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ENVIRONMENTAL REVIEW DIV.

December 21, 2010

Robert Dobruskin, Director
Environmental Assessment and Review
Department of City Planning
22 Reade Street
New York, NY 10007

Re: Clinton Park
770 Eleventh Avenue, Manhattan
CEQR No. 07DCP071M

Dear Bob:

Pursuant to Section 3(b)(i)(ee) of the Declaration of Large-Scale Development made as of the 8th of May, 2009 and recorded at CRFN: 2009000184787 on June 17, 2009, we are submitting the attached CEQR Technical Memorandum dated Revised, 21 December, 2010 which demonstrates in accordance with the direction provided by David Karnovsky in his emails dated October 18, 2010 and December 16, 2010 (copies attached) that School Mitigation for the referenced project is no longer needed.

The School Impact analysis contained in the PDEIS demonstrated that there was no potential adverse school impacts attendant to the Clinton Park project. Approximately one week prior to the issuance of the DEIS on October 24, 2008, the applicant was instructed to abandon the direction contained in the 2001 CERQ Manual (the "2001 Manual") and employ the revised methodology for calculating student generation rates that was to be incorporated in a revised

CEQR Manual to be issued in the near future (the "2010 Manual"). This applicant was directed to use the revised generation rates even though the 2010 Manual was not ready to be issued, and apply the results of the generation analysis to the 2001 Manual's study area radius requirement.

Since the issuance of the FEIS in March, 2009, a number of conditions affecting the potential for elementary school impacts have changed. These include (i) change in build year, (ii) change in the number of units, (iii) change in school capacity, (iv) change in projected enrollment and (v) change in no build developments.

As directed, the Technical Memorandum applied the guidance of the 2010 Manual to these changed conditions and concludes that there is no need for school seat mitigation.

We would most appreciate your concurrence that based on the changed circumstances as analyzed pursuant to the guidance provided in the 2010 Manual there is no longer a need for school seat mitigation.

Sincerely yours,

Raymond H. Levin

cc: David Karnovsky
Philip Habib
Jed Walentas

Philip Habib & Associates
Engineers and Planners • 226 West 26th Street • New York, NY 10001 • 212 929 5656 • 212 929 5605 fax)

TECHNICAL MEMORANDUM

CEQR No. 07DCP071M: 770 Eleventh Avenue/Clinton Park Project
School Mitigation Change in Conditions
Revised, 21 December 2010

I. INTRODUCTION

The purpose of this Technical Memorandum is to demonstrate that there are "changed conditions" in the FEIS Study Area and as a result there is no longer a need for elementary school mitigation for the 770 Eleventh Avenue Project, also known as the Clinton Park Project. The required elementary school mitigation for this project is identified in the Declaration of General Large-Scale Development which restricts the development, operation, use, and maintenance of the project site in certain respects (the "Restrictive Declaration"). This memo is prepared pursuant to the Restrictive Declaration, which states that if the Declarant, i.e., the project developer Two Trees Management Corp., believes that a change in conditions warrants an elimination or reduction in school mitigation, it can demonstrate the same by submitting a CEQR Technical Memorandum to the lead agency.

Project Site

The development site is located in the Clinton neighborhood in Manhattan Community District 4 on a 94,463 sf site comprised of Block 1082, Lots 1001-1008.[1] It is bounded by W. 54th Street on the north, Eleventh Avenue on the west, and W. 53rd Street on the south.

Development Project

This mixed-use project is being developed by Two Trees Management Corp. and its affiliated companies pursuant to a rezoning, a general large-scale development (GLSD) special permit, and related actions approved in 2009. This project will include up to approximately 921 dwelling units (DUs), of which 20 percent of the total (184 out of 921), will be affordable housing pursuant to NY State Housing Finance Agency's 80/20 program and the provisions of a floor area bonus. The development will also include non-residential development, including approximately 330,000 gsf of auto dealership space (including approximately 274,000 gsf of below-grade space), approximately 20,000 gsf of health club space (pursuant to a BSA special permit), approximately 36,000 gsf of NYPD Mounted Unit space, approximately 8,800 gsf of retail, and up to approximately 175 accessory parking spaces.

[1] The project site was previously identified as Block 1082, Lot 1. Effective 18 June 2010, it was converted to condominium ownership, identified on the Official Tax Map as Condo Number 2167, representing eight condo units (condo lots 1001 through 1008).

Environmental Review

As this project required several discretionary approvals, it underwent environmental review. Furthermore, as Two Trees is a private entity and several of these actions were subject to approval by the City Planning Commission, the NYC Department of City Planning acted as the lead agency. The *770 Eleventh Avenue Mixed-use Development Final Environmental Impact Statement* (*FEIS*) was issued in March 2009. At the time the *FEIS* was prepared, the project was anticipated to include 900 DUs. The *FEIS* disclosed a significant adverse impact on elementary schools within the half-mile radius study area surrounding the project site. The analysis showed that in the 2011 Build year used in the *FEIS*, Half-mile Radius Study Area elementary school enrollment will increase from 112 percent under No-Build conditions without the project to 118 percent under Build conditions with the project, a 6 percent increase. Pursuant to the *2001 CEQR Technical Manual*, in effect at that time, a 5 percent increase over No-Build levels was considered the impact threshold. The *FEIS* states that the project will exceed the threshold once the project exceeds 675 DUs. At 675 DUs, the project is expected to generate 81 elementary students. This is based on the CEQR student generation rate of 0.12 elementary students per unit in Manhattan (adopted in fall 2008 as an amendment to the 2001 *CEQR Technical Manual* in anticipation of the new *CEQR Technical Manual* that was subsequently issued in May 2010).

This information is summarized as follows:

Memo Table 1, FEIS Elementary School Impact in Half-mile Radius Study Area

No-Build Utilization %	Build Increment		Build Utilization %	Increment % Increase	Impact Threshold (5% Increase)	
	DUs	Elementary Students			DUs	Elementary Students
112%	900	108	118%	6%	675	81

The *FEIS* also analyzed conditions in the Zone 3 of Community School District 2 (CSD 2) and in CSD 2 as a whole and found that the project will not result in significant adverse impacts in those areas. It should be noted that Zones within CSDs are also referred to as Sub-districts.

The *FEIS* also found that the project will not result in impacts on intermediate schools.

The Mitigation chapter of the *FEIS* stated that the Restrictive Declaration for the project would set forth the time frames for action, consultation mechanisms, and other features of the mitigation for the elementary school significant adverse impact.

Restrictive Declaration: Mitigation

Two Trees executed the Restrictive Declaration on 8 May 2009. Section 3(b)(i), "Project Components Related to the Environment and Mitigation Measures; Mitigation Measures, School Seats," specified mitigation for the elementary school impact. It states (in paragraph aa) that:

> "Declarant shall not accept a building permit for the Subject Property for residential floor area until it shall have deposited into an Escrow Account one half of an amount calculated as: ((number of units in the development as shown on the building permit plans minus 675) x .12) x $80,000."

The Restrictive Declaration further states, (in paragraph bb), that:

> "Declarant shall not accept any Temporary Certificate of Occupancy for residential units in the development until it shall have deposited the second half of the School Mitigation into the Escrow Account; provided that the School Mitigation shall be adjusted to reflected (sic) the change, if any, in the number units (sic) in the development between the number permitted by DOB and the number actually constructed."

It should be noted that this text referring to TCOs only concerns those for more than 675 DUs.

This information is summarized as follows:

Memo Table 2, School Mitigation Payment Formula and Schedule

Mitigation Payment Threshold	Mitigation Payment Formula	Mitigation Payment Schedule	
		Building Permit	TCO
>675 DUs	(# of DUs – 675) x 0.12 x $80,000	1st half of mitigation payment due	2nd half of mitigation payment due

Restrictive Declaration: Changed Conditions per CEQR Technical Memorandum

Following a description of the mitigation and terms of use of the mitigation payment, the Restrictive Declaration states (in paragraph ee):

> "Notwithstanding the foregoing, if at the time Declarant seeks to accept a building permit for the Subject Property for residential floor area, it believes that, as a result of changed conditions in the *FEIS* Study Area, there is no longer a need for the School Mitigation or that the need for the School Mitigation has been reduced such that the 675 figure should be adjusted upward it may submit a CEQR Technical Memorandum to the lead agency demonstrating same. In the event that the lead agency, with the concurrence of SCA, accepts the conclusion of the CEQR Technical Memorandum, the calculation of the School Mitigation shall be adjusted to reflect such conclusions."

Current Conditions and Plans

Construction of the 2-story commercial base is in progress and anticipated to be completed in 2011. Due to market conditions, the residential component of the project is being built in two sections. The first residential section, also currently under construction, is expected to be ready for occupancy in 2011 and will include 222 DUs. The second residential section is projected to begin construction in late 2011 or early 2012, be completed and fully occupied in 2014, and includes 699 DUs. In total, based on these plans, the development will have up to 921 DUs. To facilitate this development, Two Trees filed and DOB approved a new building work permit (Permit # 104856942-01-NB) for 658 DUs. As this permit is for less than 675 DUs, no mitigation payment has been required. However, in the future Two Trees will be filing a building permit application amendment to allow the completion of the second residential section with up to 921 DUs in total. This will exceed the 675-DU threshold specified in the Restrictive Declaration.

Previous CEQR Technical Memorandum and DCP Response/Guidance

The applicant submitted a Technical Memo to the Department of City Planning prepared by PHA and dated 12 August 2010 that identified the issuance of the updated *CEQR Technical Manual* in May 2010, which has new guidance regarding the determination of school impacts, as a changed condition. As explained in that memo, the May 2010 *Manual* states that the 5 percent increase in deficiency of elementary school seats impact threshold should be applied to the Sub-district/Zone study area rather than the Half-mile Radius Study Area as was the case in the *FEIS*. In a response dated 18 October 2010, David Karnovsky, DCP General Counsel, stated that "we do not consider the 2010 *CEQR Technical Manual* to be a 'changed condition' within the meaning of the declaration." He also states that "the Technical Memorandum has been submitted pursuant to Section 3(b)(i)(ee) but does not identify a 'changed condition in the FEIS Study Area', such as a change in existing conditions or anticipated future no build/build conditions in the Study Area, or a change in SCA capital plans relevant to the Study Area, in order to justify its conclusion that there is no longer a need for School Mitigation." However, he further stated, "if you believe that there are changed conditions in the FEIS Study Area since the time of the FEIS which may affect the need for School Mitigation, these may be addressed in a Technical Memorandum. In assessing the significance of any such conditions, such a Technical Memorandum would apply the guidance of the 2010 *CEQR Technical Manual*."

This technical memo is being submitted to: (1) identify changed conditions; (2) update the analysis of school conditions pursuant to the *2010 CEQR Technical Manual*; and (3) demonstrate that there is no longer a need for school mitigation. This tech memo updates and supersedes a previous submission dated 10 November 2010 and includes future enrollment and capacity data provided by DCP in an email dated 16 December 2010. Per that email, this data has been vetted by the School Construction Authority (SCA).

II. ASSESSMENT

Pursuant to Section 3(b)(i), paragraph (ee) of the Restrictive Declaration, this memo provides an assessment to determine whether, as a result of changed conditions, there is no longer a need for the School Mitigation or that the need for the School Mitigation has been reduced such that the 675 figure should be adjusted upward.

Changed Conditions

Since the preparation of the *FEIS* and the execution of the Restrictive Declaration, there have been four changed conditions that affect school utilization, impact determinations, and their application to this project. These include:

(A) a change to a later Build year than analyzed in the *FEIS*;
(B) a change to existing and future study area school capacity data;
(C) a change to projections of future study area baseline enrollment data; and
(D) a change to information on No-Build developments expected to occur in the vicinity of the project site by the Build year.

Each of these changes and their effect on the analysis are discussed below.

A. Later Build Year

The applicant now expects to complete and have occupancy of the full 921-DU residential component of the project by 2014. In anticipation of this, the applicant will be filing a Building Permit application for a total of 921 DUs in the future.

This 2014 Build year represents a changed condition, because it has direct consequences for the other changed conditions in the study area described below, including changes in existing capacity, SCA capital plans, DOE/SCA enrollment projections and the Build years for other residential developments in the vicinity of the project site. Given these other changes, the new Build year must be accounted for in this update to the elementary school utilization analysis.

B. Change in Study Area Capacity Data: Existing Capacity and Capital Plans

The availability of updated study area existing and future capacity data represents a changed condition since the publication of the *FEIS*. Capacity information in school analyses are based on existing target capacity as reported in the annual *Enrollment, Capacity, and Utilization Report* (the "Blue Book") issued by the Department of Education and the School Construction Authority, along with any planned changes in capacity by the analysis year.

DCP has provided the latest available capacity data. A comparison of capacity data for No-Build conditions presented in the *FEIS* with the latest DCP/SCA data is provided in Memo Table 3.

Memo Table 3, Comparison of No-Build Capacity for Half-mile Radius and Zone/Sub-district 3 Study Areas

		Build Year	Target Capacity
Values Used in FEIS (1)	**Half-Mile Radius Study Area**	2011	1,672
	Zone/Sub-District 3 Study Area	2011	2,817
Values Updated Winter 2010 (2)	**Half-Mile Radius Study Area**	2014	1,167
	Zone/Sub-District 3 Study Area	2014	2,378

Sources:
(1) *770 Eleventh Avenue Mixed-use Development Rezoning FEIS*, Table 4-5.
(2) Data provided by DCP/SCA

As shown in this table, capacity is now expected to be lower under No-Build conditions as compared to the data presented in the *FEIS*.

Overall, 2014 No-Build capacity as compared to 2011 No-Build capacity reported in the *FEIS* is expected to have 505 and 439 fewer seats in the Half-mile Radius Study Area and Zone/Sub-district 3 Study Area, respectively.

C. Change in Future Baseline Enrollment Data

Another changed condition since the publication of the *FEIS* is that the City has issued updated baseline enrollment projections for community school districts and employs a new methodology

for calculating the baseline enrollment. Combined with the change in the project's Build year, the baseline enrollment data has changed significantly. The change is summarized in Memo Table 4.

Memo Table 4, Comparison of Baseline Enrollment Projections for CSD 2

	Build Year	Projected Enrollment
Data Used in FEIS (1)	2011	15,957
Updated Projections as of Winter 2010 (2)	2014	18,806

Sources:
(1) Statistical Forecasting, Projected 2007-2016, presented in *FEIS* Table 4-5.
(2) Grier, Projected 2009-2018 Data, provided by DCP/SCA

The increase in baseline projected enrollment shown in the table reflects in part a change in methodology, as outlined in the 2010 *CEQR Technical Manual*. Enrollment projections now include special education students enrolled in general education schools, whereas when the *FEIS* was prepared, enrollment projections did not include special education students.

DCP provided updated 2014 baseline projected enrollment data for the Half-mile Radius Study Area and the Zone/Sub-district 3 Study Area. These baseline enrollment projections, derived from the CSD 2 projections shown in Memo Table 4, are presented in Memo Table 5 and compared with the 2011 baseline enrollment projections presented in the *FEIS*.

Memo Table 5,
Comparison of Baseline Enrollment Projections for Half-mile Radius and Zone/Sub-district 3 Study Areas

		Build Year	Projected Enrollment
Values Used in FEIS (1)	**Half-Mile Radius Study Area**	2011	1,562
	Zone/Sub-District 3 Study Area	2011	2,448
Values Updated Winter 2010 (2)	**Half-Mile Radius Study Area**	2014	1,232
	Zone/Sub-District 3 Study Area	2014	3,513

Sources:
(1) *770 Eleventh Avenue Mixed-use Development Rezoning FEIS*, Table 4-5.
(2) Grier, Projected 2009-2018 data, pro-rated for the study areas, provided by DCP/SCA.

As shown in this table, the projected baseline No-Build enrollments are now lower for the Half-mile Radius Study Area but substantially higher for the Zone/Sub-district 3 Study Area as compared to the values reported in the *FEIS*.

Specifically, the baseline projection for the Half-mile Radius Study Area is now 1,232, 330 students fewer than the projection in the *FEIS*, which was 1,562. In the Zone/Sub-district 3 Study Area, the baseline projection is now 3,513, 1,065 students higher than the projection in the *FEIS*, which was 2,448.

D. A Change in No-Build Development Information Expected by Build Year

Another changed condition since the preparation of the *FEIS* is that there have been changes to the No-Build developments expected to occur in the vicinity of the project site. With a change in the number of expected dwelling units to be constructed in the vicinity of the project site by the Build year, the number of elementary school students generated by such units in the Half-mile Radius Study Area will also change. In addition, in the *FEIS*, the incremental number of new students expected in the vicinity of the project site was also used to adjust the baseline projections for the Zone/Sub-district 3 Study Area. However, DCP/SCA has now provided a discrete projection for the number of new students generated by No-Build developments in the entire Zone/Sub-district 3 Study Area. This information is summarized in Memo Table 6.

Memo Table 6, Comparison of Expected No-Build Development in Vicinity of Project Site

		No-Build Developments	
	Build Year	**DUs**	**Students**
Values Used in FEIS (1) (for both Half-mile Radius Study Area and Zone/Sub-district 3 Study Area)	2011	2,523	303
Values Updated Winter 2010 (2)	2014	2,952	354
Half-mile Radius Study Area			
Zone/Sub-district 3 Study Area	2014	N/A	1,841

Sources:
(1) *770 Eleventh Avenue Mixed-use Development Rezoning FEIS*, Tables 4-4a and 4-4b.
(2) Research by PHA of No-Build developments in the FEIS Land Use Study Area, *Riverside Center FEIS* (October 2010), and *West 44th Street and Eleventh Avenue Rezoning FEIS* (January 2010) for Half-mile Radius Study and data provided by DCA/SCA for Zone/Sub-district 3 Study Area, based on Five Year (2009-2013) # of Housing Units in "Projected New Housing Starts as Used in 2009-2018 Enrollment Projection: 2010-2014 Capital Plan

As the table shows, the number of expected No-Build development units in the vicinity of the project site is expected to increase as compared to the *FEIS*. While several smaller No-Build developments listed in the *FEIS* have been completed and occupied and one major project is now not expected, two major projects that were not expected to occur by 2011 when the *FEIS* was prepared, are now projected to be completed by 2014, according to recent completed EISs. Specifically, according to the *West 44th Street and Eleventh Avenue Rezoning FEIS*, 2010 (CEQR No. 09HPDP22M), the "Studio City" development project located on the block bounded by West 45th Street, Tenth Avenue, West 44th Street, and Eleventh Avenue, is anticipated to add 1,350 dwelling units. This project will also involve a new PS 51 elementary/intermediate school that will replace the existing PS 51 elementary school on this block and, as discussed above in the description of changes in capacity, will add 77 elementary school seats (the project will also add 277 intermediate school seats). In addition, according to the *Riverside Center FEIS*, a 750-DU development at 622 West 57th Street is expected by 2014. Also, with a discrete projection of No-Build development students for the Zone/Sub-district 3 Study Area provided by DCP/SCA, the number of such students is much higher compared to the number assumed in the *FEIS*.

The overall No-Build enrollment, based on the demand generated by No-Build developments (Memo Table 6) added to the No-Build baseline projections (Memo Table 5) are shown in Memo Table 7.

Memo Table 7,
Comparison of No-Build Enrollments for Half-mile Radius and Zone/Sub-district 3 Study Areas

		Build Year	Projected Enrollment
Values Used in FEIS	**Half-Mile Radius Study Area**	2011	1,865
	Zone/Sub-District 3 Study Area	2011	2,751
Values Updated Winter 2010	**Half-Mile Radius Study Area**	2014	1,586
	Zone/Sub-District 3 Study Area	2014	5,354

Memo Table 8 summarizes enrollment, capacity, and utilization information for 2011 No-Build conditions as analyzed in the *FEIS* and for 2014 based on the updated information.

Memo Table 8, Comparison of Utilization, Capacity, and Enrollment under No-Build Conditions

		No-Build Enrollment	Capacity	Seats Available	Utilization %
FEIS (2011 Build Year)	**Half-mile Radius Study Area**	1,865	1,672	-193	111.5%
	Zone/Sub-district 3 Study Area	2,751	2,817	66	97.7%
Updated (2014 Build Year)	**Half-mile Radius Study Area**	1,586	1,167	-419	135.9%
	Zone/Sub-district 3 Study Area	5,354	2,378	-2,976	225.1%

Note: Utilization rates reported in *FEIS* Table 4-5 were not shown with a percentage decimal point; however the calculation of change between No-Build and Build utilization rates is based on actual values, not the rounded values shown in the *FEIS*.

Overall, 2014 No-Build enrollment as compared to 2011 No-Build enrollment reported in the *FEIS* is expected to be 279 students lower and 2,603 students higher, in the Half-mile Radius Study Area and Zone/Sub-district 3 Study Area, respectively. Accordingly, No-Build enrollment in the Zone/Sub-district 3 Study Area is expected to be much higher than projected in the *FEIS* while at the same time future capacity is expected to be much lower than forecasted in the FEIS. As a result, No-Build utilization rates are now expected to be much higher than the rates identified in the *FEIS*, with rates of 135.9 percent and 225.1 percent, respectively, for the Half-mile Radius and Zone/Sub-district 3 Study Areas, respectively, as compared to rates of 111.5 percent and 97.7 percent in the *FEIS*.

Updated Assessment Based on Changed Conditions

As a result of the changes in conditions outlined above, there will be differences in the No-Build and Build utilization rates for elementary schools in the Half-mile Radius and Zone/Sub-district 3 Study Areas as compared to the rates reported in the *FEIS*.

Memo Table 9 provides a comparison of the No-Build and Build utilization rates for the study areas.

Memo Table 9, Comparison of Utilization, Capacity, and Enrollment under Build Conditions

		No-Build Enrollment	Project Increment Enrollment	Build Enrollment	Capacity	Seats Available	Utilization %	% Increase From No-Build
FEIS (2011)	**Half-mile**	1,865	108	1,973	1,672	-301	118.0%	6.5%
	Zone/S-d 3	2,751	108	2,859	2,817	-42	101.5%	3.8%
Updated (2014)	**Half-mile**	1,586	111	1,697	1,167	-530	145.4%	9.5%
	Zone/S-d 3	5,354	111	5,465	2,378	-3,087	229.8%	4.7%

Note: Project increment calculated in the *FEIS* for 900 DUs; in this update for 921 DUS. Based on *CEQR Technical Manual* elementary school generation rate for Manhattan of 0.12 students per DU.

The information provided in Memo Table 9 summarizes enrollment and capacity information provided in preceding tables in this memo and calculates the utilization percentages for Build conditions and change in utilization percentage from No-Build to Build conditions.

Build utilization is now expected to be approximately 145 percent and 230 percent of the Half-mile Radius Study Area and Zone/Sub-district 3 Study Area capacity, respectively, as compared to approximately 118 percent and 101 percent as reported in the *FEIS*. In the Half-mile Radius Study Area the project-increment is now forecast to increase utilization by 9.5 percent compared to 6.5 percent in the *FEIS*. In the Zone/Sub-district 3 Study Area the project increment is now forecast to increase utilization by 4.7 percent compared to 3.8 percent in the *FEIS*.

III. DETERMINATOIN OF IMPACT AND MITIGATION REQUIREMENT

Zone/Sub-district 3 Study Area

As noted above, Mr. Karnovsky's response dated 18 October 2010 stated that a revised analysis prepared to account for changed conditions in the FEIS study area should apply the guidance of the 2010 *CEQR Technical Manual*.

As detailed in the Technical Memo dated 12 August 2010, the 2010 *CEQR Technical Manual* states that elementary school impact determinations should be made for the Sub-district Study Area. (This is in contrast to the 2001 *CEQR Technical Manual*, in effect at the time that the *FEIS* was prepared, which more broadly applied the impact determination to the "study area or region.") An impact occurs when: (1) With Action conditions (Build) have a utilization rate equal to or greater than 105 percent and (2) a project results in an increase of 5 percent or more in the collective utilization rate between the No-Action and With-Action conditions.

Based on the 2010 *CEQR Technical Manual* guidance, the project will not create a significant adverse impact and no mitigation will be required. In the Zone/Sub-district 3 Study Area the Build utilization will be 229.8 percent, however the increase in the utilization rate between No-Build and Build conditions will be 4.7 percent, i.e., less than the 5 percent threshold. As a result, the Restrictive Declaration should be modified to eliminate the required elementary school mitigation.

Raymond Levin

From: DAVID KARNOVSKY [DKARNOV@planning.nyc.gov]
Sent: Monday, October 18, 2010 12:46 PM
To: Raymond Levin
Subject: Clinton Park Tech Memo

Ray:

We have reviewed your request for a determination that, under the 8/12/2010 Technical Memorandum prepared by Philip Habib & Associates (the " Technical Memorandum") , there is a changed condition which demonstrates that there is no longer any need for a school mitigation under the provisions of the Clinton Park Declaration of Large Scale Development, dated May 8, 2009 (the " Declaration").

Section 3(b)(i) (ee) of the Declaration provides in relevant part that , notwithstanding the 'School Mitigation', as defined in Section 3(b)(i)(aa) of the Declaration, " if, at the time Declarant seeks to accept a building permit for the Subject Property for residential floor area, it believes that, as a result of changed conditions in the FEIS Study Area, there is no longer a need for the School Mitigation or that the need for the School Mitigation has been reduced such that the 675 figure should be adjusted upward, it may submit a CEQR Technical Memorandum to the lead agency demonstrating same. In the event that the lead agency, with the concurrence of SCA , accepts the conclusions of the CEQR Technical Memorandum, the calculation of the School Mitigation shall be adjusted to reflect such conclusions."

The Technical Memorandum has been submitted pursuant to Section 3(b)(i)(ee) but does not identify a 'changed condition in the FEIS Study Area', such as a change in existing conditions or anticipated future no build/build conditions in the Study Area, or a change in SCA capital plans relevant to the Study Area, in order to justify its conclusion that there is no longer a need for School Mitigation. Instead, it identifies the issuance of the 2010 CEQR Technical Manual as a 'changed condition'.

We do not consider the 2010 CEQR Technical Manual to be a 'changed condition' within the meaning of the Declaration. However, if you believe that there are changed conditions in the FEIS Study Area since the time of the FEIS which may affect the need for School Mitigation, these may be addressed in a Technical Memorandum . In assessing the significance of any such conditions, such a Technical Memorandum would apply the guidance of the 2010 CEQR Technical Manual.

David Karnovsky
General Counsel
Department of City Planning
22 Reade Street
NY NY 10007
Tel: 212 720 3400
Fax: 212 720 3303

Raymond Levin

From: DAVID KARNOVSKY [DKARNOV@planning.nyc.gov]
Sent: Thursday, December 16, 2010 11:05 AM
To: Raymond Levin
Subject: Clinton Park
Attachments: Clinton Park 2010 CEQR TM School Analysis_12_15_10.xlsx

Ray:

The attached info should be incorporated into the Tech Memo we received in November and the Tech Memo should be resubmitted as soon as possible.

For the consultant:

The analysis is consistent with the methodologies outlined in the CEQR TM and was vetted by the SCA. It is based on the latest available enrollment projections (also attached for the consultant's use) and the 2009-2010 school data, including PS/IS and IS/HS splits. At SCA's request, it also incorporates SCA's numbers for students generated in the No-Build for CSD 2 and CSD 2's Sub-district 3. We have also included elementary and intermediate school capacity now under construction in CSD 2.

An additional point of info: Per CEQR TM, the analysis should incorporate approved "Significant Changes in Utilization" proposals. MS 260 has moved out of the PS 11 Building to a new facility, freeing up 'additional' elementary capacity for PS 11's building. The new location for MS 260 is identified in the "Existing Conditions" tab in the workbook. However, SCA requested that the "additional" elementary capacity for PS 11's building NOT be included in the Sub-district 3 analysis because the "additional" capacity is intended to ameliorate crowded elementary school conditions in Sub-district 2.

If the consultant has any questions, please have them contact Sarah Whitham at DCP

David

	2014 Projected Enrollment (w/ Pre-K)	Students Generated by Development (Without Action)	Total Projected Enrollment	Program Capacity	Seats Available	Program Utilization (%)
Elementary/K-8 Schools						
Study Area (Half-Mile Radius within CSD 2) *	1,232	354	1,586	1,167	-419	135.9%
Sub-district 3 *	3,513	1841	5,354	2,378	-2,976	225.1%
CSD 2	18806	3921	22,727	16,412	-6,315	138.5%
Intermediate/Secondary Schools						
Study Area (One-Mile Radius within CSD 2) *	206	118	324	530	206	61.1%
Sub-district 3 *	1,181	589	1770	1,653	-117	107.1%
CSD 2	6826	1307	8133	8,772	639	92.7%

* Includes 77 PS seats for PS 51 expansion and 277 IS seats for PS 51 expansion.

Notes: (1) CSD 2 Elementary Capacity includes Beekman (441 seats); PS 59 (374 new seats); PS/IS 276 (596 seats); PS 51 (77 seats). Intermediate capacity includes Beekman (189 seats); PS/IS 276 (256 seats); IS 114 (544 seats); PS 51 (277 seats).

(2) SCA provided Without-Action Student numbers for CSD 2 and CSD 2's Sub-district 3, based on Five Year (2009-2013) # of Housing Units in "Projected New Housing Starts as Used in 2009-2018 Enrollment Projection: 2010-2014 Capital Plan"

http://schools.nyc.gov/Offices/SCA/Reports/CapPlan/Proj_New_Housing_Starts2006-2016.htm

Source: Enrollment Projections: *Grier Actual 2008, Projected 2009-2018.*

Subdistrict Projections	Percentages for Sub-district 3	Proj. Enroll
PS	0.1869	3515
IS	0.173	1181

Elementary Proj. for Study Area	
Existing 1/2 Mile enrollment	1051
Existing CSD 2 enrollment	16038
Percent of Existing Enrollment	0.065531862
Applied to 2014 CSD 2 Projection	1232

Intermediate Proj. for Study Area	
Existing One Mile enrollment	206
Existing CSD 2 enrollment	6831
Percent of Existing Enrollment	0.030156639
Applied to 2014 CSD 2 Projection	206