

b. Open Space Generally – Riverside Park South

i. Background

Riverside South was formally launched on March 5, 1991, when the Mayor announced an agreement among the City, the State, the then-Developer, and a consortium of civic organizations. The agreement endorsed a new plan for the Penn Yards site consisting of an extension of Riverside Park to West 59th Street, a largely residential development, and a relocated highway to replace the elevated highway that currently runs through the site from north to south. The parties to the agreement recognized that each of the elements was necessary to full realization of the plan.

CB7 wrote in a letter to the Department of City Planning dated March 25, 1991 in connection with the original ULURP proceedings that Riverside South (as it was later approved in that ULURP process) “makes no sense whatsoever” “[w]ithout the removal of the highway.” The seven civic organizations that supported the original project and became the members of the Riverside South Planning Corporation did so on the assumption that the highway would be located below grade under the permanent park.

The New York State Department of Transportation issued a final Environmental Impact Statement with regard to burying the highway in 2000, and recommended a Preferred Alternative route for the relocated highway. In 2001 it obtained approval of the project from the Federal Highway Administration (“FHWA”). As contemplated by the 1992 Restrictive Declaration, in 2005 the City required the Developer to begin constructing portions of the northbound highway tunnel. Four blocks of that tunnel will soon be complete. However, in the years since 1992, no significant additional public or other financing has been available to complete the required tunnels and bury the highway.

The 1992 Restrictive Declaration contained a number of other provisions relating to the construction and maintenance of Riverside Park South and related issues.

First, the Developer was required to construct the Park in seven phases, the phases triggered by the completion of buildings containing successive amounts of aggregate floor area. Each section of the Park was to be deeded to New York City as public parkland upon its completion.

The Restrictive Declaration provided alternate designs for Phases 5-7, the inland sections of the Park. The versions of those sections with the highway still in place were termed “Interim”; the versions with the highway buried were termed “Permanent.”

Since approval of the Riverside South project in 1992, Phases 1 to 4 of Riverside Park South (the sections along the river) have been completed and deeded over to New York City. Phases 5 to 7 are still in the planning stages, with some construction having been commenced with regard to Phase 5.

The Developer was also required by the 1992 Restrictive Declaration to provide maintenance funds for the completed sections of the Park, based on an annual budget to be approved by the Department of Parks and Recreation each year based on certain listed performance standards.

ii. Park Needs Beyond Those Addressed in the 1992 Restrictive Declaration

Riverside Park South has been extremely popular and is already very crowded with recreational and other users, as is the original Riverside Park to the north. Many large buildings, primarily

residential buildings, have been built in the immediate vicinity of the Riverside Center site, including, for instance, 10 West End Avenue, at sites that were not contemplated for large-scale residential development at that time of the original ULURP.

With the reduction in crime rates, the substantial increase in demand for recreational facilities (particularly active recreation) along the water's edge and elsewhere on the Upper West Side, the explosion in school-age population in the study area and the Upper West Side generally, the success of the Hudson River Greenway, and other developments over the past two decades not contemplated in the original ULURP, Riverside Park South is crucially lacking in recreational space, particularly space for active recreation.

Thus, regardless of how many residential units of new housing are approved in this ULURP process, and regardless of the amount and configuration of other floor area at Riverside Center, the increased demands on an already overtaxed park will be, as the Developer has acknowledged, very substantial.

Further, the park construction budget imposed on the Developer by the 1992 Restrictive Declaration is not adequate to construct the remaining phases of Riverside Park South to today's designs and needs. Certain federal and city funds are available in connection with park construction and related parks uses, but their use has not yet been determined.

Additionally, the 1992 Restrictive Declaration did not address the situation of deteriorating conditions in Riverside Park South that developed, or continued, after the park sections were deeded to the city, the remediation of which may be considered neither "construction" nor "maintenance" obligations of the Developer under the 1992 Restrictive Declaration. (For instance, the need to replace benches and other such installations, or to address masonry stairs or paths that have settled.) Numerous such conditions have developed and more may develop. Remediation of these conditions is expensive, may need in some cases to be done repeatedly, and cannot reasonably be expected to be funded, under the city capital or expense budgets.

iii. Potential Mitigation and Infrastructure Measures in Riverside Park South

The Department of Parks and Recreation has advised CB7 that it has studied a number of measures that could help to mitigate the impact on Riverside Park South of the proposed Project. These include certain projects that would enhance the park experience and to some extent increase the usable open space, such as restoration of the 69th Street railroad "transfer bridge" (or gantry) and the removal of the now-abandoned 72nd Street highway off ramp.

DPR has also studied the enhanced opportunities for active recreational facilities that would result from requiring the Developer to construct the southbound cavity sections for the highway relocation from 61st Street to 69th Street, namely the ability to locate several ball fields on the resultant flat space, as well as a small but badly needed park maintenance facility. The additional fields would related directly to the increased demand for active recreation space created by the large number of children expected to occupy the Riverside Center apartments, and specifically to the school that the community needs (and that CB7 supports) on the site.

Burial of the existing highway itself would substantially increase the amount of usable active and other recreational space in Riverside Park South, substantially enhance the park experience for all park users, and substantially improve the sight lines from parcels to the east, including those from Riverside Center. Indeed, the Developer identified to CB7 only one rationale for the platform on which it proposes to build the entire Project – enhancing sight lines from within the Project site, primarily sight lines negatively affected by the existing elevated highway. If the highway is buried, the Developer's stated rationale for the platform becomes moot.

Burying the highway as always contemplated for this signature park would thus not only mitigate

the negative effects of Riverside Center on available open space, but also result in the permanent Riverside Park South envisioned as part of the Riverside South development agreement, to the benefit of the entire Upper West Side community.

CB7 recommends that, as a condition to and in connection with any amendment of the 1992 Restrictive Declaration, the Developer be required to:

Make a maximum financial contribution toward each of the mitigation and other measures discussed above. The Developer's required contribution, together with such public funds as are available for such purposes, should be used in the nearest practicable future to achieve these permanent improvements to Riverside Park South for the benefit of our entire community into the long-term future. The Restrictive Declaration should be amended to require that the Developer contribute on an aggregate basis and/or (as appropriate) on an annual basis toward fully funding the permanent completion of Riverside Park South, and toward the maintenance, remediation of deteriorated conditions, capital improvements and other park needs described above. As with the existing Restrictive Declaration, there should be provision for CB7 to participate in the planning process for each element of the Park.