

## CITY PLANNING COMMISSION

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December 20, 1993/Calendar No. 8

C 930136 ZMM

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**IN THE MATTER OF** an application submitted by the Manhattan Borough President and Manhattan Community Board 8 pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 6b, 8c, 8d, and 9a:

- 1) eliminating from an existing R10 District a C1-5 District bounded by East 80th Street, a line 125 feet east of York Avenue, East 81st Street, and a line 100 feet east of York Avenue;
- 2) eliminating from an existing R10A District a C1-5 District bounded by East 78th Street, a line 125 feet east of York Avenue, East 80th Street, and a line 100 feet east of York Avenue;
- 3) changing from a C1-9 District to an R8 District property bounded by:
  - a) East 66th Street, a line 125 feet east of First Avenue, East 68th Street, and a line 100 feet east of First Avenue; and
  - b) East 62nd Street, a line 125 feet east of First Avenue, a line midway between East 63rd and East 64th streets, and a line 100 feet east of First Avenue;
- 4) changing from a C1-9 District to an R8B District property bounded by:
  - a) a line midway between East 87th and East 88th streets, a line 125 feet west of Third Avenue, East 93rd Street, and a line 100 feet west of Third Avenue;
  - b) a line midway between East 79th and East 80th streets, a line 125 feet west of Third Avenue, East 85th Street, and a line 100 feet west of Third Avenue;
  - c) a line midway between East 72nd and East 73rd streets, a line 125 feet west of Third Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet west of Third Avenue;
  - d) East 66th Street, a line 125 feet west of Third Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet west of Third Avenue;
  - e) East 87th Street, a line 125 feet east of Third Avenue, East 90th Street, and a line 100 feet east of Third Avenue;
  - f) a line midway between East 79th and East 80th streets, a line 125 feet east of

Third Avenue, East 85th Street, and a line 100 feet east of Third Avenue;

- g) a line midway between East 72nd and East 73rd streets, a line 125 feet east of Third Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet east of Third Avenue;
- h) East 63rd Street, a line 125 feet east of Third Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet east of Third Avenue;
- i) a line midway between East 79th and East 80th streets, a line 125 feet west of Second Avenue, East 85th Street, and a line 100 feet west of Second Avenue;
- j) a line midway between East 72nd and East 73rd streets, a line 125 feet west of Second Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet west of Second Avenue;
- k) East 66th Street, a line 125 feet west of Second Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet west of Second Avenue;
- l) a line midway between East 79th and East 80th streets, a line 125 feet east of Second Avenue, East 85th Street, and a line 100 feet east of Second Avenue;
- m) a line midway between East 72nd and East 73rd streets, a line 125 feet east of Second Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet east of Second Avenue;
- n) East 66th Street, a line 125 feet east of Second Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet east of Second Avenue;
- o) a line midway between East 79th and East 80th streets, a line 125 feet west of First Avenue, East 85th Street, and a line 100 feet west of First Avenue;
- p) East 78th Street, a line 125 feet west of First Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet west of First Avenue;
- q) a line midway between East 72nd and East 73rd streets, a line 125 feet west of First Avenue, East 75th Street, and a line 100 feet west of First Avenue;
- r) a line midway between East 79th and East 80th streets, a line 125 feet east of First Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet east of First Avenue;
- s) a line midway between East 72nd and East 73rd streets, a line 125 feet east of First Avenue, a line midway between East 78th and East 79th streets, and a line

100 feet east of First Avenue; and

- t) a line midway between East 63rd and East 64th streets, a line 125 feet east of First Avenue, East 66th Street, and a line 100 feet east of First Avenue;
- 5) changing from a C1-9 District to a C1-7 District property bounded by East 87th Street, a line 125 feet west of Third Avenue, a line midway between East 87th and East 88th streets, and a line 100 feet west of Third Avenue;
- 6) changing from a C2-8 District to an R8 District property bounded by:
- a) a line midway between East 94th and East 95th streets, a line 125 feet east of Third Avenue, a line midway between East 95th and East 96th streets, and a line 100 feet east of Third Avenue;
  - b) a line midway between East 94th and East 95th streets, a line 125 feet west of Second Avenue, a line midway between East 95th and East 96th streets, and a line 100 feet west of Second Avenue;
  - c) East 93rd Street, a line 125 feet west of Second Avenue, East 94th Street, and a line 100 feet west of Second Avenue;
  - d) East 95th Street, a line 125 feet east of Second Avenue, a line midway between East 95th and East 96th streets, and a line 100 feet east of Second Avenue; and
  - e) East 68th Street, a line 125 feet east of First Avenue, East 71st Street, and a line 100 feet east of First Avenue;
- 7) changing from a C2-8 District to an R8B District property bounded by:
- a) East 93rd Street, a line 125 feet west of Third Avenue, a line midway between East 95th and East 96th streets, and a line 100 feet west of Third Avenue;
  - b) a line midway between East 86th and East 87th streets, a line 125 feet west of Second Avenue, East 90th Street, and a line 100 feet west of Second Avenue;
  - c) East 63rd Street, a line 125 feet west of Second Avenue, East 66th Street, and a line 100 feet west of Second Avenue;
  - d) East 59th Street, a line 125 feet west of Second Avenue, East 61st Street, and a line 100 feet west of Second Avenue;

- e) a line midway between East 86th and East 87th streets, a line 125 feet east of Second Avenue, a line midway between East 93rd and East 94th streets, and a line 100 feet east of Second Avenue;
  - f) East 62nd Street, a line 125 feet east of Second Avenue, East 66th Street, and a line 100 feet east of Second Avenue;
  - g) East 88th Street, a line 125 feet west of First Avenue, a line midway between East 93rd and East 94th streets, and a line 100 feet west of First Avenue;
  - h) East 75th Street, a line 125 feet west of First Avenue, East 78th Street, and a line 100 feet west of First Avenue;
  - i) East 68th Street, a line 125 feet west of First Avenue, East 71st Street, and a line 100 feet west of First Avenue;
  - j) East 62nd Street, a line 125 feet west of First Avenue, a line midway between East 64th and East 65th streets, a line 100 feet west of First Avenue, a line midway between East 62nd and East 63rd streets, and a line 112 feet west of First Avenue; and
  - k) East 88th Street, a line 125 feet east of First Avenue, a line midway between East 89th and East 90th streets, and a line 100 feet east of First Avenue;
- 8) changing from a C2-8 District to a C8-4 District property bounded by:
- a) a line midway between East 93rd and East 94th streets, a line 125 feet east of Second Avenue, East 95th Street, and a line 100 feet east of Second Avenue;
  - b) East 59th Street, a line 125 feet east of Second Avenue, East 62nd Street, and a line 100 feet east of Second Avenue;
  - c) a line midway between East 93rd and East 94th streets, a line 125 feet west of First Avenue, East 94th Street, and a line 100 feet west of First Avenue; and
  - d) a line midway between East 89th and East 90th streets, a line 125 feet east of First Avenue, East 92nd Street, and a line 100 feet east of First Avenue;
- 9) changing from a C2-8A District to an R8B District property bounded by:
- a) a line midway between East 86th and East 87th streets, a line 125 feet east of Third Avenue, East 87th Street, and a line 100 feet east of Third Avenue;

- b) East 85th Street, a line 125 feet east of Third Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet east of Third Avenue;
  - c) East 85th Street, a line 125 feet west of Second Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet west of Second Avenue;
  - d) East 85th Street, a line 125 feet east of Second Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet east of Second Avenue;
  - e) East 87th Street, a line 125 feet west of First Avenue, a line midway between East 86th and East 87th streets, and a line 100 feet west of First Avenue; and
  - f) East 85th Street, a line 125 feet west of First Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet west of First Avenue;
- 10) changing from a C4-7 District to a C6-2 District property bounded by a line midway between East 60th and East 61st streets, a line 125 feet east of First Avenue, East 61st Street, and a line 100 feet east of First Avenue;
- 11) changing from a C4-7 District to a C6-3 District property bounded by East 60th Street, a line 125 feet east of First Avenue, a line midway between East 60th and East 61st streets, and a line 100 feet east of First Avenue;
- 12) changing from a C8-4 District to a C6-2 District property bounded by a line midway between East 60th and East 61st streets, a line 500 feet east of First Avenue, East 61st Street, and a line 100 feet west of York Avenue;
- 13) changing from a C8-4 District to a C6-3 District property bounded by East 60th Street, a line 500 feet east of First Avenue, a line midway between East 60th and East 61st streets, and a line 100 feet west of York Avenue;
- 14) changing from an R10 District to an R8 District property bounded by:
- a) East 92nd Street, a line 488 feet east of First Avenue, the Service Street of Franklin D. Roosevelt Drive, and a line 513 feet east of First Avenue;
  - b) East 90th Street, a line 125 feet west of York Avenue, East 92nd Street, and a line 100 feet west of York Avenue;

- c) East 66th Street, a line 125 feet west of York Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet west of York Avenue; and
  - d) East 62nd Street, a line 125 feet west of York Avenue, a line midway between East 63rd and East 64th streets, and a line 100 feet west of York Avenue;
- 15) changing from an R10 District to an R8B District property bounded by:
- a) East 87th Street, a line 125 feet west of First Avenue, East 88th Street, and a line 100 feet west of First Avenue;
  - b) East 87th Street, a line 125 feet east of First Avenue, East 88th Street, and a line 100 feet east of First Avenue;
  - c) East 87th Street, a line 125 feet west of York Avenue, a line midway between East 89th and East 90th streets, and a line 100 feet west of York Avenue;
  - d) East 80th Street, a line 125 feet west of York Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet west of York Avenue;
  - e) a line midway between East 72nd and East 73rd streets, a line 125 feet west of York Avenue, East 78th Street, and a line 100 feet west of York Avenue;
  - f) a line midway between East 63rd and East 64th Streets, a line 125 feet west of York Avenue, East 66th Street, and a line 100 feet west of York Avenue;
  - g) East 87th Street, a line 125 feet east of York Avenue, East 90th Street, and a line 100 feet east of York Avenue;
  - h) East 80th Street, a line 125 feet east of York Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet east of York Avenue; and
  - i) East 76th Street, a line 125 feet east of York Avenue, East 78th Street, and a line 100 feet east of York Avenue;
- 16) changing from an R10 District to a C8-4 District property bounded by a line midway between East 89th and East 90th streets, a line 125 feet west of York Avenue, East 90th Street, and a line 100 feet east of York Avenue;
- 17) changing from an R10A District to an R8 District property bounded by East 71st Street, a line 125 feet east of First Avenue, a line midway between East 71st and East

72nd streets, and a line 100 feet east of First Avenue;

- 18) changing from an R10A District to an R8B District property bounded by:
- a) East 71st Street, a line 125 feet west of First Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet west of First Avenue;
  - b) a line midway between East 86th and East 87th streets, a line 125 feet east of First Avenue, East 87th Street, and a line 100 feet east of First Avenue;
  - c) a line midway between East 86th and East 87th streets, a line 125 feet west of York Avenue, East 87th Street, and a line 100 feet west of York Avenue;
  - d) a line midway between East 79th and East 80th streets, a line 125 feet west of York Avenue, East 80th Street, and a line 100 feet west of York Avenue;
  - e) East 78th Street, a line 125 feet west of York Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet west of York Avenue;
  - f) a line midway between East 86th and East 87th streets, a line 125 feet east of York Avenue, East 87th Street, and a line 100 feet east of York Avenue;
  - g) a line midway between East 79th and East 80th streets, a line 125 feet east of York Avenue, East 80th Street, and a line 100 feet east of York Avenue;
  - h) East 78th Street, a line 125 feet east of York Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet east of York Avenue;
  - i) East 87th Street, a line 125 feet west of East End Avenue, East 90th Street, and a line 100 feet west of East End Avenue;
  - j) a line midway between East 79th and East 80th streets, a line 125 feet west of East End Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet west of East End Avenue; and
  - k) East 78th Street, the southerly prolongation of a line 125 feet west of East End Avenue, a line midway between East 78th and East 79th streets, and the southerly prolongation of a line 100 feet west of East End Avenue;
- 19) establishing within a proposed R8B District a C1-5 District bounded by East 59th Street, a line 125 feet west of Second Avenue, a line midway between East 59th and East 60th streets, and a line 100 feet west of Second Avenue;

- 20) establishing within a proposed R8B District a C2-5 District bounded by:
- a) a line midway between East 75th and East 76th streets, a line 125 feet east of Second Avenue, a line midway between East 76th and East 77th streets, and a line 100 feet east of Second Avenue;
  - b) East 62nd Street, a line 125 feet east of Second Avenue, a line midway between East 64th and East 65th streets, and a line 100 feet east of Second Avenue;
  - c) a line midway between East 75th and East 76th streets, a line 125 feet west of First Avenue, a line midway between East 76th and East 77th streets, and a line 100 feet west of First Avenue;
  - d) East 62nd Street, a line 125 feet west of First Avenue, a line midway between East 64th and East 65th streets, a line 100 feet west of First Avenue, a line midway between East 62nd and East 63rd streets, and a line 112 feet west of First Avenue;
  - e) a line midway between East 79th and East 80th streets, a line 125 feet east of York Avenue, a line midway between East 80th and East 81st streets, and a line 100 feet east of York Avenue; and
  - f) a line midway between East 79th and East 80th streets, a line 125 feet west of East End Avenue, a line midway between East 80th and East 81st streets, and a line 100 feet west of East End Avenue; and
- 21) establishing within a proposed R8B district an LH-1A District bounded by East 69th Street, a line 125 feet west of Third Avenue, East 71st Street, a line 150 feet west of Third Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet west of Third Avenue;

Borough of Manhattan, Community District 8, as shown on a diagram (for illustrative purposes only) dated August 16, 1993.

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The application for the amendment of the Zoning Map was filed by the Manhattan Borough President and Community Board 8 on September 29, 1992, to change the depth of existing high density avenue zoning districts on Third, Second, First, York and East End avenues in Community Board 8 from 125 feet to 100 feet.

## BACKGROUND

### Area Description

Community District 8 is located between Fifth Avenue and the East River, and between East 59th and East 96th streets. It has a mix of residential, commercial, retail and institutional uses with several pockets of manufacturing and automotive uses. The midblocks have a preponderance of building types including brownstones, old and new-law tenements and mid-rise elevator apartments. There are also midblock schools, religious institutions and garages. In the lower portion of CD8, particularly between East 62nd and East 71st streets there are 12-15 story white brick buildings which have been constructed on large portions of some midblocks between 1961 and 1963. Buildings on the avenues of the Upper East Side are a mix of pre-1961 streetwall buildings, towers in plazas, rowhouses and tenements. Some of the more recent avenue towers range in height from 45 to 55 stories.

### Description of Rezoning

This application, jointly submitted by the Manhattan Borough President (MBPO) and Community Board 8 (CD 8), seeks to remap certain Upper East Side avenues to a depth of 100 feet from their present zoning depth of 125 feet. The area to be rezoned involves a total of 143 blocks located between 59th and 96th streets from Third to East End avenues.

The MBPO and CB8 state that the purpose in submitting this application "is to protect the mid-block character of the Upper East Side and to prevent the continued intrusion of the traditional avenue/mid-block seam."

As a result of this action, midblock zones would be expanded and avenue zones would be decreased in size. Most of the midblocks which would be expanded as a result of this rezoning are designated R8B although some also have R8, C1-7, C6-2, C6-3 and C8-4 designations, and several have C1-5 and C2-5 overlays. The preponderance of the avenue zoning depths which

would be decreased are designated R10, C1-9 and C2-8, while there are also some R10A, C2-8A, and C8-4 zoning districts.

A soft site analysis, and compliance and conformance charts accompanied this application. The applicants' analysis indicated 24 soft sites. They calculated the approximate maximum change in development potential on these soft sites for residential units and for commercial space, due to the remapping. It was found that the existing development potential of these 24 soft sites is 2,535,724 square feet (2,535 d.u.'s). Under the proposed rezoning the development potential would be reduced to 1,673,467 sq. ft. (1,673 d.u.'s). Therefore, 862 fewer d.u.'s could be developed as a result of this rezoning.

As for the change in development potential for commercial space, under the existing zoning, assuming 1 FAR of commercial use, 211,310 sq. ft. of commercial space could be built. With the proposed map change 131,757 sq. ft. could be built, for a difference of 79,553 sq. ft.

Compliance of the 25 foot strips with the proposed rezoning was also analyze by the applicant. In R8B districts, within which most of the 25 foot strips to be rezoned are located, the streetwall compliance averages 62.5% while ranging from 71.3% on First Avenue to 47.6% on East End Avenue. The floor area compliance averages 55.8% while ranging from 62.5% on First Avenue to 42.9% on East End Avenue. In the applicant's analysis, a streetwall complies in R8B if it is six stories or less, and the floor area complies if the coverage is 70% or less.

A conformance chart lists use groups which would no longer be permitted within the 25-foot strip under the proposed rezoning designation. Generally, the chart indicates that as the R8 and R8B midblocks are expanded, commercial uses would no longer be allowed in those remapped areas. There are also several blockfronts which would result in expanded C8-4 districts and thus allow uses such as automotive, which are not presently allowed.

## **ENVIRONMENTAL REVIEW**

This application (C 930136 ZMM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 93DCP014M. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a negative declaration was issued on August 16, 1993.

## **UNIFORM LAND USE REVIEW**

This application was certified as complete by the Department of City Planning on August 16, 1993, and was duly referred to Community Board 8 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

### **Community Board Public Hearing**

Community Board 8 held a public hearing on this application on September 8, 1993, and on October 13, 1993, by a vote of 23 to 3 with no abstentions, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

This application (C 930136 ZMM) was considered by the Manhattan Borough President, who issued a recommendation approving the application on November 24, 1993. Strongly endorsing this application, the Borough President stated in her report that the reasons this application should be approved included the following: protection of the midblock character, reduction of density is reasonable "without further attention to infrastructure capacity", and protection of affordable housing units. The Borough President also urged the Commission to study the appropriateness of the split lot provisions which could exempt a developer from

complying with the new bulk regulations.

### **City Planning Commission Public Hearing**

On November 17, 1993 (Calendar No. 4), the City Planning Commission scheduled December 1, 1993 for a public hearing on this application (C 930136 ZMM). The hearing was duly held on December 1, 1993 (Calendar No. 11).

There were 36 speakers in favor of the application, and 4 speakers in opposition.

Those speaking in favor included the Manhattan Borough President, two assembly members, a representative of a member of congress, representatives of two city council members, a representative of a state senator, the Chairperson of Community Board 8, representatives of Community Boards 6, 10, and 11, a representative of The Municipal Art Society and representatives of various community organizations. Among the reasons offered in support of this application were the need to preserve the mid-block scale, to make the depth of the avenue zoning districts consistent with the depth in other areas of the City, lower the allowable density on the Upper East Side, and preserve affordable housing units.

Those speaking in opposition included a representative of the Real Estate Board of New York who stated that the map change would reduce new affordable housing, and make it more difficult to develop new housing. He also questioned the amount of existing affordable housing protected by this action, and questioned the impacts of density if the current district depth is maintained.

Another speaker, an attorney acting on behalf of a property owner, asked that the existing zoning depth be maintained on the west side of First Avenue between 87th and 88th streets, in order to accommodate a school gymnasium facility in an R8B zone. She stated that if the depth were modified on this block there would be insufficient floor area to build this facility.

Another attorney, acting on behalf of a property owner who has an existing special permit to construct on a site located at East 92nd Street and York Avenue, asked that the current 125 foot zoning depth be maintained at that location. He also stated his clients' opposition to the map change.

A fourth speaker, an architect, stated that the map change would make it more difficult to design marketable apartments, given the shallower depth.

The hearing was closed.

#### **WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW**

This application was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), adopted by the Board of Estimate on September 30, 1982 (Calendar No. 17), pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 106-93 .

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

#### **CONSIDERATION**

The Commission believes that this amendment of the Zoning Map is appropriate, as modified.

In making this determination the Commission considered the testimony of the Manhattan Borough President, civic associations, the development community, Community Board 8, and other community groups. The Commission also evaluated the analysis accompanying the application, and considered the precedent of the 100-foot zoning district depth that is prevalent in many areas of Manhattan as well as other boroughs. Avenue zoning district depths in Manhattan's residential neighborhoods are generally mapped at 100 feet, although the

Commission recognizes that situations do exist where deeper districts are mapped for specific purposes. In the case of the Upper East Side, the Commission believes that amending the depth of the district to 100 foot is consistent with established zoning policy.

In examining the neighborhood context of the areas that are the subject of the application, the Commission notes that most of the mid-block zones proposed to be extended are R8-B. The R8-B zones were mapped on the Upper East Side in 1984 in order to preserve the mid-block character of the neighborhood. The Commission considers the preservation of the mid-block character to be a valid planning principle and believes that the proposed zoning map change will achieve the applicants' objectives "to protect the mid-block character of the Upper East Side and to prevent the continued intrusion of the traditional avenue/mid-block seam".

At the public hearing, representatives of two property owners appeared to request that their properties be excluded from the remapping. The two properties were the former ASPCA site at East 92nd street and York Avenue, and 345 East 87th Street.

The ASPCA site was the subject of Commission actions in 1987, when the applicant obtained a rezoning and a special permit for a parking garage. The Commission has renewed the special permit several times since. The Commission believes that, in regard to the former ASPCA site, the zoning district boundary drawn at 125 feet should be left in its current configuration, as this project has been approved and reaffirmed.

345 East 87th Street is a 10,600 square foot vacant parcel almost wholly located in an R8B zoning district. It is part of a larger zoning lot fronting on First Avenue between East 87th and East 88th Street. The Commission understands that if the zoning district boundary were reduced to 100 feet on this zoning lot, the ability to develop a conforming R8B building on this property would be severely restricted as very little floor area would remain. The Commission believes that the zoning district should remain its current configuration to prevent a resultant undevelopable and vacant parcel.

Consequently, this amendment to the zoning map is being approved, as modified, by leaving the zoning district boundaries at these sites in their existing configurations.

## RESOLUTION

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

**RESOLVED** that

The City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No.s 6b, 8c, 8d, and 9a.

- 1) eliminating from an existing R10 District a C1-5 District bounded by East 80th Street, a line 125 feet east of York Avenue, East 81st Street, and a line 100 feet east of York Avenue;
- 2) eliminating from an existing R10A District a C1-5 District bounded by East 78th Street, a line 125 feet east of York Avenue, East 80th Street, and a line 100 feet east of York Avenue;
- 3) changing from a C1-9 District to an R8 District property bounded by:
  - a) East 66th Street, a line 125 feet east of First Avenue, East 68th Street, and a line 100 feet east of First Avenue; and
  - b) East 62nd Street, a line 125 feet east of First Avenue, a line midway between East 63rd and East 64th streets, and a line 100 feet east of First Avenue;

- 4) changing from a C1-9 District to an R8B District property bounded by:
- a) a line midway between East 87th and East 88th streets, a line 125 feet west of Third Avenue, East 93rd Street, and a line 100 feet west of Third Avenue;
  - b) a line midway between East 79th and East 80th streets, a line 125 feet west of Third Avenue, East 85th Street, and a line 100 feet west of Third Avenue;
  - c) a line midway between East 72nd and East 73rd streets, a line 125 feet west of Third Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet west of Third Avenue;
  - d) East 66th Street, a line 125 feet west of Third Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet west of Third Avenue;
  - e) East 87th Street, a line 125 feet east of Third Avenue, East 90th Street, and a line 100 feet east of Third Avenue;
  - f) a line midway between East 79th and East 80th streets, a line 125 feet east of Third Avenue, East 85th Street, and a line 100 feet east of Third Avenue;
  - g) a line midway between East 72nd and East 73rd streets, a line 125 feet east of Third Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet east of Third Avenue;
  - h) East 63rd Street, a line 125 feet east of Third Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet east of Third Avenue;
  - i) a line midway between East 79th and East 80th streets, a line 125 feet west of Second Avenue, East 85th Street, and a line 100 feet west of Second Avenue;
  - j) a line midway between East 72nd and East 73rd streets, a line 125 feet west of Second Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet west of Second Avenue;
  - k) East 66th Street, a line 125 feet west of Second Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet west of Second Avenue;
  - l) a line midway between East 79th and East 80th streets, a line 125 feet east of Second Avenue, East 85th Street, and a line 100 feet east of Second Avenue;
  - m) a line midway between East 72nd and East 73rd streets, a line 125 feet east of Second Avenue, a line midway between East 78th and East 79th streets, and a

- line 100 feet east of Second Avenue;
- n) East 66th Street, a line 125 feet east of Second Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet east of Second Avenue;
  - o) a line midway between East 79th and East 80th streets, a line 125 feet west of First Avenue, East 85th Street, and a line 100 feet west of First Avenue;
  - p) East 78th Street, a line 125 feet west of First Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet west of First Avenue;
  - q) a line midway between East 72nd and East 73rd streets, a line 125 feet west of First Avenue, East 75th Street, and a line 100 feet west of First Avenue;
  - r) a line midway between East 79th and East 80th streets, a line 125 feet east of First Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet east of First Avenue;
  - s) a line midway between East 72nd and East 73rd streets, a line 125 feet east of First Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet east of First Avenue; and
  - t) a line midway between East 63rd and East 64th streets, a line 125 feet east of First Avenue, East 66th Street, and a line 100 feet east of First Avenue;
- 5) changing from a C1-9 District to a C1-7 District property bounded by East 87th Street, a line 125 feet west of Third Avenue, a line midway between East 87th and East 88th streets, and a line 100 feet west of Third Avenue;
- 6) changing from a C2-8 District to an R8 District property bounded by:
- a) a line midway between East 94th and East 95th streets, a line 125 feet east of Third Avenue, a line midway between East 95th and East 96th streets, and a line 100 feet east of Third Avenue;
  - b) a line midway between East 94th and East 95th streets, a line 125 feet west of Second Avenue, a line midway between East 95th and East 96th streets, and a line 100 feet west of Second Avenue;
  - c) East 93rd Street, a line 125 feet west of Second Avenue, East 94th Street, and a line 100 feet west of Second Avenue;

- d) East 95th Street, a line 125 feet east of Second Avenue, a line midway between East 95th and East 96th streets, and a line 100 feet east of Second Avenue; and
  - e) East 68th Street, a line 125 feet east of First Avenue, East 71st Street, and a line 100 feet east of First Avenue;
- 7) changing from a C2-8 District to an R8B District property bounded by:
- a) East 93rd Street, a line 125 feet west of Third Avenue, a line midway between East 95th and East 96th streets, and a line 100 feet west of Third Avenue;
  - b) a line midway between East 86th and East 87th streets, a line 125 feet west of Second Avenue, East 90th Street, and a line 100 feet west of Second Avenue;
  - c) East 63rd Street, a line 125 feet west of Second Avenue, East 66th Street, and a line 100 feet west of Second Avenue;
  - d) East 59th Street, a line 125 feet west of Second Avenue, East 61st Street, and a line 100 feet west of Second Avenue;
  - e) a line midway between East 86th and East 87th streets, a line 125 feet east of Second Avenue, a line midway between East 93rd and East 94th streets, and a line 100 feet east of Second Avenue;
  - f) East 62nd Street, a line 125 feet east of Second Avenue, East 66th Street, and a line 100 feet east of Second Avenue;
  - g) East 88th Street, a line 125 feet west of First Avenue, a line midway between East 93rd and East 94th streets, and a line 100 feet west of First Avenue;
  - h) East 75th Street, a line 125 feet west of First Avenue, East 78th Street, and a line 100 feet west of First Avenue;
  - i) East 68th Street, a line 125 feet west of First Avenue, East 71st Street, and a line 100 feet west of First Avenue;
  - j) East 62nd Street, a line 125 feet west of First Avenue, a line midway between East 64th and East 65th streets, a line 100 feet west of First Avenue, a line midway between East 62nd and East 63rd streets, and a line 112 feet west of First Avenue; and
  - k) East 88th Street, a line 125 feet east of First Avenue, a line midway between

East 89th and East 90th streets, and a line 100 feet east of First Avenue;

- 8) changing from a C2-8 District to a C8-4 District property bounded by:
- a) a line midway between East 93rd and East 94th streets, a line 125 feet east of Second Avenue, East 95th Street, and a line 100 feet east of Second Avenue;
  - b) East 59th Street, a line 125 feet east of Second Avenue, East 62nd Street, and a line 100 feet east of Second Avenue;
  - c) a line midway between East 93rd and East 94th streets, a line 125 feet west of First Avenue, East 94th Street, and a line 100 feet west of First Avenue; and
  - d) a line midway between East 89th and East 90th streets, a line 125 feet east of First Avenue, East 92nd Street, and a line 100 feet east of First Avenue;
- 9) changing from a C2-8A District to an R8B District property bounded by:
- a) a line midway between East 86th and East 87th streets, a line 125 feet east of Third Avenue, East 87th Street, and a line 100 feet east of Third Avenue;
  - b) East 85th Street, a line 125 feet east of Third Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet east of Third Avenue;
  - c) East 85th Street, a line 125 feet west of Second Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet west of Second Avenue;
  - d) East 85th Street, a line 125 feet east of Second Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet east of Second Avenue;
  - e) East 87th Street, a line 125 feet west of First Avenue, a line midway between East 86th and East 87th streets, and a line 100 feet west of First Avenue; and
  - f) East 85th Street, a line 125 feet west of First Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet west of First Avenue;
- 10) changing from a C4-7 District to a C6-2 District property bounded by a line midway between East 60th and East 61st streets, a line 125 feet east of First Avenue, East 61st Street, and a line 100 feet east of First Avenue;

- 11) changing from a C4-7 District to a C6-3 District property bounded by East 60th Street, a line 125 feet east of First Avenue, a line midway between East 60th and East 61st streets, and a line 100 feet east of First Avenue;
- 12) changing from a C8-4 District to a C6-2 District property bounded by a line midway between East 60th and East 61st streets, a line 500 feet east of First Avenue, East 61st Street, and a line 100 feet west of York Avenue;
- 13) changing from a C8-4 District to a C6-3 District property bounded by East 60th Street, a line 500 feet east of First Avenue, a line midway between East 60th and East 61st streets, and a line 100 feet west of York Avenue;
- 14) changing from an R10 District to an R8 District property bounded by:
  - a) East 90th Street, a line 125 feet west of York Avenue, East 92nd Street, and a line 100 feet west of York Avenue;
  - b) East 66th Street, a line 125 feet west of York Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet west of York Avenue; and
  - c) East 62nd Street, a line 125 feet west of York Avenue, a line midway between East 63rd and East 64th streets, and a line 100 feet west of York Avenue;
- 15) changing from an R10 District to an R8B District property bounded by:
  - a) East 87th Street, a line 125 feet east of First Avenue, East 88th Street, and a line 100 feet east of First Avenue;
  - b) East 87th Street, a line 125 feet west of York Avenue, a line midway between East 89th and East 90th streets, and a line 100 feet west of York Avenue;
  - c) East 80th Street, a line 125 feet west of York Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet west of York Avenue;
  - d) a line midway between East 72nd and East 73rd streets, a line 125 feet west of York Avenue, East 78th Street, and a line 100 feet west of York Avenue;
  - e) a line midway between East 63rd and East 64th Streets, a line 125 feet west of York Avenue, East 66th Street, and a line 100 feet west of York Avenue;

- f) East 87th Street, a line 125 feet east of York Avenue, East 90th Street, and a line 100 feet east of York Avenue;
  - g) East 80th Street, a line 125 feet east of York Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet east of York Avenue; and
  - h) East 76th Street, a line 125 feet east of York Avenue, East 78th Street, and a line 100 feet east of York Avenue;
- 16) changing from an R10 District to a C8-4 District property bounded by a line midway between East 89th and East 90th streets, a line 125 feet west of York Avenue, East 90th Street, and a line 100 feet west of York Avenue;
- 17) changing from an R10A District to an R8 District property bounded by East 71st Street, a line 125 feet east of First Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet east of First Avenue;
- 18) changing from an R10A District to an R8B District property bounded by:
- a) East 71st Street, a line 125 feet west of First Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet west of First Avenue;
  - b) a line midway between East 86th and East 87th streets, a line 125 feet east of First Avenue, East 87th Street, and a line 100 feet east of First Avenue;
  - c) a line midway between East 86th and East 87th streets, a line 125 feet west of York Avenue, East 87th Street, and a line 100 feet west of York Avenue;
  - d) a line midway between East 79th and East 80th streets, a line 125 feet west of York Avenue, East 80th Street, and a line 100 feet west of York Avenue;
  - e) East 78th Street, a line 125 feet west of York Avenue, a line midway between East 78th and East 79th streets, and a line 100 feet west of York Avenue;
  - f) a line midway between East 86th and East 87th streets, a line 125 feet east of York Avenue, East 87th Street, and a line 100 feet east of York Avenue;
  - g) a line midway between East 79th and East 80th streets, a line 125 feet east of York Avenue, East 80th Street, and a line 100 feet east of York Avenue;
  - h) East 78th Street, a line 125 feet east of York Avenue, a line midway between

East 78th and East 79th streets, and a line 100 feet east of York Avenue;

- i) East 87th Street, a line 125 feet west of East End Avenue, East 90th Street, and a line 100 feet west of East End Avenue;
  - j) a line midway between East 79th and East 80th streets, a line 125 feet west of East End Avenue, a line midway between East 85th and East 86th streets, and a line 100 feet west of East End Avenue; and
  - k) East 78th Street, the southerly prolongation of a line 125 feet west of East End Avenue, a line midway between East 78th and East 79th streets, and the southerly prolongation of a line 100 feet west of East End Avenue;
- 19) establishing within a proposed R8B District a C1-5 District bounded by East 59th Street, a line 125 feet west of Second Avenue, a line midway between East 59th and East 60th streets, and a line 100 feet west of Second Avenue;
- 20) establishing within a proposed R8B District a C2-5 District bounded by:
- a) a line midway between East 75th and East 76th streets, a line 125 feet east of Second Avenue, a line midway between East 76th and East 77th streets, and a line 100 feet east of Second Avenue;
  - b) East 62nd Street, a line 125 feet east of Second Avenue, a line midway between East 64th and East 65th streets, and a line 100 feet east of Second Avenue;
  - c) a line midway between East 75th and East 76th streets, a line 125 feet west of First Avenue, a line midway between East 76th and East 77th streets, and a line 100 feet west of First Avenue;
  - d) East 62nd Street, a line 125 feet west of First Avenue, a line midway between East 64th and East 65th streets, a line 100 feet west of First Avenue, a line midway between East 62nd and East 63rd streets, and a line 112 feet west of First Avenue;
  - e) a line midway between East 79th and East 80th streets, a line 125 feet east of York Avenue, a line midway between East 80th and East 81st streets, and a line 100 feet east of York Avenue; and
  - f) a line midway between East 79th and East 80th streets, a line 125 feet west of East End Avenue, a line midway between East 80th and East 81st streets, and a line 100 feet west of East End Avenue; and

- 21) establishing within a proposed R8B district an LH-1A District bounded by East 69th Street, a line 125 feet west of Third Avenue, East 71st Street, a line 150 feet west of Third Avenue, a line midway between East 71st and East 72nd streets, and a line 100 feet west of Third Avenue;

Borough of Manhattan, Community District 8, as shown on a diagram (for illustrative purposes only) dated August 16, 1993, (C 930136 ZMM) and modified on December 20, 1993.

The above resolution, duly adopted by the City Planning Commission on December 20, 1993, (Calendar No. 8), is filed with the Office of the Speaker, City Council and the the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

**RICHARD L. SCHAFFER**, Chairman

**VICTOR G. ALICEA**, Vice-Chairman

**EUGENIE L. BIRCH, A.I.C.P., AMANDA M. BURDEN, A.I.C.P., ANTHONY I. GIACOBBE, ESQ., MAXINE GRIFFITH, JAMES C. JAO, R.A., BRENDA LEVIN, JOEL A. MIELE, SR, P.E., EDWARD T. ROGOWSKY, RONALD SHIFFMAN, A.I.C.P., ANALISA TORRES, ESQ., JACOB B. WARD, ESQ., Commissioners**





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WARRIE L. PRICE  
Chairperson  
EDWARD BENSON  
District Manager

THE CITY OF NEW YORK  
MANHATTAN COMMUNITY BOARD 8

October 14, 1993

Mr. Richard Schaffer  
Chairman  
City Planning Commission  
22 Reade Street  
New York, NY. 10007

RE: UPPER EAST SIDE REZONING  
197(c) Application ULURP DCP #C930136ZMM

At the October 13, 1993 Land Use Meeting of Community Board #8M, the following resolution was adopted by a vote of 23 in favor; 3 opposed; 0 abstentions:

WHEREAS, Community Board 8M and other community-based civic organizations have sought to reduce the high-density avenue zoning depth and preserve the mid-block character within the 25-foot strip for over eight years;

WHEREAS, the 1961 Zoning Resolution changing the avenue zoning lot depth from 100 feet to 125 feet resulted in dramatically altering the building scale of the Upper East Side with over 100 developments utilizing the land within the 25-foot strip;

WHEREAS, with the exception of a few areas in the Community Board 6M, Community Board 8M (east of Third Avenue), is the only community district in Manhattan that has 125-foot high density zoning depths as a standard;

WHEREAS, in fairness, Community Board 8M should conform to the zoning standards applied to all other residential districts in Manhattan;

WHEREAS, reduction of the depth of the avenue zoning to 100 feet returns the 25 foot strip to midblock density and encourages retention of existing housing;

WHEREAS, the Upper East Side rezoning will preserve significant numbers of affordable housing units;

WHEREAS, within the 25-foot strip, 83.4% of the land uses conform to the proposed zoning, 56.8% of the buildings comply with the floor area ratio and 64.9% comply with the streetwall regulations;

WHEREAS, the Upper East Side rezoning will protect existing neighborhood and mid-block building scale;

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RESOLUTION RE: UPPER EAST SIDE REZONING

WHEREAS, this proposal, together with the Department of City Planning's text amendment will address the density and street wall problems in the 25 foot transition zone,

THEREFORE BE IT RESOLVED THAT COMMUNITY BOARD 8M approves ULURP #C930136ZMM to reduce the depth of the high density avenue zoning districts from 125 feet to 100 feet on Third, Second, First, York and East End Avenues.

Please inform this office of any action taken regarding this resolution.

Sincerely,

*Warrie L. Price*

Warrie L. Price,  
Chairperson

cc: Ruth Messinger, Manhattan Borough President  
Victor G. Alicea, City Planning Commissioner  
Maxine Griffith, City Planning Commissioner  
Edward T. Rogowsky, City Planning Commissioner  
James C. Jao, R.A., City Planning Commissioner  
Joel A. Miele, Sr. P.E., City Planning Commissioner  
Deborah C. Wright, City Planning Commissioner  
Brenda Levin, City Planning Commissioner  
Eugenie L. Birch, City Planning Commissioner  
Jacob B. Ward, City Planning Commissioner  
Amanda W. Burden, City Planning Commissioner  
Ronald Shiffman, City Planning Commissioner  
Anthony I. Giacobbe, City Planning Commissioner  
Robert Flahive, Director, Department of City Planning,  
Manhattan Office  
Congresswoman Carolyn Maloney  
State Senator Roy Goodman  
Assemblyman Alexander B. Grannis  
Assemblyman John Ravitz  
Councilman Charles Millard  
Councilman Andrew Eristoff  
Genie Rice, CIVITAS  
Michael Slattery, Real Estate Board of New York  
Bruce Fowle, OCULUS  
Craig Whitaker  
Community Boards - Citywide



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

MUNICIPAL BUILDING  
NEW YORK, N.Y. 10007  
(212) 669-8300

RUTH W. MESSINGER  
BOROUGH PRESIDENT

November 24, 1993

**ULURP NOS.**

C 930136 ZMM (Zoning Map Amendment)  
N 940013 ZRM (Text Amendment #1)  
N 920663 ZRM (Text Amendment #2)

**APPLICANTS**

- **Zoning Map Amendment:**  
Manhattan Community Board 8  
Manhattan Borough President Ruth W. Messinger
- **Text Amendment #1:**  
Department of City Planning (DCP)
- **Text Amendment #2:**  
Carnegie Hill Neighbors, Inc.  
Manhattan Community Board 8

**REQUESTS**

- **Zoning Map Amendment (Upper East Side Rezoning):**  
To reduce the mapped zoning depth along the avenues located within the eastern portion of Manhattan Community Board 8, from 125 feet to 100 feet.
- **Text Amendment #1 (Residential Tower and Plaza Text Change):**  
To introduce supplemental regulations governing new tower development in high-density residential zoning districts.
- **Text Amendment #2 (Madison Avenue Text Change):**  
To amend Section 99-00 of the Zoning Resolution with more restrictive regulations which would include a height limit.

## **PROJECT DESCRIPTIONS**

### **■ Zoning Map Amendment: Upper East Side Rezoning (C 930136 ZMM)**

The zoning map amendment (the "rezoning") involves a total of 143 blocks. The area proposed to be rezoned is located between 59th and 96th Streets and between East End and Third Avenues, inclusive (the "project area"), within Community District 8 of Manhattan. There are seventeen zoning designations and two special districts mapped within the project area. Residential zones include R8, R8B, R10 and R10A; commercial zones include C1-5 and C2-5 (commercial overlays), C1-7, C5-1, C5-2, C2-8, C2-8A, C4-6, C6-2, C6-3 and C8-4; manufacturing zones include M1-4 and M3-2; and special zoning districts include the Special Transit Land Use District (TA) and the Limited Height District (LH-1A). Eight locations have Restrictive Declarations placed on development sites as part of previous City Planning Commission actions. These covenants include D-88, D-116, D-97, D-105, D-106, D-126, D-83 and E-34, which are all located east of First Avenue.

Of the seventeen zoning designations mapped in the project area, seven of the avenue zoning districts (R10, R10A, C1-9, C2-8, C2-8A, C5-2 and C8-4) would be decreased by 25 feet and eight mid-block zones (R8, R8B, C1-5 and C2-5 overlays, C1-7, C6-2, C6-3, C8-4) would be increased by 25 feet. None of the manufacturing zones would be increased. The predominate mid-block zoning designation requested for the majority of the project area is R8B (122 blocks).

### **■ Text Amendment: Tower and Plaza Text Change (N 940113ZRM)**

The Department of City Planning proposes to amend the Zoning Resolution provisions (the "text change") affecting new buildings that are partially or predominately residential in high-density zones (R9, R10, C1-8, C1-9, C2-7 and C2-8 zoning districts). C1 and C2 overlay districts would also be covered, to the extent that they are mapped within R9 and R10 zoning districts. Although the text would be applicable citywide, these high-density residential districts are currently mapped in Manhattan Community Boards 2, 4, 6, 7, 8, 10 and 11.

The proposed text would retain the Inclusionary Housing bonus, but would eliminate the plaza bonus for new buildings that are predominantly residential.<sup>1</sup> The plaza bonus would continue to be available for buildings predominantly comprised of community facility uses.

The essence of the new regulations would be the introduction of a "tower-on-the-base" concept, a departure from the existing tower-in-the-plaza building form. The text change proposes a series of control elements to mandate the new building type. These include regulations for a required base, tower, building articulation and a transition zone. DCP anticipates that the new regulations would "achieve the urban design objective of relating new buildings to established neighborhood character and eliminate plaza and arcade bonuses for residential buildings."

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<sup>1</sup> The Department of City Planning defines "predominantly" as including 75% more of a use located in the building.

## Architectural Controls

### Base

The new streetwall would be required to rise to a minimum height of 60 feet and would generally be limited to a maximum of 85 feet.

- The new streetwall would be required to match the streetwall height of any existing building located on a wide street, where that height exceeds 85 feet. The maximum height which the new streetwall would be required to match would be set at 100 feet.
- In a commercial district, the streetwall would be required to extend out to the street line for the entire length of the building, except for a 15-foot permitted (but not required) corner cut.
- In commercial districts, recesses would be permitted above the first story, up to 30% of the building length.
- The new streetwall would be required to align with, i.e., match the location of, the streetwall of the any existing building abutting the site, for a minimum distance of 20 feet measured from the side wall of the existing building.

In residential zones, the new streetwall could set back up to a distance of eight feet of the existing street line, for at least 70% of the building lot line length. The remaining 30% would be permitted to recess beyond eight feet of the streetline in order to provide outer courts, balconies or corner cuts (up to 15 feet in width).

- "Dormers"<sup>2</sup> would be permitted to extend above the streetwall height.

### Tower

- A measuring or "packing" line would be established at 150 feet above street level. At least 60% of the total floor area to be built on the zoning lot would be required to be located below the packing line. The required 60% of floor area below that packing line could be reduced to 55% under certain conditions.
- The tower would be required to cover a minimum of 30%, and would be limited to a maximum of 50%, of the zoning lot area, under certain conditions.

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<sup>2</sup> A "dormer" is an architectural promontory devised to provide articulation above a building's base.

- The portion of the building located above the base would be required to set back at least 10 feet from a wide street and 15 feet from a narrow street, measured from the streetwall of the base.
- The height, shape, width and fenestration of the building above the maximum streetwall height would not be regulated.
- A penthouse (the top four stories or top 40 feet of the tower) would be permitted. Each story of the penthouse would be required to cover no more than 80% of the floor area of the story below.

A "transition zone" is also proposed, to control building height within the portion of the avenue zoning lot extending beyond 100 feet of the avenue, i.e. the 25-foot strip. The height of any new building located within that 25-foot strip would be required to match the adjacent building on the narrow street within a range of a minimum of 60 feet to a maximum of 85 feet. No tower portion of the new building could be located within this area. The unused floor area from 25-foot could be shifted to the portion of the zoning lot closer to the avenue.

#### ■ Text Amendment: Madison Avenue Text Change (N 920663 ZRM)

The proposed text would replace existing sliver building regulations of Section 99-00 (Special Madison Avenue Preservation District) with the more restrictive citywide rules, and would replace the special district's variable sky exposure plane formula with a height limit. The amendments would also include new provisions for building articulation, such as recesses, dormers and penthouses. Finally, the existing parking regulations and grandfather clauses would be eliminated and would be superseded by Section 13-00 of the Zoning Resolution.

The significant changes include:

#### Streetwalls

##### Recesses

- Along Madison Avenue, at least 70% of the streetwall would be required to be located at the street line. The remaining 30% could be recessed to provide outer courts, balconies or corner cutouts (15 feet or less in width).
- Along Madison Avenue, any building having more than 85 feet frontage would be required to recess above the height of twenty feet or at the second story, whichever is lower.

##### Dormers

- A dormer would be allowed within the required setback area above a height of 120 feet.

## **Height**

- The streetwall height of any new building fronting on Madison would be required to extend along a side street for a distance of 70 feet from Madison Avenue.

## **Building Height**

### **Height limit**

A 170-foot height limit would be established.

### **Penthouse**

- A penthouse (defined as the top four stories or 40 feet of a building) would be permitted to exceed the 170-foot height limit and rise to a height of 210 feet, so long as the floor area of each story above 170 feet totalled no more than 80% of the floor area of the story directly below.

## **BACKGROUND**

The traditional pattern of development established on the Upper East Side dates back to the early nineteenth century. The Commissioners' Map of 1811 platted most of Manhattan north of Greenwich Village, which included the Upper East Side. Typically, the map laid out 100-foot-wide avenues running north-south and 60-foot-wide streets running east-west. The map delineated blocks approximately 200 feet deep and 600 or 800 feet long, with the longer dimension running east-west. Each building lot was plotted as a 25-foot-wide by 100-foot-deep parcel. The orthogonal plat encouraged the back yards of the 25-by-100-foot lots to face each other. However, at each end of a block, lots were turned perpendicular to the avenue, resulting in eight 25-foot-wide lots within a 200-foot dimension. This plat provides New York City with a character quite different from Boston's Back Bay, where all parcels face north-south with an alley in between, or Baltimore, where lots on a typical downtown block are oriented like Manhattan's, but with the blocks cut by an H-shaped alley behind the lots, which creates a very different streetscape. In short, each city remains largely a product of its original plat.

In Manhattan, each mid-block had a boundary line between parcels that faced the avenue and those that faced the mid-block. This boundary line created a "seam," a line 100 feet from the avenue running parallel through the block. On the avenue side of the seam there tended to be fewer front doors facing the narrow side streets, because merchants wanted the front door to face the avenue where pedestrian traffic potentially offered more customers. As bigger residential buildings began to appear on the avenues, the owners of these buildings often gave the ground floor frontage on the avenue to higher paying retail tenants and located the apartment front doors and lobbies on the side streets, at the rear of the lot behind the retail space.

When the City of New York passed its first zoning resolution in 1916, it provided for higher density development along the avenues and less density on the side streets. The line of

demarcation between the higher density and lower density districts developed along the seam, 100 feet from the avenue. Manhattan blocks began to take on what we now think of as their intrinsic character, with typically larger buildings at both ends of the block facing the avenue and lower mid-block buildings in between. This pattern tended to reinforce the seams between parcels facing the avenue and those within the mid-block.

In 1961, the Zoning Resolution was amended and high-density zoning was established along major East Side avenues at depths of 125 feet. The new zoning recognized the traditional development pattern that had occurred as a result of the Commissioners' Plat of 1811 and mapped most Manhattan avenues at zoning depths of 100 feet, except on the Upper East Side. The 1961 zoning targeted areas for growth and mapped them as high density zones, e.g., the Upper East Side; this substantially altered development patterns from what had occurred under the 1916 zoning. Generally, this increase of 25 feet in the depth permitted developers to build at higher densities. To increase development potential, developers often purchased or merged lots that included the additional 25 feet. The increase in zoning depth also encouraged the demolition of mid-block low-rise buildings within the additional 25-foot strip. The intrusion of larger buildings into the mid-block and the threat to neighborhood preservation ensued.

The impacts of the 125-foot wide zoning depth were further exacerbated when the City offered bonuses to developers for buildings within high-density residential areas. The most frequently used bonus, the plaza bonus, offered developers an additional 20% density for a relatively inexpensive-to-produce amenity.

During the past 32 years since the 1961 Resolution was adopted, additional bonuses have emerged, including those for subway improvements, pedestrian arcades and affordable housing. With such a menu of bonuses, the underlying principle, particularly on the Upper East Side, has remained the same: simply, that the area could accommodate greater density.

It is estimated that over 100 lots within the 25-foot strip were redeveloped over the past 30 years. The 25-foot increase in the avenue zoning depth made available 10,000 square feet of lot area (4 lots @ 2,500 square feet) of high-density development for each city block. At a maximum 12 FAR (which includes the bonus) an additional 120,000 square feet of floor area could thus be obtained from each city block within the project area, from the extra 25 feet alone.

When the new zoning regulations were enacted in 1961, many large sites were available on the Upper East Side. As time passed, most such sites became built up. Developers adapted development patterns creatively and introduced tower buildings with small floor plates on merged lots. Some towers covered less than 30% of the zoning lot area. For example, the Lucerne on 79th Street and First Avenue covers 21% of the zoning lot and Trump Plaza on 68th and Third Avenue covers 22%. Today, the continuation of tower development is partly due to the changing housing market. According to a New York Times article, "Some specialists say the zoning issue is barely relevant to the already deteriorating rental housing industry. Condominium builders for the most part have depended on high-floor apartments in high land-cost areas to provide them with a profitability to justify construction. They are unlikely to

launch avenue projects with costly and lengthy assemblage and relocation problems without the potential of higher average prices for high floors."<sup>3</sup>

Together, these two changes, zoning depth expansion and plaza bonus, have significantly increased the density on the Upper East Side over the densities that existed before 1961. The combination of the smaller floor plates and the generous plaza bonus caused a new building form to emerge, the "tower-in-the-plaza." The root of the new building form can be traced to the Seagram Building on Park Avenue, built in 1957. The Seagram Building, set back from the street with a plaza, influenced the drafters of the 1961 resolution. Planners and urban designers embraced the concept, in part because the plaza was viewed as a public amenity and the City's obligation to provide and maintain open space could thus be shifted to the private sector. It was also believed that the plaza would assure light and air to the street level. Thus, the "incentive zoning" of the 1961 Zoning Resolution encouraged towers-in-plazas. Although the Seagram Building was an architectural success at its Park Avenue central business district location, when the same building type was developed in residential districts, serious urban design problems began to emerge. Residential buildings towered over the surrounding neighborhood and offered no relationship to the existing urban fabric. Building setbacks and plazas began to erode the unique neighborhood character that had existed on the Upper East Side.

The demolition of low-rise buildings along the traditional seam brought on the advent of "*scar tissue*," a term that refers to the party wall of a building that would normally be covered by an abutting building but then becomes exposed once that structure is demolished. Throughout the Upper East Side, evidence of such scar tissue exists, framing many of the area's plazas. Some attempts have been made to cover up these walls with mortar and paint, but, at best, the condition remains unsightly.

Since the adoption of the 1961 Zoning Resolution, issues related to high-density residential development have generated considerable community concern. Although the tower regulations and plaza bonuses are citywide regulations, the high-density zones are extensively mapped within Community District 8 (Upper East Side). The post-1961 zoning has had a dramatic effect on the quality of life in the Upper East Side community. One measure of this is the number of civic groups that have formed on the Upper East Side to address concerns related to overdevelopment. In the mid-1980's, the civic groups began to urge DCP to reduce the 125-foot avenue depth to 100 feet. One organization, CIVITAS, in 1986, prepared a 10-minute documentary and a publication by the same name called, "No More Tall Buildings," which illustrated the impact of tall buildings on the Upper East Side.

In response to the emerging urban design and community concerns, the City Planning Commission approved several zoning actions during the past decade to address development issues on the Upper East Side. These include revisions to the Special Park Improvement District and to the Special Madison Avenue Preservation District in 1982; special regulations to decrease the development potential on Lexington Avenue in 1983; the mapping of contextual zones

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<sup>3</sup> Oser, Alan. "Perspectives: East Side Housing. Zoning's Potent Impact on Development." The New York Times, 30 September 1990.

throughout the Upper East Side, which included the rezoning of the mid-blocks to R8B in 1984; and in 1990, the rezoning of all major cross streets to R10A contextual zoning.

DCP recognized that the problems of tower buildings and plazas had to be addressed, and in 1989 the Department undertook a study, "Regulating Residential Towers and Plazas: Issues and Options." The purpose of the study was to "resolve these problems in an integrated manner and to offer a comprehensive planning framework for guiding future development." Additionally, the study presented alternatives for public discussion of potential zoning text amendments that addressed the problems with high-density development, zoning lot mergers and the residential plaza bonus. The Department presented six alternatives for public discussion:

- Extend R10A contextual zoning;
- Eliminate tower regulations;
- Modify tower regulations;
- Introduce absolute height limits;
- Regulate zoning lot mergers; and
- Modify or eliminate the plaza bonus.

While civic groups applauded the Department's effort to address the issues, many in the community felt that the study was not comprehensive, because it did not consider the zoning depth issue. The 25 feet thus became an extremely sensitive issue. The civic groups asked DCP to consider reducing the avenue zoning depth, but DCP staff stated that better designed buildings had been built on 125-foot deep sites and that the extra 25 feet was needed for garage entrances. Community Board 8 conducted a survey of buildings with garages and found that DCP's rationale was not supported. Realizing that DCP did not plan to address this issue, in January 1991, Community Board 8 passed a resolution (30-0-1) to file an application on its own behalf for a reduction in the avenue zoning depth along East End, York, First, Second and Third Avenues. Community Board 8 and the civic groups assisted in preparing the application and the Manhattan Borough President provided staff technical assistance and some funding.

Also in 1991, the Department of City Planning assembled a working group of design professionals, community and development industry representatives in an attempt to reach consensus on various elements of the tower and plazas issues. Participants included representatives from DCP, Oculus (a sub-committee of the New York City Chapter of the American Institute of Architects), the Real Estate Board of New York (REBNY) and CIVITAS. Community Board 8 and the Manhattan Borough President's Office also participated as observers. The working group decided to test its ideas on a computer simulation tool at the New School's Environmental Simulation Center, known as "Simlab," for short. Funding for this effort was raised by CIVITAS and REBNY. Design criteria were established for specific soft sites and for over a year, the participants tested their ideas in the Simlab and in October of 1992, each group presented its proposal at a public forum at the Dalton School. Soon after, the Simlab sessions ended.

Several weeks before the Dalton School presentation, Community Board 8 and the Manhattan Borough President filed the ULURP application to reduce the avenue zoning depth on the Upper East Side. During 1993, DCP reviewed the rezoning application and also finalized its own

proposed text amendments for towers and plazas; on August 16, 1993, the City Planning Commission certified both applications for public review. It is noteworthy to point out that in its proposed text, DCP included a provision it called a "transition zone," that addressed the 25-foot strip. The proposed transition zone would protect the lower streetwall for the portion of the zoning lot extending beyond 100 feet of the avenue, but would still allow the bulk from that area to be shifted to the high-density portion of the lot.

Meanwhile, along Madison Avenue, the construction of a 28-story apartment building on 85th Street, caused a number of community groups to re-examine the Special Madison Avenue Preservation District text. A study in 1988 by Buckhurst Fish Hutton Katz & Jacquemart Inc., found that two loopholes in the current regulations were inconsistent with city policies and could produce developments that were out of character with what the Special District regulations had intended. The first inconsistency stemmed from a 1982 Madison Avenue text change that removed the "19-story or 210 foot height limit" and replaced it with a variable sky exposure plane formula. The second inconsistency occurred in the sliver regulations. The provisions for sliver buildings within the Special Madison Avenue Preservation District preceded the adoption of the citywide sliver regulations, which are now more restrictive. DCP recognized these inconsistencies. After months of consultations, Carnegie Hill Neighbors and Community Board 8 filed an application to amend the text. As consultations continued, DCP introduced new architectural elements to accompany the text change.

## **SUMMARY OF COMMUNITY BOARD ACTIONS**

Community Board 8 held a public hearing on the applications on September 21, 1993, and on October 13, 1993 voted 23 in favor to 3 with 0 abstentions to support the rezoning application. By a similar vote (23-0-3), the Board voted to support the text change, on condition that it be approved simultaneously with the rezoning application. The Board stressed its desire to reduce the avenue depth, emphasizing its view that fairness dictated that zoning depths in Community Board 8 should conform to the standards applied in other residential districts in the borough.

On Text Amendment #1, the Board requested modifications to the match-up rules and streetline setbacks, to allow landscaping and address some of REBNY's concerns. Also, the Board supported an Oculus suggestion to encourage windows on all sides of towers, through a transition zone below the tower. The Board highlighted other concerns regarding the plaza bonus, institutional expansion and bonuses for community facilities; it re-emphasized its concern for preserving affordable housing, neighborhood context and mid-block contextual zoning.

Regarding Text Amendment #2, the Board adopted a resolution (27-0-4) supporting the amendments, including a height limit identical to the restriction under the Special Park Improvement District, i.e., 19 stories or 210 feet, whichever is less. The Board pointed out that the predominant character along Madison Avenue is a mixture of buildings that are 6-stories or less and pre-war apartment buildings that are 18-stories or less, and that only six buildings exceed the 18 stories. Furthermore, the Board emphasized that the existing text easily permits buildings to exceed the existing 18-story context, as had occurred with the 28-story building at 30 East 85th Street. The Board strongly urged the Commission to act on the item expeditiously.

**Community Board 11** adopted a resolution recommending approval of Text Amendment #1, on the condition that the zoning map amendment be simultaneously approved. The Board essentially concurred with the concerns and recommendations adopted by the Manhattan Borough Board (see below).

**Community 7 and 10** discussed the proposed tower and plaza text change but did not take any action. However, Board 10 has voted to send a letter supporting the zoning map amendment.

**Community Board 6** supported the proposed applications (i.e., the zoning map amendment and Text Amendment #1) and made several other recommendations: the 125-foot zoning depth should be reduced to 100 feet; tower coverage should range from 30 to 40% of lot size; DCP should expedite its planned changes to the community facility zoning regulations, especially amendments to eliminate additional floor area and require community facilities to be compatible with existing neighborhood character; the Planning Commission should explore regulations that would prevent the conversion of community facility buildings to residential buildings; and the Commission should consider the design recommendations developed by Oculus. Board 6 added that the Commission should re-evaluate the text change in the future and should then modify the text to allow greater articulation and design flexibility by permitting a lower percentage of floor area below the 150-foot packing line. Finally, the Board requested that the Commission amend the community facility use group classification.

**Community Board 4** adopted a resolution supporting Text Amendment #1, on condition that the community facility plaza bonus be made discretionary or eliminated altogether. The Board raised concerns over the possible abuse of converting community facilities to residential use.

**Community Board 2** adopted a resolution recommending approval of Text Amendment #1, on the condition that several concerns be addressed: the proposal as framed would continue to allow unlimited transfer of development rights, which the Board questioned; the Board also urged that the new regulations not be designed to promote streetwall recesses in that building base recesses could alter historic neighborhood character; the Board commented that the proposed small setbacks might not be sufficient to mask the size of towers; and the Board protested that the proposed text does not fully address community facility buildings. The Board applauded DCP for recommending the elimination of the plaza bonus, but emphasized that its outstanding concerns with tower development had still not been addressed.

## **SUMMARY OF BOROUGH BOARD ACTION**

On November 18, 1993 the Manhattan Borough Board unanimously adopted a resolution supporting Text Amendment #1, on condition that the zoning map amendment would also be approved. The Borough Board basically concurred with the resolutions adopted by Community Boards 2, 4, 6 and 8 and resolved that the City Planning Commission should: expedite the completion of the community facility text change; develop bulk regulations to address tower-on-a-base zoning for community facilities, including the elimination of excess additional floor area; develop rules that will prevent new tower and plaza buildings from being converted to residential buildings; and review the Oculus recommendations to encourage more design flexibility.

## **SUMMARY OF BOROUGH PRESIDENT PUBLIC HEARING**

On November 18, 1993, the Borough President held a public hearing at the Urban Center on the zoning map amendment and the tower and plaza text change.

Councilmember Andrew Eristoff, as well as the representatives of other elected officials of the Upper East Side, strongly supported the zoning text amendment and the proposed tower and plaza text change. Among those testifying were: Margaret Newberry from Senator Roy Goodman's office; Donelle Gladwin from Assemblyman Pete Grannis' office; Jeanne Walker from Congresswoman Carolyn Maloney's office; Judy Marcus from Councilmember Charles Millard's office and Lisa Robin Guido from Assemblyman John Ravitz's office.

Michael Slattery, Senior Vice-President of the Real Estate Board of New York, stated that the zoning map amendment, while ostensibly designed to preserve mid-blocks and affordable housing, was in reality an attempt to reduce density. Mr. Slattery stated that the previous zoning actions and lot assemblage constraints already protect the mid-block areas and added that the transition zone proposed by DCP would further ensure neighborhood preservation. He stated that the effort to reduce zoning depth to control density was directed at the wrong target, because, while the number of housing units had increased by 82% over the past 40 years, the area's population has increased by only 2,000 people. He added that the perception of overcrowdedness may be due to daytime workers.

Warrie Price, Chair of Community Board 8, discussed the community-based process and praised the involvement and technical assistance from the office of the Borough President and CIVITAS. She expressed the Board's support for the tower and plaza text change and articulated the elements it strongly supported, as well as those it found problematic. She closed her remarks by emphasizing that the text change should only be approved in conjunction with the zoning map amendment, to ensure preservation of the neighborhood character within the 25-foot strip.

Ken Lowenstein from the law firm of Rosenman and Colin, testified on behalf of Leonard Litwin, the principal owner of the ASPCA site. He testified that the proposed text change and rezoning would adversely affect the project. Mr. Lowenstein requested that the grandfather provisions proposed by DCP for previously approved special permits be retained and the map change terminate at East 91st on York Avenue, to exclude the ASPCA site.

Jim Gauer, a representative of Oculus, commended DCP for its efforts and summarized the working group sessions. He disagreed with the packing the bulk tool and questioned the use of dormers and penthouses to achieve building articulation. He testified that Oculus supports the zoning map amendment and is finalizing further recommendations for the tower regulations.

Costos Kondylis, an architect, testified that the text change was a radical change which would take the zoning from one extreme to another. He was concerned that the elimination of the plaza bonus would eliminate open spaces along the avenues, thereby reducing the amount of sunlight. He also stated that the streetwall context along Third, Second and First Avenues is difficult to define, and added that matching the height of an existing streetwall could be

problematic. He further stated that the discussions regarding the text change had not fully addressed building interior issues, with the consequence of the proposal potentially being apartments with deeper and darker interiors. He suggested that the streetwall be limited to 60 feet to minimize the number of deep apartments.

Linda Davidoff, President of the Parks Council, expressed her concern that the zoning ordinance had not been used effectively as a means of controlling density. She cited a Women's City Club statement that called for the reevaluation of floor area ratios throughout the city that could be used to channel opportunities for growth in appropriate areas. She added that mandated public open spaces should accompany new developments, rather than bonused plazas.

Robert Flahive, Director of the Manhattan Office at the Department of City Planning, summarized the improvements of the proposed text change. He noted that zoning was a blunt instrument, but said that ongoing discussions would continue to refine the regulations. The Department is completing a study of community facility regulations, which should be released in December. According to Mr. Flahive, that report would probably include recommendations regarding certain community facility uses in high-density residential districts.

Terri Slater, Vice-President of Friends of the Upper East Historic Districts, wholeheartedly urged approval of the rezoning. Ms. Slater described the efforts of the community to improve the zoning on the Upper East Side. She added that the proposed rezoning was a natural extension of those efforts.

Ed Rubin, Land Use Chair of Community Board 6, opened his remarks by stating that the plaza did not work well in Manhattan, even after CPC revised the plaza text. He went on and summarized the major points of the resolution adopted by Community Board 6.

Sherida Paulsen, an architect, participated in the Oculus study group and later as a member of a REBNY tower and plaza subcommittee. Her testimony focused on the design implications of the rezoning and packing the bulk concept. She stressed that the rezoning would diminish the site area for tower footprints and should be re-visited. Ms. Paulsen added that the concept of packing the bulk would negatively affect a developer's ability to provide efficient apartment layouts and create alternative spaces.

Tom Balsley, a landscape architect, and a member of a group of landscape architects that had reviewed current plaza guidelines and prepared a report, discussed the benefit of plazas and recommended that the plaza guidelines be retained and improved.

Elizabeth Ashby, President of Carnegie Hill Neighbors, supported the rezoning and voiced her concern that the affordable units already lost on the Upper East Side may not be easily replaced. She added that the opportunity to protect existing low and moderate housing was extremely important. She urged the Commission to look into the community facility loopholes and praised the regulations that encourage building articulation. Ms. Ashby explained how additional density could further exacerbate the problems with electrical brown-outs and water supply problems.

Genie Rice, President of CIVITAS, thanked the various participants, sponsors and volunteers involved in addressing high-density residential development and urged that DCP's text change should not move forward until the zoning depth is restored to 100 feet.

Sherry Lourie spoke on behalf of Betty Wallerstein, President of the East 79th Street Neighborhood Association. Ms. Lourie expressed the Association's support for the remapping application and she described the Upper East Side as a community that was overbuilt, undeserved by transportation, sewage and sanitation services.

Reita Cash, representing the 200 East 87th Street Block Association, supported the application. She stressed the need for preserve the quality of life, protect the existing scale and retain existing affordable housing units.

James Neff, Treasurer of the East Side Improvement Society, explained that the mission of his organization was to prevent homelessness by intervening in tenant-landlord disputes and requested that the rezoning be approved to help preserve affordable housing units.

Margaret Parker, representing the 300 East 87-88th Street Block Association, supported the rezoning application. She stated that protection should extend to the working class and large senior citizen population residing in the area.

Lawrence Hickey, President of Joneswood Properties, supported the rezoning application because it would create uniformity and correct past injustices in the area.

Lee Legget, of the York East 89th Street Block Association, talked about the lack of sunlight and the mixed income nature of the neighborhood. He commended DCP for its work, but he requested that the avenue depth be reduced.

Nan Weir, a member of 84th Street Association who lives next to a vacant lot, expressed her concern about the vanishing low-rise character and loss of brownstones on the Upper East Side.

Dawn Sullivan, Eastside Tenants Coalition, supported the reduction of the avenue depth. She expressed concern about losing additional affordable housing units. She had thought that the enactment of inclusionary housing regulations would help ensure a mixed income community, but stated that it had not, because people who were displaced had not been able to return to Upper East Side. She added that many of the older buildings located along the side streets are affordable and should be preserved.

Roberta and Raphael Hodgeson submitted written testimony that stated their support for the rezoning and the positive affects it would have on light and air.

## **BOROUGH PRESIDENT ACTION (ULURP No. C 930136 ZMM)**



The Manhattan Borough President recommends approval.

The Manhattan Borough President recommends disapproval.

The Manhattan Borough President recommends approval, subject to the conditions detailed below.

The Manhattan Borough President recommends disapproval, unless the conditions detailed below are addressed as described.

## **COMMENTS**

### **Zoning Map Amendment**

Along with the Manhattan Borough Board, Community Boards 6, 8, 10 and 11 and Oculus, the Borough President strongly supports the rezoning application to reduce the avenue zoning depth from 125 to 100 feet. The rezoning does raise certain issues, e.g., a reduction in bulk on the existing soft sites, a reduction in potential dwelling units, a reduction in commercial space and various impacts on previously approved special permits. However, the rezoning application comports fully with sound planning principles and is compatible with zoning patterns throughout Manhattan. The proposed rezoning would protect neighborhood character and preserve affordable housing units located within the 25-foot strip. The proposed zoning map amendment would also be consistent with the trend elsewhere in New York City during the past four years, where ten ULURP applications have been submitted seeking a reduction in the avenue depth from 125 to 100 feet; seven were approved, three are pending.

#### **• Compliance**

At this point in time, about 65% of the streetwalls within the 25-foot strip would comply with the zoning requested. This level of compliance exceeds the percentage of compliance existing at the time the R10A wide street rezoning (a DCP-sponsored action) was approved in 1990. Under that application, streetwall compliance ranged from 49% to 54%.

#### **Conformance**

Analysis of the project area revealed that within the 25-foot strip, 83.4% of the land uses conform to the proposed zoning. Of the 16.6% of the land uses that do not, a substantial amount are either buildings built on 125-foot-deep lots with ground floor commercial uses or smaller existing buildings with ground floor commercial uses.

#### **• Density and Development Potential**

The Borough President recognizes that the Upper East Side's population has increased in the past 40 years by only 2,000 residents. Although the overall density has thus increased by only one

percent since 1950, Community District 8 ranks first in New York City in population density (166 people per acre) and ranks first in housing density (108 units per acre). Census data shows that 58,000 units were developed on the Upper East Side after the 1961 zoning was passed, which accounts for almost half (43%) of the existing housing stock in the district. Most of the new apartments constructed have been studios and one bedroom units, and as a result, the average number of persons per households dropped to 1.7. Furthermore, the demographic shift during the same time period has been significant; large households and families no longer make up the majority of the Upper East Side. As of 1990, 60% of the adult population (15 years and older) are either separated, widowed, divorced or have never been married.<sup>4</sup> It is very likely that the overcrowdedness that the community perceives, may be caused by the high number of pedestrian trips generated by the large single population, especially at peak hours.

According to the Metropolitan Transportation Authority (MTA), the Lexington Avenue subway is one of the most heavily taxed routes in the entire subway system and is actually operating in excess of capacity during the morning rush hour. Above ground, substantial increases in vehicular traffic also attest to the conditions of congestion.

To determine development potential on the Upper East Side potential soft sites were identified. The criteria<sup>5</sup> identified a total of 58 soft sites within the project area. About half (26 sites) of these soft sites include lots within the 25-foot strip. However, many community residents and civic groups believe that additional soft sites exist. Throughout the study area, five- and six-story buildings flank the avenues; DCP criteria disqualify these sites as "soft", because of the State regulations protecting rental occupancy in residential buildings with at least four occupied dwelling units. Notwithstanding, history shows that there remains a significant possibility for such buildings to be vacated and sites to be assembled that include mid-block buildings within the 25-foot strip. Thus, any list of existing soft sites is but a snapshot in time and can increase or decrease depending on a number of factors. This proposed rezoning would better protect the mid-block buildings from this type of development pressure.

Under existing zoning, there is a potential for 2,596 dwelling units on the 26 soft sites that include portion of the 25-foot strip. The zoning map amendment would reduce this to 1,746 -- a loss of potentially 850 dwelling units. The proposed rezoning would also reduce the maximum potential floor area on these sites, except if the split lot provisions apply (see page 17). When compared to the existing residential high-density zoning, the additional 25-foot by 100-foot area represents a potential 25,000 square foot (at 10 FAR) or 30,000 square feet (at 10 FAR with a

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<sup>4</sup> The figures cited were obtained from the Department of City Planning's Demographic Profiles (August 1992) and Socioeconomic Profiles (March 1993).

<sup>5</sup> A "soft site" is a lot or an assemblage of lots that can be considered as likely to be developed, based on certain criteria. The Department of City Planning sets the following criteria for soft sites: vacant lot; underbulk institutional structures; underbulk "taxpayer" structures; underbulk predominantly commercial buildings; underbulk residential buildings on a frontage greater than forty-five feet; and residential buildings with less than five occupied units. An "underbulk" buildings represents 60% or less of the floor area permitted by zoning.

2 FAR bonus) of additional floor area. Based upon an average floor plate of 4,500 square feet, the rezoning could thus reduce the potential height of a building by about 5 to 7 stories.

The Upper East Side cannot continue to absorb a significant amount of development without some further attention to issues of infrastructure capacity. According to DCP, its proposal assumes that the Second Avenue subway will eventually be built to handle the additional density. In fact, while federal funds have been allocated to the MTA to study the feasibility of the Second Avenue subway, the MTA's 20-year plan does not include funds for such a project. In light of the fact that the Upper East Side is the most dense community in New York City, the 58,000 units that have been developed there during the past 30 years, and the potential for thousands more, this proposed reduction in development potential appears to be reasonable.

- **Light and Air**

Another significant impact that is caused by high-density zoning is the reduction in light and air. CIVITAS, in its film, "No More Tall Stories," first illustrated the effect of tall buildings in low-rise residential neighborhoods. The analysis was performed by the Simulation Laboratory at the University of California, Berkeley and the Project for Public Spaces. Simulation studies explored the impacts of tall buildings, such as the down draft of wind patterns (called the "Monroe Affect," named after Marilyn Monroe) and the reduction of light and air. The Manhattan Borough President has advocated for increased attention to "light and air" in the environmental review process. The issue was raised by the Borough President during the review of Hospital for Special Surgery's and New York Hospital's proposals to expand over the FDR Drive, adjacent to the East River Esplanade. Although the esplanade itself would not be in shadow, the Manhattan Borough President's ULURP report articulated the impact of a 70 to 100-foot high building, 700 feet long, adjacent to a 16-foot-wide esplanade. In 1993 when commenting on the Draft City Environmental Quality Review Manual, the Manhattan Borough President specifically recommended the inclusion of "light and air" as a visual resource to be studied.

The best illustration of this issue came from a representative of an Upper East Side elected official, who stated that when neighborhood residents had complained about the noise generated from a motorized traffic directional sign on York Avenue, the Department of Transportation had proposed the installation of a solar-powered sign. Unfortunately, the sign proved to be inoperable because of the lack of sunlight.

### **Affordable Housing**

**The Borough President supports retention of the Inclusionary Housing Bonus and supports the preservation of existing affordable housing units within the 25-foot strip.** The Upper East Side, specifically the area within the boundaries of Manhattan's Community Board 8, extending from Fifth Avenue to the East River and from 59th Street to 96th Street, is generally regarded as the most affluent neighborhood of New York City. The high-rise luxury apartments facing Central Park, the luxury apartments on Madison and Park Avenues, the townhouses on the mid-blocks extending from Fifth Avenue to Lexington Avenue, and the high rise apartments facing the East River, all give credence to this perception.

During the 1980's, the Upper East Side became more affluent. For example, approximately 15,000 units were constructed between 1980-1990. During the same 10-year period, 2,317 units that had been in structures containing 10 to 19 units were lost, over 5,000 units that were built before 1949 were demolished, the number of renter occupied units decreased by 13.4%, female-headed households decreased by 26.9%, persons and families in poverty decreased by an average of 25%. In contrast there was a 40% increase in median income for households and families and a 64% increase in median income for nonfamily households. By 1990, tenements and townhouses represented 18% of the districts housing stock.<sup>6</sup>

The loss of tenement units does not begin to describe the social consequence of those changes. Because of the scarcity of available sites within Board 8 for off-site affordable housing, it is likely that most of the bonused affordable housing sites would be selected outside the district. Rather than strengthening the heterogeneity of the community, the affordable housing program, when used, thus sometimes further segregates neighborhoods by income and by relocating poorer households outside of the Upper East Side. Meanwhile, as of 1989, the 25-foot strip contained approximately 1,800 dwelling units.<sup>7</sup> The Borough President strongly supports the zoning map amendment as one further tool for the preservation of affordable units within this area.

The Borough President is concerned about one previously approved special permit that has been brought to her attention as potentially affected by the zoning map amendment. The site, the location of the former ASPCA building, is located between East 92nd and 93rd Streets on York Avenue; it falls partially within an R10 zone and partially within an R8 zone. The developer proposes to construct 272 dwelling units as an 80/20 project, meaning that 55 units would be designated for low income households. Other project components would include ground floor commercial space, a plaza and an attended 137-space parking garage. Additionally, the developer plans to reconstruct a portion of the East River Esplanade and contribute to its maintenance fund. DCP has proposed to "grandfather" this permit against any loss of the plaza bonus; if the site is now rezoned as proposed in the zoning map amendment, 40 market rate units would be lost, along with some ten low-income units.

**The Borough President is concerned about the preservation of the neighborhood context as well as affordable housing in the Upper East Side and, therefore, requests that the ASPCA site be studied further during the course of the remaining ULURP period.**

#### **Split lot provisions**

Chapter 7 of the Zoning Resolution (Special Provisions for Zoning Lots Divided by District Boundaries), proscribes special conditions for any zoning lot located in two or more districts. Under certain lot size conditions, the provisions under § 77-211 could exempt a developer from complying with the bulk regulations of any new zoning designation, such as the proposed zoning

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<sup>6</sup> See footnote 4.

<sup>7</sup> CIVITAS Committee, Craig Whitaker Architects. Buckhurst Fish Hutton and Katz, Professor Willard Hansen and Gerard Haizel of New York University Graduate School of Public Administration, "Upper East Side Study: A Draft for Discussion," October 1989.

map amendment, if the regulations are approved *after* the zoning lot was created. In other words, it is possible that this rezoning, if approved, would have little or no effect on certain soft sites. There are about nine split lot buildings (R10/R8) that were constructed between 1978-1987 and, although the R8B contextual zone was mapped in the mid-blocks during 1984, the split lot provisions continued to permit developers to intrude into the mid-block. Examples of split lot buildings include the 50-story Bristol on East 65th Street and the 40-story Saratoga on East 75th Street. It is unclear how many of the 26 soft sites within the project area would be exempt, because the split lot provision is based on ownership records and other zoning lot arrangements that are difficult to identify. Therefore, the Borough President urges the Commission to study the appropriateness of the split lot provisions and consider amending the Zoning Resolution to limit or eliminate these preferences.

#### **Commercial floor area**

The proposed rezoning would reduce the potential of commercial development by approximately 79,553 square feet. This reduction, which would affect the 25-foot-strip between 100 and 125 feet of the avenue, would not adversely affect retail continuity on the Upper East Side. Existing stores would be grandfathered as existing non-complying uses. New stores could easily be accommodated on avenue frontages where pedestrian traffic is greater, leaving side street frontages for residential entrances.

#### **Text Amendment #1 (Tower and Plaza Text Change)**

The Borough President generally supports this text change and applauds the Department of City Planning for recognizing the problems created by the existing tower and plaza regulations and for putting forth amendments addressing these issues. The Department should also be commended for reaching out to the civic, design and development communities to formulate the text changes. The Borough President is further pleased that all provisions for tower regulations for R7-2 and R8 zones were removed from the draft text, as a result of the concerns she had expressed prior to certification.

- **Architectural Controls**

Members of the design and development community have stated that the proposed text amendments would constrain interior layout, force developers to waste floor area, and force articulation to be lumped at the top or base of the building. According to REBNY, the packing the bulk concept would drive the floor to ceiling heights of a building's lower floors to be lower and it would restrict the floor to ceiling heights of retail space. The Borough President agrees that the "packing the bulk" requirement would discourage design flexibility.

The Commission should consider substituting a minimum coverage requirement for the packing requirement, because packing the bulk continues to be a problematic tool to control zoning lot mergers. The Commission should also consider the Oculus recommendations, such as the "building transition zone" to encourage windows on all four sides of the tower (the proposed tower-on-the-base concept does not sufficiently encourage legal lot line windows) and new provisions to allow articulation to be applied throughout the buildings' surface (rather than being limited to the base and top).

- **Residential Plaza Bonus**

As of 1990, plazas accounted for 20% of the open space on Upper East Side. Although plaza zoning regulations were revised and improved in 1977, area residents and civic groups continue to raise concerns regarding plazas that are poorly-located, underutilized and fail to meet the original intention of ensuring adequate light and air at the street level. Thus, the estimated five acres of residential plazas in Community District 8, taken in combination with the permitted additional density, has done very little to mitigate the area's severe open space shortage. Moreover, these problems with plazas are not isolated just on the Upper East Side. Several other Community Boards have complained of similar problems and have also indicated that the plaza bonus competes inappropriately with the Inclusionary Housing bonus.

The Borough President has long favored the elimination of the plaza bonus. Recognizing the severe open space needs of dense residential communities throughout the Borough of Manhattan, the Borough President believes that development should address such needs on a mandatory basis --either by creating new public open space, where feasible and appropriate, or by providing meaningful enhancements to increase public use and enjoyment of existing (often sadly neglected) open spaces.

**The Borough President agrees with the Manhattan Borough Board and these various Community Boards that the elimination of the residential plaza bonus is long overdue. Making Inclusionary Housing the only floor area bonus available should ensure the construction of more affordable housing units. Also, the elimination of the plaza bonus would reinforce retail continuity, maintain streetwalls and reduce the potential exposure of "scar tissue."**

#### **Transition zone**

**The Borough President agrees with Community Board 8 and believes the 25-foot strip transition zone would be an effective tool to protect the height beyond the high-density avenue zoning depth, but only if the zoning map amendment is also approved. The transition zone and the zoning map amendment together would reduce the potential negative impacts of such quirks in the Zoning Resolution as the split lot provision. Approval of the transition zone alone, by contrast, would not discourage the demolition of buildings located beyond 100 feet of the avenue.**

#### **Community facilities**

The significant change proposed under Text Amendment #1 would be the elimination of bonuses for plaza and arcade buildings that are "predominantly" occupied by residential use. Buildings that are "predominantly" occupied by community facility uses could continue to utilize the plaza and arcade bonuses. Since the text change primarily affects Community Districts 6 and 8, hospitals, health-related facilities, nursing homes and dormitories would benefit most from these provisions.

Failure to eliminate or restrict the plaza bonus for community facilities is troublesome. The existing regulations already allow community facilities to be built larger than residential buildings in many zones. Allowing plaza bonuses for community facilities in residential areas

in exchange for plazas does not appear to further sound planning; indeed, DCP itself acknowledges that these are typically "poorly located, ill-designed and underutilized." Furthermore, the liberal zoning regulations will be most problematic in Community Districts 6 and 8, where land use impacts associated from the expansion of institutions remain major policy issues. This proposed text change would thus perpetuate the problem of excess bulk for community facilities.

**The Borough President agrees with the Manhattan Borough Board and urges the Commission to examine the impact of the plaza bonus for community facility buildings. At a minimum, the Commission should ensure that community facility buildings cannot be easily converted to residential buildings.**

### **Text Amendment #2 (Madison Avenue Text Change)**

The Borough President compliments Carnegie Hill Neighbors and Community Board 8 for their diligence in pursuing this text change proposal. The Borough President recognizes that there remains some disagreement regarding the language proposed for Section 99-055 (Maximum Building Height) of the text. The applicants' preferred language ("19 stories or 210 feet, whichever is less") would in many cases, decrease the potential height of penthouses from 40 to 20 feet. But "19 stories or 210 feet" was the height limit that was previously part of the Special Madison Avenue Preservation District prior to 1982 and is currently the applicable height limit for the Special Park Improvement District, which covers Fifth Avenue. **The Borough President believes the applicants' request is reasonable and agrees with Community Board 8 that the Commission should adopt the alternative provision, i.e., a height limit which would also be identical to the Special Park Improvement District.**

## **CONCLUSION**

A significant amount of advocacy, analysis and organizing effort resulted in the development of these various proposals. In particular, the Borough President congratulates the Department of City Planning, Community Board 8, CIVITAS, the Real Estate Board of New York, Craig Whitaker Architects and Oculus for their outstanding commitment to this process for addressing the issues related to high-density development and residential plazas, and commends Carnegie Hill Neighbors for its similar commitment with regard to Madison Avenue.

From the film produced by CIVITAS to the discussion document prepared by the Department of City Planning to the Simlab working sessions, these proposals were produced by a process that effectively utilized many tools to explore the best solutions for the high-density residential districts. This planning process exemplifies how the civic, design and development communities can come together and tackle a very complicated set of issues and should serve as a model for future initiatives.

Taken in sum, these proposals provide an opportunity to preserve the neighborhood character and urban fabric of the Upper East Side and similar high-density residential areas. The Borough President strongly supports all three proposals.

Report and Recommendation Accepted:



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Ruth W. Messinger  
Borough President