

Appendix M: FEIS Correspondence

ENVIRONMENTAL REVIEW

ECONOMIC DEVELOPMENT CORP./07DME025M

3/31/2008

Project number

Date received

Project: E 125th Street Redevelopment

Comments: The LPC is in receipt of the DEIS dated 3/19/08 and concurs with the text regarding archaeological resources.

Regarding architectural resources, Table 3.6-1, "Historic Resources" on page 3.6-6 requires the following corrections. Reference 1, the NY Public Library, 125th St. Branch, has been calendared by the LPC for public hearing. The additional items 4 and 5 do not appear eligible for LPC designation.

4/8/2008

SIGNATURE

DATE





New York City
Department of Transportation

Janette Sadik-Khan, Commissioner

Division of Traffic Planning
40 Worth Street, Room 928
New York, New York 10013
Tel: 212-676-1680 Fax: 212-442-7912

Web: www.nyc.gov/dot

DRAFT

To: Seth Wright GHD- PHA
Rachel Belsky NYCEDC

From: Michael Griffith, Deputy Director

Re: East 125th Street Development DEIS
CEQR # 07DME025M

Date: April 15, 2008

We have reviewed the DEIS for the East 125th Street Development Draft Environmental Impact Statement (DEIS) and have the following comments:

1. Based on our comments dated December 21, 2007 requiring changes in the analysis please:

a. Provide the HCS files for the No Build and Build PM peak hour scenarios for the following locations:

- o West 126th Street @ Lenox Avenue
- o Madison Avenue @ E 125th Street
- o Frederick Douglass Boulevard @ 125th Street

b. Please verify that the signal timings for Manhattanville mitigated conditions for above listed locations were used in the HCS analysis for the No Build and Build PM peak hour scenarios.

2. The 125th Street Rezoning EIS identified eight unmitigated locations. This project has shown that all impacted locations have been mitigated. However, the following locations 1) Second Avenue @ E 125th Street, 2) Lexington Avenue @ 125th Street, and 3) Lenox Avenue @ W 126th Street are disclosed as unmitigated in the 125th Street Rezoning. Please explain how the impacted locations were mitigated if they are unmitigated in the Rezoning EIS.

If you should have any questions please call me at 212 442 3695 or Eva Marin at 212-673-9849.

Cc: N. Rasheed, E. Marin, J. li, File.

Community/Borough Board Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

Application # **C080332HUM**
CEQR # **07DME025M**
Community District No. 11 Borough: Manhattan
Project Name: **East 125th Street Development**

INSTRUCTIONS

1. Complete this form and return one copy date to the Calendar Information Office City Planning Commission, Room 2E, at the above address.

2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed above, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD) pursuant to Section 505 of Article 15 of the General Municipal (Urban Renewal) Law of New York State and Section 197-c of the New York City Charter for the 15th amendment to the Harlem East Harlem Urban Renewal Plan for the Harlem East Harlem Urban Renewal Area, Community District 11, Borough of Manhattan.

The proposed Plan changes the designated land uses of Sites 8A, 9, 12, and 13A; removes a density restriction; updates the timetable for the implementation of the plan; extends the expiration date; and adds Block 1790, Lots 8 and 46, and Block 1791, Lots 25 and 34 to the Area. These changes will facilitate the development of the East 125th Street Development Project.

Related Applications: C080333ZMM, C080332HAM, N080334ZCM, M850772(D)ZAM

Applicant(s):

NYC Dept. of Housing Preservation & Development
100 Gold Street
New York, NY 10038

Applicant's Representative:

Meilan Chiu
NYC Dept. of Housing Preservation and Development
100 Gold Street
New York, NY 10038

Community Board No. 11 Borough: **Manhattan**

Borough Board of _____

Date of public hearing: May 20, 2008

Location: P.S. 30, 144 E.128 St., New York, NY

Was a quorum present? YES NO

A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Vote adopting recommendation taken: May 28, 2008

Location: Benifacio Senior Home, 7 E.116 St., NY, NY

RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

Disapprove With Modifications/Conditions

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

Voting

In Favor: 30

Against: 0

Abstaining: 0

Total members appointed to the board: 50


Community/Borough Board Officer

Chair
Title

June 2, 2008
Date

v.012006w

Community/Borough Board Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

Application # C080331HAM
CEQR # 07DME025M
Community District No. 11 Borough: Manhattan
Project Name: East 125th Street Development

INSTRUCTIONS

1. Complete this form and return one copy date to the Calendar Information Office City Planning Commission, Room 2E, at the above address.

2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed above, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
 - a) the designation of property located at 2293 Third Avenue (Block 1789, Lot 46); East 125th Street to East 126th Street, from 2nd Avenue to 3rd Avenue (Block 1790, Lots 1, 3, 5, 6, 8, 12, 13, 20, 24, 25, 26-31, 40, 41, 44-46, 49, and 101); 2321 3rd Avenue (Block 1791, Lot 1); 2469 2nd Avenue (Block 1791, Lot 25); and 230 East 127th Street (Block 1791, Lot 34), Sites 13A, 12, 8A, and 9 of the Harlem-East Harlem Urban Renewal Area, as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by HPD;

to facilitate development of a mixed use project, tentatively known as the East 125th Street Development, with residential, retail and publicly accessible open space.

Related Applications: C080333ZMM, C080332HUM, N080334ZCM, M850772(D)ZAM

Applicant(s):

NYC Dept. of Housing Preservation and Development
100 Gold Street
New York, NY 10038

Applicant's Representative:

Meilan Chiu
NYC Dept. of Housing Preservation and Development
100 Gold Street
New York, NY 10038

Community Board No. 11 Borough: Manhattan

Borough Board of _____

Date of public hearing: May 20, 2008

Location: P.S. 30, 144 E.128 St., New York, NY

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A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Vote adopting recommendation taken: May 28, 2008

Location: Bonifacio Senior Home, 7 E 116 St., NY, NY

RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

Disapprove With Modifications/Conditions

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

See attached CB11 ULURP Resolution

Voting

In Favor: 30 Against: 0 Abstaining: 0 Total members appointed to the board: 50



Community/Borough Board Officer

Chair
Title

June 2, 2008

Date

v.012006w

Community/Borough Board Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

Application # **C 080333ZMM**
CEQR # **07DME025M**
Community District No. 11 Borough: Manhattan
Community District No. ___ Borough: _____
Project Name: **East 125th Street Development**

INSTRUCTIONS

1. Complete this form and return one copy to the Calendar Information Office, City Planning Commission, Room 2E, at the above address.

2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 6a & 6b:

1. changing from an R7-2 District to a C6-3 District property bounded by East 127th Street, a line 250 feet westerly of Second Avenue, a line midway between East 126th Street and East 127th Street, Second Avenue, East 126th Street, and Third Avenue;
2. changing from a C4-4 to District to a C6-3 District property bounded by a line midway between East 125th Street / Dr. Martin Luther King Jr. Boulevard and East 126th Street, a line 100 feet easterly of Third Avenue, East 125th Street / Dr. Martin Luther King Jr. Boulevard, a line 130 feet easterly of Third Avenue, a line 75 feet southerly of East 125th Street / Dr. Martin Luther King Jr. Boulevard, and Third Avenue; and
3. changing from an M1-2 District to a C6-3 District property bounded by:
 - a. East 127th Street, Second Avenue, a line midway between East 126th Street and East 127th Street, and a line 250 feet westerly of Second Avenue; and
 - b. East 126th Street, Second Avenue, East 125th Street / Dr. Martin Luther King Jr. Boulevard, a line 100 feet easterly of Third Avenue, a line midway between East 125th Street / Dr. Martin Luther King Jr. Boulevard and East 126th Street, and Third Avenue; and

Borough of Manhattan, Community Board 11, as shown on a diagram (for illustrative purposes only) dated March 24, 2008.

Applicant(s):

Dept. of Housing Preservation & Development
100 Gold Street
New York, New York 10038

Applicant's Representative:

Meilan Chiu
Dept. of Housing Preservation & Development
100 Gold Street
New York, New York 10038

Community Board No. 11 Borough: Manhattan

Borough Board

Date of public hearing: May 20, 2008

Location: P.S. 30, 144 E.128 St., New York, NY

Was a quorum present? YES NO

A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Vote adopting recommendation taken: May 28, 2008

Location: Bonifacio Senior Home, 7 E116 St., NY, NY

RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

Disapprove With Modifications/Conditions

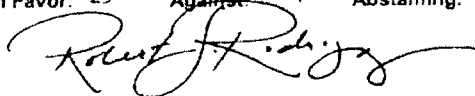
Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

See attached CB11 ULURP Resolution

Voting

In Favor: 29 Against: 1 Abstaining: 0

Total members appointed to the board: 50



Chair

Community/Borough Board Officer

Title

June 2, 2008

v.012006w

Date

* Indicates application was certified by the CPC pursuant to Section 197-C(c) of the City Charter.



Robert Rodriguez
Chair

George Sarkissian
District Manager

COMMUNITY BOARD ELEVEN

BOROUGH OF MANHATTAN
55 EAST 115TH STREET
NEW YORK, NEW YORK 10029-1101
TEL: (212) 831-8929/30
FAX: (212) 369-3571
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May 30, 2008

Robert C. Lieber
Deputy Mayor for Economic Development
City Hall
New York, NY 10007

Resolution regarding the East 125th Street Development ULURP

As the one of the largest City-owned sites remaining in Manhattan, the East 125th Street Development Site provided our community with a unique opportunity: to plan and develop a truly community based project that prioritizes the community's needs first and foremost. There has not been a development of this scale in our community in over a decade – its potential impact and importance cannot be overstated.

Through the outstanding efforts of the East 125th Street Development Community Taskforce we created an exemplary Request for Proposals that solicited seven outstanding proposals. As the Taskforce reviewed the proposals and narrowed them down to three finalists, the vision of the RFP was close to realization.

Our community's history is rich with culture and life, but it has also experienced a number of broken promises throughout the years and commitments that have fallen short. Community skepticism is rooted in public failures and opportunities lost. As a result, we have collectively realized the importance of securing legally binding commitments, making them enforceable, and holding those who promised them accountable.

It is with this context that Community Board 11 expressed its strong objection to proceeding with the ULURP approval for the East 125th Street Development without first designating a proposal. Throughout our ULURP review we did not receive a detailed summary of a specific project from a specific developer (as we always typically do) – we were not provided any commitments beyond the minimum requirements of the RFP. It is inappropriate to expect a community to approve a project without knowing the details of what will ultimately be developed or the developer's identity. After years of failed promises our community today requires specific concrete commitments, especially with eroding market conditions that could potentially alter the remaining proposals as subsidy becomes less available and the promise of cross-subsidization diminishes.

WHEREAS Community Board 11 has through the East 125th Street Development Community Taskforce, and through numerous public meetings, expressed a desire to select a development

team and a proposal that maximizes community benefits, including affordable housing, local business development, local job development and the creation of community focused cultural and public open spaces; and

WHEREAS Community Board 11 has not been provided a set of specific commitments from the City or a development team and has not reviewed a final proposal within our 60 day ULURP review period; and

WHEREAS the Community Board will not be able to accurately determine if the final project will meet our desired outcomes until after our review period, when the final project is actually selected, thus not providing the Community Board a fair opportunity to review this project.

THEREFORE BE IT RESOLVED that Manhattan Community Board 11 voted on May 28, 2008 to DISSAPROVE the East 125th Street Development ULURP application number C080331HAM and C080333ZMM and requests that the RFP and project be terminated unless all of the following conditions are met by the selected proposal:

1. The Church located on the southeast corner of East 127th Street and Third Avenue, as not planned as part of this project, should be removed from the rezoning area of the ULURP.
2. No more than two towers to not exceed 210 feet be located on Second Avenue or East 125th Street.
3. The project includes a minimum of 25,000 sq.ft. of at-grade landscaped/green public open space.
4. LEED Silver Certification is achieved through use of the East 125th Street Development Community Taskforce's priorities listed in a memo titled "LEED Points Requirements".
5. Proposal must include a minimum contribution of \$2.5 million for area parks and waterfront, and the designs should keep waterfront and park accessibility in mind.
6. Affordable housing must be maximized, with all units conforming to the RFP guidelines of 30% low income, 35% moderate income, and 35% middle income.
7. Middle income units must target households with incomes between 100% and 130% of AMI, instead of the 150% AMI limit in the RFP which is on the extreme fringe of the community's income distribution.
8. The Community Preference requirement for affordable housing should be limited to those CB11 residents that have maintained residency within the boundaries of CB11 for at least 5 years.
9. Both rental and homeownership units must be permanently affordable.
10. Affordability for homeownership should be preserved permanently through the use of either deed restrictions, a community land trust or a limited equity cooperative model.
11. Retail space is limited to 350,000 sq.ft. so as not to dominate the project; national retail be located on East 125th Street and/or Third Avenue between East 125th and East 126th Streets only.
12. At least 10% of the office space is set aside for local non-profits, with rent significantly reduced below market rate.
13. The development teams must provide funding to fit-out the cultural space.
14. A hotel must be included in the project.

15. The project must include a Local Development Corporation with an equity interest in addition to the existing local development partners.
16. Provide a minimum of \$10 million for the Local Investment Fund to support local businesses locating in project with start-up capital, low-interest loans, grants, etc.
17. The final proposal must commit to hiring locally for all jobs created through the development of this project and agree to the following local hiring targets:
 - a. Retail jobs – 75% locally hired
 - b. Office Managerial jobs – 25% locally hired
 - c. Office Clerical jobs – 50% locally hired
 - d. Building Maintenance jobs – 75% locally hired
 - e. Hotel related jobs – 75% locally hired
 - f. Construction jobs – 25% locally hired
18. Provide and fund a job training component that utilizes a First Source Hiring System that commits to first source new employment from the local community.
19. The Development Team must work with unions to commit upfront to utilizing local labor to help meet our local hiring targets, and work to create apprenticeship opportunities for local residents so that they may benefit and be prepared for future projects as well, and provide specific opportunities to local community residents that do not have high school diplomas.
20. As the project construction will be phased, each separate building should have a separate MWBE architect partner in the design (preferably local firms); no fewer than 3 MWBE Architectural firms must be Joint Ventured with the developer's selected Architect for this project.
21. MWBE firms, contractors and professional services are utilized totaling 30% to 40% of the total contract value of the entire project.

BE IT FURTHER RESOLVED that Community Board 11 is vehemently against the use of eminent domain under any circumstances to seize private property in the development site and has consequently voted to DISSAPROVE without condition ULURP application no. C080332HUM which would add privately owned non-blighted lots to the East Harlem Urban Renewal Area facilitating the use of eminent domain; and

BE IT FURTHER RESOLVED that the City or developer should provide funds to assist in relocating any displaced businesses currently on the site, similar to the relief provided through the 125th Street Rezoning; and

BE IT FURTHER RESOLVED we are opposed to the inclusion of an Underground Bus Depot at this site, and strongly advise against its construction, and instead urge that the State, City and MTA review and initiate a plan to renovate and expand their existing depot facility on Second Avenue between East 126th and East 127th Streets to accommodate parking and maintenance for the total number of vehicles envisioned as required for the current facilities; and

BE IT FURTHER RESOLVED Community Board 11 will continue to request the termination of this project unless all the above conditions are met and that we are again consulted in a formal manner once the final project is selected, with a full presentation by the development team before a meeting of our Full Board, with an opportunity to respond prior to the City Council vote.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Rodriguez". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Robert Rodriguez
Chair

cc: Congressman Charles B. Rangel
Governor David Paterson
State Senator Jose Serrano
State Assemblyman Adam Clayton Powell
Manhattan Borough President Scott Stringer
Councilmember Melissa Mark-Viverito
Councilmember Inez Dickens
Commissioner Shaun Donovan, HPD
Seth Pinsky, President, NYC EDC
Elliot Sander, Executive Director, MTA
East 125th Street Development – Community Taskforce members



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

SCOTT M. STRINGER
BOROUGH PRESIDENT

July 2, 2008

Recommendation on
ULURP Application Nos. C 080331 HAM, C 080332 HUM, C 080333 ZSM,
N 080334 ZCM and M 850772(D) ZAM – East 125th Street Development Project
by Department of Housing Preservation and Development and
the Economic Development Corporation

PROPOSED ACTIONS

The Department of Housing Preservation and Development (“HPD”) and the Economic Development Corporation (“EDC”) seek approval of four ULURP actions -- disposition of city-owned property, designation of a development site as an Urban Development Action Area and Project, an amendment to the Zoning Map, and modification to an urban renewal plan -- as well as modification of an existing large-scale plan, and a certification related to the Transit Land Use Special District. Together, these actions are intended to facilitate the development of a large-scale mixed-use project that is the subject of a Request for Proposals (“RFP”) issued by EDC in October 2006. The project is tentatively known as “East 125th Street Development”.

UDAA/P Designation and Property Disposition (C 080331 HAM)

The applicants seek the designation of City-owned and private property located generally between Second and Third avenues from East 125th to East 127th streets and a parcel at the southeast corner of 125th Street and Third Avenue (Block 1789, Lot 34; 1790, Lots 1, 3, 5, 6, 8, 12, 13, 20, 24-31, 40, 41, 44-46, 49 and 101; Block 1791, Lots 1, 25 and 34), also known as Sites 8A, 9, 12 and 13A of the Harlem-East Harlem Urban Renewal Area (“Urban Renewal Area”), as an **Urban Development Action Area** (“UDAA”) and an **Urban Development Action Area Project** (“UDAAP”).

City-owned properties that are no longer in use or are in deteriorated or deteriorating condition are eligible to be designated as UDAA and UDAAP, pursuant to the Urban Development Area Act (Article 16 of the State General Municipal Law). UDAA and UDAAP provide incentives for private enterprise to correct substandard, unsanitary and/or blighted conditions. According to New York State General Municipal Law § 691(4), for an area to receive a UDAA and/or UDAAP designation, the City Planning Commission (“the Commission”) and the City Council must find that:

- (a) the present status of the area tends to impair or arrest the sound growth and development of the municipality;
- (b) the financial aid in the form of tax incentives, if any, to be provided by the municipality pursuant to [the Urban Development Area Act] ... is necessary to enable the project to be undertaken; and
- (c) the area designation is consistent with the policy and purposes [of the Urban Development Area Act].

The applicants seek to **dispose** of the properties identified for UDAA/P designation through a sale to a yet-to-be-designated developer, to facilitate the proposed development. Disposition of City-owned property requires the consent of the City Planning Commission and City Council, and the advice of the Community Board and Borough President through ULURP, but is not guided by any specific findings or requirements.

Modification of the Urban Renewal Area Plan (C 080332 HUM)

The applicants seek to **modify the Harlem East-Harlem Urban Renewal Area Plan** to change the designated land uses of Sites 8A, 9, 12 and 13A from primarily residential to a mixed use program, to raise the maximum FAR from 6.5 to 7.5 across the site (with a maximum density of 1.7 million square feet), to update the timetable for implementation of the plan with a final completion date of 2013, to extend the expiration date from December 31, 2012 to December 19, 2020, and to add Block 1790, Lots 8 and 46, and Block 1791, Lots 25 and 34, to the Urban Renewal Area.

Pursuant to §505(4) of Article 15 of the General Municipal Law, Urban Renewal Areas may be created and amended if the following findings are met:

- (a) the area is or in danger of becoming substandard or insanitary and tends to impair or arrest the sound growth of the municipality;
- (b) The financial aid to be provide to the municipality is necessary to enable the project in accordance with the plan;
- (c) The plan affords the maximum opportunity to private enterprise, consistent with the sound needs of the municipality as a whole, for the undertaking of an urban renewal program;
- (d) The plan conforms to a comprehensive community plan for the development of the municipality as a whole; and
- (e) There is a feasible method for the relocation of families and displaced individuals.

Zoning Map Amendment (C 080333 ZSM)

The applicants also seek an **amendment of the Zoning Map** that would rezone R7-2, C4-4 and M1-2 districts within an area generally bounded by Second Avenue, Third Avenue, 127th Street and 125th Street (Blocks 1790 and 1791), and a portion of Block 1789, bounded by 125th Street, Third Avenue, a line 75 feet southerly of 125th Street and a line 130 feet easterly of Third Avenue, to a C6-3 district. R7-2 districts are medium-density apartment house districts that

permit residential and community facility uses. The maximum residential FAR is 3.44, and the maximum community facility FAR is 6.5. C4-4 districts are regional commercial districts permitting residential, community facility, and some retail & commercial uses. The maximum residential FAR is 3.44, the maximum commercial FAR is 3.4, and the maximum community facility FAR is 6.5. M1-2 zoning districts are light manufacturing districts that permit community facility, retail & commercial, general service, and manufacturing uses. The maximum manufacturing FAR is 2.0, the maximum commercial FAR is 2.0, and the maximum community facility FAR is 4.8.

The proposed new zoning district, C6-3, is a high-bulk central commercial district that permits residential and community facility uses, as well as an even wider variety of retail & commercial uses. The maximum commercial FAR is 6.0 (bonusable up to 7.2 for providing a public plaza), the maximum residential FAR is 7.52, and the maximum community facility is 10.0 (bonusable up to 12 for providing a public plaza). In all existing and proposed zoning districts, building heights are regulated by height factor zoning unless the optional Quality Housing program is utilized.

Modification of Existing Large Scale Plan (M 850772(D) ZAM)

The applicants seek modification of an existing large scale plan which would remove a portion of the project site that compromises of approximately the western half of block 179 from the existing plan. Removal of the sites would allow for flexibility to achieve the proposed development without restrictions inline with the original Urban Renewal Area restrictions. Removal of the sites would not create non-compliance elsewhere in the plan.

Certification (N 080334 ZCM)

The applicants seek a certification by the Commission and New York City Transit as to whether a transit easement volume is required on the affected site. ZR§ 95 establishes a Transit Land Use Special District in the vicinity of proposed Second Avenue Subway stations, to provide for sound planning in areas where new subway stations will be constructed. Before new development is approved within the Special District, the Commission and New York City Transit must certify whether a transit easement is required. If required, developers must submit site plans that accommodate such an easement.

PROJECT DESCRIPTION

HPD and EDC seek the proposed actions to facilitate the development of the “East 125th Street Development Project,” a 1.7 million SF mixed use development proposed for a multi-block site in East Harlem along 125th Street just west of the Triborough Bridge.

According to the RFP, the project is intended to produce approximately 700-1,000 units of ‘income-targeted’ housing; approximately 470,000 SF of retail/entertainment space; approximately 300,000 SF of commercial space; a 100,000 SF hotel; 30,000 SF of not-for-profit space; and a minimum of 12,500 SF of public open space. The RFP stipulates that no more than the required amount of parking as stipulated under the zoning resolution be provided, which is

estimated to be 600 parking spaces. Furthermore, the development plan anticipates including a 109,000 SF below-grade Metropolitan Transit Authority (MTA) bus storage facility.

The project site currently consists of 15 City-owned lots, 11 private lots, and one lot owned by the MTA. The site is generally bounded by 125th Street, 127th Street, Third Avenue and Second Avenue, with one site on the south side of 125th Street at Third Avenue. The site would be rezoned to C6-3 from R7-2, C4-4 and M1-2 designations.

The overall site consists of four urban renewal sites (Sites 8A, 9, 12, and 13A), and four lots proposed to be added to the Harlem East-Harlem Urban Renewal Area (Urban Renewal Area). Site 8A is currently vacant, unimproved land and located on the northeast corner of 126th Street and Third Avenue. Site 9 consists of the majority of the block between 126th Street and 127th Street and is used by the MTA for bus storage; however, the site also includes a five-story brownstone without residential uses but is occupied by a motorcycle repair shop. Site 12 consists of the entire block between 125th and 126th Street. This site contains a variety of uses including public parking lots, mixed retail, dry cleaners, a gas station and vacant land. Site 13A at the south-east corner of 125th Street and Third Avenue is currently vacant, unimproved land.

In addition to the regulations under C6-3 zoning, the proposed development would be subject to a number of specially imposed urban design controls through the terms of the RFP. The maximum height of buildings fronting Third Avenue between 125th and 126th streets and fronting Second Avenue between 126th and 127th streets would be 210 feet. Building heights on the remainder of the site would be limited to 150 feet. Street walls at 60 to 85 feet would be required for all buildings, with 15-foot setbacks on narrow streets and 10-foot setbacks on wide streets. Transparency requirements for retail frontages would be consistent with those recently enacted as part of the 125th Street Special District rezoning. All required open space would conform to the public plaza requirements of ZR §37-741. These additional controls would be included in the Urban Renewal Area Plan and recorded against the properties.

The RFP calls for housing that would be targeted to low-, moderate- and middle-income households. Thirty percent of the housing would be provided to households earning up to 60% of the Area Median Income (AMI), 30% to those earning up to 100% AMI, and 30% to those earning up to 150% AMI. Up to 10% of the units would be market rate. Preference would be given to developers who achieved 100% below market housing. Furthermore, as part of the 125th Street rezoning negotiations, the City committed 40 units to households earning up to 40% AMI. Overall, the entire housing program would also be equally split between home-ownership and rental units. While government subsidies will be required to achieve these goals, utilization of any specific affordable homeownership or rental programs has not been determined.

The RFP further requires that the development receive LEED “Silver” certification; provide roof gardens and green roofs; contain diverse retail that reflects the area’s existing cultural diversity; reserve 50,000 SF for local retail at below-market rents; create a Woman- and Minority-Owned Business Enterprise (“WMBE”) participation and local hiring plan; include a local development partner; and follow the urban design and programmatic requirements described above. The RFP also encourages a financial contribution to support adjacent parks and waterfront areas and the

creation of a local development fund. Since no developer has been selected, the specifics of the final development program are not known.

The UDAA/P designations, which require a blighted declaration, will allow for the utilization of specific affordable housing programs and tax breaks not yet determined. The modifications to the Urban Renewal Area will codify the urban design requirements of the RFP and add the 'out parcels' that were previously not part of the Urban Renewal Area. The rezoning would allow for the proposed uses and the proposed density. The amendment to the large scale plan removes any restrictions on the property previously enacted and will not cause non-compliance in the rest of the plan. Finally, the Transit Land Use Special District certification is a ministerial action required by the Commission and New York City Transit before development in the area can proceed.

COMMUNITY BOARD RECOMMENDATION

On May 30, 2008 at a regularly scheduled meeting, Manhattan Community Board 11 voted to conditionally disapprove applications C 080331 HAM and C 080333 ZMM by a vote of 30 in favor, 0 opposed, and 0 abstained, with the following conditions:

1. The Church site at 127th Street and Third Avenue is removed from the rezoning area
2. The towers be restricted to 210 feet tall
3. The project include a minimum of 25,000 square feet of at grade open space
4. The project receive LEED Silver Certification based on the recommendations from the East 125th Street Development Community Taskforce
5. A minimum of \$2.5 million is provided for parks and waterfront areas
6. 100% affordable housing (30% low, 35% moderate and 35% middle income)
7. The middle income levels be reduced from a maximum 150% AMI to 130% AMI
8. Community preference for affordable housing be limited to residents who have maintained 5 years of residency
9. Both the rental and homeownership is permanently affordable
10. The homeownership should be preserved permanently through the use of either deed restrictions, a community land trust or a limited equity cooperative model
11. The retail space should be limited to 350,000 square feet and national retail space should be limited to 125th Street, and Third Avenue between 125th Street and 126th Street
12. At least 10% of the office space is set aside for local non-profits with reduced rent
13. The development teams must provide funding to fit-out the cultural space
14. A hotel must be included in the project
15. The project must include a local development corporation with an equity interest in addition to the existing local development partners
16. A minimum \$10 million for a local investment fund to support local businesses locating in project with start-up capital, low interest loans, grants, etc.
17. The final proposal must commit to hiring locally for all jobs created through the development of this project and agree to the following hiring targets: (a) Rental Job, building maintenance and Hotel related jobs - 75%, (b) Office clerical jobs - 50%; and (c) Office Managerial jobs, construction jobs- 25%
18. Provide and fund a job training component that utilizes a first source hiring system that commits new employment to the local community first

19. The development team must work with unions to commit upfront to utilizing local labor to help meet local hiring targets, to create apprenticeship opportunities for local residents and provide specific opportunities to residents who do not have high school diplomas
20. Each separate building should have a separate MWBE architect partner in the design with a preference to local firms; no fewer than 3 MWBE architectural firms must be joint ventured with the development's with the developer's selected architect for the project
21. MWBE firms, contractors and professional services are utilized totaling 30% to 50% of the total contract value for the entire project

At the same meeting, the board voted to disapprove application C 080332 HUM, which would add privately-owned lots to the Urban Renewal Area, facilitating the use of eminent domain.

The board also resolved that the City or developer should provide assistance in relocating displaced business on the site, similar to commitments made related to the 125th Street rezoning; that the bus depot should not be included on site but rather off site as presented in the EIS as an alternative; and that the board is consulted again in a formal manner when the final project is selected with a full presentation prior to the City Council vote.

BOROUGH PRESIDENT'S COMMENTS

This largely City-owned development site represents a tremendous opportunity to meet East Harlem community planning principles, further City-wide policy goals, and promote economic development and job creation. The initial stages of the development process were a model of cooperation between City agencies and community leaders, which brought stakeholders together to move development forward. However, since the land use actions for the proposal are now proceeding without a developer being selected for the project, it is difficult, if not impossible, for ULURP participants to offer informed consideration and approval of the requested land use actions. This has, unfortunately, weakened the strong community consensus that had been built behind the project.

History

This project has included two separate but related processes: selection of a developer through a competitive bidding process, and approval of associated land use actions through ULURP. This process began when Community Board 11 created the East 125th Street Development Task Force ("Task Force") in response to a previous development proposal for the site that was opposed by many local stakeholders. The Task Force included representatives of the community, community board, the local councilmember and the Manhattan Borough President. In response to community opposition, the City rescinded the previous developer designation for this site and restarted the planning process. The Task Force was then repurposed to inform the creation of a new RFP for the site. Together with the City, the Task Force created a community-oriented RFP that reflected East Harlem community goals. With the participation and guidance of City agencies, the local councilmember, the borough president, the community board and other affected stakeholders, the pre-ULURP planning process was a model of successful community based-planning. As a result, the RFP, which was issued in October 2006, received positive reception during public hearings and the scoping session for the EIS.

After responses to the RFP were received, the Task Force was again repurposed to assist in the selection of the winning proposal. The Task Force's role was to narrow the applicant pool and identify a preferred proposal, with a final developer to be designated by the Deputy Mayor for Economic Development. By the fall of 2007, the Task Force narrowed the number of proposals to three finalists, with the expectation that a finalist would be chosen before the associated land use actions proceeded through ULURP. Through this process, the Task Force had sought to achieve assurances from potential bidders regarding certain non-land-use-related programmatic elements, such as wage standards, local hiring, and M/WBE participation.

However, the City decided to certify the ULURP actions without selecting a developer, arguing that doing so would prevent developers from citing rising construction costs as justification for renegeing on intentions declared during the RFP process. The City contends that beginning ULURP while still negotiating with potential developers would expedite approval, thereby minimizing construction cost escalations, and reducing the likelihood of developers seeking "trade backs."

However, this new process has resulted in a lack of transparency during ULURP. Without a known developer and concrete programming in place, it is impossible to offer informed comment as to whether certain requested land use applications meet the required findings, or whether they further legitimate public purposes. The RFP was specifically crafted with community input to reach the highest and best public good, and as a result it includes several community amenities and benefits. The community had expected to have achieved final commitments from a chosen developer before considering approval of requested land use actions.

Under normal situations, the City would describe the exact programming and provide assurances about the availability of government funding or other support to achieve the program. Developers often provide *pro formas* to show that their goals are achievable. Unfortunately, since no developer has been designated for this project, no final financial model can be provided. The affordable housing program, for example, will not be finalized until exact programs are selected. This may alter the number of units provided, the size of those units, the ownership structure at targeted income levels, and even affordability levels. Further, agreements on MWBEs, local hiring, wage standards, and local retail commitments, are all linked to the economic impact of this project, but those agreements cannot be finalized until a developer has been selected.

Proposed Land Use Actions

Dispositions

With no developer selected, it is impossible to determine whether the proposed dispositions meet the highest achievable public good, which should be the standard when disposing of scarce public resources. Approving the disposition of City-owned property without knowing the proposed developer or a final development proposal would be tantamount to signing a blank check. Therefore, the proposed dispositions should not be approved at this time.

Zoning Map Amendment

The proposed rezoning will allow significantly greater density than the surrounding area. The area directly to the north of the site is an R7-2 with a 3.44 density with no height limit. The area to the south is a C4-4D which has a 5.4 base FAR bonusable up to a 7.2 through the inclusionary housing bonus with a 120 foot height limit. The proposed rezoning does not contain any contextual controls codified in the Zoning Resolution, as is typical of recently adopted rezonings. Furthermore, unlike the zoning of immediately adjacent areas, the proposed zoning for this site does not provide any mechanisms for realizing community benefits, such as the inclusionary housing and arts bonus provisions of the 125th Street Special District.

The proposed rezoning represents a significant upzoning that is out of context with the neighborhood. The East Harlem community has expressed a willingness to support greater density at this site *if* that density is channeled towards meeting community goals such as affordable housing and local economic opportunity, and if contextual controls are established to provide some urban design regulation. Without such assurances, the area would be more sensibly rezoned for a lower-density district consistent with surrounding character. Since no final development program has been established at this time, and since the proposed zoning district provides no contextual controls or mechanisms to meet community benefits, the proposed rezoning should not be approved.

UDAAP/UDAA

Generally, the area within the rezoning area that is city-owned is substantially vacant and blighted. The area warrants governmental intervention to ensure development and to prevent the vacant properties from impairing sound development of the area. However, several properties within the rezoning contain viable businesses on private property that may not qualify as blighted property as individual properties.

Since no final project has been proposed for consideration, there is no Urban Development Area Act “Project” to approve. It is also impossible to determine whether financial aid is “necessary to enable the project to be undertaken,” as Section 691(4) of Article 16 of the General Municipal Law requires for UDAA designation, since no final program has been established and no completed *pro formas* have been prepared for review.

Approval of UDAA and UDAAP designation is therefore premature and should not be approved until a final development program has been proposed and subjected to public review.

Urban Renewal Modifications

The modifications proposed to the Urban Renewal Area would create design controls if the properties are acquired by the City, and would allow for acquisition of private properties. In order to approve the amendment to the Urban Renewal Area, the City must determine that any proposed financial aid is necessary, that the plan meets the needs of the municipality as a whole and conforms to comprehensive community planning. These findings cannot be satisfied without disclosure of a final development plan including final financial information and proposed programs.

Further, using the Urban Renewal Area as an urban design control for the site allows for contextual controls only if the city acquires the property. If the city is unable to do so, the sites on those blocks would be rezoned to a high-density district without contextual controls. Development of these sites could then be radically out of context with the neighborhood. A more rational approach would be to use the existing Large Scale Plan, or an extension of the 125th Street Special District, to apply zoning bonuses, contextual controls and transparency requirements to property owners whether or not the city acquires the property.

Transit Easement Certification

The Commission must certify that an easement is not necessary for the new Second Avenue Subway at this site. A letter from the MTA has been presented as evidence that an easement is not required at this site, and deference should be granted to the MTA in this judgment.

Modification of Large Scale Plan

A previous Large Scale Plan was developed for a portion of the Urban Renewal Area, which included a portion of this site. The Large Scale Plan, which was not implemented on the site, limits uses and density on the site. Removing this site from Large Scale Plan would not create any non-compliance in the rest of the Large Scale Plan, and therefore the modification merits approval.

Conclusion

The approval of all the proposed actions would, in effect, give HPD and EDC approval to construct the proposed development with restrictions only on the open space, urban design and use square footage. There are no restrictions on use or community benefits. No proposals exist to ensure the affordability program or any of the other benefits promised in the RFP.

Furthermore, the actions give the city pre-approval to use eminent domain for this site since the Urban Renewal Area approves the authorization to acquire property by any means, and UDAAP/UDAA designation deems the properties blighted. This pre-approval is given without any regulatory guarantee or even current fiscal guarantee that the ‘benefits’ of the program will or can be achieved. This is unacceptable.

The proposed land use actions should not be considered until a developer is selected for the site and until firm assurances have been made that the entire program listed in the RFP will be achieved. Specifically, a complete project must contain:

- criteria for local and MWBE and local hiring;
- local retail space with affordable rents;
- permanent affordable housing;
- as near to 100% affordability as possible utilizing affordable housing programs;
- a minimum of LEED silver designation, utilizing points recommended by the East 125th Street Community Taskforce;
- dedicated cultural space for local non-profits; and
- contributions to the two funds outlined in the RFP.

Even if the applicants present a final development plan at some point later in the ULURP process, the community and the ULURP players will have been denied their normal period of review. There must be an appropriate forum for the community review and input that was denied through the current process.

Fortunately, there is an appropriate venue for such review – by subjecting the project to review and approval by the Manhattan Borough Board, as Section 384(b)(4) of the City Charter requires for dispositions to EDC. Despite HPD’s limited involvement with the project, it is apparent that EDC has been the lead agency for the project throughout its history:

- The RFP was issued by EDC in October 2006 as stated by the EIS on the 125th Street Development;¹
- The EIS considers the disposition a ‘discretionary action of the NYCEDC Board’;²
- EDC has been the only presenting agency on the project at Community Board 11 meetings;
- An EDC staff member is the project manager for the project and the primary contact for the 125th Street Development Task Force, the proposed developers, and the property owners of non-city owned development sites;
- The EIS refers to the project being a proposal by EDC in the very first sentence of the project description;³ and
- EDC is negotiating all properties not currently under control by New York City.

384(b)(4) review would allow for regulatory oversight and provide a venue for considering whether the ultimate disposition is in the public interest, post-ULURP. Using this process is consistent with other EDC/City-agency partnership projects such as the Bronx Terminal Market and more recently Unity Funeral Home in Central Harlem. For the Bronx Terminal Market, the Department of Small Business Service could issue a lease agreement without being subject to 384(b)(4), but EDC was the executor of the lease and therefore the project was subject to 384(b)(4) approval. Similarly, Unity Funeral Home received disposition and UDAA/UDAAP designation by HPD and was disposed to EDC. The project also required 384(b)(4) review.

BOROUGH PRESIDENT’S RECOMMENDATION

The proposed applications are premature and lack the regulatory controls and assurances appropriately associated with City-initiated rezonings and dispositions of City-owned property. Since no developer, and no final development program, has been determined for the site, it is impossible to determine whether the findings for certain land use actions have been met, and it is impossible to determine whether the proposed dispositions achieve the highest and best public good.

The City should return to its initial process of seeking community consensus behind a development plan, which had been well on its way to fruition. The proposed actions should not

¹ Draft Environmental Impact Statement for The East 125th Street Development, CEQR No. 07DME025M, 2.0-19

² IBID, 2.0-19

³ IBID, 2.0-1

be approved until a final developer and development program have been established, and until an appropriate venue for further review and input has been provided.

The Manhattan Borough President therefore recommends conditional disapproval of ULURP Application Nos. C 080331 HAM, C 080332 HUM and C 080333 ZSM unless:

- 1. a developer is selected before ULURP is completed and presentations are made to Community Board 11 for recommendation;**
- 2. significant assurances can be made that the full program outlined in the RFP will be realized;**
- 3. that all of Community Board 11's recommendations be analyzed for financial feasibility and where possible implemented;**
- 4. the City commits to disposition to EDC and submitting to the necessary 384(b)(4) approval by the Borough Board to allow additional public review, post ULURP.**

The Manhattan Borough President recommends approval of N 080334 ZCM and M 850772(D) ZAM as the required findings have been satisfied.



Scott M. Stringer
Manhattan Borough President