



THE CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD NO. 3
59 East 4th Street - New York, NY 10003
Phone: (212) 533-5300 - Fax: (212) 533-3659
www.cb3manhattan.org - info@cb3manhattan.org

Dominic Pisciotta, Board Chair

Susan Stetzer, District Manager

Response to Draft Scope of Work for a Generic Environmental Impact Statement for the Seward Park Mixed-Use Development Project

October 11, 2011

Community Board 3 Chairperson's Comments

We are very excited to be at this important step in considering the future of the "Seward Park Extension Urban Renewal Area" (SPURA) and hope to continue leveraging the consensus we developed in the form of a set of Guidelines for SPURA in January of 2011. The road we have taken over the last few years to get to this evening has been one of compromise and inclusion of disparate view points from both key community stakeholders and individual members of the public.

I commend the effort of the City's Economic Development Corporation and Housing Preservation and Development for participating in and providing a facilitator throughout the last year and a half as well as for including many aspects of the Community Board 3 Guidelines in the Draft Scope of Work for the General Environmental Impact Study. However, as will be heard this evening there are substantive omissions in the scope that do not include or match up to key guidelines passed by Community Board 3 on January 25, 2011 in a unanimous vote, not to mention the only successful vote in over 40 years of multiple failed attempts to obtain a consensus.

With respect to the section titled *Recommendations for Changes in the Scope*, the board focuses on incongruities between the scope and the Guidelines. While some comments appear to be differences of word choice, the scope's language in these instances misinterprets the intent of the Guidelines or wholly negates to mention them. It is important to see a strong effort made by the City to study and recognize what was put forth in the Guidelines as written, in continued recognition of the historic compromise struck by a diverse set of stakeholders.

Land Use, Zoning, Public & Private Housing Committee Chairperson's Comments

In 2008 CB3 began new deliberations about the SPURA site. Coming fresh off the success of the Lower East Side Rezoning we felt it was time for us to deal effectively with this issue that eluded our community for so long.

The Land Use Committee since the zoning has been run almost as a blue ribbon panel. We have many public members added to it, leaders from many of our different communities

and public organizations, so that we have great informed minds that represent broad constituencies on the committee.

We began the process by finding out what we had in common. For too long people had focused on what divided us in regards to SPURA, we soon found that many, many, things unites us on SPURA and that our divisions were not as great as they were once believe to be.

In 2009 we invited the city agencies, namely EDC, HPD and DCP, to join us and work with us towards a SPURA solution. They accepted our offer and we began intensely searching for answers.

EDC soon procured the services of John Shapiro and Eve Baron to facilitate us in our discussions and for the better part of a year the Land Use committee worked with them. I would be remiss not to acknowledge here the tremendous job Shapiro and Baron did and thank them once again for their tireless efforts working with us. By November of 2010 we had produced a draft set of guidelines, a finely honed document that represented literally years of working together, compromising and finding common ground.

On January 25th 2011 our guidelines document passed Community Board 3 by a vote of 44-0, a sparkling moment in time that was a living testament to the possibilities people have when they have the will to work together. Within hours of the vote every single elected official encompassing the area offered their support for the guidelines and the process that birthed them.

Today we are at an important threshold, the EIS Scope. CB3 will be giving testimony on a number of issues regarding the scope. Our desire is that as we move forward the EIS and finally the ULURP will be consistent with the guidelines we worked so hard to create. Of particular concern in the EIS is the language “up to 50% affordable housing”. One of the major aspects of our guidelines is the 50-50 split between market and affordable housing. The 50-50 feature is a major building block in our consensus and crucial to the success of the program.

There is unprecedented momentum for this project, and today we have reached an important step in the process. I urge acceptance of the EIS scope and ask that the city agencies continue to work in good faith with CB3 and build upon this success to start a meaningful discussion about our guidelines and how they will be in the final product. Upon reviewing the EIS scoping document, Community Board 3 has identified several inconsistencies between the scoping document and the Board guidelines. To that end, we offer the following recommendations:

Commit to 50% permanent affordable housing

CB 3 in its guidelines for the development of Seward Park Site for redevelopment mandated that at least 50% of the housing developed would be set aside as permanent

affordable housing. CB 3 spent over two years of planning consensus building to reach a community compromise on this extremely important and controversial point. Furthermore, the board went into great detail that: 1. the affordable housing had to be permanent; 2. that the affordable housing had to be set aside for individuals at a variety of incomes (20% low income, 10% senior housing, 10% moderate income and 10% middle income); and 3. that the affordable housing had to be developed at each phase of construction and development. However, none of the above mentioned principles were incorporated within the draft EIS. More troubling was the city's representation that only "up to" 50% of the housing would be affordable therefore leaving the opportunity open for a much smaller percentage of affordable housing to be developed. Moreover, the City has failed to acknowledge that affordable housing built should be spread out throughout the entire development and that at least 40% of all non-market-rate units should be two bedrooms or larger for families. Therefore, CB 3 demands that the final EIS include all provision set forth herein.

Specifically state square footage limitations for retail purposes

CB 3 is committed to maintaining retail diversity within our community; we crafted our Guidelines to reflect the way in which retail space should be utilized on the sites. Specifically, our preference is for "mid-box" retail defined as occupying between 10,000 to 30,000 square feet. With the exception of a supermarket, no single retail tenant should exceed 30,000 square feet in size.

Add language addressing job creation in the EIS document

There is no mention of either temporary or permanent job creation in the draft scope. We believe that the Project Description section should include mentions of both temporary construction and permanent jobs to be created by the new development. Specifically under the Project Purpose and Need subsection, the scope should refer to a discussion of the proposed development in terms of jobs, economic and fiscal benefits to the neighborhood and the City. It should also reference the community's desire to have at least fifty percent of all on-site employment opportunities filled by CB3 residents, and that wages paid should be reflective of the cost-of-living in New York City as opposed to the statewide minimum wage.

Thoroughly research all available options for the Essex Street Market

The CB 3 Land Use Committee, together with the City, spent many meetings discussing the current Essex Street Market, the strengths and weaknesses of its current location, and the opportunities and constraints afforded by a renovation and/or a move to a new location. The Guidelines state a strong preference for the market remaining at its current location. However, in later extensive discussions, including public sessions, while there were passionate and thoughtful arguments for preserving the market in its current location, there also appeared to be growing support for relocation to the southeast corner of Delancey and Essex Streets.

Although the EIS clearly states that it will study both the impact of moving the Essex Street Market to a new location on the southeast corner of Delancey and Essex Streets and the other of leaving it as-is, we believe that EDC should study two additional options. One alternative worthy of study would be to leave the Essex Street Market at its current location, renovating it and possibly adding one or two new commercial floors above it and then several other allowable stories of housing. A fourth scenario that should be included in the EIS would be a combination of renovating the existing market where it is and developing a new market on the southeast corner of Delancey and Essex Streets.

The Essex Street Market is an important community institution that has the potential for important growth and expansion. While providing historic continuity in serving our community, it can also expand its goods, services and price points. We urge the EDC to include the two additional above outlined scenarios in the EIS, so that the community knows which one would have the most and least impacts, and which one might also be the most beneficial to a new and exciting future for the Lower East Side.

Expand Research Options for Worst Case Scenario

In the draft EIS, the City assumes the construction of a hotel for potential commercial development. While the hotel has not been excluded by CB 3, it is not the preferable option for commercial development. As clearly outlined in the principles for development of Seward Park, CB 3 has a desire for a movie theatre and grocery store as well as potential for office space. CB 3 asked in its guidelines that both a school (D.4) and transitional housing for seniors with additional needs (D.5) are strongly desired in the program. All of these options have not been proposed for study within the draft EIS and therefore fail to follow the basic guidelines set forth by CB 3. Without the opportunity to study these options, it becomes next to impossible to have these alternatives built during the construction phase of the process. CB 3 believes these alternatives must be studied within the EIS.

Acknowledge the Rights of Former Site Tenants

Nothing in the proposed EIS has acknowledged the existence of former site tenants or the city's obligation to return those tenants to the existing housing. CB 3 Guidelines C.6 and its Appendix expressly sets the priority of housing placement within the 50% of the nonmarket-rate housing units. It includes making efforts to locate and place former site tenants as well as qualifying residents of Community District 3. Therefore the EIS must be modified to ensure the city is aware of its legal obligation to notify former site tenants of the right to return and prioritize them in all future development plans.

The EIS incorrectly states that the Urban Renewal restrictions have expired

In the draft EIS, the city claims that the Urban Renewal restrictions expired in 2005. However, in interpreting the "40-year clause" of an urban renewal plan, New York courts have considered the purpose of the plan, and concluded that the clause means that the plan expires 40 years after *development*, not that it expires 40 years after *creation*. Jo & Wo Realty

Corp. v. New York, 530 N.Y.S.2d 479, 482-483 (1988), *aff'd*, 157 A.D.2d 205 (1990), 76 N.Y.2d 962 (1990).

In that case, the project under dispute was the Columbus Circle Coliseum, which was built under the Columbus Circle Slum Clearance Plan. This Plan contained the same 40-year clause that the Seward Park Plan contains. There, the Supreme Court stated, “[The forty year provision] severely limits the use of the urban renewal site because once the original blight has been remedied, the city through this prohibition on changes in land use retains the authority and obligation to assure that the property, once improved, is protected for a 40-year period against misuse. 530 N.Y.S.2d at 482-483.

The First Division discussed the purpose of the 40-year clause when it affirmed the Supreme Court’s grant of Summary Judgment. It said, “The Board of Estimate’s... resolution approving the Redevelopment Plan’s ban on any increase in density or change in land use for 40 years except upon the Board’s approval was an obvious response to [the] finding of blight.” 157 A.D.2d at 215. The language in the Seward Park Plan is identical to that of the Columbus Circle Plan, which indicates that the clause should be interpreted identically.

Furthermore, the court said, “Nothing in the statute or case law restricts the length of urban renewal programs... Since the purposes of urban renewal cannot be achieved overnight, the original Redevelopment Plan prohibited increases in density or changes in use for 40 years, which... was the customary life-span of all such urban renewal projects. The Urban Renewal Law plainly contemplates that an urban renewal plan will not end with construction of the original project.” *Id.* at 216.

The lack of development on the current plots of land makes the language of the Plan as relevant in this situation. Once the City utilizes land it has set aside to improve the community, it is to act as that development’s guardian for a length of time to ensure its health. Here, that guardianship has not yet been set into effect, so the City should not try to deflect its responsibilities and must modify the EIS to reflect the current state of the law.

Recommendations for Changes in the Scope

On Page 4, *2011 Community Board 3 Planning Guidelines*, last paragraph: remove “broad” from this sentence since the guidelines were not intended to be “broad” in the sense that their core intent was not to be strongly considered part of the GEIS.

Page 6, *Site Plan, Urban Design, and Sustainability Considerations*, first paragraph, first sentence: replace “approximately” with “no less than,” as specified in the CB 3 Guidelines.

Page 6, *Site Plan, Urban Design, and Sustainability Considerations*, third paragraph: There should be mention of the Guidelines call for a primary or intermediate school and a senior living facility.

Page 7, *D. Framework for Environmental Review—Reasonable Worst-Case Development Scenario*, first paragraph, third sentence: Should say “at least 60 percent of the floor area ratio” instead of “approximately 60 percent....”

Page 8, *D. Framework for Environmental Review—Reasonable Worst-Case Development Scenario*, second paragraph, first sentence: should say “up to 1000 dwelling units, of which half would be affordable units, consisting of what is described in the CB 3 Guidelines”

Page 8, *D. Framework for Environmental Review—Reasonable Worst-Case Development Scenario*, second paragraph, second to last sentence: should say, “non-specific commercial uses could become community facility uses, such as a primary and/or secondary school, as described in the CB 3 Guidelines.”

Page 11, Task 2, 3rd bullet, first sentence: how is the “list of future development projects in the study area” ascertained? The firm should source local media for near-future projects.

Page 12, Task 4, general: There is no inclusion of senior facilities, which are part of the CB 3 Guidelines. Both the impact or benefits of senior facilities as well as the increase in senior service needs should be studied.

Page 12, Task 4, first bullet: It should be recognized that the study area covers two school districts, with the majority of the new development being in District 2, but on the border with and overlapping District 1. Keeping in mind that there has been deficient planning for new school construction in the Department of Education’s District 2 and Community District 1, special and critical research needs to be invested that goes beyond the DOE or School Construction Authority’s numbers and analysis. If we do not critically analyze the need for a new primary and intermediate school now with such a large development, there is the potential for exacerbating the overcrowding in District 2 and placing District 1 in the same situation District 2 is in today, especially when considering that other large developments in the scope’s study area could accompany or follow soon after SPURA. There could be changes to the boundaries of the districts, so looking alternatively at the surrounding schools’ capacity less as District 1 and District 2 and more in an aggregate may be more appropriate in truly understanding the impact of the SPURA development to the surrounding area.

Additional resources and tools for accomplishing Task 4 should come from 1) The American Community Survey, 2) The Downtown Alliance collects data for Community Board 1 /District 2, which would help provide information on poor planning and overcrowding in D2, 3) many news accounts of the poor planning of DOE in an area with booming residential construction, and 4) Community Board 1’s staff put together a comprehensive Power Point helping both lay and policy makers interpret and plan for school needs. The latter document will be submitted via email and/or upon request. The

Community Education Councils for District 1 and District 2 need to be interviewed as well to gather additional quantitative information.

The study area's schools' capacity should be measured using the following data from the DOE and/or elsewhere, along with the CEQR estimate of .12 elementary seats/apartment :

- School enrollment history by gender for 2006-2010 should be studied to see trends.
- Table of zones where each child comes from, to see what kids are zoned elsewhere (= out of district in D1, and applies to D2)
- Number of younger siblings in future classes. Many schools now use this data but DOE may not.
- Data on births in district

Analyze factors and trends that cause enrollment to increase or decrease:

- Request recent year data for births—for example Community Board 1 birth yield is up 46% in 4 years. The yield is determined by using the equation: Total number of current children/Total number of births 5 yrs earlier = Birth Yield
- Look at number of first child births. For CB 1, the percentage of first births is still very high, meaning more siblings to come is going to increase crowding.
- New construction
- Public vs Private vs Charter school choices
- Housing vacancy rate

Page 12, Task 4, first bullet, last sentence: suggest modifying sentence to read, “ ...of the project and planned projects within the impact area relative to available...”

Pages 17-20, Task 13: Overall, there is no inclusion of bicycles as a mode of transportation. Wherever there is a mention of “vehicle, mass transit, and pedestrian traffic,” bicycles should be included in the analyses just as is done in the last bullet of the Vehicle/Pedestrian Safety Assessment section on page 20. Bicycle routes should be studied. Similarly, bicycle count data should be obtained from the DOT, especially with the Williamsburg Bridge feeder arteries comprising the boundaries of the development.

Page 20, Task 13, *Parking* section: The Bloomberg Administration is planning to promote bike sharing and the Williamsburg Bridge is a primary artery for cyclists commuting into Manhattan. Along with vehicle parking, there should be an analysis of current bicycle parking amenities, future projections of bike route usage in the study area, and the benefits of providing bicycle lockers/parking near the transit hubs in the study area.

Page 23, Task 16, *Noise*: If “attenuation” does not specifically address sound canyons created by new developments and affecting those developments or existing ones in the study area, then this type of noise mitigation needs to be analyzed.

Page 24, Task 19, first paragraph, last sentence and the Transportation Systems bullet: Include studying how bicycle traffic circulation will be affected along with vehicle and pedestrian traffic.

Page 26, Task 21: Should this not be “Tasks 2-19” instead of “2-18?” Include the inclusion of the study area with the existing downtown Borough Construction Command Center to assist with addressing and resolving problems between agencies in a coordinated manner.

Appendix: Considering there are references throughout to the Community Board 3 Guidelines, they should be included in an appendix for reference by the firm conducting the study. It is important for the firm to officially receive and acknowledge these Guidelines in whole so that they understand their intent.

Conclusion

In conclusion, the Committee appreciates your time and interest in redeveloping SPURA and strongly urges the City to incorporate all of these recommendations into the GEIS.

Thank you,

A handwritten signature in black ink that reads "Dominic Pisciotta". The signature is written in a cursive, slightly slanted style.

Dominic Pisciotta
Community Board 3 Manhattan, Chairperson

Data Analysis for School Zoning and Enrollment Forecasting

Presented to
District 2 Community Education Council
July 27, 2011
Eric Greenleaf
Yume Kitasei

Three parts to this informal talk

1. Data that the CECD2 may want to request from the DOE to help with zoning decisions
2. Data and method for forecasting school enrollments
3. Snapshot to growth and construction in CB1 and CB2 – Yume Kitasei, staff of CB1

Data to request from DOE

- CECD2 Zoning Committee submitted a fairly detailed request for Fall, 2010 rezoning of Upper East Side, and the DOE did supply much of what we requested
- Do not expect that they will supply enrollment projections
- Projections are prepared by the School Construction Authority on a district and “sub-district” basis

Data to request from DOE

- Enrollment history for each school
 - By year and grade
- Table of the zones that students come from
- Number of younger siblings in each class, both in-zone and out of zone
- Estimate of number of younger siblings who will be attending in future
 - DOE does not collect this information, but many schools do

Data to forecast school enrollments

- To forecast enrollments, need to understand different sources of enrollment growth (or shrinkage) – look at changes in:
 1. Number of births
 2. New construction and conversions
 3. Trend for families to raise families in this zone vs. move out of zone (often out of NYC) when kids start school
 4. Choosing public over private school
 5. Overall enrollment trends – “unexplained remainder”⁵

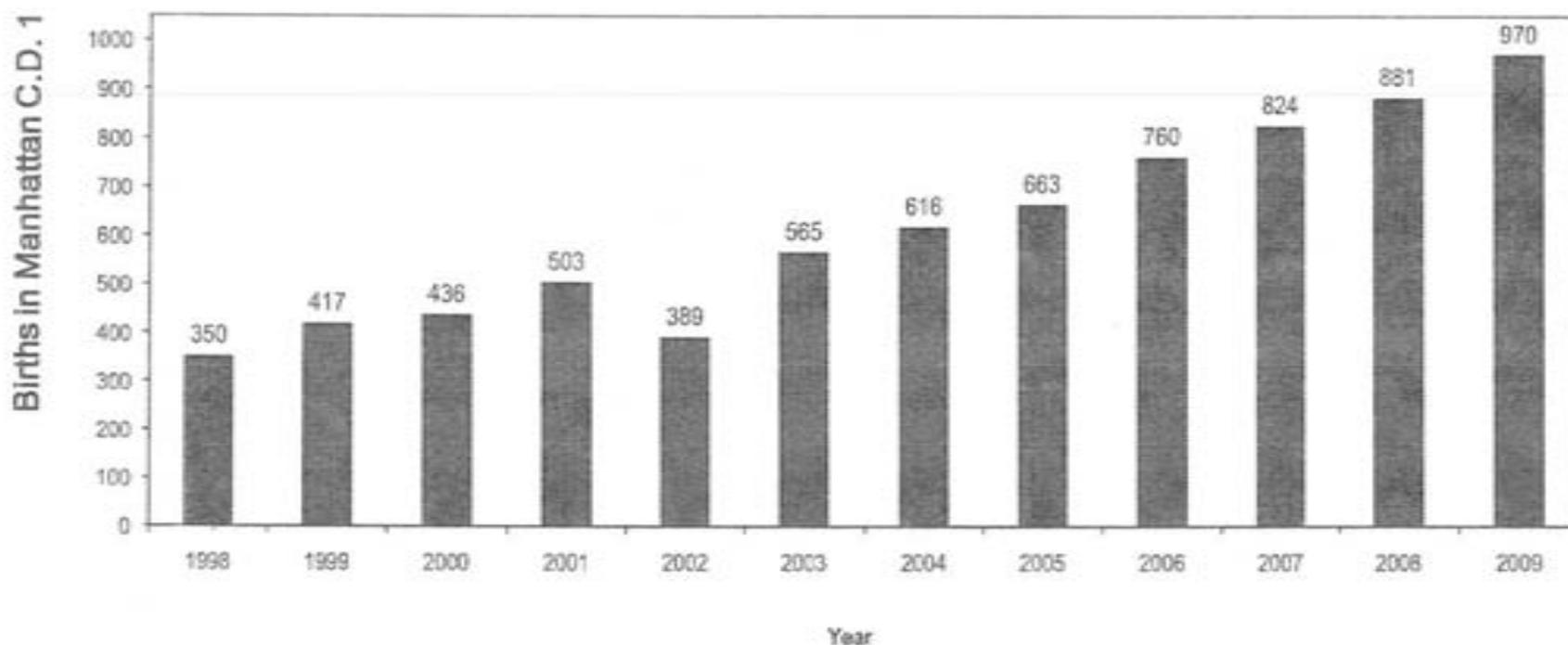
Data Use Officer
Community Based Planning
ArcGIS - mapping programs
used to forecast
by city block.

1) Births

- Births are one of the most important leading indicators of school enrollments
- The CECD2 has obtained birth data from the NYC Dept. of Health for each census block for each year from 2002 – 08 (need to get 2009)
 - Important privacy protections – can discuss in detail
- Can examine birth trends for each school zone or potential zone
- Can compare number of first births to later births₆

Exmple of births for Community District 1
Growth in 2006 - 09 equaled growth in 1998 - 2005.

**970 babies were born in CD 1 in 2009 -
An increase of 46% in just four years**



3,500 people
will trigger
CEQR .12 seats per apt.

2) New construction and conversions

- NYC applies “CEQR” standard to forecast number of new school seats needed due to new construction (City Environmental Quality Review)
 - CEQR presently .12 elementary seats per apartment
 - May be too conservative for many parts of School D2
- Detailed data available for Downtown from Downtown Alliance – on web site
- Also in Scott Stringer’s “Crowded Out” reports
- Data are from NYC Dept. of Buildings

3) Families raising kids in zone instead of moving

- Percent of families who stay in zone instead of moving is increasing throughout D2
- This means that enrollments can increase even if births are level, and without new construction
- Difficult to estimate, since no official data
 - Dept. of Census American Community Survey is helpful for detecting trends
 - Downtown Alliance surveys residents every three years

preschool leading indicator of future enrollment:

Choosing public over private school

- Many families are choosing public over private for economic reasons or because they want their kids to have a more diverse experience
- Private school capacity has expanded very little in last decade
 - There are some new private schools opening

These non-birth factors increase a zone's "birth yield"

- Increase in construction, families staying in zone, and choosing public schools leads to increase in "birth yield"

= (public K class) / (births 5 years earlier)

- Birth yield on UES has increased from low 20s to low 30s in four years
- Birth yield Downtown is about 60%

School enrollment forecasts involve uncertainty

- All forecasts are uncertain
 - Business
 - Weather
- DOE likes to remind people that forecasts are uncertain
- But still important to forecast
- Equally important to make forecasting methods transparent

Thank You –

And now, here's Yume