

Appendix E
Written Comments Received on the
Draft Environmental Impact Statement

Borough President Recommendation

City Planning Commission
120 Broadway, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application No.: **C 200052 ZMM, C200050 ZSM, N 200051 ZRM, 200054 ZSM, N 200053 ZAM**

Docket Description:

IN THE MATTER OF a private application by Lenox Terrace Development Associates, an affiliate of the Olnick Organization, Inc. ("Applicant") pursuant to §§ 197-c and 200 of the New York City Charter, seeking approval of five land use actions to facilitate the development of 5 new 28-story mixed-use buildings and one 6-story building containing a total of approximately 1,533,389 zoning square feet located at the Lenox Terrace superblock (Block 1730, Lots 33, 36, 40, 45, 50, 52, 64, 68, and 75), Borough of Manhattan, Community District 10.

IN THE MATTER OF a private application by Lenox Terrace Development Associates, an affiliate of the Olnick Organization, Inc. ("Applicant") seeking approval of:

1. An amendment to Zoning Map 6a to rezone the Project Area from R7-2/C1-4, to a C6-2 zoning district
2. A Zoning Text Amendment to Appendix F of the Zoning Resolution of the City of New York to designate the Project Area as a Mandatory Inclusionary Housing Area
3. A Special Permit for a large scale general development pursuant to Zoning Resolution § 74-743(a)(2);
4. Special Permit to waive parking requirements pursuant to ZR § 74-533;
5. An authorization pursuant to Zoning Resolution § 25-631(f)(2) to modify curb cut requirements

To facilitate to facilitate the development of 5 new 28-story mixed-use buildings and one 6-story building containing a total of approximately 1,642 new dwelling units ("DU"), Borough of Manhattan, Community District 10.

COMMUNITY BOARD NO: 10

BOROUGH: Manhattan

RECOMMENDATION

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE
- DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

John A. Brewer

December 16, 2019

BOROUGH PRESIDENT

DATE



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

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Gale A. Brewer, Borough President

December 12, 2019

**Recommendation on ULURP Applications C 200052 ZMM, C200050 ZSM, N 200051 ZRM,
200054 ZSM, N 200053 ZAM**

PROPOSED ACTION

This is a private application by Lenox Terrace Development Associates, an affiliate of the Olnick Organization, Inc. (“Applicant”) pursuant to §§ 197-c and 200 of the New York City Charter, seeking approval of five land use actions to facilitate the development of 5 new 28-story mixed-use buildings and one 6-story building containing a total of approximately 1,533,389 zoning square feet located at the Lenox Terrace superblock (Block 1730, Lots 33, 36, 40, 45, 50, 52, 64, 68, and 75) bounded by West 132nd and 135th streets and Lenox and Fifth avenues in the Borough of Manhattan, Community District 10 (“CD10”). When completed, the project is expected to comprise 1,387,350 zoning square feet of residential use, 131,435 zoning square feet of commercial use, and 14,603 zoning square feet of community facility use.

The land use actions are:

An amendment to Zoning Map 6a to rezone the Project Area from R7-2/C1-4, to a C6-2 zoning district

A Zoning Text Amendment to Appendix F of the Zoning Resolution of the City of New York to designate the Project Area as a Mandatory Inclusionary Housing Area

A Special Permit for a large scale general development at Block 1730, Lots 1, 7, 9, 25, 33, 36, 40, 45, 50, 52, 64, 68, 75 (“The Development Site”) pursuant to Zoning Resolution § 74-743(a)(2) to modify height and setback, and minimum distance between buildings requirements;

Special Permit to waive parking requirements pursuant to ZR § 74-533;

An authorization pursuant to Zoning Resolution § 25-631(f)(2) to modify curb cut requirements

The proposed actions would also include the recording of a Restrictive Declaration and (E) Designation¹ to commit future development of the site in accordance with approvals and any necessary mitigations.

¹ A document a property owner records against title that binds current and future site owners to undertake any required testing and remediation as part of the proposed development of a building.

Pursuant to ZR § 74-743(a)(2), the City Planning Commission may permit modifications to the location of buildings without regard for the applicable yard, court, distance between buildings or height and setback regulations.

Where a proposed Project involves a phased construction program of a multi-building complex, the Commission may, at the time of granting a special permit, require additional information, including but not limited to a proposed time schedule for carrying out the proposed large-scale general development; a phasing plan showing the distribution of bulk and open space; and, in the case of a site plan providing for common open space, common open areas or common parking areas; a maintenance plan for such space or areas; and guaranteed continued availability of such space or areas to the people they are intended to serve.

The Commission may also prescribe additional conditions and safeguards to improve the quality of a large-scale general development, and to minimize adverse effects on the character of the surrounding area.

Pursuant to ZR § 74-533, the City Planning Commission (“CPC”) may permit waiver of, or a reduction in, the number of required accessory off-street parking spaces for dwelling units in a development or enlargement that includes at least 20 percent of all dwelling units as income-restricted housing units as defined in ZR § 12-10, provided that the CPC finds that such waiver or reduction:

- Will facilitate such development or enlargement. Such finding shall be made upon consultation with the Department of Housing Preservation and Development;
- Will not cause traffic congestion; and
- Will not have undue adverse effects on residents, businesses or community facilities in the surrounding area, as applicable, including the availability of parking spaces for such uses.

Additionally, the CPC may impose appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

In evaluating these land use actions, the Office of the Manhattan Borough President must consider if the proposed language meets the underlying premise of the Zoning Resolution of promoting the general health, safety, and welfare of the neighborhood in which the project is being proposed, and whether the development would be appropriate to the neighborhood. Any changes to the Zoning Map should be evaluated for consistency and accuracy, and given the land use implications, appropriateness for the growth, improvement and development of the neighborhood and borough. In evaluating the text amendment, the Borough President’s Office must consider whether the amendment is appropriate and beneficial to the community and consistent with the goals of the MIH program.

BACKGROUND

The Project Area is located in Harlem, the neighborhood globally known as the major cultural, residential, and economic center for the Black community. The Harlem Renaissance, recognized as the “golden age” of African American culture in the 20th Century, was concentrated in Central and West Harlem. It was a period of cultural, intellectual, social, and artistic innovation that produced a legacy inseparable from the area’s identity.

The Project Area is the location of the Lenox Terrace development, a superblock development comprising six 16-story residential towers, and five one-story commercial buildings. Parcels within the superblock are owned by varying parties, including one city-owned parcel (Lot 55), one parcel owned by Catholic Charities of the Archdiocese of New York (Lot 16), and one owned privately (Lot 65). The parcels comprising the Development Site are all owned by the Olnick Organization, Inc.

The Lenox Terrace superblock development was built in the late 1950s pursuant to the Harlem Urban Renewal Plan which was originally adopted by the City Planning Commission (“CPC”) and Board of Estimate on February 20, 1952. The Harlem Urban Renewal Plan expired in 1992. The Lenox Terrace development was one of the first developments built pursuant to Title I of the Housing Act of 1949. The development has been recognized for its cultural association with prominent African Americans in the Harlem community. Residents have included author Alex Haley, former Manhattan Borough President Percy E. Sutton, former New York State Secretary of State Basil A. Paterson, and musician Charles Mingus Jr.

Site Description

The Project Area covers all of Block 1730, a superblock bounded by West 132nd Street to the south, Fifth Avenue to the east, West 135th Street to the north, and Lenox Avenue to the west. The proposed Development Site encompasses lots 1, 33, 40, 50, 52 and 68.

The Project Area is located within an R7-2 zoning district and C1-4 commercial overlays. R7-2 districts permit medium density residential buildings and community facility uses with a maximum residential FAR of 3.4 up to 4.0 for Quality Housing buildings, and a max FAR of 6.5 for community facility uses. The C1-4 commercial overlay is are mapped at a depth of 100 feet west from Lenox Avenue, 100 feet south from West 135th Street, and 100 feet west from Fifth Avenue. It permits retail and office space with a maximum FAR of 2.0.

The Project Area is also within a Transit Zone and a FRESH Zone. Transit Zones require fewer accessory parking for various types of affordable housing. According to the DEIS the Lenox Terrace development is currently required to provide 387 parking spaces pursuant to a restrictive declaration. FRESH zones provide discretionary tax and zoning incentives through the New York City Industrial Development Agency. The incentives are intended to encourage the development and retention of affordable and locally owned stores that provide fresh foods.

According to the applicant, the Development Site contains a total lot area of 102,054 square feet. The lots currently contain low-rise commercial buildings. There is currently no plan to redevelop the remaining lots in the Project Area.

Area Context

Land Use and Building Typology

The area immediately surrounding the Project Area is characterized by a mix of residential-building types. The area west of the Lenox Terrace development is characterized predominantly by 5-story residential buildings. To the east there are several high-rise residential buildings. The Riverton, a residential complex constructed in the 1940s, is comprised of 7 13-story buildings bounded by Fifth Avenue to the west, West 135th Street to the south, West 138th Street to the north, and the Harlem River to the east. The Abraham Lincoln Houses, a New York City Housing Authority residential complex, sits directly across 5th Avenue, east of the Project Area. It consists of 14 residential buildings ranging from

6 to 14-stories, spanning the area between Fifth Avenue and Park Avenue, and West 132nd Street to West 135th Street.

The block to the south of the Project Area consists primarily of 3 ½-story row houses, and 5-story residential buildings.

Retail uses are concentrated along Fifth and Lenox Avenues, and along West 135th Street. These uses include: 12 retail businesses, 4 food service businesses, a Goodwill Store and Donation Center, a deli, a Chase bank, a dry cleaner, and an optometrist office.

The block to the north of the Project Area contains two community facility uses: the Harlem Hospital Center and the P.S. 197 John B. Russwurm School. The Schomburg Center for Research in Black Culture is located at the northwest corner of Lenox Avenue and West 135th Street.

Open Space Assets

According to the DEIS, the study area² has an overall open space ratio of 0.678 acres per 1,000 residents. This is lower than the City Environmental Quality Review (“CEQR”) guideline of 2.5 acres of combined active and passive open space per 1,000 residents. The closest open space resources are the Abraham Lincoln Playground (0.99 acres) located on Fifth Avenue and West 135th Street, Howard Bennett Playground (1.23 acres) located on West 135th Street between Fifth Avenue and Lenox Avenue, and the Hansborough Recreation Center (0.29 acres) located within the Project Area on Lenox Terrace Place. Amenities at these locations are both active and passive in nature.

Zoning

As previously noted, the Project Area is located on a block that contains a mix of zoning districts. The surrounding area is predominantly zoned R7-2, a medium density residential zoning district with a FAR of 4.0 and maximum building height of 80 feet if built to Quality Housing standards.

C1-4 commercial overlays are mapped to a depth of 100 feet along the Lenox Avenue, Fifth Avenue, and West 135th Street frontages of the Project Area. C1-4 overlays are mapped within residential districts along streets that serve local needs. These districts allow ground- and first-floor retail uses in mixed-use residential buildings. In a C1-4 commercial overlay, commercial uses are permitted on the ground-floor or first-floor only, and they must always be located below residential uses. Typical retail uses within a C1-4 zoning district include neighborhood grocery stores, restaurants, and beauty parlors. The Maximum Floor Area Ratio (FAR) of a C1-4 commercial overlay mapped in a R7-2 zoning district is 2.0.

Transportation Resources

The Project Area is in close proximity to many transportation resources. It sits between two subway stations located on West 135th Street, four bus routes, several highways and inter-borough crossings. The West 135 Street Station on the 2 and 3 subway is located at the corner of Lenox Avenue and West 135 Street. The West 135th Street Station on the B and D lines is two blocks west from the Project Area

² The study area for the purposes of analyzing potential impacts on open space is based on the distances that the respective users, workers and residents, are likely to walk to an open space. According to the CEQR Technical Manual, workers are assumed to walk approximately 10 minutes, or ¼-mile from their place of work to an open space, while residents are assumed to walk approximately 20 minutes, or ½-mile to an open space.

at West 135th Street and Saint Nicholas Avenue. The East 138th Street Station on the 4 and 5 lines in the Bronx is approximately the same distance, via the Madison Avenue Bridge, from the eastern portion of the Project Area as the aforementioned B and D lines West 135th Station.

There are also several bus lines nearby. The BX33, which provides bus service between Port Morris in the Bronx and Harlem in Manhattan, makes stops along West 135th Street between Park Avenue and St. Nicholas Avenue. The M1 provides service from Harlem to SoHo, traveling south down Fifth Avenue. The M102 and M7 both run north and south along Lenox Avenue on the west side of the Project Area, providing service between Harlem and downtown Manhattan.

The Project Area is in close proximity to the Harlem River Drive (“HRD”). The HRD runs along the west bank of the Harlem River from the Robert F. Kennedy Bridge to 10th Avenue in the Inwood neighborhood of Manhattan. Entrances to the HRD are located three blocks northeast of the Project Area at West 138th and 139th Streets.

The Madison Avenue Bridge, one block east of the Project Area at Madison Avenue, carries vehicular and pedestrian traffic between Harlem and the Mott Haven section of the Bronx.

PROJECT DESCRIPTION

The Proposed Project would result in the development of five mixed-use buildings and a mid-rise podium on the perimeter of the existing Lenox Terrace complex. The new buildings would be constructed on portions of the property that are currently vacant or contain one-story retail buildings. Five single-story retail buildings located on the perimeter of the Lenox Terrace superblock would be demolished to facilitate the development. The new buildings would contain approximately 1,430,258 gross square feet of new residential use, approximately 135,500 gross square feet of commercial space, and 15,055 gross square feet of community facility space.

According to the Applicant and the analysis contained within the Draft Environmental Impact Statement (“DEIS”), the Proposed Project will result in an increased FAR of 2.61³. The residential portion of the Proposed Development is expected to contain a total of approximately 1,642 new dwelling units (“DU”). A minimum of 25 percent of the residential floor area will contain permanently affordable housing pursuant to Mandatory Inclusionary Housing. The result would be between 411 and 493 DUs designated permanently affordable.

The Proposed Project is intended to be completed in phases. Phase 1 is expected to be completed by 2023. It would consist of the construction of the northwest and southwest buildings, their connecting podium, and the northeast building located midblock fronting West 135th Street. Phase 2, expected to be completed by 2026, would consist of construction of the north and southeast buildings. Below is a table illustrating the expected uses of each building in the Proposed Project:

³ As per the DEIS, the current Lenox Terrace superblock development comprises a total 3.0 FAR. The Applicant intends to enter into a Restrictive Declaration that would cap development at 5.61 FAR.

Table 1. Program for Proposed Project

	Dwelling Units (Affordable)	Retail gsf	Community Facility gsf
Building NW	326 (82-98)	24,593	0
Building SW	77 (19-23)	25,211	0
Mid-rise Podium	410 (103 - 123)	25,728	0
Building NE	280 (70 - 84)	19,779	4,966
Total, Phase 1	1,094 (274 - 328)	95,311	4,966
Building N	245 (61 - 74)	16,877	4,236
Building SE	303 (76 - 91)	23,312	5,853
Total, Phase 2	548 (137 - 164)	40,189	10,089

COMMUNITY BOARD RECOMMENDATION

On September 19 and October 17, 2019, Community Board 10’s (“CB10”) Land Use Committee held public hearings on this application. During the hearings, the Applicant was given the opportunity to present the Proposed Project, and address any outstanding concerns. The Lenox Terrace Tenants Association, known as LT-ACT, was also given an opportunity to present their position in opposition to the current application.

At its November 6, 2019 CB10 General Board Meeting, CB10 passed a resolution declining to support the current land use application. The vote tally was 20 in favor, 15 opposed, and 1 abstention.

On November 8, 2019, CB10 issued its official recommendation on the current application. The recommendation contains several concerns serving as the basis for their decision to disapprove the application. One concern was the fear that the restrictive declaration would do nothing to prevent out-of-scale development at the sites not owned by the Olnick organization. Another concern was the overall effect the development would have on the community district’s demographic character. CB10 takes the position that the creation of 1,700 dwelling units, 80-percent of them market-rate, would introduce a significant increase in residents from racial and income groups that would diminish the area’s Black American political base. The third concern expressed in CB10’s recommendation is the record of stewardship of Lenox Terrace by the Applicant. Residents and members of the Harlem community have developed mistrust of the Applicant, and therefore remain skeptical of their ability to fulfill any commitments connected to this application. CB10 also expressed dissatisfaction with the proposed affordable housing component.

The recommendation by CB10 to reject this application incorporates the Board's recommendation on the City's 2016 Mandatory Inclusionary Housing program. In the 2016 recommendation, CB10 also expressed a desire to see income-restricted housing programs that specifically match the median incomes of existing Harlem residents. This application recommends an income-restricted housing program that dedicates 50-percent of the residential floor area to market-rate housing, 30-percent to moderate income, and 20-percent to low-income households. Another concern expressed by CB10 is the detrimental effect the size and bulk of the new buildings would have on the existing Lenox Terrace buildings.

BOROUGH PRESIDENT'S HEARING

On Monday, November 18, 2019, the Manhattan Borough President conducted a public hearing on this application at the Lt. Joseph P. Kennedy Community Center, a site within the Project Area. Approximately 200 people attended and approximately 70 people presented testimony. Prior to the public hearing, the Borough President's Office mailed a postcard to every resident and to every commercial postal address in the area immediately surrounding the Project Area with information regarding date and time of the hearing. Members of the public were also given the opportunity to submit written testimony if they chose not to deliver testimony at the public hearing.

The overwhelming majority of those who testified spoke in opposition to the rezoning plan. Most speakers called for a wholesale rejection of the proposed development. Much of what was said mirrored the concerns expressed in the Community Board 10 recommendation. Many speakers expressed great distrust in the Applicant. Other speakers stressed a fear that the plan would hasten gentrification and displacement of current Harlem residents. Many addressed the proposed income levels for residents of the affordable housing to be built under the MIH program and they expressed concern that the income levels would be too high to provide housing for the average Harlem family. The NYC Public Advocate, Jumaane Williams, delivered testimony. He requested a moratorium on all neighborhood rezonings, and sought support for a pending City Council bill that would require a "racial impact analysis" whenever an environmental impact statement ("EIS") is prepared by an applicant whose project is subject to City Planning Commission review.⁴

BOROUGH PRESIDENT'S COMMENTS

There are few instances where a development the scale of the one proposed in this application can be viewed as responsible. The Proposed Project lacks the public and private investments necessary to make it a prudent exercise of planning for future growth. At its proposed scale, it promises to change the physical and socioeconomic character of Central Harlem. According to the construction timeline, the population of the Project Area, which is equivalent to three square city blocks, is expected to double within seven years. 42 other development projects within 1/2 mile of the Project Area are expected to be built during the same time period. As a result, the Proposed Project has generated enormous concern among area residents.

⁴ See Int 1572-2019 at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3963886&GUID=D2C9A25B-0036-416E-87CD-C3AED208AE1B&Options=ID%7cText%7c&Search=racial+impact>

The community's concerns are not unreasonable or unfounded. 1,200 of the proposed 1,700 dwelling units will be market-rate. This would result in a significant shift in the area's demographic composition; new residents will have much higher income levels. For a century, Harlem has been the epicenter of Black culture in America, but recent real estate trends have resulted in gentrification and led to a decrease in the area's Black population.

While no plan can insulate a community from market pressures leading to displacement, a project as large as the proposed project should include a plan that is equitable. An equitable plan would: 1) create significantly more affordable housing; 2) further preserve the current affordable housing stock; 3) provide support to local entrepreneurs and small businesses; 4) improve public transportation resources; and 5) create and improve open space.

The current proposal fails to meet these criteria. For the reasons stated below, I am recommending disapproval of Land Use Application Nos. C 200050 ZSM, N 200051 ZRM, 200054 ZSM, N 200053 ZAM.

Size and Scale of the Proposed Project

In order to achieve an equitable result, a project the size and scale of the one proposed here requires extensive efforts from the private and public sector. The Proposed Project is expected to take place on a single development site. It is expected to create 1,700 DUs, a population increase of approximately 4,000. That is nearly half the amount of the East Harlem Rezoning (3,500 DUs) to the south of the Project Area, and 40% of the size of the Inwood Rezoning (4,908 DUs) to the north. However, the East Harlem rezoning covered 69 square blocks; Inwood covered 62. By comparison, the increase in housing units and population expected at this site will occupy just 3 square blocks, and cause a disproportionate impact on local residents, infrastructure, economy, and educational resources.

For a plan like the one proposed in this application to provide equitable solutions it must also contain commitments proportional to the ones in the rezonings cited above. Both the East Harlem and Inwood rezonings led to commitments from the City in the amount of approximately \$300 to \$500 million for investments in infrastructure, housing preservation, open space, schools, and other elements essential to a neighborhood's high quality of life.

One area in need of attention is public transit. Substantial improvements to the area's public transit resources must be made to ensure an equitable result. According to the DEIS's line-haul analysis, the 2 and 3 lines are currently operating beyond capacity. With 85% of the public transit usage generated by the Proposed Development forecasted to utilize the West 135th Street Station on the 2 and 3 lines, serious overcrowding is foreseeable.

Open Space

The DEIS study area has an overall open space ratio of 0.678 acres per 1,000 residents. This is significantly lower than the CEQR guideline of 2.5 acres of combined active and passive open space per 1,000 residents. The DEIS concludes that the open space expected to be created in connection with the Proposed Project would offset an anticipated loss of existing open space.

However, the open space created will be exclusive to residents of the Lenox Terrace complex. This proposal creates a disparity in access and in the amount of open space available to area residents and those of the new development.

Trust

One of the recurring themes in the testimony delivered at the CB10 and Borough President hearings is skepticism about the Applicant's ability to follow through on the commitments they have made in connection with this proposal. Many people have cited the long-term vacancy of the single-story commercial building at Fifth Avenue and West 132nd Street as an example. The planning process which led to the decision to keep over 17,000 square feet of commercial space vacant indicates indifference toward the local economy, and a lack of investment in the neighborhood's commercial vitality.

According to the Applicant and residents, there are upgrades and improvements that are needed at all six buildings in the Lenox Terrace complex. The Applicant insists that the proposed development is required to generate revenue necessary to perform these improvements. Many of the complaints by residents appear to involve conditions that the property owner is required by law to address, including brown water in their bathroom and kitchen faucets, lead contaminated water, inadequate electricity, rodents and other vermin, broken floor tiles, and similar conditions that have persisted for years. According to the New York City Department of Housing Preservation and Development (HPD)⁵, in the last 12 months the residents of the existing residential buildings have logged 149 complaints, which include the lack of heat and hot water throughout the buildings, bed bugs, roaches, and failed electrical outlets. The Applicant has recently held town hall meetings with residents, and they have taken steps to improve communication between the building management and residents.

Based on past performance, the current proposal will not resolve the challenges faced at Lenox Terrace. The following steps will be required to win the confidence of Lenox Terrace residents, as well as the Harlem community, and to win approval of a project of this magnitude.

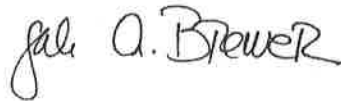
1. A long-term commitment to housing affordability, and in concert with public agencies, greater investments in infrastructure, open space, and schools
 - a. 80% of current units are rent stabilized, but that does not ensure future affordability. I recommend that the Applicant work with city and state agencies to create a preservation package for the existing units, and increase the number of affordable units that will better balance the mix of affordable and market-rate units in the new buildings
 - b. The City Council should require the Deep Affordability Option pursuant to MIH
 - c. NYCT should work with the Applicant to develop a plan to alleviate the overcrowding at the West 135th Street Station on the 2 and 3 line by increasing and improving alternative transportation options
 - d. In anticipation of a major increase in population, the Applicant should provide funds to improve the Howard Bennett and Lincoln Playgrounds, the Hansborough Recreation Center, and the Lt. Joseph Kennedy Center
 - e. Prior to demolition, the single-story vacant commercial building on Fifth Avenue and West 132nd Street should be renovated and marketed to local businesses, arts and cultural organizations, church groups, and local community-based organizations at an affordable cost
2. Pursuant to the Large Scale General Development (LSGD):
 - a. CPC should limit commercial spaces to 10,000 sq. feet unless it is a space occupied by a qualifying FRESH food store
 - b. The height of the proposed buildings should be renegotiated
 - c. The improvements committed to by the Applicant should be tied to the Temporary Certificates of Occupancy obtained for the new buildings

⁵ https://hpdonline.hpdnyc.org/Hpdonline/select_application.aspx

3. Building elements should be contextual in substance. This means that the exteriors should consist of materials similar to those found in the existing Lenox Terrace buildings.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends Disapproval of ULURP Application No. C 200052 ZMM, C 200050 ZSM, N 200051 ZRM, 200054 ZSM, N200053 ZAM - Lenox Terrace.



Gale A. Brewer
Manhattan Borough President

CHAIR
Budget & Revenue

COMMITTEE MEMBER
Codes
Finance
Health
Rules
Transportation

**OFFICE OF NEW YORK
STATE SENATOR**



BRIAN A. BENJAMIN
Senator, 30th District

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Albany, New York 12247

September 19, 2019

Dear Community Board 10,

I am writing this letter of support for the tenants of Lenox Terrace and the Lenox Terrace Association of Concerned Tenants (LT-ACT) in their demonstration against the proposed zoning changes in their district.

In their rightful concerns, the constituents of this jurisdiction reached out to my office regarding the proposed change and I, as their duly elected State Senator, support their stance. The reconstructing of this zone will be more problematic than beneficial. In changing the property from a residential R7-2 zone to a C6-2 commercial zone, the residents at Lenox Terrace and those surrounding, will be greatly impacted.

This zoning change will without a doubt, negatively affect the large senior population in this area, many of which already seek services from our office. The project will increase the strain that is already upon them through possible displacement, worsened air quality, traffic and congestion, noise quality, and potentially impede access to the most frequented hospital in Harlem, Harlem Hospital.

Given the insurmountable list of negatives of this proposed rezoning, I, along with the residents of the Lenox Terrace property, believe that, residential and commercial enhancements can be made to this area without a rezoning. It is evident that this can be achieved, as our office strives daily to make sure that the quality of life in this district is up to par.

Please feel free to reach out to me with any questions or concerns that you may have at (212) 222.7315.

Sincerely,

A handwritten signature in cursive script that reads "Brian A. Benjamin".

Brian A. Benjamin

DISTRICT OFFICE
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THE COUNCIL OF
THE CITY OF NEW YORK
BILL PERKINS
COUNCIL MEMBER
9th DISTRICT MANHATTAN

COMMITTEES
CIVIL AND HUMAN RIGHTS
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HOUSING AND BUILDING
JUVENILE JUSTICE
SMALL BUSINESS

October 15, 2019

Hon. Cecily Harris
Chair
Manhattan Community Board 10
215 West 125th Street, 4th Floor
New York, New York 10027

Re: The Olnick Organization – Lenox Terrace ULURP Application

I write this letter to express my support for the leadership of the Lenox Terrace tenant association and its loyal followers, current tenants and community neighbors; as it has led a constant opposition to the Olnick Organization's massive expansion of the Lenox Terrace complex.

To cite from a January, 2018 LT-ACT Newsletter: "In the past year Olnick has been on a charm offensive to try to persuade tenants to forget their past egregious behavior and to ignore the calamitous changes they are looking to bring to our complex and our community. Olnick can do responsible in-fill construction under the current residential zoning. As Brian Benjamin said at the Community Board 10 meeting in 2015 when Olnick brought their re-zoning proposal, "This plan is disappointing...What are you giving back to the community in exchange [for the zoning change]?"

Years have passed since Brian – as CB 10's chair then – first expressed such a solid opposition, and as the current NYS Senator, he has strengthened his support for the Lenox Terrace TA. And I join him and the tenants.

Furthermore, I look forward to working with the Lenox Terrace Association and my colleague in government, as the broad leadership fights for a widely acceptable and rightful development plan.

Sincerely

A handwritten signature in black ink that reads "Bill Perkins".
Bill Perkins | Councilman, 9th District

Congress of the United States
House of Representatives
Washington, DC 20515-3213

October 16th, 2019

Hon. Cecily Harris
Chair
Manhattan Community Board 10
215 West 125th Street, 4th Floor
New York, NY 10027

Dear Community Board 10,

I am writing this letter with regards to the proposed rezoning that would impact Lenox Terrace. The Lenox Terrace Association of Concerned Tenants (LT-ACT) has been an active and vocal participant in this Uniform Land Use Review Procedure (ULURP) process and I applaud their commitment and advocacy.

As we have seen, residential rezoning's are a very complicated and delicate process that requires fairness and good faith engagement. In my view, that is the only way to move forward and I am confident that Manhattan Community Board 10 is equipped to demand this standard of all stakeholders.

LT-ACT is the voice of this community and I stand with the residents and community who have seen – and as I have borne witness – the short and long-term consequences of plans such that impact the very fiber of the community. The need for mutual understanding has grown more salient as minority and low-income families are impacted the greatest by market forces and demographic change.

Equity and equanimity. And nothing less. This is what Lenox Terrace residents and our community demand. I stand with the thousands of residents that call Lenox Terrace home and respectfully ask that their views and concerns are given full and fair consideration.

Sincerely,



Rep. Adriano Espaillat,
New York's 13th Congressional District



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

INEZ E. DICKENS
Assemblywoman 70th District

CHAIR, SUBCOMMITTEE
Micro Business

COMMITTEES
Aging
Banks
Education
Libraries and Education Technology
Real Property Taxation
Small Business

MEMBER
Black, Puerto Rican, Hispanic & Asian
Legislative Caucus
Legislative Women's Caucus
Puerto Rican/Hispanic Task Force
Task Force on Women's Issues

Hon. Cecily Harris, Chair
Manhattan Community Board 10
215 West 125th Street, New York, NY 10027

November 4, 2019

Re: Olnick Organizations ULURP Application for Lenox Terrace

Chair Harris;

I am writing this letter to express my support for the leadership resident of the Lenox Terrace Association of Concerned Tenants (LT-ACT) as it seeks to prevent the overall transformation of the community they call home. This is the continuation of numerous attempts I helped to alter for my entire tenure as a member of the New York City Council.

During that time, I wrote letters to the City's Planning department as well as the Board of Standard and Appeals to not support the application until there was an understanding from the community as to how the development plan submitted impacts the already overstretched community. We as the Village of Harlem were successful in starting the initial conversations with Olnick to cooperate with the resident association about how it should benefit the those who have made Harlem the great community that we knew it was. To date, as willing as the resident association has been to offer its suggestions, Olnick has not been willing to incorporate their vision.

As such, Manhattan Community Board 10 has been unwilling to support any ULURP request from Olnick, and in my capacity as a Member of the New York State Assembly, have supported their decision and expressed as such to my colleagues in both the city and state.

I will continue to support the Resident Association of Lenox Terrace as they seek from Olnick a plan that includes the present residents as a focal point of the future of Lenox Terrace.

Thank you for your time and I look forward to hearing from you on this important matter.

Sincerely,

Inez E. Dickens
New York State Assembly
70th District



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD 10
215 West 125th Street, 4th Floor—New York, NY 10027
T: 212-749-3105 F: 212-662-4215

CICELY HARRIS
Chairperson

SHATIC MITCHELL
District Manager

Resolution
Manhattan Community Board 10
Disapproving Rezoning Application of Lenox Terrace with Conditions

WHEREAS, the owners of Lenox Terrace (hereafter known as Olnick) has made several land-use action applications to the New York City Department of City Planning seeking to rezone the Lenox Terrace block to accommodate five 28 story mixed use buildings— *in particular, a zoning map amendment from R7-2 and C1-4 zoning districts to a C6-2 zoning district; two special permits to waive bulk and parking requirements; and a zoning text amendment* - (hereafter known as the “project”); and

WHEREAS, the Lenox Terrace Rezoning proposal brought forth by the Olnick is massive, calling for the development of five *State Office Building* sized towers, covering most of a large rectangular zoning block that encompasses the equivalent of four streets (North and South) and two well distanced avenues (East and West) and will be situated on the block’s outer perimeters; and

WHEREAS, the project as now proposed by Olnick, would consist of approximately 1600 units, which 1200 of those would be market rate, and

WHEREAS, the public reviewing process known as ULURP to review Olnick’s application has begun and Community Board 10 is the first step of review in such process; and

WHEREAS, Community Board 10 has *approximately* 60 days to review the Olnick application and render an opinion on same, which such time began on August 26, 2019; and

WHEREAS, Community Board 10, through its Land Use Committee, held two public hearings on September 19, 2019 and October 17, 2019, respectively, affording Olnick the opportunity to present its rezoning plans to the board and the public, and affording the community at large the opportunity to review said applications and comment; and

WHEREAS, the Lenox Terrace Tenants Association known as LT-ACT, concerned residents and other community residents and organizations presented their positions and opinions in opposition to the Olnick applications; and

WHEREAS, other residents and union members, namely members of 32B-J, presented reasons in support of the Olnick application; and

WHEREAS, the Land Use Committee after hearing all of the views, including written submissions, for and against the project have deduced from such hearings the following concerns

Concerns

Threat of Losing an African American Plurality in CB 10

WHEREAS, Community Board 10 makes up a large part of City Council District 9 and its plurality is African American, giving Council District 9 also an African American Plurality; andⁱ

WHEREAS, Lenox Terrace is a huge housing development (approx. 1,700 units) within Community Board 10 with a tremendous cultural and political history, including home to several world renown people; and

WHEREAS, Community Board 10's citizen voting age plurality is also African American; and

WHEREAS, the African American population in the United States is a protected group under the Voting Rights Act of 1965; and

WHEREAS, Community Board 10 (Central Harlem) and Council District 9 have enjoyed an African American plurality for over one hundred years and political power for the last four score years; and

WHEREAS, the community at large, expert opinions and other evidence have alleged or demonstrated that the rezoning as proposed by the Olnick plans could affect the African American plurality in such a way that within 10 years, Harlem will not be an African American plurality; and, in that

WHEREAS, it is further attested that this scale of redevelopment threatens a community that has also enjoyed an African American plurality by potentially terminating such plurality and its history, as the overwhelming majority of units will be *market rate* and, in that

WHEREAS, the Metropolitan African Methodist Church, located at 58 W. 135th St. – the second oldest African Methodist Episcopal congregation in Manhattan – which is in the footprint of the rezoning proposal – has sold its property to Empire Development Fund 4, LLC, and there is a strong likelihood that another massive residential tower will be built in the former church space. Even further, the possibility that the privately owned Joseph P. Kennedy, Jr. Center could be sold to a private developer and *that* space too could see one or two 28 story towers—culminating in potentially ***eight*** towers! –thereby, development on this block in totality could set a dangerous precedent for multifamily buildings in Harlem built in this era and accelerate the termination of the African America Plurality in the neighborhood forever; and

WHEREAS, such concerns are realistic because historically market rate apartments in Harlem are occupied mostly by non-African Americans, as historically African Americans have a higher unemployment rate due to discriminatory systems that have long been in place and African Americans historically have faced and still do, unequal employment practices precluding them from securing market rate apartments; and, in that

WHEREAS, there is *no* guarantee that the legacy of Lenox Terrace will be protected under the plurality of a non-African American group in the event that African Americans are no longer the majority thereby threatening our legacy in said place; and

CB 10's and City Council District 9's Prior History Regarding a Threat to its African American Plurality and Outcome

WHEREAS, in 2007 Community Board 10 responded to New York City's 125th Street Rezoning plan in its Resolution Disapproving of the 125th Street Rezoning which included the ground that its plurality and political power would be threatened by such rezoning, thereby making such zoning in part a violation of the Voting Rights Act (*infra*); and

WHEREAS, the New York City Council paid close attention to Community Board 10's concern in that regard and within the 125th Street Special District's zoning's area for the highest residential density, such development is discouraged by certain mechanisms that have been put in place under local law; and

WHEREAS, City Council District 9 residents successfully fought to strengthen the African American plurality in District 9 (as well as Community Board 10) when the City brought forth its City Council Redistricting plan in 2012-2013, making such plurality (59%) greater by 8%; and

WHEREAS, Community Board 10 and District 9 residents relied on the Voting Rights Act of 1965, as amended in 2006 known as the ***Fannie Lou Hamer, Rosa Parks and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006***; and

WHEREAS, such Act's purpose in part is to guarantee the right of protected groups (i.e., African American) to be able to cast meaningful votes [Section 2]; and

WHEREAS, Congress has found that the reasons for such concerns by the African American group (*supra*) are justified; and

WHEREAS, Congress has declared in part through such Act that any practice or procedure that affects voting that has the purpose of or will have the effect of diminishing or diluting the ability of any citizens in a protected class (i.e., African American) to elect their preferred candidates of choice denies or abridges the right to vote [Section 5]; and

WHEREAS, the African American population in CB 10 and Council District 9 is sufficiently large and geographically compact to constitute a majority in a single – member district; such group is politically cohesive; and the majority votes sufficiently as a bloc; and

WHEREAS, because of the above, African Americans living in CB 10, Council District 9, Senate District 30, Assembly District 70, enjoy African American representation in government, which is by their choice and they have demonstrated that they want to continue voting for people in their group; and

WHEREAS, the United States Supreme Court in 2013 in a matter known as **Shelby County v Eric Holder** upheld Section 5, which means a district's plurality could sustain its political power and reject any rezoning or redistricting that threatens such political power; and

Tenants' Rights: Overall Maintenance, Repairs and Capital Improvements

WHEREAS, according to LT-ACT, Olnick has a poor record of stewardship to Lenox Terrace residents ranging from poor service, negligent maintenance and repair, and insufficient staffing on the premises which compromises resident's safety. Further evidence provided by the Committee is that the Olnick organization has failed to maintain the apartments and common areas of the complex. This negligence has created conditions which have resulted in significant health hazards. Tenants have identified mold, lead contamination in the water pipesⁱⁱ, and friable asbestos from cracked asbestos in the vinyl tile flooring. It is reported that many residents are living in "deplorable conditions" or as the testimony suggests, at the least conditions that are not bargained for. In this recent turn of events, no legal plan and/or agreement has been put in place to rectify the outstanding maintenance repairs or the desperately needed capital improvements required as a "Tenant Right." or one that outlines tenant's obligations for personal and collective upkeep. Tenants have reached out to CB10 to vote "No" to the proposed resolution without conditions to "*put an end to the "crippling" landlord-tenant relationship where residents feel like hostages*"; and

Pending Litigation, Affordable Housing, Impact of Market Rate Units

WHEREAS, according to LT ACT, there are claims currently pending or litigated against the applicant. Claims filed and damages sought and recovered need to be better understood. The Land Use committee heard testimony which was later supported by written submission, and Olnick has not disputed such testimony or written submission, that it receives J51 tax credits and has unlawfully (attempted to) deregulate apartments at the Lenox Terrace properties while still receiving such tax credits and that it is involved in a civil dispute regarding the matterⁱⁱⁱ; and, in that

WHEREAS, this pending lawsuit, the outstanding maintenance concerns and alleged displacement of 700 residents has resulted in high levels of mistrust of Olnick among residents and the community at large questioning Olnick's overall integrity for any project moving forward; and

WHEREAS, the Olnick organization has not presented an income targeted housing plan that is more attractive than 60% of the AMI (see MIH Attachment), *supra*; and

WHEREAS, to date, the Olnick Organization has not presented an income targeted housing plan that is satisfactory to CB 10 or the Community-at-large. Community Board 10 has submitted their Mandatory Inclusionary Housing resolution to the owner (Appendix A); the Olnick plan does not meet our Resolution standards and expectations; and

WHEREAS, it has been historically demonstrated that major developments that consist of mainly market rate units increase rents, property values and taxes in the catchment areas where

such developments are located. The Lenox Terrace block is surrounded by many properties owned by senior African Americans with limited income, thereby putting such property owners at risk of higher property taxes and precluding African Americans the option of living in a neighborhood that we historically enjoy; and

Physical Context/Neighborhood Character

WHEREAS, Olnick has requested a Special Permit for large scale general development (ZR 74-743) that will provide height and set back relief. The five 28 story towers in the Olnick plan will almost reach as high as the Adam Clayton Powell Jr., Harlem State Office Building and be positioned on the street line rather than set back with open space in the forefront if approved. Such height proposed is generally allowed in areas that can provide considerable set back and open space in the forefront, near parks or on hills, etc., The Olnick plan is way out of the contextual landscape of the area; and, in that

WHEREAS, it has been testified by residents that this form of dense redevelopment threatens a neighborhood community that has enjoyed light and air and moderate density; and, in that

WHEREAS, even the [Victoria Theater Project] which is a towering 26 story building on W, 125th Street – a project under the control of the Empire State Development Corp - has honored the spirit of Section 5 of the Voting Rights Act of 1965 and, the 125th Street Special District, whereby it has a 100 feet set back and its housing model is targeted at 50/30/20, which housing income bands are Open, Moderate and Low, respectively. Further, the Victoria building is shorter than the buildings in the Olnick plan; and

Historic Preservation/Resources (Historic and Cultural) and Shadows/Over Shadowing

WHEREAS, according to the CEQR, the Landmark Preservation Council determined that the Lenox Terrace complex appears to be National Register eligible. To date, Olnick has inadequately addressed the historic, architectural and cultural significance of the Lenox Terrace complex. For example, in the existing site plans it is suggested that a six story podium be erected in front of the classic driveway in front of 470 Lenox Avenue. The driveways of Lenox Terrace were a unique feature of the complex during the postwar period; other Harlem buildings built during this period did not have them. The driveways gave the complex a cache; the driveways coupled with a *fully suited* doorman was a feature that attracted upwardly mobile African Americans to live at Lenox Terrace as both they and their guests arriving to the residence could be dropped off in front of the *full service* building; it was *this* element of service and convenience at that time that was only to be experienced in downtown Manhattan; and, in that

WHEREAS, the CB 10 community desires that any proposed development must protect and celebrate the Lenox Terrace architectural relics of the period; in the proposed site plan, the new buildings built at the proposed height would put *the* Lenox Terrace as originally built, at risk.

The plans will overshadow the distinguished architectural gem *the* Lenox Terrace is known for; and

WHEREAS, our New York City society at large wants more than photographs, statues or written information on historic places, hence we have a NYC Landmarks Preservation Commission and New York State Registry of Historic Sites that support the physical brick and mortar that any proposed plan should adhere to; and

WHEREAS, the proposed rezoning and the development of five *State Office Building* sized towers will dwarf and overshadow the original Historic Lenox Terrace buildings character; and in that

WHEREAS, the Olnick plan will diminish the visibility of such buildings and potentially create an “*out of sight out of mind*” effect. To date, Olnick has not adequately addressed either the negative impacts and how they would mitigate such impacts; and, in that

WHEREAS, it is believed that the new buildings will cast major shadows on the old buildings and deprive tenants in the old buildings adequate sunlight; and

Public Health: Existing Conditions, Vulnerable Populations and Air Quality

WHEREAS, it is well documented in the Community District 10 profile that there is a high rate of asthma among young children and adults in Harlem, a condition that has plagued the Harlem community for decades. In addition, Harlem residents suffer from other conditions that impact health and quality of life such as cardiovascular disease, depression and stress. Even diseases like diabetes has been associated with higher rates of stress and pollution^{iv} and

WHEREAS, for the area covered by CB10, New York’s own Environmental Health agency reports high levels of very fine (PM 2.5) airborne contaminants and ozone derived from vehicle emissions. Fine particulates (PM10) derived from construction and other types of activities are also elevated in Central Harlem. These particles are small enough to lodge in the lungs and cause short and long term lung damage^v (Appendix B)

WHEREAS, while there has been some discussion to date around air quality testing pre, during and post construction, there is no discussion concerning air quality post construction and the impact it will have on residents living in the older buildings which will be enclosed and surrounded by larger buildings. It is reasonably believed that 7-10 years of construction as anticipated in the Olnick plan, will have a serious negative impact *at a minimum* on people who suffer from asthma and other related respiratory diseases; and

Overall Socio Economic Conditions

A project that will increase overall density of approximately 4000 persons (not including the church development) is going to have a socio economic effect on the complex and the public systems (MTA, local schools, recreation areas and existing businesses). While the changes have been acknowledged, the research and plans to date have not been adequate. This project is *more than* a private developer led rezoning. The level of transformational change anticipated as a result of this project requires a plethora of community stakeholders, urban planners, policy

analysts, residents and business leaders to both understand the magnitude of the project, and the various components impacted in order to 1) develop effective solutions/recommendations to ensure balanced growth and scale, and 2) manage the change. Ultimately, what Olnick is proposing in this resolution is creating a “mini city”. To date, there has not been enough collective dialogue with institutional and public partners *at the same table* who can mitigate risk and support the public systems that will be affected.

Summation

It is important to point out that while the Olnick organization is a private developer that in fact owns the land in question, it is fair to acknowledge that the landlord has also been the agitator for the existing state of affairs with tenants. It is the hope of the tenants and community at large, that the developer acknowledge the above referenced concerns shared and the implications for any rezoning. Further, according to LT ACT (from the accounts of the pending litigation whereby Lenox Terrace has been charged with illegally deregulating rent stabilized apartments), there is a strong implication that the owners of Lenox Terrace are the *key driver of displacement and destabilization in Harlem*. This unspoken reality leaves residents of Lenox Terrace vulnerable. In addition to the threat of CB 10’s African American plurality, the basic tenant protections that residents seek from any landlord are being compromised through negligence and a lack of transparency. To date, Olnick has not addressed these concerns nor disputed any of the aforementioned claims nor demonstrated an organizational/project capacity to address *our* need for balanced growth. A major development such as the one proposed, will no doubt *tip the scale* from a demographic standpoint. In sum, one tenant referred to the proposed development as “dynamite” as it will have explosive effects. It is the hope of the residents and community at large that all these factors be seriously considered by the developer in this process.

The Olnick organization is currently in negotiation with Lenox Terrace residents regarding a “Tenants-Benefits Agreement.” In the absence of a final draft of such agreement, Community Board 10 has drafted *conditions* to be included in such agreement and that such agreement must be finalized to the satisfaction of the current residents and, that the Manhattan Borough President’s Office, Department of City Planning and City Council must consider any absence of such legal document as CB 10 has. To date there is no tenants-benefits agreement of any kind but one should include a series of *comprehensive* solutions with respect to process as well as benefits to tenants that compensate for all inconveniences caused as a result of such project. A solution and a benefit would include Olnick being a *responsible* affordable housing partner.

NOW THEREFORE, BE IT RESOLVED

Community Board 10 **DISAPPROVES** of the Olnick Rezoning Plan presented because of, but not limited to, the concerns set forth above and failing to dispute or refute well documented claims, and now sets forth in this Resolution, the following conditions:

- That Community Board 10 rejects the application which calls for a C-6 Rezoning as not consistent with the present and future needs of the community it affects; and
- That a permanently binding Tenant’s Benefit Agreement (TBA) that addresses immediate and long term concerns of existing and future tenants be in place before any zoning application be approved; and

- That Olnick agrees to a process for completing a binding and *inclusive* Community Benefits Agreement (CBA) to be in place before any zoning application is approved.

Community Board 10 will only reconsider a rezoning plan if the current one is withdrawn and a new one is certified with the following conditions and CEQR boilerplate assessments in the areas below

Zoning Requirements

- The building heights cannot exceed 195 feet, with appropriate set-backs and the commercial zoning remain C1-4; and

Tenant Protection: Outstanding Repairs, Exposures, Capital Improvements

- That Olnick agrees to present an acceptable plan, approved jointly by the tenant's association of Lenox Terrace and CB 10, one that is legally binding on how it intends to resolve the outstanding maintenance conditions within the complex and the conditions of the apartments –all of which have now posed a health hazard that must be remedied (Appendix B); and
- CB 10 is requesting a review of any remediation and inspection reports as proof the work has been completed/addressed before *any* other approval or negotiations of any other aspect of the proposed rezoning can occur; and

CB 10 Mandatory Inclusionary Housing/Affordable Housing, Regulatory Agreements and Oversight

- That Olnick agrees that the income bands must be set at 50/30/20 of the AMI – open market, moderate income, low income, respectively; and
- That Olnick agrees that the income bands in this housing model must be permanent; and
- That Olnick agrees that poor credit history or having no credit at all cannot be used to disallow an applicant for housing in the new buildings if that is the only reason used to disallow such applicant. And under no circumstances will a person's landlord/tenant litigation history with a landlord be used as a reason to disapprove an applicant, unless such landlord prevailed on an action for non-payment of rent; and
- That Olnick agrees to partner with NYC HPD/HDC to explore *all* affordability programs and options and that NYC HPD will oversee the implementation of affordability programs and provides said oversight and report to CB 10 on how many units are transferred to CB 10 residents and well as the levels of affordability devised for the project; and
- That Olnick agrees that CB 10 residents will have a 50% preference on all the moderate and low income units; and

- That Olnick agrees to commit to a legally binding agreement to maintain all of the current units under the rent stabilized law; and

MWBEs and Workforce Development Commitment

- That Olnick agrees that MWBE targets will be established (30% and/or >) and approved by CB 10 and employment preferences will be given to community residents; and
- Construction jobs must be provided to union workers with a diverse workforce and that hire locally. Any exceptions must be negotiated in an ironclad agreement between CB 10 and Olnick. Such ironclad agreement shall be written into law; and

Density Plan, Movement, Navigation and Safety

- That Olnick agrees that a well-conceived density plan approved by CB10 Public Safety committee and the LTDC; one that examines cumulative traffic impact and considers both pedestrian and vehicular traffic issues as identified by community stakeholders (not an EIS report) and acknowledges overall safety, school zones and peak traffic area days and times (e.g., 135th and 5th Avenue intersection); and

Health and Population

- That Olnick agrees to a well-conceived plan that is approved by CB 10, through its Health and Human Services committee and considers the high resident senior citizen population (65%) as well as the Harlem population afflicted with high rates of respiratory diseases including asthma. A plan must consider the effects of construction on the health and well-being of residents and those populations at risk (Appendix C) ;
 - one that implements routine (e.g., monthly) indoor and outdoor air quality testing before, during and after construction
 - one that requires a health proxy taken of all residents with existing respiratory illness pre construction and
 - one that offers relocation allowance for residents who cannot physically endure and providing HEPA air purifiers/ breathing devices based upon medical claims, and

Historic Preservation, Arts and Culture and Shadows

- That Olnick agrees to a well conceived plan that is approved by CB 10's Historic Preservation and Arts and Culture committees, Save Harlem Now and other local preservation/arts organizations as well as support of an application submission to NYS and Federal Registry of Historic Sites and offers rent concessions to residents who are inconvenienced by shadows and whose views are compromised as a result and that open space is protected; and

Building Staffing Composition

- That Olnick agrees that building staffing ratios will be addressed and employees dispersed based upon the residents needs and the overall needs of “the Facility”; and

Security Plan

- That Olnick agrees that a detailed security plan will be outlined to ensure the safety of residents, business owners and staff. This plan will be approved by CB 10 Public Safety committee, tenants, affected and surrounding institutional partners and leaders of the 32 Precinct; and

Parking

- That Olnick agrees that a well-conceived parking plan detailing accessibility and outlining options and payments for both existing residents and new residents. This plan will be approved by the LTDC and will address the allocation of spaces, transferability of spaces, reduced parking fees for rent stabilized tenants; and

Retail

- That Olnick agrees that a detailed plan for the retail corridor will be developed; one that is approved by LTDC and CB 10 Economic committee; a plan that includes: uses, type (local vs. destination), rent concessions for small business, incorporates existing street vendors, a coop share for local small businesses; and

Environmental Impact, Transportation & Community Impact/Engagement

- That Olnick agrees to a detailed plan approved by the CB 10 Transportation Committee, MTA and LTDC that addresses the following:
 - Plans to mitigate transportation impacts at the 135th Street Subway station and the Intersection at the 135th Street and 5th Avenue; and
- That Olnick agrees to a true community engagement process that includes Lenox Terrace residents as well as the broader Harlem community, a process that includes (but not limited to) charettes, visioning and focus groups; and
 - Plans to include neighboring institutions surrounding Lenox Terrace in the planning of services and the planning of construction and inconveniences caused; and

Construction

- That Olnick agrees to a construction impact assessment as this is an infil project that affects existing residences and open space. The assessment will evaluate the duration and severity of the disruption or inconvenience to all impacted including noise and vibration analyses; and
- That Olnick agrees to monthly/quarterly meetings with both the LTDC and CB 10 respectively on the evolution of construction plans, report findings, progress and timelines.

Resident Services Office/Center

That Olnick agrees that any rezoning and/or as of right development plan they undertake, will include (and Olnick to fund) a resident services office, one that serves tenants 24/7 pre, during and post construction with real time information. The role and its various functions of this office will be negotiated and approved by Community Board 10 and the tenants. The office will negotiate tenant abatements, concessions, and relocations. The office will administer the Lenox Terrace Development Committee (herein as referenced above as the “LTDC”) and organize routine meetings with the tenants and the developer concerning construction progress and updates. The office will also manage the newly established resident’s council, governing body comprised of various sub committees (Appendix D)

NOW THEREFORE, IT IS FURTHER RESOLVED that the aforementioned/conditions run with the land and must be part of any law enacted declaring any consideration of rezoning.

THEREFORE BE IT RESOLVED that Manhattan Community Board 10 voted to disapprove the rezoning application of Lenox Terrace with conditions with a vote of 20 in favor, 15 opposed and 1 abstention at the November 6, 2019 General Board Meeting.

Appendices

A. Community Board 10 Mandatory Inclusionary Housing (MIH) Zoning Resolution No. MIH2016

B. 10 West 135th Street: Important Notice Regarding Possible Lead Contamination

C. CB10 Health and Human Services Committee: Lenox Terrace Association of Concerned Tenants

Opposes Plan to Bring OVERSCALE Development to Central Harlem

D. Lenox Terrace Resident’s Council: Suggested Sub- Committees

ⁱ Manhattan Community Board 10 2014 District Needs Statement, “African Americans make up approximately 63% of Community Board 10’s population, followed by Hispanic at 22%, White at 10% and Asian at 2%.”

ⁱⁱ DEP Notice of Lead addressed to a Lenox Terrace tenant regarding the DEP's finding that there is lead in the Lenox Terrace property's plumbing system. October 2, 2019

ⁱⁱⁱ In **Downing v. First Lenox Associates, LLC**, Index No. 100725/2010 (the "Lenox Terrace Class Action"), Lenox Terrace tenants filed a class action lawsuit against the owners of Lenox Terrace in 2010. The Lenox Terrace tenants are alleging that the owners of Lenox Terrace improperly treated apartments as being unregulated under applicable rent stabilized laws even though it was receiving "J-51" tax benefits. The Board takes Notice of such alleged impropriety pursuant to Roberts v Tishman Speyer Props., L.P. 2009 NY Slip Op 480 [13 NY3d 270] October 22, 2009 [Court of Appeals] holding that 100% of units in a development under the J51 program must be Rent Stabilized.

According to publicly available documents that were filed July 31, 2019, the owners of Lenox Terrace recently agreed to pay \$2,989,000 in a preliminary (i.e., not final) settlement agreement in the Lenox Terrace Class Action.

^{iv} LT-ACT (2019) The Lenox Terrace Association of Concerned Tenants OPPOSES Plan to Bring OVERSCALE Development to Central Harlem

^v LT-ACT (2019) The Lenox Terrace Association of Concerned Tenants OPPOSES Plan to Bring OVERSCALE Development to Central Harlem



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD 10
215 West 125th Street, 4th Floor—New York, NY 10027
T: 212-749-3105 F: 212-662-4215

HENRIETTA LYLE
Chairperson

ANDREW LASSALLE
District Manager

June 26th, 2015,

Ms. Delsenia Glover
President
Lenox Terrace Association of Concerned Tenants
PO Box 822
Lincolnton Station
New York, NY 10027

Dear Ms. Glover:

This letter is provided to notify the Lenox Terrace Association of Concerned Tenants (LT-ACT), New York City Department of City Planning (DCP), the Olnick Organization and all other interested parties that Manhattan Community Board 10 understands the Olnick Organization plans to propose a commercial rezoning of their property, known as Lenox Terrace (Lenox Avenue between West 132nd Street and West 135th Street), to the New York City Department of City Planning.

This rezoning proposal will modify the current zoning from residential to commercial allowing for increased residential density, retail space and green space. It will include a proposal for 80% of the units to be market rate and 20% to be affordable housing.

A presentation was made by the Lenox Terrace Association of Concerned Tenants (LT-ACT) at the May 21st Land Use and Landmarks Committee Meeting expressing opposition to the rezoning. On June 19th, 2015, a presentation of the rezoning proposal was made by the Olnick Organization at the Land Use and Landmarks Committee Meeting.

After discussion and deliberation, Community Board 10 supports the Lenox Terrace Association of Concerned Tenants (LT-ACT) opposition to the Olnick Organization commercial rezoning as proposed.

While we are open to further discussion and a review of modified proposals from the Olnick Organization, we emphasize our belief that affordability extends beyond 80% market rate and 20% affordable units; that the Olnick Organization must address outstanding concerns expressed by its current residents including: rodent and pest control, noise during renovations, accessibility, rent collection policy and; that the proposal must include a commitment to the history, culture and community of Harlem.

Thank you for your time and consideration of this matter.

Sincerely,

Henrietta Lyle

Henrietta Lyle
Chairperson
Community Board 10

Brian Benjamin

Brian Benjamin
Chairperson
Land Use Committee

Julius Tajiddin, et. al
Community Leaders in Harlem
P.O. Box 2499
New York, NY 10027

Tel. 917 442-2528

December 18, 2019

City Planning Commission
of New York City
[22 Reade Street
New York, New York]
120 Broadway
31st Floor
New York, NY 10271

Re: Lenox Terrace Rezoning

Dear City Planning Commissioners:

I ask that you VOTE NO and submit correspondence to the New York City Council REJECTING the Lenox Terrace Rezoning application in its entirety pursuant to the advice of Community Board 10/Manhattan and the Honorable Gale Brewer, Borough President of Manhattan.

First of all, the Community Board 10 Resolution is very sound. It covers all of the sentiments and concerns from all the relevant stakeholders, whether they were for the rezoning or against it.

However, CB 10 found that the majority of the stakeholders were against the rezoning and as a result CB 10 was persuaded to vote in disapproval for the reasons expressed in the resolution.

One of CB 10's strongest arguments was the law itself. Ten years ago maybe this project as promised would have been legal. Now as promised it violates the law. And not just any law, but a supreme law of the land.

The Fannie Lou Hamer, Rosa Parks and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006. (The Voting Rights Act of 1965 as amended in 2006)

The ***FLHRPCSKVRARAA*** law was enacted by the 109th United States Congress and 43rd President of the United States. It is a supreme law of the land. The temporary provisions in the Voting Rights Act of 1965 (i.e., Section 5) were again extended in 2006, this time up to 2035. Moreover, greater protections in Section 5 were given to protected groups, i.e., the African American population. In particular Section 5, as amended, states that any standard, practice or procedure with respect to voting, denies or abridges the right to vote if its purpose or ***its effect***

will be the diminishment of the ability of any U.S. citizens on account of race or color, or in contravention of certain guarantees, *to elect their preferred candidates of choice*. Emphasis added.

In fact, Section 5 was challenged in 2012 and upheld by the SCOTUS in the matter of *Shelby County vs. Eric Holder*. (2013)

What this amounts to is that this massive rezoning application and the other ones in the ULURP pipeline that offer 25% “affordable” housing and 75 % open market units (or thereabouts) are threatening the plurality of Central Harlem, which is African American.¹ We have demonstrated throughout time that our preferred candidate of choice is African American. And given the choice which under Section 5 we have, Congress has wisely figured out that there is a strong inclination that we will continue voting for an African American, likely Democrat, to represent us in City Council/District 9 and our state legislative districts, State Senate District 30 and State Assembly District 70.

The question is: Why is this so important? It’s important because not only can an individual voter be disenfranchised but a group belonging to a particular race can also be disenfranchised.

Harlem became plurality “Black” for a lot of reasons, but reverse gentrification wasn’t one of them. Well, initially yes. Slavery was the reason Black people initially came to Harlem. But after slavery circumstances brought [us] here.

And once we gained some sort of political power – *with that comes a certain amount of self-determination and other benefits* – and as a group vote a certain way, congress saw the need to protect that right and declared that diluting or diminishing [our] ability to elect [our] preferred candidates of choice would in essence be disenfranchising the [group].

So there is individual disenfranchisement and there is group disenfranchisement. Furthermore, any standard, practice or procedure (this is by government intrusion) that by its action its *effect* will be the diminishment or dilution of such ability, denies or abridges the right to a meaningful vote. In this case the right to elect [their] preferred candidate of choice.

Relevant Background Facts

Community Board 10 which is where the Lenox Terrace project will be constructed, makes up a large part of City Council District 9 and its plurality is African American, giving Council District 9 also a plurality African American.²

¹ The affordable units that are offered require an income of approximately 48K per year. Not only is this income out of the range of most Harlem residents, the units in that 25% are mostly studios, with some 1 bedrooms. Very few 2 bedrooms are offered. This type of development discourages the production or increase of Black families.

² Manhattan Community Board 10 2014 District Needs Statement - “African Americans make up approximately 63% of Community Board 10’s population, followed by Hispanic at 22%, White at 10% and Asian at 2%.” However, upon information and belief the Black population in District 9 has shrunk to 53% as of 2018.

Community Board 10's citizen voting age plurality is also African American.

The African American population in the United States is a protected group under the Voting Rights Act of 1965.

African Americans living in Community Board 10 (Central Harlem) and Council District 9 have enjoyed a plurality African American for over one hundred years and political power for the last four score years.

The community at large, expert opinions and other evidence have alleged or demonstrated that such rezoning, along with other mass re-zonings in Harlem, *past and present*, could affect the African American population's plurality status in District 9 in such a way that within 5 years Harlem will not be a plurality African American.

The city's zoning standards and developers' practices have created a dangerous precedent for the African American population in Harlem. Continuing to go unchecked it will accelerate the termination of the African American population's plurality status. This is why a line is now being drawn in the sand. And we stand on the *FLHRPCSK* law.

Such concern is realistic because historically **open market** apartments are occupied mostly by non-African Americans, as historically African Americans have a higher unemployment rate due to discriminatory systems that have long been in place and African Americans historically have faced and still do unequal employment practices.

Voting Rights Act (Section 5) Protection in Harlem Precedent

Back in 2007 Community Board 10 responded to the City's 125th Street Rezoning plan in its Resolution Disapproving of the 125th Street Rezoning which included the ground that its plurality and political power would be threatened by such rezoning, thereby making such zoning in part a violation of the Voting Rights Act of 1965, as amended in 2006.

City council heeded to Community Board 10's concern in that regard and within the 125th Street Special District's area for the highest residential density, such development is actually discouraged by certain mechanisms that have been put in place under local law.

In fact, City Council District 9 residents successfully fought to strengthen the African American's plurality status in District 9 (as well as Community Board 10) when the City brought forth its City Council Redistricting plan in 2012-2013, making such plurality (59% then) greater by 8%.

Purpose

The Act's purpose in part is to guarantee the right of protected groups (i.e., African American) to be able to cast meaningful votes [Section 2].

Congress has found that the reasons for such concerns by the African American group (supra) are justified and there is a continued need for protection.

Whereas Congress has declared in part through such Act that any practice or procedure that affects voting that has the purpose of or will have the *effect* of diminishing or diluting the ability of any citizens in a protected class (i.e., African American) to elect their preferred candidates of choice denies or abridges such group's right to vote [Section 5].

The African American population in CB 10 and Council District 9 is sufficiently large and geographically compact to constitute a majority in a single – member district; such group is politically cohesive; and the majority votes sufficiently as a bloc.³

Therefore, because of the above, African Americans living in CB 10, Council District 9, Senate District 30, Assembly District 70, enjoy African American representation in government, which is by their choice and they have demonstrated that they want to continue voting for people from their group.

Affordable Housing

The city's standard, law or rule for affordable housing can no longer apply in Central Harlem. Just like there are laws that let you vend in one part of the city but make it unlawful to vend in another part, the MIH/IH is no longer legal in Harlem under the Supreme Law of the land.

Maybe it could have been 20 years ago, maybe even 10. However, it is not legal for Central Harlem now. An example would be this: 50 years ago the use of asbestos was legal. Now it's not. A non-marital child under the inheritance laws of New York can prove paternity kinship largely with a post DNA test result in his/her favor. However, if a decedent died in 2009 a non-marital child would need to show clear and convincing evidence and that the decedent openly and notoriously acknowledged the child during his lifetime.

So laws are set up in different ways to do different things. The Fannie Lou Hamer, et al, law is designed to protect a protected group's right to a meaningful vote. That can only be determined by the Black population in Central Harlem. Thus [we] have declared it by our voting history.

MIH's flaw

It has been historically demonstrated that even when developing as of right, the likelihood that developers who build on a scale such as what the Olnick plan proposes even without a rezoning approval will apply for the federal Low-Income Housing Tax Credit (LIHTC) because the tax credits are more attractive than tax deductions, as the credits provide a dollar-for-dollar reduction

³ I would hope that I can forgo the arduous task of going through all the Supreme Court cases that support the implications being made in these two paragraphs.

in a taxpayer's federal income tax, whereas a tax deduction only provides a reduction in taxable income.

For any developer to qualify⁴ it agrees to one of the following:

- **At least 20% or more of the residential units in the development are both rent restricted and occupied by individuals whose income is 50% or less than the area median gross income.**
- **At least 40% or more of the residential units in the development are both rent restricted and occupied by individuals whose income is 60% or less than the area median gross income.**
- **At least 40% or more of the residential units in the development are both rent restricted and occupied by individuals whose income does not exceed the imputed income limitation designated by the taxpayer with respect to the respective unit. The average of the imputed income limitations shall not exceed 60% of the area median gross income.**

Typically, the project owner will agree to a higher percentage of low income usage than these minimums, up to 100%. There are no limits on the rents that can be charged to tenants who are not low income but live in the same project. However, the rule says, "60% or less" contemplating that the owner/developer will seek some sort of tax abatement or free "something" from the local government, thus the rule does not prevent the developer/owner from offering a lower percentage of the AMI.

The Olnick group has not presented an income targeted housing plan that is more attractive than 60% of the AMI, which is something that they will most likely do even without a rezoning approval. *Supra*.

However, this is a project for a rezoning. The Olnick group has requested a zoning that will give it greater bulk and density with other benefits. Also, Olnick will more than likely apply for the city's J51 Tax Credit program and for a set term not pay any city property taxes, without having to offer the low-income units to families earning less than 60% of the AMI. (*There were very few units that were offered at 50% of the AMI.*) Again, this will put a heavy tax burden on Harlem's smaller property home owners. (*If I am wrong on this, neither Olnick nor any other devil's advocate disputed this hypothesis.*)

When you add everything up, left unchecked, we are allowing housing, new and old, through a systematic standard, practice and procedure which its effect will diminish the ability of Harlem's plurality African American population to elect their preferred candidates of choice within several years. We cannot allow this standard, practice or procedure any longer.

Further Risk Factors

Furthermore, it has been historically demonstrated that major developments that consist of mainly open market units increase property taxes on smaller property owners in the catchment areas where such developments are situated. And the area of the Lenox Terrace cite is

⁴ The first step in the process is for a project owner to submit an application to a state authority, which will consider the application competitively. The application will include estimates of the expected cost of the project and a commitment to comply with one of the conditions (*supra*), known as "set-asides." HUD

surrounded by many properties owned by senior African Americans with limited income, thereby putting such properties at risk of higher property taxes, which ultimately will force these tenants out of Harlem.

Income Targeted Housing solution

Community Board 10 followed the Harlem Platform Committee's recommendation for an Income Targeted Housing model, in its decision disapproving the 125th Street Rezoning with Conditions back in 2007.

What Income Targeted Housing does is allow the creation of housing that addresses the relevant income bands in the district where the development is going to go up on a priority basis.

So if there are 100 people in your district in need of housing and 80% are low income earning between 15-29K a year, with or without a family of three, and the 20% are families earning 130-200K a year, with or without a family of three, we don't want/need 80% of housing that caters to someone or families earning 130-200K a year, and the 20% of housing only geared to families not even making 15-29K a year but instead earning 43-90K a year. That is truly gentrification at its top form, which is a condition created by unlawful government means. It pushes those low income tenants out and brings in wealthier tenants. This so happens to coincide with Black people being the ones pushed out and whites or non-Black people being the ones brought in.

Well this has been happening in Harlem for some time now and it is time to stop.

However, there are people in government who have heard our plea. Assembly member Inez Dickens has been pushing for Income Targeted Housing. Public Advocate Jumaane Williams is asking for Income Targeted Housing. Former HPD Commissioner Shaun Donovan tried to push for it before he went to HUD. Even the [Victoria Theater Project] which is a towering 27/28 story building on W, 125th Street – a project under the control of the Empire State Development Corp - has honored the spirit of the Voting Rights Act of 1965, as amended in 2006, and the 125th Street Special District, whereby it has a 100 foot set back and its housing model is targeted at 50/30/20, which housing income bands are Open, Moderate and Low, respectively. The Urban League development will also be utilizing an Income Targeted Housing model.

This is a fair attempt at respecting and adhering to the Fannie Lou Hamer, et al, law. The Olnick group will not be harmed by a decision of "NO" on its project. However, any harm that could occur doesn't rise above a supreme law of the land, especially since the project came well after such law was enacted. Furthermore, neither the ULURP procedure nor the traditional standard and practice (precedent) of how things are done when it comes to housing development supersedes a supreme law of the land.

Conclusion

It is with the utmost sincerity that we request the Commissioners of the City Planning Commission of New York City to follow the advice of CB 10, the Honorable Gale Brewer and all those others to vote against the applications before it, advise the Olnick group to adhere to the concerns outlined in the CB 10 resolution and follow a housing model that will not violate the Voting Rights Act of 1965, as amended in 2006, if it decides to come back with a rezoning application.

Very truly yours,

Julius Tajiddin, et. al

Harlem Advocates/Community Leaders

Cc: as appropriate



December 27, 2019

VIA U.S. POSTAL MAIL & E-MAIL

Honorable Rafael Salamanca Jr
Land Use Committee, Chair
250 Broadway, Suite 1781
New York, NY 10007
salamanca@council.nyc.gov

Honorable Marisa Lago
City Planning Commission, Chair
120 Broadway, 31st Floor
New York, NY 10271
mlago@planning.nyc.gov

Honorable Francisco Moya
Zonings and Franchises Sub Committee,
Chair
106-01 Corona Avenue
Corona, NY 11368
fmoya@council.nyc.gov

Honorable Bill Perkins
City Council District 9
163 West 125th Street, Room 729,
New York, NY 10027
d09perkins@council.nyc.gov

**Re: ULURP Applications C200052 ZMM, C200050 ZSM, N 200051 ZRM, 200054 ZSM,
N 20053ZAM**

Dear Chairpersons and Councilor:

We write on behalf of the Uptown Democratic Club to strongly urge your committee to disapprove the private application by Lenox Terrace Associates, an affiliate of the Olnick Organization, Inc. (“Applicant”) seeking approval of five land use actions to facilitate the development of 5 new 28-story mixed-use buildings and one 6-story building located at the Lenox Terrace superblock.

We stand in solidarity with community residents, advocates, and elected officials in opposition to the applicant's proposal due to its failure to address long standing repairs in existing housing, insufficient affordable housing, and lack of community input.

The applicant has been negligent in the performance of routine maintenance repairs in its existing housing of Lenox Terrace. When questioned regarding outstanding maintenance requests at public hearings held by Manhattan Community Board 10 (CB10) the applicant’s representatives stated repairs to existing units would be contingent upon CB10’s vote of approval for their rezoning application. To be clear, current residents suffer from years of derelict conditions within their apartment and building that the Applicant is required to renovate in accordance with local, state and federal law regardless of any on-going negotiations. Using the decrepit state of existing housing as a bargaining chip is immoral, illegal, and definitive of the historical characterization of a slumlord. In our great city of New York, such predatory tactics must be met with universal condemnation.



The proposed affordable housing offered as an “incentive.” is insufficient. Harlem has become increasingly devoid of affordable housing, and adding a massive development with five (5) new buildings should come with a percentage of “affordable” housing that at a bare minimum reflects the realities of Harlem’s residents with a median income of \$42,010, not the standard adjusted median income for New York City residents of \$74,700. The need for affordable housing should be reflected both in an increased percentage of affordable units and a price adjustment that makes it possible for Harlemites to live at Lenox Terrace. The current proposal to add an additional 1,200 units of market rate housing will exacerbate the displacement of existing residents.

The C6-2 rezoning that the applicant is seeking will have major implications on surrounding homes and small businesses thus requiring a community driven approach and study. Despite the applicant’s renderings of commercial space occupied by small vendors and cafes, a C6-2 zoning would allow big box retail stores historically limited to large commercial hubs such as Times Square. Such an addition to Central Harlem would threaten the viability of surrounding small businesses and overburden the local public transit infrastructure.

To preserve the integrity, culture, and livability of Harlem the rezoning for Lenox Terrace must be disapproved. The applicant has an obligation to ensure that its existing housing is up to code. Furthermore, residents and community leaders throughout Manhattan demand community driven rezoning proposals that reflects the wants and needs of communities, rather than that of developers. Please do not be swayed by minor incentives that may be offered in exchange for a “yes” vote, as this is an opportunity to better our neighborhood by holding those that want to build in our community responsible for their past, present and future behavior. We sincerely appreciate your attention to this matter and hope that we can count on your continued support.

Regards,

Pierre Gooding

Pierre Gooding, Esq.,

General Counsel

Uptown Democratic Club

Joshua A. Clennon

Joshua A. Clennon

Executive Director

Uptown Democratic Club

cc: Hon. William Allen
Hon. Donna Gibbons
Hon. Pharein Griffith
Hon. Derek Perkinson
Hon. Tamika Covington

Hon. Sheline Spencer
Hon. Sheila Harrison
Hon. Julie Schuman
Hon. Earl Morris
Hon. Ricardo Shark

**32BJ Testimony for Lenox Terrace ULURP
CPC Hearing
Wednesday December 18, 2019**

Good morning Chair Lago and members of the Commission, my name is Cassie Carrillo and I am here on behalf of my union, 32BJ, and the 51 32BJ members currently employed at Lenox Terrace, to talk about how the proposed rezoning will impact building service workers and jobs. We are supportive of this proposal because it will preserve the existing building service jobs and standards at Lenox Terrace and create many new good jobs.

For more than 30 years 32BJ has represented the workers that currently clean and maintain the Lenox Terrace complex. These jobs are good jobs that pay the prevailing wage and provide working families access to upward mobility. Most property service jobs are filled by people who live in the community and when these jobs pay the industry standard, they have low turnover rates—in fact, the majority of the current staff at Lenox Terrace have served the complex for more than 20 years. Good jobs that provide both growth opportunities and security are important investments in New York communities and property service jobs that pay the industry standard do just that.

Which is why we are here in support of this rezoning. The creation of hundreds of new housing units and commercial and community facility space will generate about 35 new property service jobs. Because Olnick has made a credible commitment to provide prevailing wage building service jobs, these jobs will give access to a new generation of property service workers to live and work with dignity. 32BJ has a longtime partnership with the Olnick Organization and know they will continue to be a responsible employer in Harlem.

32BJ supports responsible development that encompasses a commitment to providing prevailing wage jobs to property service workers.

On behalf of our 51 members at Lenox Terrace, the more than 2,500 32BJ members that live and work in Community District 10, and our broader New York City membership, we urge you to approve this project.

C

GENERAL INFORMATION**HOW TO PARTICIPATE:**

Signing up to speak: Anyone wishing to speak on the items listed under “Public Hearings” in this Calendar is requested to fill out a speaker’s slip available at the staff desk outside the hearing chambers on the day of the hearing. Public officials will be given speaking priority. The first five speakers in favor will be heard and given the opportunity to conclude their testimony before the next five speakers in opposition are heard. The hearing will proceed in this manner until all speakers present have had an opportunity to be heard.

Length of Testimony: To give others an opportunity to speak, all speakers are asked to limit their remarks to three minutes.

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**CITY PLANNING COMMISSION
Calendar Information Office – 31st Floor
120 Broadway, New York, N.Y. 10271**

Subject LENOX TERRACE

Date of Hearing 12/18/19 Calendar No. 28-31

Borough MANHATTAN ULURP No.: * CD No.: 10

Position: Opposed _____

In Favor X

Comments:

SEE ATTACHED LETTER

Name: LLOYD WILLIAMS

Address: 200A WEST 136TH STREET

Organization (if any) THE GREATER HARLEM CHAMBER OF COMMERCE

* C200052ZMM, C200050ZSM, N 200051 ZRM, 200054 ZSM, N 200053 ZAM



**The Greater Harlem
Chamber of Commerce**

200A West 136th Street
New York, NY 10030
Telephone: (212) 862-7200
Fax: (212) 862-8745
E-mail: info@greaterharlemchamber.com
www.GreaterHarlemChamber.com
Established in 1896

December 17, 2019

City Planning Commission
The City of New York
120 Broadway
New York, New York 10007

Re: Public Hearing
December 18, 2019
Subject: Lenox Terrace
Calendar Nos. 28-31
Application Nos. C 200052 ZMM; C 200052 ZSM; N 200051 ZRM; 200054 ZSM
N 200053 ZAM
Letter of Support In Favor of Applications

Dear Honorable Commissioners:

As longstanding members of the Central Harlem business community and as members of The Greater Harlem Chamber of Commerce, we are pleased to inform you that we believe the Applications before you for consideration regarding the Lenox Terrace renovation and new development will bring meaningful benefit to our service area as well as to our businesses. With that in mind, we encourage you to support the Lenox Terrace Applications. As Harlemites, we not only treasure Harlem's history, but also care deeply about its future and will be directly affected. That is why we are in favor of the various positive components that the Lenox Terrace initiative can and will bring to Harlem.

The proposed plan for Lenox Terrace has the potential to be a major economic boon for our community creating hundreds of part time and full time jobs during the development and operational phases, as well as creating numerous business opportunities for our local entrepreneurs.

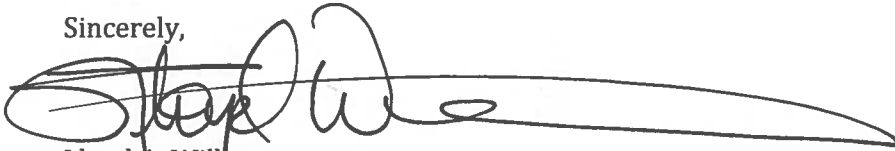
The development phase will provide substantial opportunities for local service providers, contractors and small businesses. It is further our understanding from the Chamber and the Olnick Group that the project development team is committed to a minimum goal of 30% MWLBE participation. We further understand that from Olnick Group that the development project will also create many hundreds of jobs on-site, with a significant number of the workers coming from the Harlem community. We also eagerly look forward to witnessing the substantial revitalization of the retail, commercial and professional services environment which will benefit the Chamber's target area of West 127th St. to West 142nd St. east from 5th Avenue to west, St. Nicholas Avenue thereby benefitting a significant portion of Central Harlem and beyond.

Because we are dramatically concerned about the development of truly affordable housing units in East Harlem, we are pleased that the development, when concluded, is guaranteed to provide 400+ permanently affordable apartments.

We believe that the proposed development plan and the Applications before you can provide a unique opportunity to address many of the ever-growing needs of our service area. We therefore, request that you, as well as our other elected officials in the State Senate, State Assembly and, of course, our City Council and Community Board, be supportive of this historic project.

We invite you, if so desired, to communicate directly with The Greater Harlem Chamber of Commerce with any questions, thoughts or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lloyd A. Williams', with a long horizontal flourish extending to the right.

Lloyd A. Williams
President

Cc: Hazel Dukes - Executive Board Member
Charles Warfield - Treasurer
Patricia Ricketts - Vice President

C

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Subject LENOX TERRACE

Date of Hearing 12/18/19 Calendar No. 28-31

Borough MANHATTAN ULURP No.: * CD No.: 10

Position: Opposed _____

In Favor X

Comments:

SEE ATTACHED LETTER

Name: VOZA RIVERS

Address: 229 WEST 135TH STREET

Organization (if any) HARLEM ARTS ALLIANCE

* C200052ZMM, C200050ZSM, N 200051 ZRM, 200054 ZSM, N 200053 ZAM



December 17, 2019

City Planning Commission
The City of New York
120 Broadway
New York, New York 10007

Re: Public Hearing
December 18, 2019
Subject: Lenox Terrace
Calendar Nos. 28-31
Application Nos. C 200052 ZMM; C 200052 ZSM; N 200051 ZRM; 200054 ZSM
N 200053 ZAM
Letter of Support In Favor of Applications

Dear Honorable Commissioners:

As longstanding members of the Central Harlem business and arts & culture community and as members of The Greater Harlem Chamber of Commerce, we are pleased to inform you that we believe the proposed plans and associated Applications for the Lenox Terrace renovation and new development will bring meaningful benefit to our service area as well as to our businesses and to our cultural institutions. With that in mind, we encourage you to support the Lenox Terrace initiative. As Harlemites, we not only treasure Harlem's history, but also care deeply about its future and will be directly affected. That is why we are in favor of the various positive components that the Lenox Terrace initiative can and will bring to Harlem.

The proposed plan for Lenox Terrace has the potential to be a major economic boon for our community creating hundreds of part time and full time jobs during the development and operational phases, as well as creating numerous business opportunities for our local entrepreneurs. The Harlem Arts Alliance is pleased to work in partnership with the Olnick Group and its proposed development and redevelopment of the Lenox Terrace Complex.

By concentrating on the arts and cultural impact that can best compliment the Lenox Terrace development and the residents of our service area, we will focus on key cultural sites located between W. 127th & W. 142nd Streets from 5th Avenue to Frederick Douglass Boulevard, including the:

- Schomburg Center for Research in Black Culture

- Harlem YMCA
- Countee Cullen Library
- National Jazz Museum in Harlem
- Dizzy Gillespie Mural Site

The development phase will provide substantial opportunities for local service providers, contractors and small businesses. It is further our understanding from the Chamber and the Olnick Group that the project development team is committed to a minimum goal of 30% MWLBE participation. We further understand that from Olnick Group that the development project will also create many hundreds of jobs on-site, with a significant number of the workers coming from the Harlem community. We also eagerly look forward to witnessing the substantial revitalization of the retail, commercial and professional services environment which will benefit the Chamber's target area of West 127th St. to West 142nd St. east from 5th Avenue to west, St. Nicholas Avenue thereby benefitting a significant portion of Central Harlem and beyond.

Because we are dramatically concerned about the development of truly affordable housing units in East Harlem, we are pleased that the development, when concluded, is guaranteed to provide 400+ permanently affordable apartments.

We believe that the proposed development plan can provide a unique opportunity to address many of the ever-growing cultural and educational needs of our service area. We therefore, request that you, as well as our other elected officials in the State Senate, State Assembly and, of course, our City Council and Community Board, be supportive of this historic project.

We invite you, if so desired, to communicate directly with The Harlem Arts Alliance with any questions, thoughts or comments.

Sincerely,



Voza Rivers
Chairman

Cc: Lloyd A. Williams, Vice-Chair
Donna Walker-Kuhne – Executive Board Member

C

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Subject LENOX TERRACE

Date of Hearing 12/18/19 Calendar No. 28-31

Borough MANHATTAN ULURP No.: * CD No.: 10

Position: Opposed _____

In Favor X

Comments:

SEE ATTACHED LETTER

Name: WINSTON MAJETTE

Address: 200A WEST 136TH STREET

Organization (if any) HARLEM WEEK, INC.

* C200052ZMM, C200050ZSM, N 200051 ZRM, 200054 ZSM, N 200053 ZAM



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HARLEMWEEK@gmail.com
www.harlemweek.com

December 17, 2019

City Planning Commission
The City of New York
120 Broadway
New York, New York 10007

Re: Public Hearing
December 18, 2019
Subject: Lenox Terrace
Calendar Nos. 28-31
Application Nos. C 200052 ZMM; C 200052 ZSM; N 200051 ZRM; 200054 ZSM
N 200053 ZAM
Letter of Support In Favor of Applications

Dear Honorable Commissioners:

As longstanding members of the Central Harlem business community and as members of The Greater Harlem Chamber of Commerce, we are pleased to inform you that we believe the Applications before you for consideration regarding the Lenox Terrace renovation and new development will bring meaningful benefit to our service area as well as to our businesses. With that in mind, we encourage you to support the Lenox Terrace Applications. As Harlemites, we not only treasure Harlem's history, but also care deeply about its future and will be directly affected. That is why we are in favor of the various positive components that the Lenox Terrace initiative can and will bring to Harlem.

The proposed plan for Lenox Terrace has the potential to be a major economic boon for our community creating hundreds of part time and full time jobs during the development and operational phases, as well as creating numerous business opportunities for our local entrepreneurs.

HARLEM WEEK is pleased to work with the Olnick Group in relation to the overall community impact of the proposed new Lenox Terrace development project and the related renovations and/or restorations of the existing properties which comprise the Lenox Terrace Complex.

For the past 12 years, HARLEM WEEK has worked directly with the Olnick organization on major special community projects including:

- “Summer in the City” (the 3rd Saturday of each August on W. 135th Street between Malcolm X Boulevard & St. Nicholas Avenue)
- HARLEM DAY (the 3rd Sunday of each August on W. 135th Street between Fifth and St. Nicholas Avenues)
- The Percy Sutton Harlem 5K Run & Health Walk (the 4th Saturday of each August on W. 135th Street and St. Nicholas Avenue)
- The NY City Marathon (the 1st Sunday of each November on 135th Street between 5th Avenue and Malcolm X Boulevard)

The development phase will provide substantial opportunities for local service providers, contractors and small businesses. It is further our understanding from the Chamber and the Olnick Group that the project development team is committed to a minimum goal of 30% MWLBE participation. We further understand that from Olnick Group that the development project will also create many hundreds of jobs on-site, with a significant number of the workers coming from the Harlem community. We also eagerly look forward to witnessing the substantial revitalization of the retail, commercial and professional services environment which will benefit the Chamber’s target area of West 127th St. to West 142nd St. east from 5th Avenue to west, St. Nicholas Avenue thereby benefitting a significant portion of Central Harlem and beyond.

Because we are dramatically concerned about the development of truly affordable housing units in East Harlem, we are pleased that the development, when concluded, is guaranteed to provide 400+ permanently affordable apartments. We believe that the proposed development plan and the Applications before you can provide a unique opportunity to address many of the ever-growing needs of our service area. We therefore, request that you, as well as our other elected officials in the State Senate, State Assembly and, of course, our City Council and Community Board, be supportive of this historic project.

We invite you, if so desired, to communicate directly with HARLEM WEEK, Inc. with any questions, thoughts or comments.

Sincerely,



Winston Majette
Executive Director

Cc: Lloyd A. Williams – Chairman
Marko Nobles – 2nd Vice-Chair
Barbara Burwell - Treasurer

C

GENERAL INFORMATION**HOW TO PARTICIPATE:**

Signing up to speak: Anyone wishing to speak on the items listed under "Public Hearings" in this Calendar is requested to fill out a speaker's slip available at the staff desk outside the hearing chambers on the day of the hearing. Public officials will be given speaking priority. The first five speakers in favor will be heard and given the opportunity to conclude their testimony before the next five speakers in opposition are heard. The hearing will proceed in this manner until all speakers present have had an opportunity to be heard.

Length of Testimony: To give others an opportunity to speak, all speakers are asked to limit their remarks to three minutes.

Electronic Comments: Anyone wishing to present facts or to inform the Commission of their view on an item in this calendar, but who cannot or does not wish to speak at the public hearing, may submit comments electronically using the CPC Comments Form on the public meeting page of the Department of City Planning website:

<http://www1.nyc.gov/site/planning/about/commission-meetings.page>

Written Comments: Anyone wishing to present written facts or to inform the Commission of their view on an item in this calendar, but who cannot or does not wish to speak at the public hearing, may also fill out the form below and return it to the desk outside the hearing chambers, or mail their written comments to:

CITY PLANNING COMMISSION
Calendar Information Office – 31st Floor
120 Broadway, New York, N.Y. 10271

Subject LENOX TERRACE

Date of Hearing 12/18/19 Calendar No. 28-31

Borough MANHATTAN ULURP No.: * CD No.: 10

Position: Opposed

In Favor X

Comments:

SEE ATTACHED LETTER

Name: WILLIAM HURLEY

Address: 200A WEST 136TH STREET

Organization (if any) GREATER HARLEM HOUSING DEVELOPMENT CORPORATION

* C200052ZMM, C200050ZSM, N 200051 ZRM, 200054 ZSM, N 200053 ZAM

GREATER HARLEM HOUSING DEVELOPMENT CORPORATION

200A WEST 136TH STREET NEW YORK, NEW YORK 10030
PHONE: (212) 862 – 8299 FAX: (212) 862 – 8745
EMAIL: GHHDC@HARLEMDISCOVER.COM

December 17, 2019

City Planning Commission
The City of New York
120 Broadway
New York, New York 10007

**Re: Public Hearing
December 18, 2019
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Letter of Support In Favor of Applications**

Dear Honorable Commissioners:

Greater Harlem Housing Development Corporation (GHHDC) is a Central Harlem based not for profit corporation formed to develop, build, rehabilitate and renovate housing earmarked for low income and/or moderate income persons in the Greater Harlem communities. In so doing, GHHDC provides adequate, safe, quality dwelling accommodations that enhance the health, safety, welfare, comfort and security of the residents of those neighborhoods. In addition, GHHDC provides employment opportunities for property managers, maintenance teams, local vendors and other professional service providers.

GHHDC has served as the major anchor and catalyst for the economic development of the W. 135th Street residential and commercial corridor between St. Nicholas Avenue and Malcolm X Boulevard and from south, 134th to north, 136th Streets. In its role as catalyst and community partner, GHHDC, in concert with the NYC Department of Parks & Recreation and The City College of New York, spearheaded the redevelopment of St. Nicholas Park. In addition, GHHDC, in concert with the NYC Department of Transportation and NYC Economic Development, coordinated the repaving and relighting of the public streets along the entire W. 135th St. corridor thereby making them safer and more user friendly for both pedestrian and public transportation. GHHDC also collaborated with the MTA to bring about the renovation of the train stations located at W. 135th and Lenox Ave. (Malcolm X Blvd.), and W. 135th and St. Nicholas Avenue.

As longstanding members of the Central Harlem business community and as members of The Greater Harlem Chamber of Commerce, GHHDC is pleased to inform you that we

believe the proposed plans for the Lenox Terrace renovation and new development will bring meaningful benefit to our service area as well as to local area businesses. With that in mind, we encourage you to support the Lenox Terrace initiative. As Harlemites, we not only treasure Harlem's history, but also care deeply about its future and will be directly affected. That is why we are in favor of the various positive components that the Lenox Terrace initiative can and will bring to Harlem.

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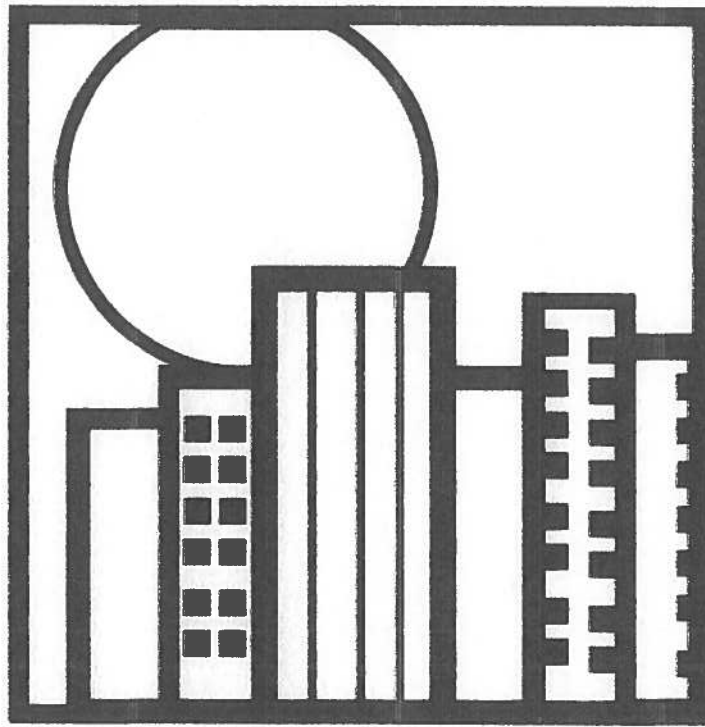
We invite you, if so desired, to communicate directly with us with any questions, thoughts or comments.

Sincerely,



William Hurley
1st Vice-President

c: F. Crawford, A. Chilliast, C. Powell



Lenox Terrace Association of Concerned Tenants
www.LTACT.org

**Opposition to proposed Olnick
Commercial Rezoning at Lenox Terrace**

Lenox Terrace Association of Concerned Tenants
(LT-ACT)

September 12, 2019

The Honorable Gale A. Brewer
Manhattan Borough President
One Center Street, 19th Floor South
New York, NY 10007

Dear Borough President:

On behalf of the Lenox Terrace Association of Concerned Tenants (LT-ACT), I would like to thank you for your leadership in support for tenants at Lenox Terrace.

As you know, LT-ACT has been opposed to the Olnick Organization's plan to rezone the Lenox Terrace property from a residential R7-2 to a commercial zoning C6-2 since the plan was introduced more than 10-years ago—it is a scary harbinger of developer-driven rezonings ahead of a community-driven plan for Central Harlem.

The proposed redevelopment that would take an estimated ten years is an infill of an additional five buildings, upwards of 28 stories, between the existing six lower rise buildings. The development would more than double the number of residents in this three-square-block area with an additional 1600 apartments. We are also concerned that these new luxury buildings would further degrade the quality of affordable housing in Lenox Terrace.

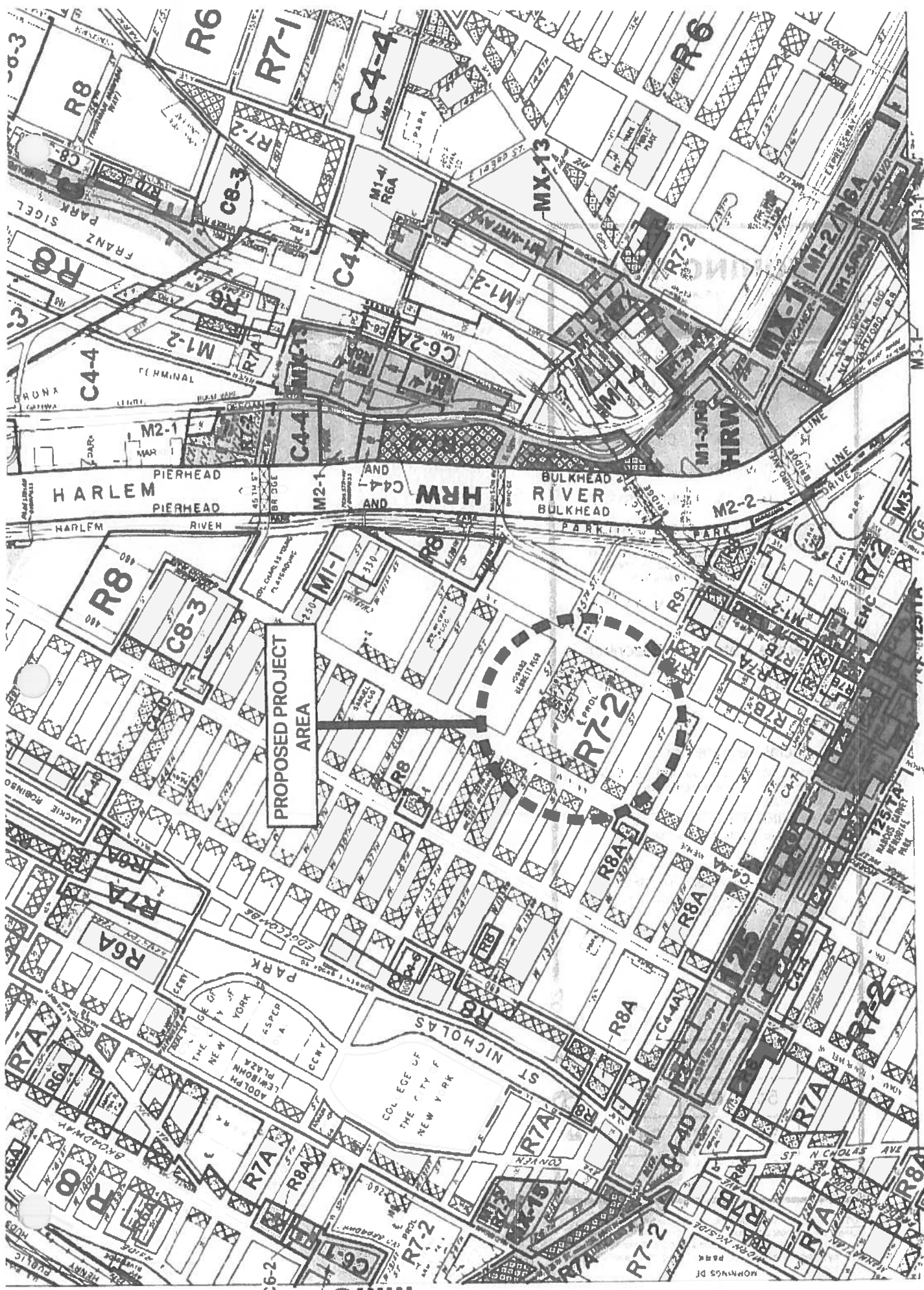
The requested C6-2 zoning is the same zoning as downtown Brooklyn and even larger than Bronx Terminal Market—imagine a Bronx Terminal market inside Lenox Terrace! The change in zoning would allow for neighborhood-altering mega-structures that would threaten to put an unsustainable burden on community resources, including the already dangerously overcrowded and narrow subway stop at 135th Street and Harlem Hospital.

The Olnick Organization intends to build as densely and as high as they can to maximize profit with no regard to the impact on the community. Together, we must prevent this egregious project from moving forward. We ask that you VOTE NO to this plan.

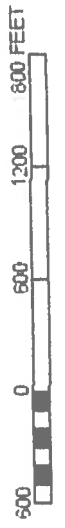
Sincerely,



Lenn Shebar
President
LT-ACT



- C1-1
 - C1-2
 - C1-3
 - C1-4
 - C1-5
 - C2-1
 - C2-2
- NOTE: Where no dimensions for zoning district boundaries appear on the map, the boundaries shall be as shown on the zoning map in Article V, Chapter 6, Section 6-10 of the Zoning Resolution.



MMU

DAP STRATEGIES, LLC

October 17, 2019

Hon. Cecily Harris

Chair

Manhattan Community Board 10

215 W 125 Street, 4th fl.

NY, NY 10027

Hon. Lisa Downing

Chair, Land Use

Dear Chairs:

I proudly write this letter in support of the tenants of Lenox Terrace and their opposition to the Olnick Organization's commercial rezoning proposal for Lenox Terrace.

This precedent setting rezoning proposal must be halted. As a community leader, I urge you to not be complicit in this dangerous rezoning change that will escalate rents, erode both culture and sense of community.

The proposed towers and "destination" retail would threaten to put an unsustainable burden on community resources, including Harlem Hospital and the already dangerously overcrowded subway stop at 135th Street. Construction issues would include impeded hospital access because of additional trucks, traffic, noise, worsening air quality in a neighborhood with a large senior population and elevated rates of asthma, among a myriad of additional concerns.

I have proudly lived at Lenox Terrace since 1972, and my brother and mother live there as well and hope that future generations will have the opportunity to enjoy this special sense of community.

I urge the Land Use Committee and the entire Board to vote No.

Sincerely

Governor David A. Paterson



TAKEROOT JUSTICE

[Date]

Olga Abinader, Director of Environmental Assessment and Review
New York City Department of City Planning
120 Broadway, 31st Fl.
New York, NY 10271

Re: TakeRoot Justice's comments on Draft Environmental Impact Statement for Lenox Terrace, CEQR No. 18DCP084M

Dear Ms. Abinader,

I submit the following comments on the Draft Environmental Impact Statement (DEIS) for an application to rezone Lenox Terrace in Central Harlem (CEQR No. 18DCP084M), on behalf of TakeRoot Justice in its capacity as counsel to the Lenox Terrace Association of Concerned Tenants (LT-ACT). LT-ACT represents the tenants of Lenox Terrace, who will be directly impacted by this misguided proposal.

The DEIS ignores the impact of allowing "destination retail" in Lenox Terrace

Olnick's requested rezoning would create a high-density commercial district allowing for large-format retail—essentially a giant shopping mall—on top of Lenox Terrace. It would create a C6-2 district covering the entire development,¹ which would allow for a large number of commercial uses not currently permitted, as well as far greater density of commercial use. Specifically, the current zoning allows for local uses such as small retail, groceries, and cafes and restaurants, mostly within 100' of the street.² Olnick's requested rezoning would allow much higher commercial density throughout the entirety of Lenox Terrace, and would allow for many

¹ DEIS at 1-1.

² The current commercial zoning is a C1-4 overlay covering 100' from Malcolm X Blvd., 135th St., and Fifth Ave, and a small additional portion of the northeast corner of the development. The only commercial Use Group permitted in C1 districts is Use Group 6. *See* Zoning Res. § 32-15 (describing Use Group 6).

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Law, research, and
policy for organizing

TAKEROOTJUSTICE.ORG



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more uses.³ These uses include department stores and large variety stores—stores like Wal-Mart and Target—that would completely disrupt the local area.⁴

The DEIS at some points admits that the commercial rezoning will lead to “destination retail tenants.”⁵ In fact, the DEIS even states that it assumes that new retail “could be split evenly” between local and “destination” retail⁶ (although the DEIS never explains the basis for this assumption). Elsewhere, the DEIS argues in favor of placing new shopping malls in Central Harlem, on the ground that “Harlem is in the midst of a retail transformation from small-format retailers to large-format stores,” and adding a big-box store at Lenox Terrace would be “in-line with existing trends.”⁷ In other words, the application argues that the 125th St. rezoning—and all the “destination retail” that came with it—is the future of Harlem.

But the remainder of the DEIS contradicts this, treating the new development as if it will consist entirely of local retail and service—uses that are *already permitted by the current zoning*. First, the renderings included in the DEIS,⁸ as well as those presented to the City Planning Commission when the application was certified for the Uniform Land Use Review Procedure,⁹ show local retail uses such as a coffee shop, restaurant, and supermarket. These would not require a commercial upzoning. Although the contrast between the renderings and the requested rezoning was pointed out by Commissioner Levin,¹⁰ and the Department of City Planning (DCP) apparently discussed the possibility of changing only the residential zoning with Olnick, there is no explanation of the discrepancy between the figures in the DEIS and the actual commercial development that is likely to occur.¹¹ Presenting these images as the face of the project is misleading, to say the least.

Other areas of the DEIS completely deny the possibility of new “destination” retail, in *direct contradiction with the admission above*. The DEIS’s description of the square footage of

³ See Zoning Res. §§ 32-16 through 32-21 (describing Use Groups 7 through 12, all of which are permitted in C6 districts).

⁴ See *id.* § 32-19 (describing Use Group 10, “large retail establishments (such as department stores) that...serve a wide area...and...are not appropriate in local shopping or local service areas”).

⁵ DEIS at 2-13 (“The proposed commercial use is anticipated to include a mix of local and destination retail tenants.”).

⁶ *Id.* at 2-13.

⁷ *Id.* at 3-24 to -25.

⁸ *Id.* fig. 1-7.

⁹ Video of the CPC Review Session at which the ULURP application was certified is available at <https://www.youtube.com/watch?v=rfCDCZmcqQM>. Renderings where retail was shown can be seen at timestamp 14:05 to 15:04.

¹⁰ *Id.* at 24:20 (“[H]aving a C6-2 designation is kind of an anomaly for this area, and it made me wonder whether you could get to the same result with an R8, which would be an upzoning that would still facilitate [Mandatory Inclusionary Housing], but with a commercial overlay that would allow that same level of commercial and community facility use. Is there a technical reason why we’re not using a residential designation with an overlay?”).

¹¹ *Id.* at 25:50 (“I believe the residential designation with the overlay was discussed in an earlier iteration, but ultimately the applicant proposed to pursue the C6-2 district. So, I can return to the Commission with a stronger rationale for why that was decided.”).



the predicted new uses states that *all* new retail development will be local.¹² Similarly, the description of neighborhood character states that the project “would not add uses not already present” in the general area.¹³ But nothing like the large-format retail stores the proposed project would bring actually exist nearby.¹⁴

The project would allow substantially more residential density than acknowledged in the DEIS

The proposed rezoning would nearly double the maximum density currently permitted in Lenox Terrace. The current zoning is R7, which allows for a maximum floor area-ratio (FAR—roughly speaking, the ratio of lot size to building size) of 3.44, or 4.0 under certain circumstances.¹⁵ The actual built FAR, according to the DEIS is only about 3.0.¹⁶ Olnick’s requested rezoning would allow up to a 7.2 FAR.¹⁷ The DEIS, however, assumes a maximum FAR of 5.61, which would be only about two-thirds of the allowable increase.¹⁸

The DEIS justifies the assumption that Olnick will not build to the maximum possible density by claiming that the applicant “is expected to enter into a Restrictive Declaration” limiting residential density. This reflects only the *expectation* of the DCP, and provides no assurances whatsoever that development will not proceed to the maximum possible extent. Yet, that assumption is used throughout the DEIS, and no accounting is made of the possibility that Olnick will take full advantage of the rezoning.¹⁹

In any case, a restrictive declaration is not a reliable means of ensuring that development will not exceed Olnick’s proposal. First, the declaration would apparently be negotiated with the City, not the tenants or local residents. This means that the community will have no control over the negotiations, and that the substance of the declaration might not address the concerns of the community. Given Olnick’s refusal to engage with the people who are actually impacted by this

¹² The table describes all expected retail as “Use Group 6.” *Id.* table 1-3. Use Group 6 includes local retail, restaurants, supermarkets, and other uses that “have a small service area.” Zoning Res. § 32-15.

¹³ *Id.* at 18-5.

¹⁴ No commercial district in the area studied by the DEIS permits large-format retail. *Id.* at table 2-3 (describing all zoning districts in the area studied, and including only C1 and C2 districts). There are two small manufacturing districts in the area that could theoretically allow for large-format retail, *id.*, but neither actually contains such stores.

¹⁵ The current maximum floor-area ratio (FAR) is 3.44, though the FAR could increase to 4.0 if built to certain specifications. Zoning Res. § 23-151 (FAR maximum of 3.44 for R7 districts); *id.* § 23-153 (FAR maximum of 4.0 for R7 districts built to Quality Housing standards). *See also* DEIS at 2-5 to -6.

¹⁶ DEIS at 1-6.

¹⁷ Olnick’s requested rezoning is to a commercial district (C6-2) that is equivalent to an R8 for purposes of determining maximum residential density. Zoning Res. § 34-112. An R8 residential district allows for an FAR of 7.2 if built to specified standards. *Id.* § 23-153. *See also* DEIS at 2-13.

¹⁸ *E.g.*, DEIS at 1-6.

¹⁹ The DEIS also argues that building to the full allowable density would be difficult because of zoning, setback, and parking restrictions. *Id.* at 1-11. But this provides little assurance. First, waiving these zoning restrictions is substantially easier than winning the commercial rezoning in the first place. Second, these restraints could be partially or completely overcome by design and engineering, and the DEIS provides no explanation of what the effective maximum would be.



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development, or their local representatives, this is unlikely to change if the proposed rezoning is approved.

Second, a restrictive declaration is only as strong as its enforcers. Unlike zoning regulations, which could be enforced by the people impacted by development, restrictive declarations typically allow enforcement only by the City. The extent to which the City prioritizes land-use controls has historically varied, and will likely to continue to vary going forward. And once a structure is substantially complete, it is extremely difficult to force a developer to tear it down. If the City decides that it does not have the resources to diligently enforce the declaration, Olnick could simply change its plans, build a different structure, and suffer almost no consequences.

Finally, a restrictive declaration can typically be altered—or removed entirely—by the City. The requirement for modification or cancellation can be as simple as applying to the Chair of the City Planning Commission (“CPC”). The City has failed in its stewardship of such restrictions in the past; the most infamous example of this is Rivington House, a nursing home that was restricted to use by nonprofit healthcare providers until the City lifted that restriction in exchange for about \$16 million.²⁰ The CPC’s stated policy is that they will seek approval from the City Council on any substantial changes to restrictive declarations, but they may not adhere to that policy in the future. Therefore, the DEIS should not assume that any limits embodied in a restrictive declaration will be honored.

The DEIS finds that the project would damage the historical and cultural value of Lenox Terrace, but fails to provide for mitigation of that damage

Finally, the DEIS acknowledges that the proposed project would mar the enormous historical and cultural importance of Lenox Terrace, but does nothing to avoid or mitigate that damage. The DEIS includes a statement from the New York City Landmarks Preservation Commission (LPC) stating that Lenox Terrace “appears to be National Register eligible, for its cultural associations with prominent African Americans in the Harlem community.”²¹ Because of the importance of the development and its site plan, the DEIS determines that “the demolition of the one-story structures on the proposed development site would result in a significant adverse impact to historic resources.”²² In other words, the DEIS found that the new development would demolish an important piece of Harlem’s history for the sake of unwanted luxury high-rises and large-format retail.

The DEIS also ignores much of the damage to Lenox Terrace. The physical destruction of the retail buildings is bad enough, but the proposed project would also radically alter the

²⁰ N.Y.C. Office of the Comptroller, Report of the New York City Comptroller on the Sale of Two Deed Restrictions Governing Property Located at 45 Rivington Street, https://comptroller.nyc.gov/wp-content/uploads/documents/Rivington_Report_8-1-16.pdf.

²¹ DEIS appx. B, at 2.

²² DEIS at 7-7. Oddly, the DEIS immediately contradicts itself, stating that the project “would *not* be anticipated to have any significant adverse impacts on historic and cultural resources.” *Id.* at 7-9. This appears to be an error.

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layout and design of Lenox Terrace, which is as much a part of the history of the place as the individual buildings. The new luxury apartment buildings will damage the layout and design of Lenox Terrace—for example, by removing the iconic circular driveways in front of 470 Malcolm X Blvd. and 40 West 135th St.²³ Furthermore, the location of new “destination” retail as a wall around the existing buildings will completely change the character of the perimeter from a charming series of neighborhood stores to a shopping mall.

The DEIS provides wildly inadequate mitigation for these harms. The only concrete proposal that the applicant is “consider[ing]” is installing “educational material and displays” about cultural figures somewhere on the property.²⁴ A plaque on the wall cannot make up for defacing a key Harlem neighborhood.

Conclusion

The DEIS is both self-contradictory and inadequate, and substantial new studies must be undertaken to understand the full impact the proposal to add enormous new residential density and “destination” retail to the center of Central Harlem.

²³ *E.g.*, *id.* fig. 1-5.

²⁴ *Id.* at 21-6.



Comparable As-Of Right Construction:

Park West Village

**Columbus between W. 97th-100th
East side of the street**

**Columbus Ave. between W. 97th-100th
Zoning: R7-2/C1-5**

**Example of "As-of right"
similar to Lenox Terrace**



From Daniel Carpenter-Gold, TakeRoot Justice:

The C1-5/R7-2 is very similar to the C1-4/R7-2 in Lenox Terrace. The main difference between a C1-4 and a C1-5 is parking: C1-5s generally don't have parking requirements, while C1-4s. But, the parking requirements are generally subject to waiver anyways—basically, a retail use in C1-4 that is <40,000 sq ft will generally not have a parking requirement in either a C1-4 or C1-5. And they can always put parking below ground (which is what happened for the residential parking at that development).

And it's very similar to Lenox Terrace also in that it's an old Urban Renewal site (brick buildings set back from Columbus) that was infilled with new residential and commercial development (glass buildings close to Columbus).

That's an excellent example of how as-of-right development could go at Lenox Terrace.

Dr. Misa Dayson
Transcript of comments at
Community Board 10 Land Use Subcommittee

September 19, 2019

Transcript – Building Maintenance & Security Issues at Lenox Terrace

Some of the building issues that Olnick is proposing in their presentation in their [Tenant Benefit Agreement] section as upgrades are basic building issues. We at LT-ACT maintain that, what they are proposing as upgrades are basic building maintenance issues and should NOT be a part of any Tenant Benefit Agreement. We also maintain that they are cosmetic features that don't address outstanding issues that Olnick has willfully neglected for the last many years.

Unrenovated Apartments/Asbestos Tiles

In each building's basement and laundry room, the tiling in all of the apartments are made from asbestos vinyl tile flooring. This generally should be safe, until it breaks or cracks. When it breaks or cracks it becomes "friable" which means it becomes breathable, which means it's a serious health concern. Many apartments have these vinyl asbestos tiles where they have begun to crack. You can go into every building in Lenox Terrace in the laundry rooms, the tiles have also begun to crack and break. Olnick has not addressed this in a comprehensive way. So that's not part of what they're saying in terms of upgrades.

Plumbing issues

Tenants have complained for years about plumbing issues. This has resulted in the ceilings falling in in people's kitchens and bathrooms and not being repaired consistently.

This is related to an ad hoc approach to renovation. Our plumbing is over 60 years old and when they're installing dishwashers, it puts a strain on infrastructure. That's not being addressed.

Electric issues

Our electrical panels in the apartments are not uniform. Some apartments have circuit breakers, others have fuse boxes. Many tenants throughout the building have talked about their electricity going out when there's a renovation happening because [Olnick's] not maintaining uniform electrical panels in the building.

The sockets are also very old. Many tenants sockets depress into the walls which causes a health hazard. Also some of the wiring is faulty. You'll have a three-pronged socket where people plug in their air conditioners but they are sockets that are made of 15 amps and they should be 30 amps. But the 30 amp sockets only have two-pronged sockets. This isn't being addressed.

Green Space Proposal

We want to speak to the "Green Space Proposal" that Lenox Terrace has featured. We're asking questions about security. Because currently Lenox Terrace has taken out most of the benches that existed on the property due to security concerns. So if you're going to expand green space we're asking what are you're going to do about security? Currently security guards at Lenox Terrace are being used to distribute flyers for Olnick. They're also being used to cover for doormen. We have six buildings. Security is supposed to be monitoring the hallways and the stairwells, they're also supposed to be

monitoring the property, but:

- From 4-7 pm there are two (2) guards covering six buildings as well as covering our doormen breaks as well as distributing flyers.
- From 7-9 pm, there are three (3) guards
- From 9pm -2 am, four (4) guards
- From 2-5 am two (2) guards
- From 5-7 am, one (1) guard

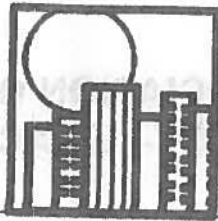
Our concern is that if you're going to put in all of this greenspace and you have this kind of security on the property, we're not feeling safe.

One of the presenters said Lenox Terrace was asked how can we bring Lenox Terrace into the 21st century when they weren't taking care of the buildings.

Air Monitoring

Speaking to the air monitoring – WeACT maintains that air monitors can be installed now to set a baseline before construction that we actually understand what the health impacts could be once construction starts.

##



LENOX TERRACE ASSOCIATION OF CONCERNED TENANTS – LT-ACT

LT-ACT Town Hall Summary

“I stand with the tenants. I stood with the tenants when you came before me when I was Chair of the Land Use Committee of Community Board 10 and I stand with the tenants now as your State Senator. I want to be very clear about that...I don't know what's on this paper [The statement Olnick put out on Feb. 1, 2018] but I'm telling you with my own mouth, I stand with the tenants, period – point blank.”

**State Senator Brian Benjamin – Feb. 1, 2018
at the LT-ACT Town Hall Meeting**

“[Olnick's rezoning proposal] is a very serious situation. As Lenox Terrace goes, so goes the rest of the community. This is a precedent setting move that's taking place that has to be stopped, nipped in the bud. Otherwise it will flow like lava from a volcano and the victimization of it will be intolerable...It has to be one for all and all for one...I say NO!”

**Bill Perkins, Councilmember – Feb. 1, 2018
at the LT-ACT Town Hall Meeting**

On Thursday, February 1st, State Senator Brian Benjamin, Councilmember Bill Perkins, and Athena Moore, Manhattan Borough President Gale Brewer's Director of the Northern Manhattan Office, spoke to the packed LT-ACT Town Hall meeting giving their complete support to the residents. Brian Benjamin gave a brief summary of the Uniform Land Use Review Procedure (ULURP) Process – which is the process through which Olnick will have to take to try to get the zoning changed at the property from residential to commercial and begin any building process. (We will post the ULURP process on the website in the next few days for residents.)

Each representative spoke about the importance of residents attending the Environmental Scoping hearing this Thursday, Feb. 8. This begins the process and it's important for the Department of City Planning to hear from the residents about how this project will impact the community. (This is NOT a forum to share maintenance problems, only how proposed large-scale development would impact you and the community.)

As Bill Perkins said at the meeting, “Defeating this rezoning proposal is going to be a process that will take some time. We have to stay committed and to stay the course.” Brian Benjamin and Bill Perkins both offered to send buses to transport tenants to the meeting at Spector Hall.

Lenox Terrace Public Scoping Hearing Before the NYC Dept. of City Planning

Feb. 8 – Thursday @ 6:00 pm
Spector Hall, 22 Reade St.

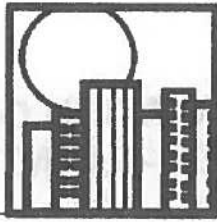
Public comments on the proposed rezoning
by Olnick before the NYC Dept. of City Planning

Come and let your voice be heard!

Sign up for buses
to and from the hearing on
Reade St.

Look for sign up sheets in each
lobby to sign up for buses!

Buses will be leaving at
5pm sharp
Thursday, 2/8 in front of
Bethel AME Church
60 W. 132nd St.



LENOX TERRACE ASSOCIATION OF CONCERNED TENANTS – LT-ACT

Olnick released a handout on the day of our Emergency Town Hall meeting that had several misstatements. Here is the correct information:

- **State Senator Brian Benjamin & Councilmember Bill Perkins stand with the tenants** against the previous landlord rezoning proposal several years ago and the current rezoning proposal. They were unambiguous about this at the Town Hall Meeting.
- **Vote by Tenants on Re-zoning:** Our last survey of tenants published in January 2014 was overwhelmingly against the re-zoning, 75% to 25%.
- **Tenants Benefits Agreement** – The landlord has said they will update the older kitchens and bathrooms as a "Tenant Benefit." This work is **NOT** a "Tenant Benefit," it is their responsibility as landlords NOW - These are on-going maintenance items that a responsible landlord would take care of during the course of normal business, including updating the electrical work to today's code.
- **Commercial Rezoning in a Residential Area:** Olnick claims that commercial rezoning is a, "commonly used mechanism to both allow for and place limitations on the new development." **Commercial rezoning in a residential area is NOT so commonly used, and especially not in Central Harlem.** In this case, the rezoning to commercial would allow them to double the number apartments within the complex, which they cannot do under the current residential zoning. **Olnick can do responsible construction under the current residential zoning.**

"A project of this scale is generally done on vacant land, not as in-fill where tenants already live."

**State Senator Brian Benjamin
LT-ACT Town Hall Meeting
February 1, 2018**

As one long-time Lenox Terrace resident said at the meeting, "We will have to keep our windows closed for 9 years – I already have health issues, I won't be able to live through this level of construction."

LT-ACT FIGHTS FOR YOU!

Testimony Against Lenox Terrace ULURP Action C200050 ZSM

Lynn Ellsworth

Humanscale NYC (www.humanscale.nyc)

December 18, 2019

I never thought I'd ever be defending Le Corbusian slab architecture, and in truth, I am not. I am here to put on my economist hat and argue against the underlying theorizing that developers use to justify this kind of project, the same theorizing that has gripped Vicki Been, John Mangin, REBNY, and the Mayor on how to deal with high housing prices.

The theory behind all of this is a kind of Reaganite, supply side trickle-down fundamentalism. It's an anti-regulatory ideology that since the early 2000's has been brought out of obscurity by Edward Glaeser, an economist who got the backing of the Manhattan Institute to popularize his ideas. The theory goes like this: the cause of high housing prices is imagined to be zoning regulations, therefore we must unfetter real estate developers from these regulations so they can build like crazy. If they build like crazy enough, housing prices will start to fall, not in a short-term mini-drop, but a long-term sustained drop. For example, prices of high-end luxury for 25,000 foot duplexes facing Central Park will first fall and then slowly the price fall drip down over many years to a lowered cost for renting a mattress in a basement apartment share for immigrant Chinese workers in the outer Boroughs.

There is *a lot* wrong with this theory, first and foremost that it never worked anywhere in big cities and only sorta worked in remote suburbs surrounded by farmland where ticky-tacky little houses all in a row were the construction norm. Second, it's theoretical underpinnings in NYC are laughable: homogenous consumers, substitutability among types of housing units, the trickle-down effect in general, and perfect competition among skyscraper builders to name a few. It also assumes that we can infinitely penetrate the skydome without significant social costs and negative externalities. In the end, it is not ethical economic theorizing, but schilling for a libertarian government al regime that the real estate industry adores.

One of those negative externalities and social costs that is popular to talk about is the displacement that the "build-baby-build" policies generate. The data is stacking up that the displacement is real, from Tom Angotti's work here in NYC, to Donovan Rypkema's work on the Upper East Side, to economist Yonah Freeman's work on the effects of upzoning in Chicago. The lesson? Harlem has already been deluged with speculative real estate capital that seeks to make money off gentrification; this project would just add fuel to the fire. Enough already!

In the end, the causes of New York City's affordable housing crisis are many, but none of them really have to do with restrictions on height. The alternative policies to address those causes are complicated, less simple-minded than the build-baby-build notion Glaeser and his allies promote, and so they need to be the subject of additional testimony, but suffice to say here that unfettering real estate developers to do what they want is not one of them.

TAKEROOT JUSTICE

January 6, 2020

Olga Abinader, Director of Environmental Assessment and Review
New York City Department of City Planning
120 Broadway, 31st Fl.
New York, NY 10271

**Re: TakeRoot Justice’s comments on Draft Environmental Impact Statement for
Lenox Terrace, CEQR No. 18DCP084M**

Dear Ms. Abinader,

I submit the following comments on the Draft Environmental Impact Statement (DEIS) for an application to rezone Lenox Terrace in Central Harlem (CEQR No. 18DCP084M) on behalf of TakeRoot Justice. The DEIS contains several flaws and omissions that must be addressed in the Final Environmental Impact Statement to ensure that the approvals that will be based on this environmental-review process are sufficiently informed.

A. Land use

The DEIS inappropriately determines that the proposed project—which would allow a first-ever destination-retail center and enormous new luxury development in an otherwise small-scale residential neighborhood—finds that there would be no significant impact on land use.¹ The DEIS arrives at this conclusion by overlooking the difference between the proposed C6 zoning, described as appropriate for “the central business district and regional commercial centers,”² and the current residential zoning with small commercial overlays “designed to provide for local shopping” that is “relatively unobjectionable to nearby residences.”³ These are, in fact, conflicting uses that indicate that the project will have a significant adverse impact on land use and public policy in the area, and the DEIS must reflect that.

¹ DEIS at 2-1.

² Zoning Resolution of the City of New York § 31-16.

³ *Id.* § 31-11.

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Law, research, and
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TAKEROOTJUSTICE.ORG



B. Indirect residential displacement

The DEIS's conclusion that there would be no significant impact as a result of the proposed project is based on an insufficient analysis. The DEIS finds that there will be an increase to rents in the area as a result of the project,⁴ but inappropriately ignores this fact, concluding that there will be no significant impact on indirect residential displacement.⁵ The only basis the DEIS provides for overlooking the increased rents is that rents are currently increasing in the immediate area.⁶ This is an insufficient reason to determine that there will be no significant impact on secondary residential displacement: the fact that there is a current trend toward higher rents does not mean that further luxury development will not accelerate or extend that trend in a manner that would not have occurred under the no-action condition.

The DEIS's reference to the CEQR Review Technical Manual (Manual) is unavailing for three reasons. First, adherence to the Manual is not necessarily sufficient to satisfy CEQR or SEQRA,⁷ especially in cases where—as here—there are clear signs that residential displacement is likely to occur as a result of the project. Second, the DEIS does not, in fact, adhere to the Manual: it fails to determine whether the trend is occurring in “the vast majority” of the area or only “within smaller portions of the study area.”⁸ This analysis is particularly necessary for this project, which is occurring in an area with a wide mix of incomes and rents—with rent-stabilized apartments and public housing alongside market-rate buildings⁹—and is therefore likely to have variations in trends within the study area. Finally, the analysis was able to determine only that there exists an upward trend in rents and incomes, not the actual amount of the increase, meaning that the DEIS provides no income on the magnitude of the preexisting trend,¹⁰ and therefore will not help decisionmakers determine the likelihood that the proposed project will accelerate such trends.

The DEIS must also include an analysis of the potential impact of the proposed project on the racial and ethnic makeup of the neighborhood. CEQR requires analysis of impacts to “the character or quality of...existing community or neighborhood character.” 43 R.C.N.Y. § 6-06(a)(5). There is no justification provided, or available, for the decision to exclude analysis of the racial and ethnic impacts of the proposed project. It is inappropriate to ignore this factor, particularly in an area the predominantly Black racial makeup of which is cherished by such a large number of its residents, and in a development which is likely eligible for a State and

⁴ *E.g.*, DEIS at 3-20 (“[T]he proposed actions would result in mostly market-rate housing development, and...are expected to command higher rents and have the potential to bring in a higher income population.”).

⁵ *Id.* at 3-1.

⁶ *See id.* at 3.23.

⁷ *See* Manual at 3-1 (“There may be specific projects that require different or additional analyses.”).

⁸ Manual at 5-9.

⁹ The vulnerability of the study area's particular mix of incomes is admitted in the DEIS. *See* DEIS at 3-19 (“[M]aintenance of the mixed-income demographic as it currently exists in the study area would depend in large part on the introduction and preservation of affordable housing.”) Notably, although the DEIS acknowledges the importance of affordable housing in preventing adverse socioeconomic impacts, it fails to analyze the likely results of different amounts of affordable housing—a necessary piece of information for decisionmakers.

¹⁰ *See* DEIS at 3-16 to -17.



National Historic Registry listing because of its “cultural associations with prominent African Americans in the Harlem community.”¹¹

C. Direct commercial displacement

The DEIS incorrectly determines that the elimination of all of the businesses currently located in the project area would have an insignificant impact. The proposed action would evict a Goodwill, a grocery store, several restaurants and local retail stores, and a Chase Bank. The Goodwill will be a particularly hard loss for the area, as it is an important shopping center for low-income families, and there are no other Goodwill locations in Manhattan north of 125th St. The DEIS also inappropriately glosses over the loss of the supermarket that serves Lenox Terrace by referring to other supermarkets about a quarter-mile away; the loss of the supermarket next door would be a significant impact on residents’ lives, particularly residents who are elderly or otherwise have difficulty walking that distance.

Part of the basis for the DEIS’s conclusion that eliminating all businesses in the project area would have no impact is that the project would create commercial space.¹² But the DEIS fails to analyze the likely makeup of the tenants of the new commercial space, which is necessary to determine the project’s potential socioeconomic impact and effect on neighborhood character. The proposed project would create the only C6 zoning in the immediate area, and so it is likely to attract large-scale retail that will compete with local businesses. The large-scale retailers would likely be able to afford higher rates, and therefore drive up rents and other costs for local businesses, making it unlikely that the current mix of businesses—or any local business at all—would return in the area.

D. Open space

Although the DEIS finds that the proposed project would have a significant impact on open space,¹³ it entirely fails to offer specific mitigation proposals. This directly contradicts the response provided to commenters in the Final Scope of Work, which said that “[i]f significant adverse impacts related to open space are identified, mitigation measures will be proposed in the EIS.”¹⁴ The DEIS does promise that mitigation proposals “will be refined between the DEIS and FEIS,”¹⁵ but later suggests that it may not, in fact, propose mitigation for this impact.¹⁶ Even if the FEIS does, in fact, provide mitigation measures, refusing to even suggest mitigation measures in the DEIS deprives the public of its right to comment on those proposals.

E. Impact of destination retail

Olnick’s requested rezoning would create a high-density commercial district allowing for large-format retail—essentially a giant shopping mall—on top of Lenox Terrace. It would create

¹¹ DEIS Appx. B at 2.

¹² *Id.* at 3-2.

¹³ *Id.* at 5-1.

¹⁴ Final Scope of Work at A-15.

¹⁵ DEIS at 21-5.

¹⁶ *Id.* at 22-1 (contemplating declaring the impact “unavoidable” if “feasible mitigation measures are not identified”).



a C6-2 district covering the entire development,¹⁷ which would allow for a large number of commercial uses not currently permitted, as well as far greater density of commercial use. Specifically, the current zoning allows for local uses such as small retail, groceries, and cafes and restaurants, mostly within 100’ of the street.¹⁸ Olnick’s requested rezoning would allow much higher commercial density throughout the entirety of Lenox Terrace, and would allow for many more uses.¹⁹ These uses include department stores and large variety stores—stores like Wal-Mart and Target—that would completely disrupt the local area.²⁰

The DEIS at some points admits that the commercial rezoning will lead to “destination retail tenants.”²¹ In fact, the DEIS even states that it assumes that new retail “could be split evenly” between local and “destination” retail²² (although the DEIS never explains the basis for this assumption). Elsewhere, the DEIS argues in favor of placing new shopping malls in Central Harlem, on the ground that “Harlem is in the midst of a retail transformation from small-format retailers to large-format stores,” and adding a big-box store at Lenox Terrace would be “in-line with existing trends.”²³ In other words, the application argues that the 125th St. rezoning—and all the “destination retail” that came with it—is the future of Harlem.

But the remainder of the DEIS contradicts this, treating the new development as if it will consist entirely of local retail and service—uses that are *already permitted by the current zoning*. First, the renderings included in the DEIS,²⁴ as well as those presented to the City Planning Commission when the application was certified for the Uniform Land Use Review Procedure,²⁵ show local retail uses such as a coffee shop, restaurant, and supermarket. These would not require a commercial upzoning. Although the contrast between the renderings and the requested rezoning was pointed out by Commissioner Levin,²⁶ and the Department of City Planning (DCP) apparently discussed the possibility of changing only the residential zoning with Olnick, there is no explanation of the discrepancy between the figures in the DEIS and the actual commercial

¹⁷ DEIS at 1-1.

¹⁸ The current commercial zoning is a C1-4 overlay covering 100’ from Malcolm X Blvd., 135th St., and Fifth Ave, and a small additional portion of the northeast corner of the development. The only commercial Use Group permitted in C1 districts is Use Group 6. *See* Zoning Res. § 32-15 (describing Use Group 6).

¹⁹ *See* Zoning Res. §§ 32-16 through 32-21 (describing Use Groups 7 through 12, all of which are permitted in C6 districts).

²⁰ *See id.* § 32-19 (describing Use Group 10, “large retail establishments (such as department stores) that...serve a wide area...and...are not appropriate in local shopping or local service areas”).

²¹ DEIS at 2-13 (“The proposed commercial use is anticipated to include a mix of local and destination retail tenants.”).

²² *Id.* at 2-13.

²³ *Id.* at 3-24 to -25.

²⁴ *Id.* fig. 1-7.

²⁵ Video of the CPC Review Session at which the ULURP application was certified is available at <https://www.youtube.com/watch?v=rfCDCZmcqQM>. Renderings where retail was shown can be seen at timestamp 14:05 to 15:04.

²⁶ *Id.* at 24:20 (“[H]aving a C6-2 designation is kind of an anomaly for this area, and it made me wonder whether you could get to the same result with an R8, which would be an upzoning that would still facilitate [Mandatory Inclusionary Housing], but with a commercial overlay that would allow that same level of commercial and community facility use. Is there a technical reason why we’re not using a residential designation with an overlay?”).



development that is likely to occur.²⁷ Presenting these images as the face of the project is misleading, to say the least.

Other areas of the DEIS completely deny the possibility of new “destination” retail, in direct contradiction with the admission above. The DEIS’s description of the square footage of the predicted new uses states that *all* new retail development will be local.²⁸ Similarly, the description of neighborhood character states that the project “would not add uses not already present” in the general area.²⁹ But nothing like the large-format retail stores the proposed project would bring actually exist nearby.³⁰

F. Emergency services

The DEIS inappropriately ignores the impact that the proposed project would have on emergency services in the immediate area, which will impact public health in the neighborhood and in all areas served by the Harlem Hospital.³¹ The proposed project would double the amount of residents of Lenox Terrace,³² as well as creating new destination-retail space likely to substantially increase foot and vehicular traffic. These changes would both increase the amount of emergency services required—new buildings and commercial uses creating new fire risks, and new residents and large, heavily trafficked stores creating new health and security demands, just to name some examples—and impede delivery of those services by increasing traffic in the area. This omission is particularly glaring given the fact that the project would be located across the street from the Harlem Hospital, the largest hospital in the area.

G. Historical and cultural value of Lenox Terrace

Finally, the DEIS acknowledges that the proposed project would mar the enormous historical and cultural importance of Lenox Terrace, but does nothing to avoid or mitigate that damage. The DEIS includes a statement from the New York City Landmarks Preservation Commission (LPC) stating that Lenox Terrace “appears to be National Register eligible, for its cultural associations with prominent African Americans in the Harlem community.”³³ Because of the importance of the development and its site plan, the DEIS determines that “the demolition of

²⁷ *Id.* at 25:50 (“I believe the residential designation with the overlay was discussed in an earlier iteration, but ultimately the applicant proposed to pursue the C6-2 district. So, I can return to the Commission with a stronger rationale for why that was decided.”).

²⁸ The table describes all expected retail as “Use Group 6.” *Id.* table 1-3. Use Group 6 includes local retail, restaurants, supermarkets, and other uses that “have a small service area.” Zoning Res. § 32-15.

²⁹ *Id.* at 18-5.

³⁰ No commercial district in the area studied by the DEIS permits large-format retail. *Id.* at table 2-3 (describing all zoning districts in the area studied, and including only C1 and C2 districts). There are two small manufacturing districts in the area that could theoretically allow for large-format retail, *id.*, but neither actually contains such stores.

³¹ *See, e.g., Friends of P.S. 163, Inc. v. Jewish Home Lifecare*, 30 N.Y.3d 416 (2017) (SEQRA intended “to make sure that [a project] is undertaken in a way that minimizes damage to...public health....”). The DEIS’s public health chapter limits itself solely to the impact of noise. DEIS at 17-1 to -3.

³² *See* DEIS at 1-13 n.4 (projecting population increase of about 4,000 people). Even this dramatic increase is based on an assumption that the area currently owned by Olnick would be built to the current site plans, which are far smaller than the proposed new zoning would permit.

³³ DEIS appx. B, at 2.



the one-story structures on the proposed development site would result in a significant adverse impact to historic resources.”³⁴ In other words, the DEIS found that the new development would demolish an important piece of Harlem’s history for the sake of unwanted luxury high-rises and large-format retail.

The DEIS also ignores much of the damage to Lenox Terrace. The physical destruction of the retail buildings is bad enough, but the proposed project would also radically alter the layout and design of Lenox Terrace, which is as much a part of the history of the place as the individual buildings. The new luxury apartment buildings will damage the layout and design of Lenox Terrace—for example, by removing the iconic circular driveways in front of 470 Malcolm X Blvd. and 40 West 135th St.³⁵ Furthermore, the location of new “destination” retail as a wall around the existing buildings will completely change the character of the perimeter from a charming series of neighborhood stores to a shopping mall.

The DEIS provides wildly inadequate mitigation for these harms. The only concrete proposal that the applicant is “consider[ing]” is installing “educational material and displays” about cultural figures somewhere on the property.³⁶ A plaque on the wall cannot make up for defacing a key Harlem neighborhood, and certainly does not constitute complete mitigation of the demolition of four of the buildings in the original site plan. This mitigation proposal should be removed, or else treated as only partial mitigation of the significant impact of the project on the historical and cultural aspects of Lenox Terrace.

H. Urban design

The DEIS incorrectly states that the “proposed actions would not result in any changes to buildings...in the study area,”³⁷ and, partially on the basis of that conclusion, determines that there would be no significant impact on urban design or visual resources. In fact, the proposed project would demolish four buildings at Lenox Terrace and replace them with residential towers far taller than nearly any building in the immediate area. While residential uses predominate in the area, 30-story buildings do not, and constitute a significant impact on design and views. Plopping a residential complex twice the size of any other in the area on top of a preexisting, well planned design is definitionally a significant impact on design.

The failure to consider urban design in the DEIS is magnified by the failure to provide comparisons of street-level views from nearby the proposed project site. The only renderings provided of the project site are from a substantial distance away, giving an incorrect understanding of the impact of the project on the overall design of the area.³⁸ If renderings of the

³⁴ DEIS at 7-7. Oddly, the DEIS immediately contradicts itself, stating that the project “would *not* be anticipated to have any significant adverse impacts on historic and cultural resources.” *Id.* at 7-9. This appears to be an error.

³⁵ *E.g., id.* fig. 1-5.

³⁶ *Id.* at 21-6.

³⁷ *Id.* at 8-2.

³⁸ *See generally id.* figs. 8-23 to -31.



type suggested by the Manual³⁹ were used, the significance of the design impact would be clear.⁴⁰

I. Transportation

The transportation chapter of the DEIS bases its analysis on standard values or values produced for other environmental assessments.⁴¹ Such a large increase of residents in a small project is not standard, and should be analyzed using data that is specific to this area. Furthermore, the DEIS inappropriately assumes that the enormous population increase planned here will not significantly impact public transportation at the 135th St. 2/3 station, which is frequently overcrowded.

J. Neighborhood character

The neighborhood-character analysis required by CEQR typically incorporates the analyses of land use, socioeconomic conditions, open space, historic and cultural resources, urban design, and transportation.⁴² The project will have significant impact on each one of these categories, as described above, though the DEIS ignores many of these impacts. These impacts would all damage important determining characteristics of the neighborhood: the primarily residential nature of the neighborhood, the availability of an appropriate amount of open space, the deep history and cultural importance of Lenox Terrace itself, the balance of the Lenox Terrace development and sight lines with the surrounding streets, and the convenience of a central transportation hub. As a result, the DEIS's finding that the project would create no significant impact on neighborhood character is absolutely incorrect.

Neighborhood character may also be significantly impacted by combinations of factors that would not individually be considered significant.⁴³ Thus, even if the DEIS were correct in finding that there is no significant impact in any of the individual areas described in this section—which would be incorrect—the totality of these impacts would certainly be sufficient to produce a significant impact on neighborhood character. Indeed, the cumulative effect of a small changes resulting from new commercial development in a largely residential neighborhood—“changing it from a small-scale, quiet residential area to a busier commercial one”—is used as the primary example of this in the Manual.⁴⁴

³⁹ *E.g.*, Manual at 10-6.

⁴⁰ In fact, the example given *supra* shows that a substantial change in street wall height would ordinarily be considered a significant impact. The DEIS should have listed this as a significant impact or explained why, in this case, it is not.

⁴¹ DEIS table 13-7.

⁴² *See* Manual at 21-2. The Manual also recommends including consideration of shadows and noise.

⁴³ *Id.* at 21-5 to -6.

⁴⁴ *Id.* at 21-6.



K. Growth-inducing aspects of the proposal

The DEIS determines that the proposal “is not expected to induce any significant additional growth beyond that identified and analyzed” in other chapters.⁴⁵ The only basis for this is the claim that there is a preexisting trend in rents and residential development in the general area.⁴⁶ But as described above, the project could accelerate or extend this trend, meaning that it would create additional growth, and the DEIS cannot even quantify the current rate of rent increase, let alone project future rent increases with enough accuracy to determine that the project would have no effect on them. And the simple logic of neighborhood change demonstrates that such growth is, in fact, likely to occur: increased property value as a result of the rezoning will put upward pressure on neighboring property values, raising both rent and property taxes, and further accelerating the rate at which low-income people are pushed out of the area.

L. Alternative scenarios

The EIS must provide alternative scenarios for comparison to the with-action and no-action scenarios, to enable decisionmakers to understand the other potential paths the development might take.⁴⁷ In particular, the EIS should consider a “no unmitigated impact” alternative that would adjust the proposed project to prevent the unmitigated impacts that would occur as a result of the project, including those described in these comments and those identified in the DEIS.⁴⁸

The DEIS is incorrect in claiming that there are “no reasonable alternatives” that would prevent unmitigated impacts on shadows, open space, historical and cultural resources, or pedestrian traffic.⁴⁹ The impact of shading the Howard Bennett Playground could be mitigated by altering the building envelope creating that shadow, or else providing in the site plan for a playground that would be unaffected by shadow. The excessive reduction of the open-space ratio could be mitigated by scaling down the residential density of the project. The effect of tearing down several buildings that are original to Lenox Terrace could be mitigated either by altering the site plan to retain those buildings or by creating real cultural benefits for Central Harlem residents—beyond the “Walk of Fame” proposed by the developers. Finally the decrease in square feet per pedestrian and level of service of the crosswalk at West 135th and Malcolm X could be mitigated by decreasing the number of new residents or the amount of new commercial development, which would therefore decrease foot traffic.

⁴⁵ DEIS at 23-2.

⁴⁶ *Id.* at 23-1.

⁴⁷ See 62 R.C.N.Y. § 6-09(d)(5).

⁴⁸ Manual at 23-3.

⁴⁹ DEIS at 22-1.



M. Restrictive declarations

The proposed rezoning would nearly double the maximum density currently permitted in Lenox Terrace. The current zoning is R7, which allows for a maximum floor area-ratio (FAR—roughly speaking, the ratio of lot size to building size) of 3.44, or 4.0 under certain circumstances.⁵⁰ The actual built FAR, according to the DEIS is only about 3.0.⁵¹ Olnick’s requested rezoning would allow up to a 7.2 FAR.⁵² The DEIS, however, assumes a maximum FAR of 5.61, which would be only about two-thirds of the allowable increase.⁵³

The DEIS justifies the assumption that Olnick will not build to the maximum possible density by claiming that the applicant “is expected to enter into a Restrictive Declaration” limiting residential density. This reflects only the *expectation* of the DCP, and provides no assurances whatsoever that development will not proceed to the maximum possible extent. Yet, that assumption is used throughout the DEIS, and no accounting is made of the possibility that Olnick will take full advantage of the rezoning.⁵⁴

In any case, a restrictive declaration is not a reliable means of ensuring that development will not exceed Olnick’s proposal. Even assuming a declaration is put in place, neither the public nor the relevant decisionmakers know what its precise content would be. It would likely only affect property owned by the current applicant, and would likely only be enforceable by the City of New York, raising questions as to the efficacy of any restraints it placed on development. It could very well be predicated on the issuance of a special permit, meaning that if a developer did not seek a special permit, it would not be bound by the declaration. And more fundamentally, it could very easily contain provisions that do not match the proposed site plan exactly, meaning that the DEIS would not properly reflect the development that the proposed actions would permit.

The unknowability of the restrictive declaration affects the site plan to an enormous extent. The actual build under the proposed new zoning could look like anything from a doubling of the proposed new residential build—if developers build to the maximum residential density allowed—to a massive new shopping mall—if developers build to the maximum commercial density allowed, and take full advantage of the ability to add Use Group 10 uses. Because the restrictive declaration cannot be known at this stage, the DEIS’s assumption that development beyond the site plan presented by the applicant will not occur is inappropriate. In other words,

⁵⁰ The current maximum floor-area ratio (FAR) is 3.44, though the FAR could increase to 4.0 if built to certain specifications. Zoning Res. § 23-151 (FAR maximum of 3.44 for R7 districts); *id.* § 23-153 (FAR maximum of 4.0 for R7 districts built to Quality Housing standards). *See also* DEIS at 2-5 to -6.

⁵¹ DEIS at 1-6.

⁵² Olnick’s requested rezoning is to a commercial district (C6-2) that is equivalent to an R8 for purposes of determining maximum residential density. Zoning Res. § 34-112. An R8 residential district allows for an FAR of 7.2 if built to specified standards. *Id.* § 23-153. *See also* DEIS at 2-13.

⁵³ *E.g.*, DEIS at 1-6.

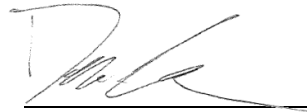
⁵⁴ The DEIS also argues that building to the full allowable density would be difficult because of zoning, setback, and parking restrictions. *Id.* at 1-11. But this provides little assurance. First, waiving these zoning restrictions is substantially easier than winning the commercial rezoning in the first place. Second, these restraints could be partially or completely overcome by design and engineering, and the DEIS provides no explanation of what the effective maximum would be.



the reasonable worst-case development scenario (RWCDS) the DEIS claims to have used as its with-action scenario is not, in fact, the maximum level of development possible should the proposed action be taken.⁵⁵ Therefore, *none* of the DEIS’s findings of no significance are based on comparison of the appropriate scenarios, and none are adequate under CEQR.

Thank you for your careful consideration of these comments.

Sincerely,



Daniel Carpenter-Gold

Staff Attorney

(646) 459-3058

dcarpenter-gold@takerootjustice.org

⁵⁵ See DEIS at 1-6; *see also* Manual at 2-2 (RWCDS should “capture[] the upper range of development that would likely occur...”); *Chinese Staff and Workers Ass’n v. Bloomberg*, 896 N.Y.S.2d 588, 595 n.17 (2009) (RWCDS estimates “must be conservative.”).



FOR IMMEDIATE RELEASE

Dec. 16, 2019

Contact: Loretta Kane (917-410-7242 or loretta@caminopr.com)

**Manhattan Borough President Gale Brewer
sides with tenants and Community Board 10 against
the Lenox Terrace rezoning proposal**

*Borough President recommends that rezoning proposal be denied, City
Planning calls last-minute hearing for Wednesday*

NEW YORK — Today, Manhattan Borough President Gale Brewer recommended against adopting a proposed plan to demolish several buildings in the Lenox Terrace development and replace them with new luxury apartments and overscale retail stores. Brewer's decision echoes a rejection of the plan by Manhattan Community Board 10 last month. The rezoning application, filed by the Olnick Organization, owners of Lenox Terrace, is also opposed by the Lenox Terrace Association of Concerned Tenants (LT-ACT), which represents tenants in the development.

Brewer was unequivocal in her condemnation of the proposed rezoning project. In her comments to the Department of City Planning she said, "There are few instances where a development the scale of the one proposed can be viewed as responsible. The Proposed Project lacks the public and private investments necessary to make it a prudent exercise of planning for future growth."

Brewer's opposition statement also spoke to size and scale of the project: "The proposed project is expected to take place on a single development site. It is expected to create 1,700 DU's [dwelling units], a population increase of approximately 4,000. That is nearly half the amount of the East Harlem Rezoning (3,500 DU's) to the south of the Project Area, and 40% of the size of the Inwood Rezoning (4,908 DUs) to the north. However, the East Harlem rezoning covered 69 square blocks; Inwood covered 62. By comparison, the increase in housing units and population expected at this site will occupy just 3 square blocks, and cause a disproportionate impact on local residents, infrastructure, economy, and educational resources."

Tenants applaud Brewer's support.

"I commend and thank the Manhattan borough president for her true leadership and unwavering support for tenants in opposing this monstrous rezoning proposal," said LT-ACT President Lenn Shebar about Brewer's "no" recommendation.

Brewer's recommendation comes after a public hearing with testimony by numerous residents and elected leaders in opposition to the rezoning. In addition to LT-ACT, Public Advocate Jumaane Williams, State Sen. Brian Benjamin, former Assemblymember Keith Wright and

representatives from the offices of Comptroller Scott Stringer and Councilmember Bill Perkins all spoke against the proposal.

At the hearing, Perkins distributed a second letter of support for Lenox Terrace residents and opposition to the rezoning, noting the original development's historical and cultural importance, the negative impacts the new development would have on the area, and the many ways in which "the Olnick Organization has shown itself to be a bad player in this community." U.S. Rep. Adriano Espaillat, State Sen. Benjamin, Assemblymember Inez Dickens and former Gov. David Paterson have also provided letters supporting LT-ACT's fight against the Olnick proposal.

Brewer's "no" recommendation document to City Planning references the borough president's public hearing:

"On Monday, November 18, 2019, the Manhattan Borough President conducted a public hearing on this application at the Lt. Joseph P. Kennedy Community Center, a site within the Project Area. Approximately 200 people attended and approximately 70 people presented testimony.

"The overwhelming majority of those who testified spoke in opposition to the rezoning plan. Most speakers called for a wholesale rejection of the proposed development. Much of what was said mirrored the concerns expressed in the Community Board 10 recommendation."

"The Borough President has sided with the tenants of Lenox Terrace and the broader Central Harlem community against this unwanted and harmful development," said Daniel Carpenter-Gold, staff attorney for TakeRoot Justice, which represents LT-ACT. "We're grateful to Gale Brewer for calling out Olnick's bad behavior as a landlord and as an applicant."

The application now goes to the City Planning Commission for review. The Commission voted last week to hold a public hearing at the earliest possible time, Wednesday, December 18, 2019, at 10 A.M. Lenox Terrace residents expressed dismay at the rushed public hearing. Were the commission interested in maximizing public participation in this process, it could have held the hearing after New Year's, leaving it plenty of time to collect statements and come to a decision by the beginning of February. The hearing will be held in the basement of 120 Broadway, any person may speak for a maximum of three minutes on the issue.

###

The Lenox Terrace Association of Concerned Tenants, founded in 1990, represents the tenants of the Lenox Terrace residential development in Central Harlem.

TakeRoot Justice provides legal, participatory research and policy support to strengthen the work of grassroots and community groups in New York City to support community-based partners to dismantle racial, economic and social oppression.

Lenox Terrace Tenants' Association Opposes Plan to Bring Overscale Development to Central Harlem

The Lenox Terrace Association of Concerned Tenants (LT-ACT), which represents the residents of the Lenox Terrace apartment complex in central Harlem, strongly opposes the proposed development plan as it currently stands, put forth by the Olnick Organization, landlords of Lenox Terrace. We are asking Community Board 10 to **vote "NO"** to their request to rezone the property to a **Commercial Zoning District C6-2 designation**.

Olnick's proposed development of building five new 28-story luxury tower rentals surrounding existing Lenox Terrace apartments between 132nd and 135th street from Malcolm X Boulevard to Fifth Avenue, requires approval to rezone the property from its **current Residential Zoning District R7-2 with a C-1 commercial overlay**, to a Commercial Zoning District C6-2 designation.

Areas with a commercial C6-2 designation are normally found in the central business district and regional commercial centers of cities, such as the 34th street corridor that travels through **Herald Square, Times Square, and the Bronx Shopping Terminal on 149th Street**. They are **not found in residential areas** such as the current Lenox Terrace property, nor does any other similar commercial zoning exist in the surrounding Community Board 10 Central Harlem area, except on 125th Street.

By allowing Lenox Terrace to become a Commercial Zoning District C6-2 property, which would open the door for the development of overscale retail stores, a cascade of negative impacts will affect the surrounding Central Harlem Community, especially with regards to Parks and Recreation.

The proposed rezoning would lead to a huge jump in population in the area—about 2,000 new apartments, which Olnick's own estimates would bring 3,500 new people. In other words, the population of Lenox Terrace would basically double. (From DSOW.) This would put substantial pressure on the Hansborough Recreation Center as well as parks and playgrounds in the immediate area, which serves youth, young adult, adult and senior populations.

The rezoning would also drastically increase the potential development of the land on which the Hansborough Recreation Center, and the Kennedy Center— which primarily serves the senior population of the neighborhood— currently stands. This would lead to pressure on both City Parks and Recreation and Catholic Charities to either develop those properties or sell them to developers, which would further decrease space and programs for recreation in the area.

Rather than improving the districts parks and recreational facilities, Community Board 10 would, by voting yes to Olnick's request to be rezoned as a C6-2 property, inadvertently pave the way for a decrease in space, programs, and recreation in the Central Harlem area, as well as overburden the capacity of city workers to maintain the cleanliness, sanitation, and aesthetics of the districts' parks due to population overcrowding.

To be clear, LT-ACT understands and accepts that the Olnick Organization has the right to build on their property without the zoning change. **The current Residential Zoning District R7-2, with a very limited C-1 commercial overlay, allows for smaller-scale neighborhood retail development.** As an example, Park West Village, an apartment complex between 97th and 100 streets on Columbus Avenue, was able to develop a series of new hi-rise buildings next to the older, traditional, group of buildings, along with new commercial retail stores. This new development was built with the exact same R7-2 zoning as Lenox Terrace and, virtually, all of Harlem.

The current Residential Zoning District R7-2, with a very limited C-1 commercial overlay, would also allow--under the current "Housing New York: Zoning for Quality and Affordability" modifications of 2015--limited height and floor area bonuses for providing Affordable Senior Housing and Long Term Care.

While Olnick's renderings of their proposed development depicts restaurants, cafes, and grocery stores, a Commercial Zoning District C6-2 designation would set a precedent allowing for future overscale commercial development of the property and the area, such as Target and Home Depot retail stores. Olnick's past and current behavior with residents of Lenox Terrace gives little confidence that they will not, in the future, invite to the property and neighborhood large, overscale, commercial business.

Olnick is simultaneously the defendant in a class-action lawsuit by current Lenox Terrace residential tenants for illegally taking units out of rent stabilization while claiming a tax abatement for affordable housing. They made headlines again in July of 2019 for sending lease renewals to tenants with unlawfully high rent increases -- in some cases, more than 30 times the legal maximum.

Additionally, the basements, laundry rooms, and many apartments in current Lenox Terrace buildings have **asbestos-vinyl tile flooring** that are now friable, due to cracks and breaks in the tile. This is a ticking time-bomb of a health crisis that Olnick has not adequately addressed.

LT-ACT has been against the commercial rezoning plan since its inception. Councilmember Perkins and Manhattan Borough President Brewer have publicly stated that they, too, are against this gargantuan plan. As Lenn Shebar, President of the LT-ACT has said, "The thought of 8 to 10+ years of continuous disruptive construction to the existing tenants is mind-boggling and frightful. We ask Community Board 10, all officials, and the mayor to vote against this dehumanizing force of commerce-minded urban planning and put community stability first."

Lenox Terrace DEIS Transportation Chapter

Background Development

The CEQR Methodology includes a method for identifying the impacts of other projects that are already on the books for development within the 'study area'. There are 42 of them within the ½ mile radius that has been defined for this project. The impact of Lenox Terrace is incremental over these 'background' developments. It means that each successive developer that comes into the area will have to bear more and more of the cost of mitigation of transportation impacts as each development pushes the demands on the systems more and more over capacity – one reason why the Olnicks might like to get this approved sooner rather than later.

Detailed Analysis of Future Conditions

Future conditions were modeled for the 11 intersections that were indicated through the Levels 1 and 2 screening process. The approach was to evaluate the current level of service (LOS) with extensive counts, increase the volumes by the assumed increases caused by background development and then increase volumes again by the assumed increase in volumes caused by the Lenox Terrace Development. Those intersections pushed over into the unacceptable LOS category by the incremental difference between the background development and the Lenox Terrace development must be mitigated by Lenox Terrace.

It is not clear whether the impacts of background development were specifically allocated to individual streets and intersections by block, or whether the assumed percentage increase in volumes were simply applied across the board to all links and intersections. It might matter if background developments are clustered; creating bottlenecks in certain locations. It does not appear that a microsimulation of traffic in the neighborhood has been done.

Subway – An additional 1300-1600 unique daily subway trips are projected from the project. According to the DEIS the subway station at 135th /Lenox was screened out for additional analysis of a) stations circulation – (basically adequacy of access and platforms) and b) line haul. The more detailed analysis concluded that there was no potential for significant adverse impacts. Using Times Square as a "maximum point load" to analyze the impact of these trips disguises the extreme and unsupportable impact to the 135th /Lenox Ave. subway.

Recommendations:

A Build Out Analysis & Study of Cumulative Traffic Impacts

Because DEIS analyses are done on an incremental basis - one project at a time – CB10, the Manhattan Borough President's Office, and the City Councilmember's office are not getting any information about the cumulative effects multiple projects are having or will have on the community over time.

Given the rapid rate of growth in this neighborhood, the Manhattan Borough President, The City Councilmember's Office, and Community Board 10 may want to consider a more detailed build out analysis and study of cumulative traffic impacts on the neighborhood as well as a plan to address mobility and safety issues. It would be a better approach than the patchwork – first developer in the door – approach to build out and congestion given the intensified development within Central Harlem. West Harlem/CB9 took such an approach several years ago with their community wide zoning approach.

Presentation to CB10 Land Use Committee 10/17/19

By Elizabeth Harper - Transportation Analyst

I am arguing for a rigorous, community-based planning/zoning study designed to help Central Harlem's residents and property owners reach a degree of consensus about the future. This community is under significant pressure for development and change; and yet decisions about zoning changes are made incrementally — one development at a time — without a vision for the future that both embraces economic development and builds on the legacy and rich cultural heritage.

I come to this view from having reviewed the transportation chapter of the DEIS. The document follows the detailed guidelines in the City Environmental Quality Review Manual - known CEQR (commonly pronounced as seeker). The CEQR manual lays out the minimum requirements for evaluating a project's impact on transportation systems — and the minimum is what was done for this DEIS.



8:45 AM on October 8, 2019
between 125th and 135th. How
many more people can we get on
this train?

turn-styles. It assumes that the widest point on the platform describes the whole platform while those of us using the station know that there are many choke points on the platform that make it dangerously crowded.

If you and the residents and property owners of Central Harlem want to understand the full picture of how this incremental approach to development will impact the community then a comprehensive approach to community planning needs to take place — and it needs to take place before too many more major zoning changes are given the green light.

All the aspects of the transportation analysis (parking, traffic, transit, pedestrians) depend on the trip rates and assumptions shown in Table 13-7 of the DEIS. The assumptions there are borrowed from other studies or taken from the city-wide trip rates. There is no justification for why these generic rates and assumptions are appropriate to use for **this type** of development in **this community** at **this time**. While this is technically acceptable according to the CEQR Manual, in a community under a great deal of pressure for growth, it is important to use primary data collection and to evaluate the impact within the context of the surrounding community.

The assessment of the impact on the transit lines looks at increases in passengers at the maximum load points on the line (in this case, 72nd Street and 42nd Street). While this is an accepted approach to evaluating the impact of a project on a transit system as a whole, it does not speak to the peak period crowding conditions on trains and platforms at 135th Street — or 145th Street, or 125th Street or any point on the lines within Harlem.

The evaluation of traffic on the one nearby entry point to the 2/3 station is based on limited data collection and subjective observations of crowding in front of the



November 11, 2019

Manhattan Borough President
1 Centre Street, 19th Floor
New York, NY 10007

SERVICE EMPLOYEES
INTERNATIONAL UNION
CTW, CLC

KYLE BRAGG
President

LARRY ENGELSTEIN
Secretary Treasurer

LENORE FRIEDLAENDER
Assistant to the President

VICE PRESIDENTS

- SHIRLEY ALDEBOL
- KEVIN BROWN
- JAI ME CONTRERAS
- JUAN HERNANDEZ
- ROB HILL
- DENIS JOHNSTON
- GABE MORGAN
- MANNY PASTREICH
- ROXANA RIVERA
- JOHN SANTOS
- JOHN THACKER

Dear Manhattan Borough President Brewer,

We are the 51 porters, maintenance workers, and superintendent at the Lenox Terrace Apartments in Harlem. We are writing you, as the 32BJ members currently employed at Lenox Terrace, to express our support for the Olnick Organization's proposed rezoning.

This rezoning will create about 35 new jobs like ours. We take pride in knowing that the new jobs created by this development will give workers access to family-sustaining wages, retirement and substantial health benefits, and help ensure good labor relations. We can personally attest to the impact that having a job that pays the prevailing wage can have on a family's quality of life. Our jobs have given us the ability to provide a stable life with security and dignity for our children. Local community members usually fill property service jobs like ours, and having a family-sustaining wage allows workers like us to remain in our communities. It is important that the Harlem community supports new developments that create good jobs and give existing community members access to the middle class and that is what Olnick Organization has planned to do.

The majority of us have served the Lenox Terrace complex for 20 years or more. As residential workers, we have watched children grow up, taken care of people's homes and become experts at supporting the tenants through good times and bad. Being members of 32BJ for so long has also instilled in us the importance of creating and fighting for a standard that will continue to uplift and protect the next generation of property service workers who will do this important work.

Additionally, this rezoning will allow the Olnick Organization to provide much-needed upgrades to the existing apartments. We have long, established relationships with residents and their families and we know that they deserve to have their homes invested in and deserve to live in dignity.

For these reasons, we respectfully request that you approve this rezoning.

Sincerely,

- x B. Pope
- x A. Christ
- x V. Slowley
- x J. Bfontz
- x [Signature]

- x [Signature]
- x Raymond Lyle
- x Dominic [Signature]
- x [Signature]
- x [Signature]
- x [Signature]
- x [Signature]
- x [Signature]
- x [Signature]

The property service workers at Lenox Terrace.



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Sincerely,

[Handwritten signatures: Kevin Brown, V. Shawkey, Roberts, Amalia, Angel Torres, X Daniel Fajardo, X Kinsey, X Angel Luis Torres, X Franklin Rodriguez]

The property service workers at Lenox Terrace.

x Kevin Brown.
 x Joshua Lewis
 x
 x



November 11, 2019

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Sincerely,

x *[Signature]*
 x T. Berker
 x
 x
 x
 C

x *Barbara Duci* x
 x x
 x x
 x x

The property service workers at Lenox Terrace.

x
 x