construction of a mixed use general large scale development. The development will have 386,502 square feet of residential development, 4,047 square feet of medical offices, 12,590 square feet of ground floor retail and a public parking garage containing 200 parking spaces. The proposed development will have 342 luxury residential units (41 condominium units and 301 rental units).

The site is located between 60th Street and 61st Street between Amsterdam Avenue and West End Avenue on a Z-shaped zoning lot. The neighborhood has a predominantly mixed use character. The project site is located near large residential developments such as The Amsterdam Houses and the proposed Riverside South, cultural institutions at Lincoln Center, and educational institutions such as Fordham University, The Beacon School and The Heschel School. The surrounding zoning districts are predominantly commercial and residential with some manufacturing to the west of the site. The site is currently vacant, but previous uses were mixed and included two residential tenements, a public parking lot, an auto repair shop, warehouses and commercial uses.

The proposed text amendment to ZR §74-743 – Special Permit for General Large Scale Developments – would allow the Commission to grant the full floor area ratio without regard for height factor or open space ratio requirements. The developer would be required to prove that sufficient open space is provided and that it would have superior landscaping. This option would exist for large scale plans located partially in a C6-1, C6-2 and C6-3 Zoning Districts.

The applicant's site plan is based on the assumption that this text amendment is approved. The tallest component of the plan would be a 27-story residential tower fronting on 61st Street. To the west of the tower on 61st Street are two tenements that are projected to have one-story extensions, and to the east is a landscaped area. The landscaped area will have "English gardens" for passive use and a tennis court for active use. Two buildings – one of 9 stories and one of 14 stories – would be located along 60th Street. The western buildings on both streets will have a street wall of 6 stories and the eastern buildings will have a street wall of 7 stories. The site also contains an L-shaped court yard space of 7,664 square feet that will be designed for passive use.

The proposed garage will have 121 accessory parking spaces and 79 public parking spaces. The plan for the development has the garage entrance on 60th Street and exit on 61st Street.

The site is currently zoned M1-6. In order to facilitate the large-scale development, the site is intended to be rezoned to a C6-2 zoning from 100 feet west of West End Avenue to 400 feet west of West End Avenue. The portion of the zoning lot 400 feet east from West End Avenue is to remain R8. The rest of the block, from West End Avenue to 100 feet east of West End Avenue, is to be rezoned from M1-6 to C4-7. The C6-2 zoning is an R8 equivalent and the C4-7 is an R10 equivalent.

COMMUNITY BOARDS' RECOMMENDATIONS

Although the proposed project is located within Community District 7, the proposed text amendment was also referred to 7 Community Boards in Manhattan and 2 in other boroughs for comment because it could potentially affect development in several other parts of the City.

At a meeting on September, 29, 2006 Community Board 3 voted 34 in favor, 0 opposed, 0 abstained and 0 recused, to recommend disapproval of the text amendment because the proposed text would reduce quantitative oversight over open space; is inimical to the Board's stated rezoning goals; and would likely lead to a reduction in open space and rear yards.

On October 5, 2006, Community Board 4 issued a letter recommending disapproval of the text amendment. Community Board 4 acknowledged that community oversight would be required because any applications would go through a special permit process, and that it could result in superior residential spaces. However, the Board is concerned that the Environmental Impact Statement stated that it "is not possible to predict where or how" the special permit would be used. The Board is concerned that the text's true implications are far too uncertain, and that the text amendment could be used to undermine the carefully designed planning tools in special districts within Community District 4. Therefore, the community board recommended that the text be narrowly drawn to limit its applicability – specifically, by making it applicable only within Community District 7, or, at minimum, not in special districts.

At a meeting on October 10, 2006, Community Board 7 voted 35 in favor, 0 opposed, and 3 abstained to recommend conditional disapproval of the text amendment. The Board would consider approval of the text amendment on the condition that "the Community Board and the City Planning commission find that the proposal presents, in combination, architectural features, design and configuration, and open space planning, including the provision of open space accessible to the public for passive recreational use, superior to the optimum design permissible as of right."

At a meeting on October 10, 2006, Community Board 7 voted 40 in favor, 0 opposed, and 1 abstained to approve the zoning map amendment .

At a meeting on October 10, 2006, Community Board 7 voted 37 in favor, 3 against, and 0 abstained to recommend conditional disapproval of the special permit for bulk modifications. The Board disapproved the application without prejudice due to their disapproval of the text amendment, and encouraged the developer to resubmit the text amendment to meet their requested findings.

At a meeting on October 10, 2006, Community Board 7 voted 35 in favor, 4 against, and 0 abstained to recommend disapproval of the special permit for a public parking garage. The community board disapproved without prejudice, because the garage proposal assumed the existence of the text amendment.

BOROUGH PRESIDENT'S COMMENTS

Map Change (C 060104 ZMM)

The project's proposed zoning reflects the zoning on the block to the south of the site. The southern block is mapped C4-7 on the avenue and C6-2 on the mid-block for the western portion of the site. This proposed rezoning is entirely appropriate and consistent with the zoning in the surrounding neighborhood.

Text Amendment (N 060103 ZRY)

Light and air protection was a historical rationale underlying the 1916 rezoning. These protections remain some of the most important in today's Zoning Resolution. While it has become commonplace to think of yard and open space regulations as existing for the residents of a building, their true benefit is providing light and air to the surrounding community. The proposed text amendment relaxes those protections and mitigates them through landscaping benefits to residents of the new building. This is not an equitable trade.

Certainly, some relaxation of the protections could occur without inhibiting light and air to the surrounding neighborhood. The current open space ratio is designed to require greater amounts of light and air as buildings increase their density and can be overly restrictive. This ratio encourages the "tower in the park" design. However, the amount of open space currently required is a quantitative number that is designed to protect the larger community from a loss of light and air.

Unfortunately, this text amendment attempts to relax the quantitative protections and replace them with a qualitative one. The text amendment requires that the open areas provided be "of sufficient size" to serve the residents of the development. "Sufficient" sized open space is not defined in the Zoning Resolution, and it lacks any obvious common-sense definition. Reasonable people can and will differ on what constitutes "sufficient" open space. Replacing the quantitative requirement of open space's size, and relying instead on a qualitative requirement of uncertain application, would set an inadvisable precedent.

Moreover, even after deciding through subjective means on the amount of open space that must be provided, the text amendment requires that the Commission determine that the project has "superior landscaping for open areas." This is another vague and arbitrary term. What criteria does the zoning resolution use to determine "superior landscaping," or conversely "inferior" or "average" landscaping? If a project's neighbors mimicked its landscaping, would it cease to be superior? The term lacks any quantitative criteria.

The only quantitative requirement provided by the text amendment is that a project must be partially within a C6-1, C6-2 or C6-3 zoning district. However, it does not provide criteria on how much of the site needs to be located in the above districts. Presumably a site which is only 1% within such a district would be eligible for the special permit as a site wholly within such a C6-1, C6-2 or C6-3 district. If the commercial district is the catalyst for requiring the text amendment, some defined percentage of the lot should be determined to give the text amendment a planning rationale. This may be that the site must be more than 50% within the C6-1, C6-2 or C6-3 zoning district.

Furthermore, since this text amendment lacks any substantial quantitative criteria, its implications cannot be truly known. Without a better analysis of its potential impacts, it is irresponsible to make it applicable in such a large number of Community Districts. This text amendment must be further explored, potentially modeled out, or have its scope limited (perhaps to apply solely in Community District 7), until its real-world impacts are better known.

Subjective decisions without objective criteria lack the basic good governance and sound policy neutrality that have been, and should be, associated with New York City's zoning laws. As we revise the Zoning Resolution, we must make sure our tools are clearly drawn, and their impacts can reasonably foreseen. The language of this text must not only be easily interpreted now, but also by future generations. Only in this way can we ensure that our city is shaped and reshaped as a livable, productive environment.

General Large Scale Development Plan (C 060105 ZSM)

In general, this plan meets the findings for bulk modifications for General Large Scale Development. It generally produces a better site plan that could be achievable without the general large-scale development special permit. Further, its impacts, particularly shadowing impacts on open space, are less than the as-of-right development scenario. While the project plan reduces the amount of space between buildings, it does provide at least 30 feet from any legal windows to any wall. In general, this plan does represent superior site planning.

The developer has made an effort to design active and passive recreational space that can be considered an amenity to the new residents. However, it does not follow that every developer utilizing this text amendment will show the same. Unfortunately, without the text amendment, this particular large-scale plan cannot be achieved through height-factor zoning.

There is another option, however. It appears that the project generally meets most, if not all, of the requirements for quality housing. While the large scale residential development special permit does not permit an applicant to use quality housing, there is no such prohibition on quality housing for general large scale developments. Therefore, this special permit could be used to modify the requirements (setback and height, rear yard, minimum distance between buildings, etc.) associated with the quality housing requirements, to produce the same buildings.

Given the concerns with the potential loss of light and air from other projects using the proposed special permit, it would be better for this building to apply under quality housing. If the Commission concludes that any aspect of the building cannot meet quality housing and cannot be waived through the §74-743 special permit, the text amendment should be rewritten to focus specifically on providing leniency on just those requirements.

Public Parking Garage Special Permit (C 060106 ZSM))

From the EIS, it appears that the proposed public parking garage meets many of the required findings: it is not incompatible with other uses within the neighborhood; it is located so as to draw a minimum vehicular traffic through local residential streets; it has adequate reservoir spaces; and the streets providing access to the garage can handle the traffic generated by the facility.

However, the proposed parking garage does not meet finding §74-52(b), which requires that the garage will not inhibit pedestrian flow or contribute to neighborhood congestion. According to the level of service analyses in the Environmental Impact Statement, the impact of the garage will increase the turning delay at seven intersections. Even after factoring in the proposed mitigation, delays will persist at Columbus Ave and West 57th Street, Amsterdam Avenue and West 57th Street, and West End Avenue and 59th Street. In total, 24 turning lanes are impacted by the purposed rezoning, despite proposed mitigation. Without the proposed mitigation, however, the impacts would be considerably worse.

Moreover, the feasibility of the mitigation, while typical, is questionable, especially considering other planning actions underway in the area and the mitigations proposed to manage their impacts. For example, the EIS proposes mitigation for this project by instituting "day lighting" on the west side turning lane of Ninth Avenue at 57th Street. "Day lighting" removes parking at the curbside and turns it into a turning lane for daylight hours. However, the EIS for the Hudson Yards rezoning, proposes "day lighting" at the same intersection's southbound eastern lane[1].

If the mitigations recommended in both EIS's are instituted, the combined effect will increase the width of Columbus Avenue by two lanes to handle the total proposed traffic. It is unlikely that this mitigation can be implemented without seriously impeding pedestrian flow at this intersection and creating a dangerous situation. Therefore, either this garage will impair pedestrian flow, or the mitigation will not be performed and it will impede traffic flow. While these two projects have different build years (2008 and 2010 respectively), the City should take a comprehensive planning perspective when approving new projects.

In addition, the Commission should approve garages to operate as they are studied in their environmental review. (For example, if the impact of a proposed public parking garage is studied as though it will use 75% for accessory parking, it should be held to operating at 75% accessory parking. Accessory spaces are assumed to cause less traffic than public spaces.) The EIS for this garage anticipates that it will be used nearly 100% as accessory parking. Approximately 188 spaces are anticipated to be used for residential use overnight, with the rest of the usage coming primarily from accessory retail and medical space. According to table 14-22 of the EIS, the project generates at most 2 trips from the public parking garage at any given hour throughout the day. Since this garage has not been studied as a public parking garage it should not be approved for public parking.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends <u>approval</u> of ULURP Application No. C 060104 ZMM for a zoning map amendment.

Therefore, the Manhattan Borough President recommends <u>disapproval</u> of ULURP Application No. N 060103 ZRY to change zoning text <u>unless</u> the amendment is modified to define language more clearly; to provide a quantifiable minimum amount of open space; to specify the minimum amount of C6-1, C6-2 or C6-3 zoning necessary for a site to qualify for a special permit; and to localize its applicability until its impacts are better understood.

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[1] Mitigation 2010, Table 19-37 of the Hudson Yards Environmental Impact Statement (volume 3).

Therefore, the Manhattan Borough President recommends disapproval of ULURP Application No. C 060105 ZSM for a special permit unless the text amendment is modified as suggested above.

Therefore, the Manhattan Borough President recommends disapproval of ULURP Application No. C 060106 ZSM for a public parking garage because it was studied as a nearly completely accessory garage, and it cannot satisfy finding B of §74-52 of the zoning resolution.

Scott M. Stringer
Manhattan Borough President

For our Nov. 7 committee meeting.

To: Members of the Zoning Committee

From: Doris Diether

The attached letter deals with an application for a text change for parts of the bulk modifications for General Large Scale Development (Section 74-743 of the Zoning Resolution). I went through the proposal, which I at first thought was for something like Washington Square Village. It is actually for a midblock site through block from West 60 to West 61 St. (See last page.)

This section of the zoning was obviously meant to refer to multi-building developments, not a single rather small project set in the middle of one city block. To put through a text change, which could have wide-spread implications for areas all over the city in order to accomodate a single developer;s small project seems completely out of line.

This was referred to us because we also have some C6-1, C6-2 and/or C6-3 zoned areas in our territory. If you check the zoning map, most of these are very small areas. This proposed text change could affect them.

In addition, I noted some other points of concern. On the first page of the text, 74-743 (a)(4) the language says "is located partially in an C6-1...." With this language, the proposed project could have a very small percentage of its footprint in the C6 District, and the majority of the project in an adjacent zoning district with very different conditions.

Further, 74-743(b)(6) deals only with the residents of the new or enlarged buildings, despite what effect this might have on the other residents in the area. And who decides what is superior landscaping? This is especially a concern since., as mentioned above, only a small part of the proposed project is actually within the C6 District.

My feeling is that we should oppose this text change. If the project has a problem it should apply for a variance for that particular project, not set up a possible danger to other areas by a text change.

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November 22, 2006

Amanda Burden, Chair
City Planning Commission
22 Reade Street
New York, New York 10007

Dear Chair Burden:

At its Full Board meeting on November 16, 2006, Community Board #2, Manhattan (CB#2, Man.) adopted the following resolution:

Text change for Section 72-743 – General Large Scale Development of the Zoning resolution requested for one mid-block property from West 60 St. to West 61 St. between West End and Amsterdam Aves. The text change would authorize the City Planning Commission to grant a special permit for modifications of height and setbacks, yards, courts, and minimum distance between buildings. The text change would apply to sites partially within C6-1, C6-2 or C6-3 Districts and permit distribution of density across District boundaries.

Since CB#2 has some C6 Districts, this legislation was referred to our Board for comment,

WHEREAS, this text change dealing with General Large Scale Development is being requested in order to accommodate one mid-block project on the upper West Side, and

WHEREAS, the text change would be a city-wide amendment, not confined to this mid-block site only, and

WHEREAS, the language, "partially in a C6-1,…" could lead to someone using this text change for a project located only 25% or less in the C6 District, and

WHEREAS, most of the C6 Districts in CB#2 are small, so it is likely a proposed project would extend into another zoning district with very different regulations, and

WHEREAS, it was felt by the committee that problems with one small site should not be the rationale for a city-wide text change affecting many areas,

Amanda Burden, Chair
City Planning Commission
November 22, 2006
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THEREFORE, BE IT RESOLVED CB#2, Man. opposes this text change.

Vote: Unanimous, with 38 Board members in favor.

Please advise us of any decision or action taken in response to this resolution.

Sincerely,

Maria Passannante Derr

Maria Passannante Derr, Chair
Community Board #2, Manhattan

Doris Diether

Doris Diether, Chair
Zoning and Housing Committee
Community Board #2, Manhattan

MPD/fa

cc: Hon. Jerrold Nadler, Congressman – via fax
Hon. Thomas Duane, NY State Senator – via fax
Hon. Deborah Glick, Assembly Member– via fax
Hon. Scott Stringer, Man. Borough President-via fax
Hon. Christine Quinn, Council Speaker– via fax
Hon. Alan Jay Gerson, Council Member– via fax
Hon. Rosie Mendez, Council Member
Shaun Khan, Community Board Liaison, Man. Borough President-via fax
Patrick Brennan, Commissioner, CAU– via fax
Vivian Awner, Community Board Liaison, Dept. of City Planning
Jeff Mulligan, Executive Director, Board of Standards & Appeals
Laura V. Osorio, Manhattan Borough Commissioner, NYC Department of Buildings
Applicant

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DAVID MCWATER, BOARD CHAIR SUSAN STETZER, DISTRICT MANAGER

October 2, 2006

Ms. Amanda M. Burden, A.I.C.P., Director
NYC Department of City Planning (DCP)
22 Reade Street
New York, New York 10007

Re: N 060103 ZRY
Amendment to Section 74-743, General Large Scale Developments

Dear Ms. Burden:

At its September 2006 monthly meeting, Community Board #3 passed the following motion:

> To disapprove this proposed zoning text amendment (N 060103 ZRY) because: 1) it reduces the level of community oversight on potential development; 2) it is inimical to our stated re-zoning goals; and 3) it would likely lead to a reduction in open space and rear yards.

Thank you again and we look forward to our continued work together.

Sincerely,

David McWater, Chair
Community Board #3

cc: Arthur Hug, DCP
Adam Wolff, DCP
Mary Cooley, MBPO
CCM Mendez
CCM Gerson
CB#7, Manhattan
Applicant

COMMUNITY BOARD 7 Manhattan

RESOLUTION

Date: October 3, 2006
Committees of Origin: Land Use and Transportation
Re: West 61st Street Rezoning and Citywide General Large-Scale Development Text Amendment.
Full Board Vote: 40 In favor 0 Against 1 Abstention 0 Present

Zoning Map Amendment Application # C 060104 ZMM

West 60th Street Associates, LLC and West End Properties, LLC, have proposed an amendment to the City Map, which would rezone the western half of the block bordered by West End Avenue and Amsterdam Avenue, 60th and 61st Streets as follows: the area within 100 feet of West End Ave., from M1-6 to C4-7, and the remainder from M1-6 to C6-2.

BE IT RESOLVED THAT Community Board 7/Manhattan **approves** the proposed Amendment to the Zoning Map.

Land Use and Transportation Committees: 12-0-0-0. Board Members: 3-0-0-0. Public Members: 0-0-2-0.

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COMMUNITY BOARD 7 Manhattan

RESOLUTION

Date: October 3, 2006
Committees of Origin: Land Use and Transportation
Re: West 61st Street Rezoning and Citywide General Large-Scale Development Text Amendment.
Full Board Vote: 37 In favor 3 Against 0 Abstentions 0 Present

Special Permit Application # C 060105 ZSM

West 60th Street Associates, LLC and West End Properties, LLC (Developers) have requested special permits including modification to height and set-back and rear-yard requirements in contemplation of an Amendment of the Zoning Resolution and the Zoning Map which would permit construction of a proposed large-scale project between 60th and 61st streets, east of West End Avenue.

At present the application for special permits is deficient because the underlying zoning would not permit the proposed project to be built, even with the special permits. Unless and until there is agreement concerning the scope of any proposed Zoning Amendment text change, any consideration of the proposed special permits would be premature and would present practical difficulties. Community Board 7 would prefer not to vote with respect to a project which is dependent upon a text change which the Community Board opposes.

The proposed project, including the purportedly "superior" landscape design exhibited to the Community Board would not be eligible for a discretionary waiver under the Zoning Resolution Amended in accordance with the Community Board's suggestion, set forth in an accompanying resolution, and there would be no need, therefore to consider the specific special permit requested by the developer.

We recognize and are sympathetic to the desire of the developer to have all of the regulatory issues proceed simultaneously, and the Community Board is willing to participate in this process by first seeking consensus (including with other community boards)on a Zoning Resolution Amendment, and then applying the Amendment Resolution to the proposed project. This process need not await a new application but can begin immediately. For all of the foregoing reasons,

BE IT RESOLVED THAT Community Board 7/Manhattan **disapproves** the application by Developers for special permits modifying height and setback and rear yard requirements without prejudice to renewal upon agreement on the text of a Zoning Resolution Amendment affecting large scale developments; and

BE IT FURTHER RESOLVED THAT Community Board 7/Manhattan encourages the Developers to participate in a joint effort to redraft their proposed Amendment in accordance with the observations contained in the accompanying resolution, to demonstrate that the proposed project is superior, not merely in the landscape design, but it its accessibility to the public, and that the overall project is of superior architectural and design quality as compared with the optimum as of right project; and

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Special Permit Application # C 060105 ZSM
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BE IT FURTHER RESOLVED THAT Community Board 7/Manhattan authorizes the Land Use Committee to negotiate on behalf of the Board language with the developer and City Planning that would limit the text amendment to Community District 7/Manhattan, clarify language in the text amendment, and add findings as needed.
Land Use and Transportation Committees: 10-1-1-0. Board Members: 0-1-1-0.

Date: October 10, 2006
Committee of Origin: Land Use
Re: West 61st Street Rezoning and Citywide General Large-Scale Development Text Amendment.
Vote: 8 In favor 1 Against 1 Abstention 0 Present

Special Permit Application # C 060105 ZSM

The Applicants have requested various waivers of set back and rear-yard requirements, as well as open space and height factor requirements, as provided either in the existing Section 74-743 or in the newly proposed subdivision (b) (6).

BE IT RESOLVED THAT Community Board 7/Manhattan finds that, with the exception of the design of the open space the proposed project would benefit from issuance of the waivers; and

BE IT FURTHER RESOLVED THAT, with respect to the proposed open space, Community Board 7 strongly opposes the proposed tennis court and accompanying chain-link fence, but would approve a waiver of height factor and open space requirements if the tennis court were removed and replaced with "superior" landscaping, comprised substantially of softscape, but including appropriate pathways and seating; and, accordingly,

Community Board 7 **disapproves** the requested waivers as proposed, but would approve them if the project open space were redesigned to eliminate the tennis court and 10-foot high chain-link fence, and to add, in their place "superior" softscape landscaping.

COMMUNITY BOARD 7 Manhattan

RESOLUTION

Date: October 3, 2006
Committees of Origin: Land Use and Transportation
Re: West 61st Street Rezoning and Citywide General Large-Scale Development Text Amendment.
Full Board Vote: 35 In favor 0 Against 3 Abstentions 0 Present

Zoning Text Amendment Application # N 060103 ZRY

West 60th Street Associates, LLC and West End Properties, LLC, have proposed an amendment to Section 23-142 of the Zoning Resolution, pertaining to large-scale developments, which would permit the maximum floor area ratio, without regard to the height factor or the open space ratio, upon a finding that the landscaping being provided is "superior."

Open space in a large-scale project is not required to be accessible, useable or even visible to the public. It can be surrounded by buildings, walled off, and paved over. Under the proposed Amendment, the open space required could still be satisfied by creation of a private garden not visible to the street, so long as it is in some undefined sense "superior" compared to some other undefined possible solution. No criteria are provided in the proposed amendment and, in any event, the vantage point for judging superiority appears to be that of occupants of the proposed buildings, not the surrounding community. Most important, there is no requirement that the project as a whole be superior in any other way to an as-of-right development, and, indeed, could well be inferior because of the waiver of height-factor requirements.

While the proposed amendment is being requested in conjunction with the applicant's requests for permits and other actions on a specific site, we are aware that the proposed amendment would have city-wide implications.

Community Board 7/Manhattan cannot approve the proposed Amendment, as drafted. A trade-off of height factor and open space requirements presumptively beneficial to the surrounding community for open space concessions of unforeseeable and ill–defined value to a small group of future residents does not make sense.

Community Board 7 recognizes, however, that there may be times when both the Large Scale Development requirements and the alternative requirements of Quality Housing, might be too restrictive to permit a large scale development of superior design and architectural quality, and we have in the past encourage a special permit scheme which allows the community and City Planning to exercise discretion in rewarding superior design which benefits the surrounding community. We also believe that there is value added in well-designed open space, but only if it benefits the public and is accessible to the public.

BE IT RESOLVED THAT Community Board 7/Manhattan **disapproves** the proposed amendment to Zoning Resolution Section 23-142; and

BE IT FURTHER RESOLVED THAT Community Board 7/Manhattan would, subject to detailed review of precisely crafted language, favorably consider an amendment which would, permit waiver of height factor and open space requirements upon a finding by the Community Board and the City Planning Commission, that the proposal presents, in combination,

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architectural features, design and configuration, and open space planning, including the provision of open space accessible to the public for passive recreational use, superior to the optimum design permissible as of right; and

BE IT FURTHER RESOLVED THAT Community Board 7/Manhattan authorizes the Land Use Committee to negotiate on behalf of the Board language with the developer and City Planning that would limit the text amendment to Community District 7/Manhattan, clarify language in the text amendment, and add findings as needed.

Land Use and Transportation Committees: 11-0-1-0, Board Members: 2-0-1-0, Public Members: 2-0-0-0.

Date: October 10, 2006
Committee of Origin: Land Use
Re: West 61st Street Rezoning and Citywide General Large-Scale Development Text Amendment.
Vote: 9 In favor 1 Against 1 Abstention 0 Present
Zoning Text Amendment Application # N 060103 ZRY

The Applicants have requested an Amendment to Section 74-743 of the Zoning Resolution to permit waivers of open space and height factor requirements upon a finding, inter alia, that the landscaping planned for the open space within the large-scale project is "superior."

Community Board 7/Manhattan is aware that other Community Boards in Manhattan oppose the proposed amendment because of its uncertain consequences and the vagueness of the language being proposed; however, CB7 finds that, as applied to the project being proposed by the Applicants, which is the only such project possible under the General Large Scale provisions of the Zoning Resolution, there is utility to the flexibility the proposed amendment (as further amended, as described below) provides.

CB7 has reviewed the plans for the open space for the proposed project, and finds it acceptable with one exception: CB7 strongly opposes the construction of a tennis court occupying approximately 50% of the visible open space, particularly in view of the 10 foot high chain link fence proposed to be built around the tennis court; accordingly,

BE IT RESOLVED THAT Community Board 7/Manhattan **disapproves** the proposed Amendment [para. (B)(6)] to Section 74-743 of the Zoning Resolution as currently drafted; but

BE IT FURTHER RESOLVED THAT Community Board 7 would approve the proposed Amendment if it is modified as follows:

1. Insert "In Community Board 7/Manhattan" after ((6)" and before "where the commission...";

2. Insert "comprised substantially of softscape (as defined by the American Society of Landscape Architects), shall be visible to the street, and shall" after "Such open areas shall be and before "accessible to and usable..."

COMMUNITY BOARD 7 Manhattan

RESOLUTION

Date: October 3, 2006
Committees of Origin: Land Use and Transportation
Re: West 61st Street Rezoning and Citywide General Large-Scale Development Text Amendment.
Full Board Vote: 35 In favor 4 Against 0 Abstentions 0 Present

Public Parking Garage Permit Application # C 060106 ZSM

BE IT RESOLVED THAT Community Board 7/Manhattan disapproves the application by the Developers for a zoning special permit for a Public Parking Garage for 200 spaces, including 121 accessory spaces without prejudice to renewal upon agreement on the text of a Zoning Resolution Amendment affecting large scale developments; and

BE IT FURTHER RESOLVED THAT Community Board 7/Manhattan authorizes the Land Use Committee to negotiate on behalf of the Board language with the developer and City Planning that would limit the text amendment to Community District 7/Manhattan, clarify language in the text amendment, and add findings as needed.

Land Use and Transportation Committees: 11-1-0-0. Board Members: 3-0-0-0.

Date: October 10, 2006
Committee of Origin: Land Use
Re: West 61st Street Rezoning and Citywide General Large-Scale Development Text Amendment.
Vote: 7 In favor 1 Against 0 Abstentions 0 Present
Public Parking Garage Permit Application # C 060106 ZSM

The Applicants have applied for a special permit to allow for up to 80 transient parking spaces in addition to 120 accessory, permitted as of right.

Community Board 7 does not oppose the creation of additional spaces, particularly in view of the act that the project will remove a larger number of existing spaces; but

CB7 has raised questions concerning the planned ingress (60th Street) and egress (61st Street) for the garage, in the context of two schools located on the block, one to the West of the proposed exit and one to the East; and, to date, the Applicants have failed to provide answers to these questions; therefore,

BE IT RESOLVED THAT Community Board 7/Manhattan disapproves the request for a special permit for non-accessory parking, without prejudice; and reserves it right to comment further on the garage if, as and when it receives satisfactory answers to its questions.

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J. LEE COMPTON
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

OFFICE OF THE CHAIRPERSON
OCT 12 2006
14944

October 5, 2006

Amanda Burden, Chair
City Planning Commission
22 Reade Street, Room 2E
New York, NY 10007

Re: ULURP No. N060103 ZRY : West 61st Street Rezoning Project – Citywide General Large Scale Development and Text Amendment allowing waiver of open space and height factor requirements in certain large scale developments.

Dear Chair Burden:

At the recommendation of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board No. 4, voted to recommend that the proposed text amendment to Section 74-743 that would allow by special permit, in General Large Scale Developments located partially in C6-1, C6-2, or C6-3 districts, the maximum floor area ratio permitted pursuant to Section 23-142 of the Zoning Resolution without regard for height factor and open space development, apply only to the specific project site on West 61st Street in Community District 7 or that at a minimum special districts be excluded. The vote was unanimous.

Since the proposed project site is not in our district, we make no comment on the specifics of the development proposal, including the waiver of "height factor" and "open space ratio" requirements for this specific site. What we question is the need to expand the waiver into future sites, especially special districts.

We understand the proposed text amendment would only apply to general large-scale developments, which requires the availability of a 1.5 acre site. We understand the proposed text amendment may not work in all special zoning districts (since it will depend on the regulations of each district). We understand that a special permit is needed and thus there will always be community review. We understand that in certain circumstances, the present site for example, the result could be "superior residential spaces for building residents".

All these points are compelling but in the end unpersuasive. We worry about the long term unforeseen effects of such a change in the text. The Draft Environmental Impact Statement (DEIS) states correctly that: "[i]t is not possible to predict where or how often the provisions of the text would be used on other sites in the future since the waivers provided by the text are site-specific and would depend on specific development plans not known at this time". We cannot recommend approval of a text change where so much uncertainty exists, especially when the Draft EIS states that "[t]he proposed text

amendment . . . could result in differences in its effect on urban design, visual resources, and historic resources".

The DEIS also notes:

"The proposed text amendment may or may not be applicable in all special zoning districts, depending upon regulations of each special district, and the availability of 1.5 acre sites. Special zoning districts are districts that have special regulations that either supplement or supersede the underlying district regulations. Special zoning districts are intended to achieve specific planning and urban design objectives in defined areas with unique characteristics." DEIS p. 22-4.

A very large proportion of CD4 is in a special district – the Special Clinton District, the Special Hudson Yards District or the Special West Chelsea District. The Special Clinton District regulations supersede the open space requirements of the underlying district regulations, but only for sites within the Preservation Area. ZR Sec. 96-102. We find nothing in the regulations for the Special Hudson Yards District or the Special West Chelsea District that would make the proposed text amendment inapplicable in those areas. We worry that the proposed amendment will undermine the careful planning that underlies our special districts. The proposed amendment is sought to facilitate an individual development project. Just as variances must be "the minimum necessary to afford relief," (ZR Sec. 72-21) this amendment, if implemented, should be narrowly limited in its applicability.

We would also note that Community Board 7's Land Use Committee has reviewed the proposed text amendment and will be recommending that its Board take the position that the amendment should only apply to Community Board 7.

Thus, we recommend that such waivers to "height factor" and "open space ratio" only apply to the specific project site on West 61st Street in Community Board 7 or at least not apply to special districts.

Sincerely,

J. Lee Compton
Chair
Community Board 4

Anna Hayes Levin
Co-Chair
Clinton/Hell's Kitchen Land Use

Simone Sindin
Co-Chair
Clinton/Hell's Kitchen Land Use

cc: Calender Information Office
Jeremia Candreva, Kramer Levin Naftalis & Frankel LLP
Other affected CBs – Manhattan 2, 3, 4, 5, 6, 8, 12; Brooklyn 2, Queens 12