

Appendix G

Written Comments Received on the DEIS

Borough President Recommendation

City Planning Commission
22 Reade Street, 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, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application #: C 120309 ZMM, N 120310 ZRM

Docket Description:

C 120309 ZMM – IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Sections Nos. 3b, 5c, and 6a:

1. eliminating from within an existing R8 District a C1-4 District bounded by a line midway between West 146th Street and West 145th Street, Broadway, a line 100 feet northerly of West 145th Street, a line 100 feet easterly of Broadway, a line 100 feet southerly of West 145th Street, Broadway, a line midway between West 145th Street and West 144th Street, and a line 100 feet westerly of Broadway;
2. changing from an R7-2 District to an R6A District property bounded by:
 - a. West 153rd Street, a line 100 feet westerly of Amsterdam Avenue, West 152nd Street, and a line 100 feet easterly of Broadway;
 - b. A line 100 feet southerly of West 155th Street, St. Nicholas Avenue, West 153rd Street, St. Nicholas Place, West 152nd Street, Convent Avenue, West 151st Street, a line 125 feet easterly of Amsterdam Avenue, West 152nd Street, and a line 100 feet easterly of Amsterdam Avenue;
 - c. A line midway between West 151st Street and West 150th street, a line 100 feet westerly of Amsterdam Avenue, West 147th Street, and a line 100 feet easterly of Broadway;

SEE ATTACHED

COMMUNITY BOARD NO: 09

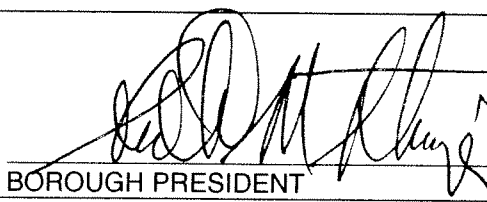
BOROUGH: Manhattan

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)

See Attached


BOROUGH PRESIDENT

6/27/12
DATE

- d. West 150th Street, a line 100 feet westerly of Convent Avenue, a line midway between West 149th Street and West 148th Street, Convent Avenue, West 149th Street, St. Nicholas Avenue, West 145th Street, a line 100 feet westerly of St. Nicholas Avenue, West 141st Street, and a line 100 feet easterly of Amsterdam Avenue, and excluding the area bounded by a line midway between West 147th Street and West 148th Street, Convent Avenue, West 145th Street, and a line 100 feet westerly of Convent Avenue;
 - e. a line 100 feet southerly of West 145th Street, Bradhurst Avenue, the westerly center line prolongation of West 143rd Street, and a line midway between St. Nicholas Avenue and Edgecombe Avenue; and
 - f. West 143rd Street, a line 500 feet easterly of Broadway, a line midway between West 142nd Street and West 141st Street, a line 450 feet easterly of Broadway, West 141st Street, and a line 100 feet easterly of Broadway;
3. changing from an R8 District to an R6A District property bounded by:
 - a. West 148th Street, a line 100 feet westerly of Broadway, West 145th Street, a line 315 feet westerly of Broadway, a line midway between West 146th Street and West 145th Street, a line 250 feet westerly of Broadway, West 146th Street, a line 225 feet westerly of Broadway, a line midway between West 147th Street and West 146th Street and its westerly prolongation, the easterly boundary line of Riverside Park, West 147th Street and its westerly center line prolongation, a line 80 feet easterly of Riverside Drive, a line midway between West 148th Street and West 147th Street, and a line 105 feet easterly of Riverside Drive;
 - b. a line midway between West 143rd Street and West 142nd Street and its westerly prolongation, a line 200 feet westerly of Broadway, West 142nd Street and its westerly center line prolongation, and the easterly boundary line of Riverside Park; and
 - c. a line midway between West 139th Street and West 138th Street, a line 100 feet westerly of Broadway, a line midway between West 138th Street and West 137th Street, a line 455 feet westerly of Broadway, West 138th Street, and a line 400 feet westerly of Broadway;
 4. changing from an R7-2 District to an R7A District property bounded by:
 - a. West 155th Street, a line 100 feet easterly of Amsterdam Avenue, West 152nd Street, a line 125 feet easterly of Amsterdam Avenue, West 151st Street, Convent Avenue, West 152nd Street and its easterly center line prolongation, a line midway between St. Nicholas Place and Edgecombe Avenue, a line midway between St. Nicholas Avenue and Edgecombe Avenue, a line 100 feet northerly of West 145th Street, St. Nicholas Avenue, West 149th Street, Convent Avenue, a line midway between West 149th Street and West 148th Street, a line 100 feet westerly of Convent Avenue, West 150th Street, a line 100 feet easterly of Amsterdam Avenue, a line midway between West 146th Street and West 145th Street, Amsterdam Avenue, a line 100 feet northerly of West 145th Street, a line 100 feet easterly of Broadway, West 147th Street, a line 100 feet westerly of Amsterdam Avenue, a line midway between West 151st Street and West 150th Street, a line 100 feet easterly of Broadway, West 152nd Street, a line 100 feet westerly of Amsterdam Avenue, West 153rd Street, and Amsterdam Avenue;
 - b. a line 150 feet southerly of West 155th Street, a line midway between St. Nicholas Avenue and St. Nicholas Place, West 153rd Street, and St. Nicholas Avenue;
 - c. a line midway between West 148th Street and West 147th Street, Convent Avenue, West 145th Street, and a line 100 feet westerly of Convent Avenue;
 - d. a line 100 feet southerly of West 145th Street, Amsterdam Avenue, the southerly boundary line of Annunciation Park and its easterly and westerly prolongations, Convent Avenue, West 130th Street, Amsterdam Avenue, West 133rd Street, a line 200 feet easterly of Broadway, West 135th Street, a line 100 feet easterly of Broadway, a line 100 feet easterly of Hamilton Place, a line midway between West 138th Street and West 136th Street, Hamilton Place, West 138th Street, a line 100 feet easterly of Broadway, West 141st Street, a line 450 feet easterly of Broadway, a line midway between West 142nd Street and West 141st Street, a line 500 feet easterly of Broadway, West 143rd Street, and a line 100 feet easterly of Broadway;
 - e. West 145th Street, St. Nicholas Avenue, a line 100 feet southerly of West 145th Street, a line midway between St. Nicholas Avenue and Edgecombe Avenue, the westerly center line prolongation of West 143rd Street, Bradhurst Avenue and its southerly centerline prolongation, Edgecombe Avenue, West 141st Street, and a line 100 feet westerly of St. Nicholas Avenue; and
 - f. West 130th Street, St. Nicholas Terrace, West 127th Street, a line 100 feet westerly of St. Nicholas Avenue, West 126th Street, a line 100 feet westerly of Morningside Avenue, West 127th Street, a line 100 feet westerly of Convent Avenue, West 129th Street, and Convent Avenue;
 5. changing from an R7-2 District to an R8A District property bounded by:
 - a. West 155th Street, St. Nicholas Avenue, a line 100 feet southerly of West 155th Street, and a line 100 feet easterly of Amsterdam Avenue;
 - b. Edgecombe Avenue, West 145th Street, Bradhurst Avenue, a line 100 feet southerly of West 145th Street, St. Nicholas Avenue, a line 100 feet northerly of West 145th Street, a line midway between St. Nicholas Avenue and Edgecombe Avenue, a line midway between St. Nicholas Place and Edgecombe Avenue, the easterly center line prolongation of West 152nd Street, St. Nicholas Place, West 153rd Street, a line midway between St. Nicholas Avenue and St. Nicholas Place, a line 150 feet southerly of West 155th Street, a line perpendicular to the southerly street line of West 155th Street distant 205 feet easterly (as measured along the street line) from the point of intersection of the easterly street line of St. Nicholas Avenue and the southerly street line of West 155th Street, a line 100 feet southerly of West 155th Street, St. Nicholas Place, and West 155th Street; and
 - c. a line 100 feet northerly of West 145th Street, Amsterdam Avenue, a line midway between West 146th Street and West 145th Street, a line 100 feet easterly of Amsterdam Avenue, West 145th Street, Amsterdam Avenue, a line 100 feet southerly of West 145th Street, and a line 100 feet easterly of Broadway;
 6. changing from a C8-3 District to an R8A District property bounded by West 155th Street, St. Nicholas Place, a line 100 feet southerly of West 155th Street, and a line perpendicular to the southerly street line of West 155th Street distant 205 feet easterly (as measured along the street line) from the point of intersection of the easterly street line of St. Nicholas Avenue and the southerly street line of West 155th Street;
 7. changing from an R8 District to a C6-3X District property bounded by a line midway between West 146th Street and West 145th Street, Broadway, a line 100 feet northerly of West 145th Street, a line 100 feet easterly of Broadway, a line 100 feet southerly of West 145th Street, Broadway, a line midway between West 145th Street and West 144th Street, and a line 100 feet westerly of Broadway;

8. changing from an M1-1 District to an M1-5/R7-2 District property bounded by West 129th Street, a line 100 feet westerly of Convent Avenue, West 127th Street, a line 100 feet westerly of Morningside Avenue, a line midway between West 126th Street and West 125th Street/Dr. Martin Luther King Jr. Boulevard, and Amsterdam Avenue;
9. establishing within a proposed R6A District a C1-4 District bounded by:
 - a. a line midway between West 146th Street and West 145th Street, a line 100 feet westerly of Broadway, West 145th Street, and a line 315 feet westerly of Broadway; and
 - b. a line midway between West 146th Street and West 145th Street, a line 100 feet westerly of Convent Avenue, West 145th Street, Convent Avenue, a line midway between West 146th Street and West 145th Street, a line 100 feet westerly of St. Nicholas Avenue, a line 100 feet southerly of West 145th Street, and a line 100 feet easterly of Amsterdam Avenue;
10. establishing within a proposed R7A District a C1-4 District bounded by:
 - a. a line midway between West 146th Street and West 145th Street, Convent Avenue, West 145th Street, and a line 100 feet westerly of Convent Avenue;
 - b. a line 100 feet northerly of West 141st Street, a line 100 feet westerly of Amsterdam Avenue, West 141st Street, and Hamilton Place; and
 - c. a line midway between West 140th Street and West 139th Street, a line 100 feet easterly of Hamilton Place, West 138th Street, a line 100 feet easterly of Broadway, West 139th Street, and Hamilton Place;
11. establishing within an existing R8 District a C1-4 District bounded by West 145th Street, a line 100 feet westerly of Broadway, a line midway between West 145th street and West 144th Street, and a line 270 feet westerly of Broadway;
12. establishing within a proposed R8A District a C2-4 District bounded by West 155th Street, Edgecombe Avenue, a line 150 feet southerly of West 155th Street, St. Nicholas Place, a line 100 feet southerly of West 155th Street, and a line perpendicular to the southerly street line of West 155th Street distant 205 feet easterly (as measured along the street line) from the point of intersection of the easterly street line of St. Nicholas Avenue and the southerly street line of West 155th Street; and
13. establishing a Special Mixed Use District (MX-15) bounded by West 129th Street, a line 100 feet westerly of Convent Avenue, West 127th Street, a line 100 feet westerly of Morningside Avenue, a line midway between West 126th Street and West 125th Street/Dr. Martin Luther King Jr. Boulevard, and Amsterdam Avenue;

Borough of Manhattan, Community District 9, as shown on a diagram (for illustrative purposes only) dated May 7, 2012, and subject to the conditions of CEQR Declaration E-284.

N 120310 ZRM

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to section 201 of the New York City Charter, for an amendment to the Zoning Resolution of the City of New York, concerning Article II, Chapter 3 (Bulk Regulations for Residential Buildings in Residential Districts), which establishes the Inclusionary Housing Program on West 145th Street and implements Quality Housing Program contextual controls in the R8 district west of Broadway. In addition, an amendment to Article XII, Chapter 3 (Special Mixed Use District), establishes a new mixed use manufacturing district between West 126th and 129th streets in the Borough of Manhattan, Community District 9.

The goals of the proposed rezoning are to:

1. Reinforce the special character of West Harlem's residential neighborhoods, and to update the existing zones with new contextual zones to produce predictable building forms that complement the existing urban fabric;
2. Activate the existing manufacturing area to support economic development and encourage mixed-uses in addition to the creation of residential units;
3. Strengthen the West 145th Street corridor by allowing development opportunities where appropriate, while designating the Inclusionary Housing Program to incentivize affordable housing.

The area is currently zoned R7-2 east of Broadway and R8 west of Broadway, with an M1-1 zoning district at the southern boundary, and a small C8-3 district at the northeastern boundary. C1-1 and C2-4 districts are mapped along major commercial corridors, including portions of Amsterdam Avenue, Broadway, and West 145th Street.

DCP proposes contextual districts for the majority of West Harlem. The neighborhood is characterized by predominantly low- to mid-rise buildings with three quarters of the lots in the study area comprised of residential uses. Remaining uses include institutional, mixed-use and commercial. The area has few vacant properties, and is well served by transit, with several bus lines, and express and local subways stations.

Additionally, DCP proposes to increase density at West 145th Street to accommodate affordable housing through the inclusionary housing bonus. West 145th Street is a major corridor characterized by low-scale residential and commercial buildings, and is well served by transit (A, B, C, D, 1 subway lines). Active one- and two-story commercial buildings anchor the intersection of Broadway and West 145th Street. On the north side of West 145th Street between Broadway and Amsterdam Avenue is P.S. 186, which the ML Wilson Boys and Girls Club of Harlem plans to redevelop through adaptive reuse.

Additionally, DCP proposes a mixed industrial area between West 126th and 129th streets. This area is characterized by commercial and light industrial uses. The mixed industrial area includes sites such as the Yuengling complex, which is calendared to be landmarked by the Landmarks and Preservation Commission ("LPC"), and the former Taystee Bakery complex, for which the New York City's Economic Development Corporation ("NYCEDC") recently released a Request for Expressions of Interest (RFEI), where Taystee Create LLC¹ was selected as the developer for the project. The proposed development will include 90,000 SF of office space, 40,000 SF of retail and a 10,000SF community facility.

Specifically, the proposed zoning map amendments would:

1. Replace existing R7-2, R8, M1-1 and C8-3 zoning districts within the proposed rezoning area with R6A, R7A, and R8A districts;
2. Designate a C6-3X zoning district to be mapped at the intersection of West 145th Street and Broadway;

¹ Taystee Create LLC is primarily a joint venture between Janus Partners LLC and Monadnock Construction

3. Replace the existing M1-1 zoning district within the proposed rezoning area with an M1-5/R7-2 zoning district;
4. Map new commercial overlays along portions of Hamilton Place, West 155th and West 145th streets; and
5. Create a Special Mixed Use District (MX 15).

The proposed zoning text amendments would:

1. Apply the Inclusionary Housing Program to the new C6-3X zoning district and R8A zoning districts located on West 145th Street between Broadway and Amsterdam Avenue;
2. Establish the Special Mixed Use District (MX 15) in West Harlem; and
3. Require all R8 districts in the community district north of West 125th Street be developed pursuant to the R8 Quality Housing Program.

The proposed R6A zoning district allows for residential and community facility uses up to 3.0 FAR and a maximum building height of 70 feet. Building setbacks are required at 60 feet (10 feet for wide streets, and 15 feet for narrow streets). The R6A district will replace existing R8 and R7-2 districts.

The proposed R7A district allows for residential and community facility uses up to 4.0 FAR and a maximum building height of 80 feet. Building setbacks are required at 65 feet (minimum setback of 10 feet for wide streets, and 15 feet for narrow streets). The R7A district will replace existing R7-2 and C8-3 districts.

Portions of the existing R8 district will remain, but the zoning would be altered to mandate building forms that are consistent with the existing mid-rise residential developments as prescribed by the Quality Housing Program. The Quality Housing Program for R8 districts allows for a maximum residential FAR of 6.02 on narrow streets and 7.2 for wide streets. Additionally, community facility uses are allowed at a maximum 6.5 FAR. The zoning will allow for a maximum building height of 105 feet on narrow streets and 120 feet on wide streets. The maximum height of the street wall is 60-85 feet.

An R8A district is proposed to replace the existing R7-2 district along a portion of West 145th Street between Broadway and Amsterdam avenues. R8A districts allow for a maximum residential FAR of 6.02 and community facility uses up to 6.5 FAR. The zoning would allow for a maximum building height of 120 feet after a setback at 85 feet (10 feet for wide streets and 15 feet for narrow streets). The R8A zoning district would be included in the Inclusionary Housing Program. The Inclusionary Housing Program bonus would increase the allowable FAR to 7.2, allowing for greater density to incentivize affordable housing. As required by the program, developments utilizing the bonus would be required to use 20% of the density for permanent affordable housing to individuals earning less than 80% of the area median income. The proposed rezoning would allow for the development of up to 82 affordable units.

A C6-3X zoning district is proposed to replace the existing R8 district at the four corners of the intersection of West 145th Street and Broadway. The C6-3X zoning district allows for a maximum FAR of 6.0 for commercial uses, 9.0 for community facility uses, and 7.3 for

residential uses. The zoning allows for a maximum building height of 170 feet, and at 120 feet requires a minimum setback of 10 feet. The proposed text amendment would include the intersection of West 145th Street and Broadway in the Inclusionary Housing Program, which allows a development bonus to a maximum FAR of 9.7 if affordable housing is provided.

A Special Mixed Use District (“MX 15”) is proposed through a zoning text amendment to rezone the existing M1-1 district. The MX 15 district pairs an M1-5 manufacturing district with an R7-2 residential district to allow for mixed-use development that could include retail, residential commercial, and light manufacturing uses with a maximum FAR of 5.0. Within the MX 15 district, community facility uses are allowed to have a maximum FAR of 6.5, and residential uses are allowed at a maximum FAR of 3.44. The MX 15 district permits a maximum building height of 135 feet with a setback at 85 feet (10 feet for wide streets and 15 feet for narrow streets). The proposed zoning text for the MX 15 district would require that 70% of building walls be located on the street line, and the remaining 30% of developments be located within eight feet of the street line.

Finally, C1-4 and C2-4 overlays will be mapped within the proposed R6A, R7A, and R8A districts and would allow a maximum commercial FAR of 1.0 in residential buildings, and a maximum FAR of 2.0 for buildings without residential uses.

COMMUNITY BOARD RECOMMENDATION

At a full board meeting on June 21, 2012, CB9 voted 40 in favor, 0 in opposition, and 3 in abstention to recommend conditional approval of the application. The Community Board’s recommendation includes the condition that the applicant replaces the proposed R8A zoning district and Inclusionary Housing on West 145th Street between Broadway and Amsterdam Avenue with an R7A zoning district.

BOROUGH PRESIDENT’S COMMENTS

Generally, the proposed rezoning will protect the existing community and its built context. The plan not only achieves many community goals, but the 90-block rezoning has received significant consensus from the community. The vast support is a testament to the extensive community outreach performed by DCP, CB9 and the local elected officials.

Further, the proposed plan fulfills a commitment made to Manhattan Borough President, Scott Stringer, by DCP in a letter from DCP Director, Amanda Burden, dated September 25, 2007, as part of the Columbia University Special Manhattanville Mixed Use District (N 070495 ZMM). In 2007, the Manhattan Borough President developed the West Harlem Special District plan in response to community concerns regarding Columbia University’s Manhattanville Rezoning. The Borough President’s rezoning plan was intended to enact key aspects of CB9’s 197-A plan and protect the residents of West Harlem.

DCP agreed to conduct a further study based on a block-by-block analysis and extensive community consultation. The analysis confirmed that the existing 1961 zoning was outdated as it allows for out-of-scale developments that do not reflect the current neighborhood conditions.

Without intervention, the existing zoning would encourage the demolition of existing residential buildings, many of which contain rent-stabilized buildings.

As proposed, the rezoning achieves a balance of preserving the existing built context while promoting future development in areas that can accommodate growth and will not encourage new displacement.

The proposed areas for growth are the MX 15 district, and West 145th Street between Broadway and Amsterdam Avenue. These areas were selected to accommodate economic development and affordable housing, priorities that were identified in CB9's 197-A plan.

The proposed MX 15 district is one of the few areas that can support mixed-use development. In the 197-A plan, CB9 identified the MX 15 area as an opportunity for new mixed-used manufacturing and commercial development. The proposed district and increased density will activate the area by creating a flexible manufacturing district.

Affordable housing development is an important citywide goal also highlighted in CB9's 197-A plan. The majority of the 90-block rezoning area is built-out with residential properties, and West 145th Street is one of the few corridors in the study area with projected developments that can accommodate growth (including affordable housing) without significantly displacing residential buildings.

Through the course of review, some community members have expressed a preference for R7A height limits instead of the R8A height limits (80 feet versus 120 feet, respectively). The difference of 40 feet of building height could result in up to 41 less affordable units constructed, and could mean 33-50% less potential affordable units. West 145th Street, Broadway and Amsterdam Avenue are wide streets well served by mass transit that can absorb the additional density without shadow or environmental impacts. As such, the R8A zoning is appropriate for the area. Additionally, on West 145th Street, the proposed C1 and C2 overlays will allow several existing ground floor retail establishments to be brought into compliance, and support additional local retail opportunities.

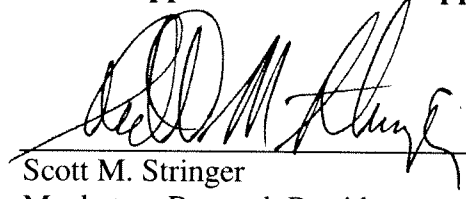
In April 2012, the Harlem School of the Arts ("HSA") attended a public hearing held by CB9 to request that their block not be included in the rezoning. HSA is located on West 141st Street and St. Nicholas Avenue, and the proposed R7A rezoning limits the organization's ability to sell air rights for a future development. HSA's proposal is still in its early stages, without a developer selected or a program identified. As such, it is impossible at this time to weigh the benefits of altering the zoning plan. Given these current conditions, the proposed rezoning should advance unaltered at this site. However, if HSA develops a more refined proposal, the school may seek a subsequent rezoning through the public review process. At that time, any potential benefits and land use considerations can be considered without prejudice.

DCP should be commended for their work on the rezoning plan. For five years, DCP worked with the Manhattan Borough President, elected officials, CB9, and community leaders to develop a rezoning that reflects the community goals expressed in CB9's community plan. For a rezoning of this scale, it is impressive that all stakeholders have collaborated to create a plan with almost overwhelming support from all of the stakeholders.

BOROUGH PRESIDENT'S RECOMMENDATION

The rezoning fulfills a commitment to the Manhattan Borough President by rezoning West Harlem to protect the existing neighborhood character, while providing opportunities for economic development and affordable housing. This plan serves as a model for future rezonings and demonstrates the value and effectiveness of true community based planning.

The Manhattan Borough President therefore recommends approval of ULURP Application Nos. C 120309 ZMM & N 120310 ZRM.



Scott M. Stringer
Manhattan Borough President

Application #: N/203102RM
120309ZMM
CEQR Number: 125CP070M

Project Name: West Harlem Rezoning
Borough(s): Manhattan
Community District Number(s): 9 (nine)

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
 - FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by

(see Attached documents)

Applicant(s): NYC Department of City Planning		Applicant's Representative: Melissa R. Cerezo Adam Wolff Edwin Marshall
Recommendation submitted by: Manhattan Community Bd. #9 - 1618 Old Broadway		
Date of public hearing: 6/11/12	Location: 3333 Broadway - Tower "A"	
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> <small>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</small>		
Date of Vote: 6/21/12	Location: Fortune Society 630 Riverside Drive @ 140th St	
RECOMMENDATION <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove <input checked="" type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove With Modifications/Conditions		
Please attach any further explanation of the recommendation on additional sheets, as necessary.		
Voting # In Favor: 40 # Against: 0 # Abstaining: 3 Total members appointed to the board: 50		
Name of CB/BB officer completing this form Hon. Rev. Georgette Morgan-Thomas	Title Chair	Date 6/27/12

WEST HARLEM REZONING

FINAL RESOLUTION

Whereas, Manhattan Community Board 9 has developed and approved an integrated plan for Community District 9M under Section 197A of the New York City Charter and such plan was adopted by City Council in 2007; and

Whereas, the Manhattan Borough President conducted a study focused on an area generally bounded by West 125th and 145th Streets between Riverside Drive and St. Nicholas, Bradhurst and Convent Avenues and issued a proposal for a West Harlem Special District, a comprehensive plan to rezone West Harlem to protect its character and its longtime residents and businesses in the face of significant development pressure the neighborhood faces, and such proposal was approved and adopted by Manhattan Community Board 9 in 2007; and

Whereas, the Department of City Planning initiated the West Harlem rezoning study in recognition of the fact that zoning changes were needed to preserve the existing character of the area and to provide better protection against out-of-scale development, while incentivizing opportunities for mixed-use development and affordable housing, where appropriate; and

Whereas, the Department of City Planning and Manhattan Community Board 9 have collaborated for nearly five years on a substantial public outreach effort, including several informational community meetings, four Town Hall meetings and a public scoping session with residents, property owners and stakeholders to achieve broad consensus; and

Whereas, the West Harlem rezoning proposal (a.k.a. Proposed Action) recognizes and complements CB9's 197A Plan and the Borough President's West Harlem Special District Plan and important community feedback and focuses on a 90-block area north of West 125th Street generally bounded by West 126th and West 155th Streets, Riverside Drive and Edgecombe, Bradhurst and Convent Avenues (excluding the Special Manhattanville Mixed-Use District, NYCHA Manhattanville Houses and City College's West Harlem campus); and

Whereas, the proposed rezoning area includes blocks that had not been subjected to a comprehensive zoning review since adoption of the 1961 Zoning Resolution, a period of 50 years; and

Whereas, in order to achieve these goals and objectives, the zoning map changes and zoning text amendments as set forth in the Attachment to this Resolution (e.g., Pages 6 to 9 of Land Use Review Application) have been proposed; and

Whereas, an Environmental Impact Statement ("EIS") has been prepared in conformance with applicable laws and regulations and follows the guidance of the New York City Environmental Quality Review ("CEQR") Technical Manual and contains a description and analysis of the Proposed Action, the environmental impacts of the Proposed Action (including its short and long term effects), identification

of any significant adverse environmental effects that can be avoided through incorporation of corrective measures, a discussion of alternatives to the Proposed Action, the identification of any irreversible and irretrievable commitments of resources, and a description of any necessary mitigation measures proposed to minimize significant adverse environmental impacts; and

Whereas, four Reasonable Worst-Case Scenarios ("RWCDs") for development associated with the Proposed Action have been identified, and whereas for environmental assessment purposes, projected developments considered likely to occur in the foreseeable future, i.e., an approximate 10 year period following the adoption of the Proposed Action, are expected to occur on 24 sites and potential developments, which are considered possible but less likely, have been identified for 16 additional sites; and

Whereas, the analysis included in the Draft EIS ("DEIS") concludes that none of the existing residential units would be directly displaced as a result of the Proposed Action; direct displacement would be limited to 11 businesses and institutions (employing an estimated 161 workers) located on three of the 24 projected development sites; and

Whereas, according to the RWCDs 1 through 4 set forth in the DEIS, the Proposed Action would result in between 911 to 1,136 new residential units, including 61 to 82 new affordable units, respectively; and

Whereas, DCP, upon the request of Manhattan Community Board 9, has provided a Lower Density Alternative in Chapter 19 of the DEIS, Alternatives, to address concerns about out-of-scale development on the R8A IH zoning district on West 145th Street, from Broadway to Amsterdam Avenue; and

Whereas, the Lower Density Alternative, which replaces the proposed R8A IH zoning district on portions along the West 145th Street corridor, extending from a point 100 feet east of Broadway to Amsterdam Avenue, with an R7A zoning district with C2-4 commercial overlay, while allowing residential development to a lesser extent than the R8A IH district, is considered to be compatible with the existing zoning along the corridor and is in accordance with the goals and objectives of the Proposed Action;

Whereas, unlike the Proposed Action, the Inclusionary Housing Program would not be applicable in the R7A zoning district mapped under the Lower Density Alternative, as the residential density allowed under R7A is equivalent to the maximum residential density that is currently allowed on wide streets under the Quality Housing option in the existing R7-2 district; and

Whereas, the Lower Density Alternative when compared to the Proposed Action would result in the same mix of uses and the same amount of commercial development and generally the same amount of community facility space; while the total amount of residential development would be reduced under all four RWCDs (from 41 fewer total residential units in RWCDs 1 and 2 to 93 fewer total residential units in RWCDs 3 and 4), including a reduction of 20 affordable housing units in RWCDs 1 and 2 and a reduction of 41 affordable housing units in RWCDs 3 and 4; and

Whereas, like the Proposed Action, the Lower Density Alternative would not result in any direct residential displacement and would directly displace the same commercial and institutional uses from three projected development sites; and

Whereas, according to the DEIS, unavoidable significant adverse impacts relate to (1) Shadows, (2) Historical (Architectural) Resources, and, (3) Construction Impacts; and

Whereas, as discussed in the DEIS in Chapter 6, Shadows, under the Department of City Planning's reasonable worst case scenario for the purposes of the DEIS, the Proposed Action would cast incremental shadows on stained glass features on the western façade of St. Mary's Episcopal Church for a duration of approximately 1 hour and 33 minutes on December 21, and the remaining open spaces and historic resources in the study area would not be significantly affected or affected at all; and

Whereas, as noted in the DEIS in Chapter 7, Historic Resources, under the Department of City Planning's reasonable worst case scenario for the purposes of the DEIS, the Proposed Action could result in significant adverse impacts due to potential demolition of at least one eligible resource, which was identified in the DEIS as Site 40 ("Site 40"); and

Whereas, Site 40 has been calendared for consideration for landmark status by the Landmarks Preservation Commission ("LPC") for more than 20 years, and although a public hearing has been held with respect to the eligibility of Site 40 as a New York City landmark, no action has been taken either to designate it or remove it from the LPC calendar to date; and

Whereas, the potential impacts to St. Mary's Episcopal Church and Site 40 would not occur unless substantial demolition and new development were to take place on Site 40; and

Whereas, according to the DEIS, should the Department of Buildings ("DOB") receive an application for a demolition or alteration permit for any of the buildings at Site 40, LPC would be given forty (40) days notice prior to the issuance of any such permit(s) and could, within that period, hold a hearing to consider whether the affected building merits protection as a New York City Landmark; and

Whereas, according to the DEIS, in order to avoid the potential immitigable impact on historic resources, LPC would need to make a determination regarding the status of Site 40 as to whether the resource qualifies as a landmark and merits protection or is found not to meet the criteria to be designated as a landmark; and

Whereas, according to the DEIS, inadvertent construction-related damage could potentially occur to at least four eligible, although not designated as landmarks, resources (S/NR eligible residences at 2-14 Convent Avenue, the S/NR eligible St. Joseph's Roman Catholic church complex, the LPC eligible Engine Co. 23 building, and the LPC eligible Upper Riverside Drive historic district); and

Whereas, further according to the DEIS, if these eligible resources are designated in the future prior to the initiation of construction, DOB Technical Policy and Procedure Notice (TPPN) #10/88 would apply and potential indirect significant adverse impacts resulting from construction would be avoided; and

Whereas, a Public Hearing was conducted on Monday, June 18, 2012 and in attendance were 18 Community Board 9 members and 79 Community residents.

NOW BE IT RESOLVED, MANHATTAN COMMUNITY BOARD 9 VOTES TO APPROVE THE PROPOSED ACTION SUBJECT TO THE CONDITION LISTED BELOW:

THE LOWER DENSITY ALTERNATIVE, AN R7A ZONING DISTRICT WITH C2-4 COMMERCIAL OVERLAY BE MAPPED ON PORTIONS OF THE WEST 145TH STREET CORRIDOR, EXTENDING FROM A POINT 100 FEET EAST OF BROADWAY TO AMSTERDAM AVENUE, REPLACING THE PROPOSED R8A IH (WITH C2-4 COMMERCIAL OVERLAY) ZONING DISTRICT IN THE PROPOSED ACTION.

VOTE TAKEN JUNE 21, 2012

40 IN FAVOR, 0 OPPOSED, 3 ABSTENTIONS

space, the Proposed Action includes the mapping of new commercial overlays for these areas to better serve current and future local retail needs.

Proposed Action

The proposed actions would affect approximately 1,900 lots on ⁴⁰200 blocks. The rezoning area covers portions of Zoning Map sections 3b, 5c, and 6a. The Proposed Action includes:

(1) Zoning map amendments to

- Replace the existing R7-2, R8, C8-3 and M1-1 zoning districts within the proposed rezoning area with R6A, R7A, R8A, C6-3X and M1-5/R7-2 districts;
- Establish Special Mixed Use District (MX 15);
- Map new commercial overlays along portions of West 155th Street, West 145th Street and Hamilton Place to promote and better support local retail development; and

(2) Zoning text amendments to

- Apply the Inclusionary Housing Program to C6-3X (R9X equivalent zoning district) and R8A zoning districts located along West 145th Street between Broadway and Amsterdam Avenue;
- Establish Special Mixed Use District 15 (MX 15) in West Harlem;
- Require all R8 districts north of West 125th Street within Manhattan Community District 9 to be developed pursuant to the R8 Quality Housing Program.

Proposed Zoning Map Changes

R6A (From R8 and R7-2)

The R6A zoning district would replace R8 and R7-2 districts currently mapped on all or portions of 36 blocks generally bounded by West 138th Street between Riverside Drive and Broadway; the north side of West 142nd Street between Riverside Drive and Broadway; West 145th Street to West 148th streets between Riverside Drive and Broadway; West 142nd to West 143rd streets between Broadway and Hamilton Place; West 147th to West 150th streets between Broadway and Amsterdam Avenue; West 145th to West 150th streets between Amsterdam and St. Nicholas avenues; West 151st to West 154th streets between Amsterdam, Convent and St. Nicholas avenues; West 140th to West 145th streets between Amsterdam Avenue and Hamilton Terrace; and along the north side of West 152nd Street between Broadway and Amsterdam Avenue. R6A districts allow residential and community facility uses up to 3.0 FAR. The maximum contextual building envelope consists of a base height of 40 to 60 feet, after which a minimum setback is required (10 feet for wide streets and 15 feet for narrow streets) and maximum height limit of 70 feet. Parking is required for 50 percent of residential units, but may be waived if few spaces are required. The proposed R6A district, with lower bulk, height and street wall requirements would provide consistency between the existing built context of low-scale areas and its underlying zoning.

R7A (From R7-2 and C8-3)

This district would replace existing R7-2 districts currently mapped on all of portions of 57 blocks generally located along of St. Nicholas Place, Amsterdam, Convent and St. Nicholas avenues and on select mid-blocks between Broadway and St. Nicholas Avenue. R7A districts allow residential and community facility uses up to 4.0 FAR. The maximum contextual building envelope would be similar to the R7 Quality Housing form and would consist of a base height of 40 to 65 feet, after which a minimum setback is required (10 feet for wide streets and 15 feet for narrow streets) and maximum height limit of 80 feet. Parking is required for 50 percent of residential units, but may be waived or reduced depending on zoning lot size. The mid-blocks proposed for R7A are characterized by mid-rise multi-family buildings interspersed with low-rise residential buildings. The building form encouraged by R7A regulations would result in residential buildings that are consistent with the scale, streetwall and density of the existing mid-block buildings.

R8A (From R7-2)

West 145th Street between Broadway and Amsterdam Avenue

This district would replace the existing R7-2 district along portions of three blocks along West 145th Street between Broadway and Amsterdam Avenue. R8A districts typically allow a maximum residential FAR of 6.02, but the maximum residential FAR would be increased in order to provide a useful incentive to develop affordable housing and enhance future development opportunities. The Inclusionary Housing Program would be designated in connection with the proposed R8A district through zoning text amendments (described below).

In doing so, a base residential density of 5.4 FAR would be allowed; however, the allowable FAR may be increased up to 7.2 FAR, achievable through the Inclusionary Housing bonus subject to a maximum contextual building envelope. The maximum permitted building form would consist of a base height between 60 to 85 feet, after which a minimum setback of 10 feet is required and a maximum height limit of 120 feet. Parking is required for 50 percent of residential units but may be waived or reduced depending on zoning lot size. Community facilities would be allowed up to 6.5 FAR, as currently allowed under the existing R7-2 district regulations. The proposed R8A district combined with the Inclusionary Housing Program would support transit-oriented development while providing zoning incentives to encourage the development of affordable housing.

Edgecombe Avenue, West 155th Street and West 145th Street between St. Nicholas and Bradhurst avenues

This district would replace the existing R7-2 zoning districts along Edgecombe Avenue, West 155th Street and West 145th Street between St. Nicholas and Bradhurst avenues with the R8A zoning district in order to maintain the scale and street wall with the existing dense, mid-rise multi-family buildings within the area. R8A districts permit residential uses up to 6.02 FAR, community facility uses up to 6.5 FAR. The required building form would consist of a base height between 60 to 85 feet, after which a minimum setback of 10 feet is required and maximum height limit of 120 feet. Parking is required for 50 percent of residential units, but may be waived or reduced depending on zoning lot size.

C6-3X (From R8)

The C6-3X zoning district (R9X residential district equivalent) would be mapped at the intersection of West 145th Street and Broadway on the four corners to a depth of 100 feet (see Figure 1-5), an area currently zoned R8/C1-4. C6 districts permit a wide range commercial uses requiring a central location well-served by mass transit, such as office, hotels and entertainment facilities. C6 districts also allow residential and community facility uses. Commercial uses would be allowed up to 6.0 FAR and could be located above the ground floor in mixed residential/commercial buildings. Community facility uses would be allowed up to 9.0 FAR. The proposed district would allow residential uses up to 7.3 FAR, bonusable to 9.7 FAR through the Inclusionary Housing bonus made applicable by a proposed text amendment (described below). The required building form would consist of a base height between 105 to 120 feet, after which a minimum setback of 10 feet is required and maximum height limit of 170 feet. Parking is typically required for 40 percent of residential units, but may be waived or reduced depending on zoning lot size. The proposed C6-3X zoning district expands future development opportunity at the West 145th Street/Broadway intersection, which is well-served by mass transit. Additionally, the associated Inclusionary Housing Program designation would provide a useful incentive to encourage the development of affordable housing.

Special Mixed Use District – MX 15 (From M1-1)

The Proposed Action would rezone the existing manufacturing area located on portions of four blocks generally bounded by West 126th and West 129th streets, and Amsterdam and Convent avenues, zoned M1-1, to MX 15, denoting the Special Mixed Use District 15 (established through a proposed zoning text amendment). The Special Mixed Use District is a special zoning district that is mapped in several locations throughout the city and allow for new residential uses and non-residential uses to be permitted as-of-right. Designated on zoning maps as 'MX' with a numerical suffix, the special zoning district contains a M1 manufacturing district that is paired with an R3 to R9 residential district. The proposed MX district would pair a M1-5 manufacturing district (allows commercial, light manufacturing uses) with a R7-2 residential district (allows community facility and residential uses) thereby expanding opportunity for mixed-use development.

The proposed MX 15 would allow retail, commercial and light manufacturing uses up to 5.0 FAR and community facility uses up to 6.5 FAR. The applicable R7-2 residential density of 3.44 FAR is proposed in order to retain the predominately non-residential character of the area (3.44 is the lowest of the permitted densities within the proposed district). Retail and commercial may be placed above the ground floor, commercial uses, such as supermarkets are limited to 10,000 square feet of floor area per establishment. Residential density Residential development may be permitted up to 4.0 FAR under the Quality Housing option, which is available on wide streets outside the Manhattan Core.

The permitted maximum building form would consist of a base height between 60 to 85 feet, after which a minimum setback is required (10 feet on wide streets and 15 feet on narrow streets) and maximum height limit of 135 feet. Buildings may exceed the maximum building height up to a height of 175 feet through the use of a provision that requires any stories constructed above a height of 135 feet to contain 20% less area than the

story below it ('penthouse rule'). The proposed street wall provisions would be applicable through a proposed text amendment (as described below).

Since the proposed rezoning area is strongly built-out, the existing M1-1 district is one of few places that could provide an opportunity for additional commercial and light manufacturing development, especially supporting activities that complement arts production and exhibition. Ultimately, while the market determines whether development would occur, the MX district provides the increased flexibility intended to incentivize the development of new businesses and better support the expansion of existing businesses. Additionally, the proposed MX district would complement and support the City's renewed efforts to redevelop the former Taystee Bakery complex.

C1-4 and C2-4 Commercial Overlays

C1-4 and C2-4 overlays are proposed to be mapped along portions of the south side of West 155th Street adjacent to St. Nicholas Place (C2-4); on both sides of the West 145th Street mid-block between Riverside Drive and Broadway; both sides of the West 145th Street mid-block between Amsterdam and St. Nicholas avenues (C2-4), and portions of Hamilton Place between West 138th and West 140th streets and West 141st and West 142nd streets (C1-4). C1 and C2 commercial overlays are mapped on streets within residential districts that serve the local retail needs of the surrounding residential neighborhood. Typical retail uses include grocery stores, restaurants and beauty parlors. C2 districts permit a slightly wider range of uses than C1 districts, such as funeral homes and repair services. The proposed commercial overlays would be mapped within R6A, R7A and R8A districts and would bring existing ground floor commercial uses into conformance. They would also support future ground floor commercial uses to serve the neighborhood.

Within the proposed R6A, R7A and R8A districts, ground floor retail uses would be allowed up to 1.0 FAR in mixed residential/commercial buildings. Buildings without residential uses would also be allowed 2.0 FAR of commercial uses. New developments would be subject to the density and bulk requirements of the proposed underlying R6A, R7A and R8A districts.

Proposed Zoning Text Amendments

In addition to the aforementioned zoning map amendments, the Proposed Action includes the zoning text amendments described below.

Inclusionary Housing Program

As part of the City's ongoing effort to provide new housing opportunities in West Harlem, the Proposed Action identifies areas that are appropriate for the Inclusionary Housing designation. The Inclusionary Housing designation, which can be applied in areas being rezoned to allow medium- and high-density residential development, combines a zoning floor area bonus with a variety of housing subsidy programs to create powerful incentives for the development and preservation of affordable housing.

The proposed zoning text amendment would make the Inclusionary Housing Program (IHP) zoning regulations applicable in the C6-3X zoning district (R9X residential zoning district equivalent) and the R8A district along West 145th Street between Broadway and Amsterdam Avenue. In the areas where the IHP would be applicable, new residential developments that provide on- or off- site housing that will remain permanently affordable for low- and moderate-income families would receive increased floor area. The IHP provides 33% bonus in exchange for 20% of floor area set aside as affordable units. The additional floor area must be accommodated within the bulk regulations of the underlying zoning districts. Affordable units could be financed through city, state, and federal affordable housing subsidy programs. Within the proposed rezoning area, portions of approximately five blocks would be subject to the IHP.

The affordable housing requirement of the Inclusionary Housing zoning bonus could be met through the development of affordable units, on-site, or off-site either through new construction or preservation of existing affordable units. Off-site affordable units must be located within the same community district, within a half-mile of the bonused development or anywhere within Community District 9. The availability of on-site and off-site options provides maximum flexibility to ensure the broadest possible utilization of the program under various market conditions.

Special Mixed Use District - MX 15

The Proposed Action would establish Special Mixed Use District - MX 15 in West Harlem, thereby making the existing Special Mixed Use District's general provisions applicable. The proposed street wall provisions will

ensure that new development retains the existing strong street wall character in the area. The Proposed Action would amend the existing base height requirements by adding a new minimum base height provision and street wall location provision, since none exist today for R7-2-paired MX districts. The proposed text would require a minimum base height of 60 feet and street wall provision to require that 70% of the aggregate building walls of new developments be located on the street line, with the remaining 30% to be located within 8 feet of the street line. As stated earlier, the proposed MX district is intended to support and enhance existing commercial and light industrial uses while encouraging the redevelopment and underutilized land.

Mandatory Quality Housing for R8 Districts within West Harlem

The Proposed Action would make mandatory the current provisions of the Quality Housing Program for R8 districts in the West Harlem Rezoning area. The proposed text amendment would encourage building forms that are consistent with the existing scale and character of the 6- to 8-story apartment buildings generally found within existing R8 districts located from West 135th Street to West 153rd Street between Riverside Drive and Broadway and along the west side of St. Nicholas Avenue and the east side of St. Nicholas Terrace between West 126th Street to West 128th Street. The Quality Housing Program for R8 districts (applicable to Manhattan Community Districts 9-12) allows a maximum residential density of 6.02 FAR on narrow streets and a maximum of 7.2 FAR for wide streets. Community facility FAR may be developed up to 6.5 FAR. For sites on narrow streets, the required building envelope would provide for a street wall of 60 to 85 feet in height, with a maximum building height of 105 feet. For sites on wide streets, the street wall must rise between 60 to 85 feet in height with a maximum allowable building height of 120 feet.

Caroline G. Harris

July 24, 2012

Hon. Amanda Burden
Chair, City Planning Commission
22 Reade Street
New York, NY 10007

Re: **655 St. Nicholas Avenue/West Harlem Rezoning**

Dear Chair Burden:

This firm represents the owner of 655 St. Nicholas Avenue (Block 2050, Lots 149 and 156; the "Property"), which is located within the boundaries of the proposed West Harlem Rezoning. The proposed rezoning would change the Property's existing R7-2 zoning to R6A and R7A.

As discussed below, this split-lot condition would effectively eliminate any development potential from the R6A portion of the Property. Therefore, we respectfully request that the City Planning Commission modify the proposed district boundary line at this location to avoid creating such a split-lot condition. Though of significance to the redevelopment of the Property, the requested modification is *de minimis* in nature relative to the rezoning and is within the scope of the environmental review for the rezoning.

The Property comprises an approximately 20,096 square-foot site. The Property is currently occupied by a two-story vacant and blighted parking/industrial structure. The current owner purchased the Property out of foreclosure with the intention of it being redeveloped.

Under the rezoning proposal, the Property would be rezoned from R7-2 to a lot divided by a zoning boundary between an R6A and an R7A district (see attached SK-1 Sketch Map). The R6A portion of the lot is approximately 1,004 square feet. It is located in the rear yard area where a building could not be constructed. On its face, the difference between the R6A and R7A zoning is approximately 1.0 FAR. However, due to the application of the split lot regulations, none of the floor area attributable to the R6A portion of the lot would be able to be used in the R7A portion of the lot, so the Property will lose the entire 3.0 FAR (approximately 3,012 square feet) attributable to the R6A portion with a corresponding loss in value. This increases the already significant loss in the maximum FAR permitted on the Property due to the downzoning from R7-2 to R7A.

The owner of the Property cannot avail itself of the relief often provided by Article VII, Chapter 7 of the Zoning Resolution for zoning lots divided by district boundaries. Furthermore, the weighted average rules do not provide relief because the area that will

be rezoned to R6A is located within the area of a required rear yard, and therefore cannot be built upon. Accordingly, the only recourse available to the property owner is this request that the City Planning Commission shift the R6A district boundary line westward at this location, tracking the rear property line of the Property, and thereby placing the entire Property under the R7A regulations.

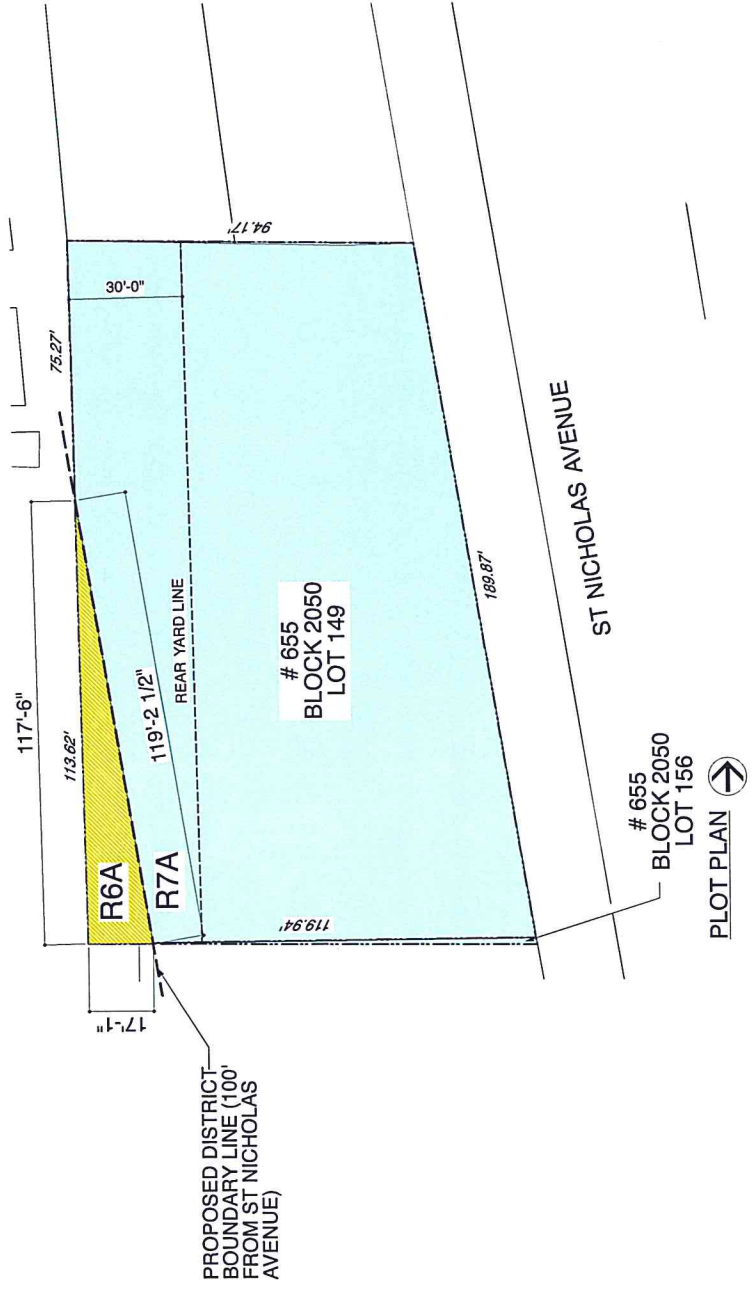
Such a *de minimis* modification of the rezoning proposal would be within the scope of environmental review for the West Harlem Rezoning. The Environmental Impact Study addressed the existing R7-2 zoning (as a no-action scenario), and the proposed R6A/R7A zoning. Because a "No Action" scenario with a higher FAR than either the R6A or the R7A has been studied, we believe slightly adjusting the district boundary line to make the entire Property R7A would be within the scope of the environmental review.

In formulating a rezoning, we understand that it would be impracticable to have zoning district boundaries reflect property lines exactly. However, we believe it is reasonable to consider small changes that would avoid a greater negative impact on a property owner than otherwise might have been anticipated. Accordingly, we respectfully ask that you grant our request to modify the course of the R6A district boundary line at the location of the Property to avoid creating a split-lot condition that renders a portion of the Floor Area appurtenant to the Property unusable.


Very truly yours,


A handwritten signature in blue ink, reading "Caroline G. Harris". The signature is fluid and cursive, with the first name "Caroline" being more prominent than the last name "Harris".

Cc: Hon. Robert Jackson
Edith Hsu-Chen
Adam Wolff
Melissa Cerezo



Zoning Analysis - Proposed R6A/R7A scenario			
Zoning Portion	Lot area	FAR allowed	SF allowed
R6A	1,004	3.00	3,012
R7A	19,092	4.00	76,368
Totals	20,096	3.95	79,380
NOTE: R6A SF IS NON-TRANSFERABLE			

R6A PORTION OF LOT
 SUBJECT TO F.A.R. OF 3.0

R7A PORTION OF LOT
 SUBJECT TO F.A.R. OF 4.0

KEY LEGEND



August 3, 2012

Melissa Cerezo, City Planner
City Planning Commission
Calendar Information Office – Room 2E
22 Reade Street
New York, NY 10007-1216

**Re: Dance Theatre of Harlem, Block 2067. Lots 20, 21, 22 and 120
ULURP Nos. C 120309 ZMM & C 120310 ZRM
Manhattan**

Dear Ms. Cerezo,

Dance Theatre of Harlem (DTH) respectfully requests that the current R7-2 zoning of the above mentioned, DTH owned, lot located on the north west corner of West 152nd Street and St. Nicholas Avenue, be maintained under the current re-zoning proposal. The proposed rezoning to R6-A will negatively impact DTH's plans for our proposed mixed use development of approximately 15,000 SF of community facility space and approximately 30 units of mixed income workforce housing.

DTH Background

Founded in 1969 by Arthur Mitchell and Karel Shook and led today by Laveen Naidu, Executive Director and Virginia Johnson, Artistic Director, the organization's programs have received acclaim both locally and internationally. DTH has impacted the lives of over one-million people around the globe and directly contributed positively to the economic growth, quality of life and overall perception of Harlem since its inception. It remains today firmly committed to its community with a unique mission:

- To maintain a world-class school that trains young people in classical ballet and the allied arts
- To provide arts education, community outreach programs and positive role models for all
- To present a ballet company of African-American and other racially diverse artists who perform the most demanding repertory at the highest level of quality

DTH planned to develop this site several years ago but owing to severe financial distress experienced in 2004, we had to disband our famed dance company and temporarily close our doors. With the help of a diverse array of benefactors including but not limited to many Harlem based institutions and community groups, DTH was able to reopen and fully revive its operations.

Rationale for Maintaining Existing R7-2 Zoning

Based on a comparative review of the proposed zoning (please refer to attached zoning and massing exhibits) and the existing zoning we have concluded that we will not be able to realize our vision for this site under R6A zoning. The current R7-2 zoning allows for up to approximately 45,000 SF of combined community facility and residential space, whereas the proposed zoning allows for approximately 20,000 SF. The existing zoning allows for the bulk and height that will permit us to construct a building that will provide for ample community facility space as well as permanent employment opportunities for local residents. Also under the current R7-2 zoning, we plan to build affordable and moderate rate housing that will benefit those community residents seeking such affordable housing options.

The development of this site under the existing zoning will allow us to generate much needed income that will enable DTH to expand our current free and low cost programs and to develop new programs to serve more neighborhood youth, local residents, artists and tourists.

Conclusion

By maintaining the current R7-2 zoning for our site, DTH will be able to construct our proposed mixed use development. The development will provide much needed community facility space and affordable housing that will generate ongoing funds that will allow us to continue to serve as a catalyst for a creative community while promoting economic vibrancy within the West Harlem community.

On behalf of the DTH community we thank you in advance for your consideration in this matter.

Respectfully submitted,



Laveen Naidu
Executive Director

CC: Brian Cook, Director of Land Use, Office of Manhattan Borough President, Scott Stringer
Robert Jackson, Council Member, New York City
Bill Perkins, Senator, New York State
Herman D. Farrell, Assemblyman, New York State



August 3, 2012

841-847 St. Nicholas Avenue
New York, New York 10031

ZONING CALCULATIONS

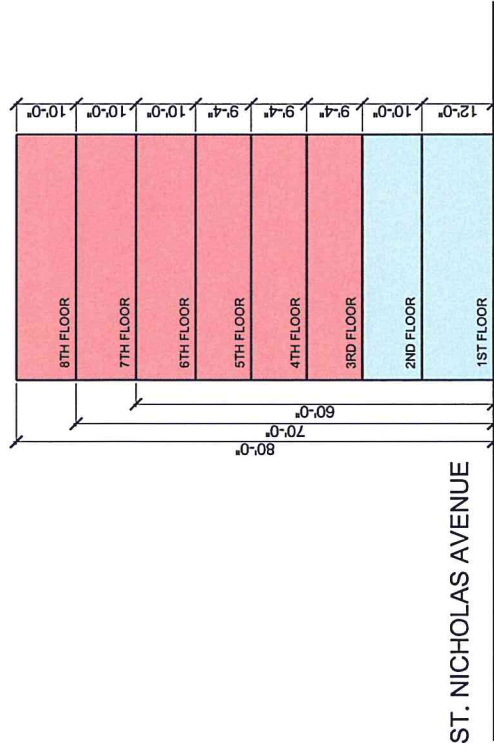
Zone: R7-2
Map: 3b
Block: 2067
Lots: 20, 120, 21 & 22
Lot Area: 6,941SF

USE REGULATIONS: RESIDENTIAL AND COMMERCIAL DISTRICTS

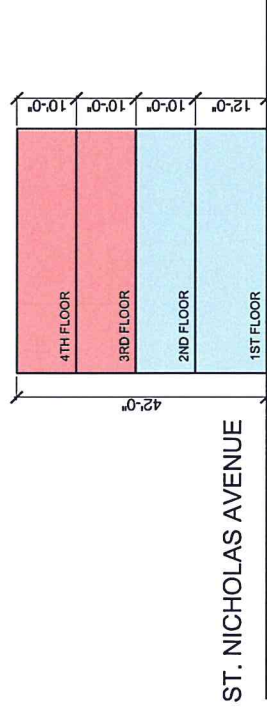
ZR 22-10 **Uses Permitted as of Right**
ZR 22-12 Use Group 2 - Residential
ZR 22-12 Use Group 3 & 4 - Community Facility

Allowable Zoning Bulk Regulations

	Zoning Res.	R7-2	R6A
Residential Bulk	23-145		
FAR		4.00	3.00
Floor Area Allowable		27,764 SF	20,823 SF
Community Facility Bulk	24-11		
FAR (Wide Street)		6.50	3.00
Allowable Floor Area		45,116.5 SF	20,823 SF
Lot Coverage	23-145		
Corner Lot		80%	80%
Allowable Lot Coverage		5,552.8 SF	5,552.8 SF
Density	23-22		
Required		680 per DU	680 per DU
Allowable		41	31
Height Regulations	23-633(d)		
Max. Base Height (Wide Street)		65'	60'
Max. Bldg Height (Wide Street)		80'	75'
Parking			
Residential Required	25-23	50% * * Waived for lots under 10,000 SF under ZR 25-242	50%
Community Facility Required	25-31	None	1 per 20 persons 1 per 20 beds



R7-2



R6A

SCHEMATIC SECTION



841-847 ST NICHOLAS AVENUE
NEW YORK . NY . 10030
BLOCK 2067
LOTS 20, 120, 21 & 22

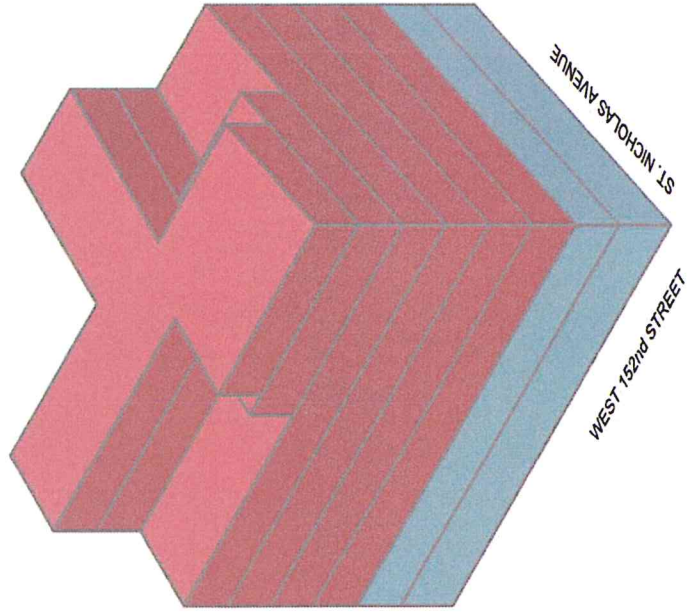
DATE: 08.03.2012



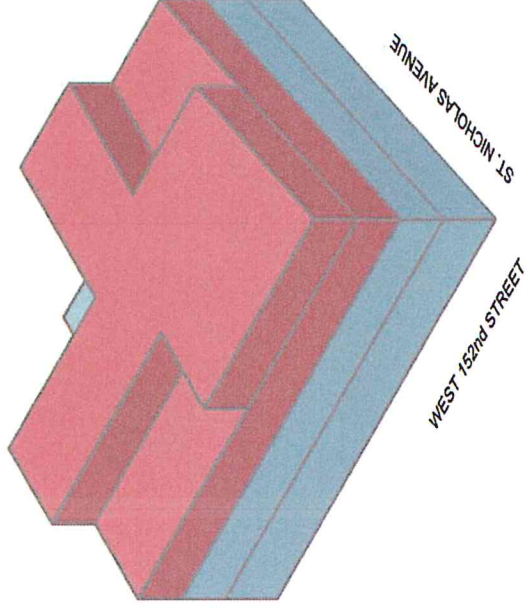
841- 847 ST NICHOLAS AVENUE
NEW YORK , NY . 10030
BLOCK 2067
LOTS 20, 120, 21 & 22

DATE: 08.03.2012

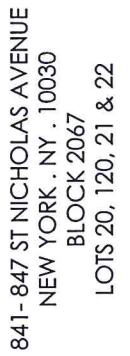
MASSING STUDY



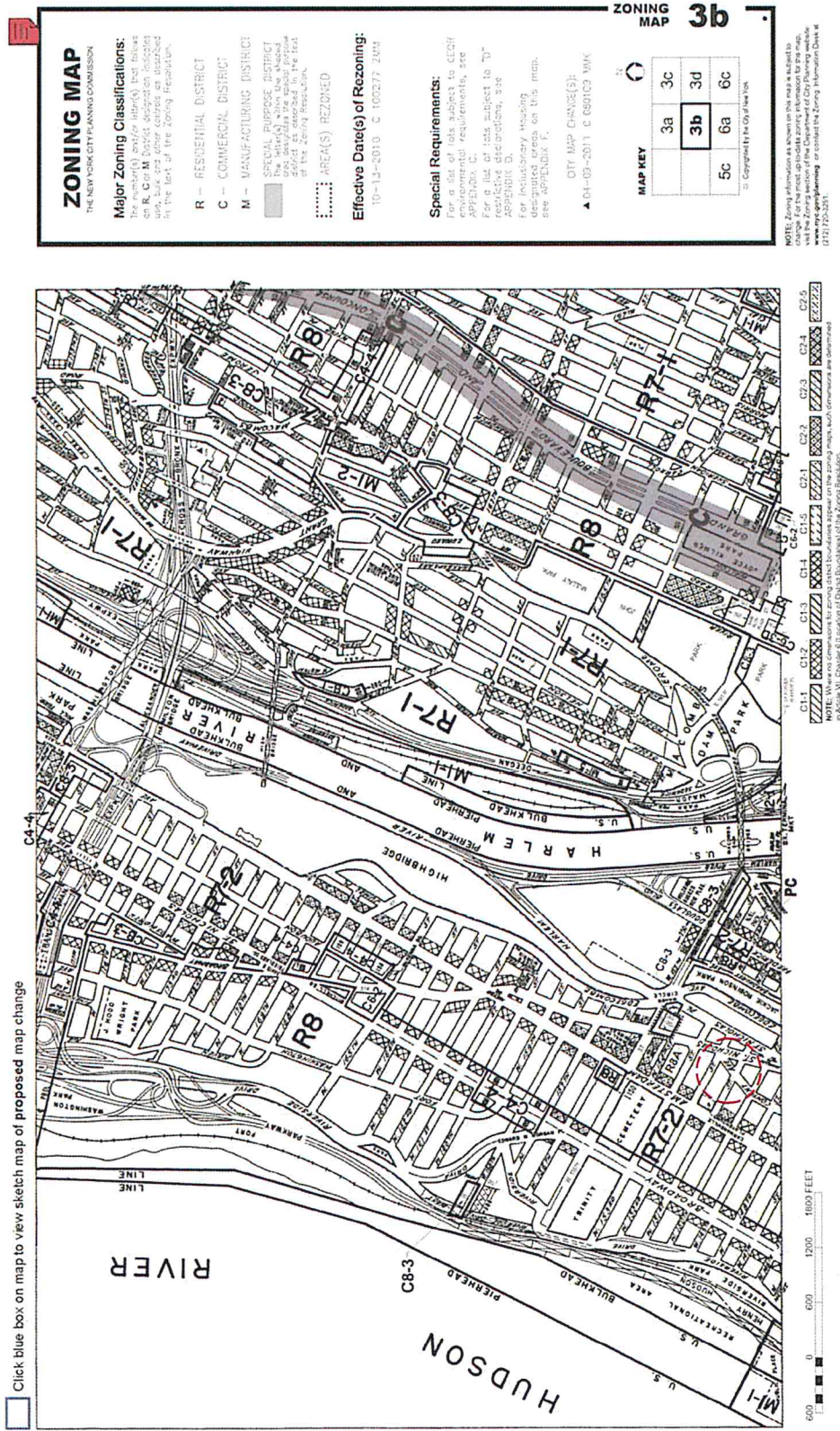
R7-2



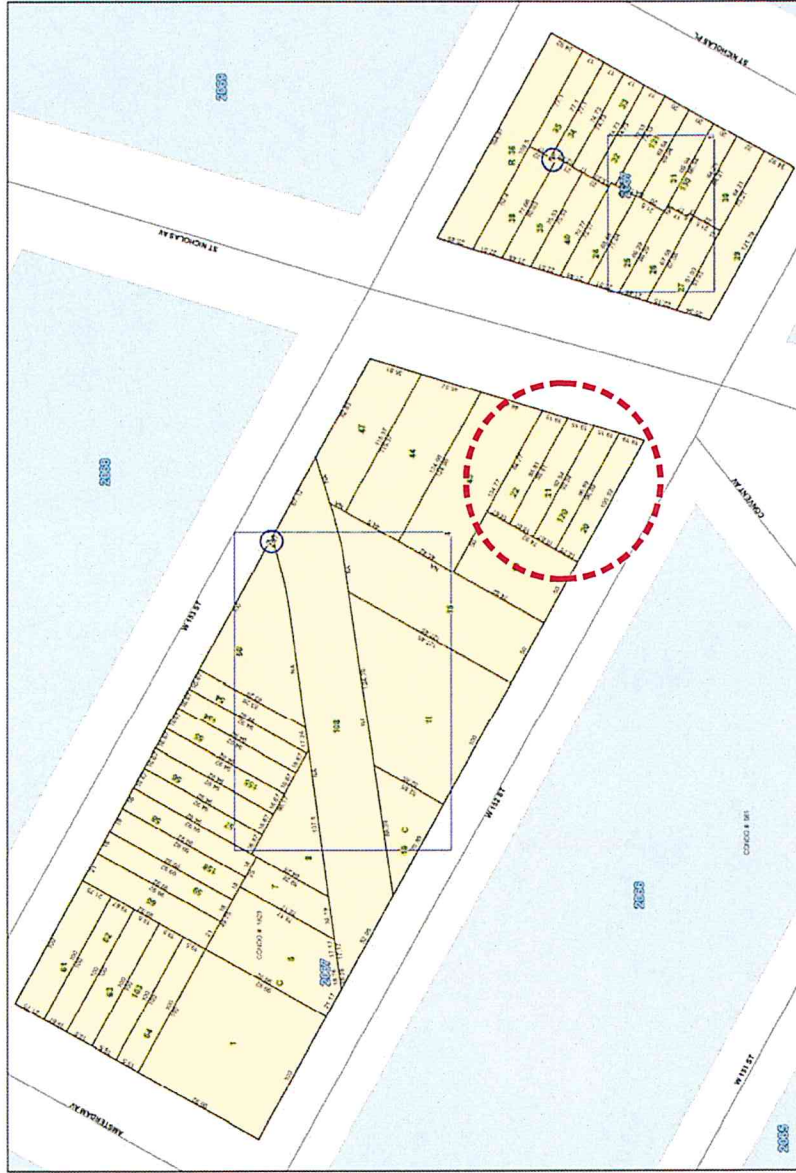
R6A



ZONING MAP



FINANCE
NEW YORK
COMMISSIONERS
NYC Digital Tax Map
Effective Date: 03/03/2009 10:14:21
End Date: Current
Manhattan Block 2067



Legend
Streets
Block Boundary
Proprietor's Mark
Boundary Lines
Lot Lines
Regular
Unregular
Tax Lot Polygon
Tax Block Polygon

TAX MAP

841- 847 ST NICHOLAS AVENUE
NEW YORK . NY . 10030
BLOCK 2067
LOTS 20, 120, 21 & 22

DATE: 08.03.2012





SITE LOCATION

841- 847 ST NICHOLAS AVENUE
NEW YORK . NY . 10030
BLOCK 2067
LOTS 20, 120, 21 & 22

DATE: 08.03.2012



SITE PHOTOS

841- 847 ST NICHOLAS AVENUE
NEW YORK . NY . 10030
BLOCK 2067
LOTS 20, 120, 21 & 22

DATE: 08.03.2012



PAUL D. SELVER
PARTNER
(212) 715-9199
FAX: (212) 715-7832
PSELVER@KRAMERLEVIN.COM

August 3, 2012

VIA PDF AND U.S. MAIL

Hon. Amanda M. Burden
Chair
City Planning Commission
22 Reade Street, Room 2W
New York, NY 10007-1216

Re: West Harlem Rezoning
Harlem School of the Arts

Dear Chair Burden:

The Harlem School of the Arts testified at the City Planning Commission's July 25 public hearing on the West Harlem Rezoning that the proposed zoning change from an R7-2 zoning district to an R7A zoning district along St. Nicholas Avenue between West 141st Street and West 145th Street would significantly diminish the amount of unused residential development rights that it could transfer for use on the property immediately to its north. This letter will explore the extent of the diminution in greater detail through a comparison of two prototypic buildings – one utilizing the envelope permitted in an R7-2 district and the other with the envelope permitted in an R7A district. It will also serve to transmit the written statements of the School and Kramer Levin and letters in support of the School from the Municipal Art Society, the Maverick Educational Partnership, and the Harlem Children's Zone.

The current R7-2 zoning district permits a residential floor area ratio (FAR) of up to 3.44 and a community facility FAR of 6.5. Because the School utilizes barely 1 FAR on its 30,950+/- square foot footprint site -- Lots 160 (School Lot) and 157 (Theater Lot) -- it has the ability today to generate up to about 106,500 square feet of residential floor area. This floor area could be transferred to the lot immediately north of the School – Lot 149 (Developer Lot) -- through a zoning lot merger and incorporated into a new residential building on that site.

The building developed under this scenario would use as its footprint a 26,650 square foot site consisting of the Theater Lot and the Developer Lot. It would contain 177,500 square feet of floor area, including a new 6,600 square foot theater for the School and 170,500 square feet of residential floor area. Of this total, 106,500 square feet would be generated from the School Lot and the Theater Lot, and about 71,000 square feet would be generated by the Developer Lot. The building's floor area would be distributed as follows:

1177 AVENUE OF THE AMERICAS NEW YORK NY 10036-2714 PHONE 212.715.9100 FAX 212.715.8000

990 MARSH ROAD MENLO PARK CA 94025-1949 PHONE 650.752.1700 FAX 650.752.1800

47 AVENUE HOCHÉ 75008 PARIS FRANCE PHONE (33-1) 44 09 46 00 FAX (33-1) 44 09 46 01

WWW.KRAMERLEVIN.COM

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Hon. Amanda M. Burden

August 3, 2012

Page 2

- Full coverage on the ground floor – 26,650 SF
- 12,600 square foot floorplates on floors 2-12 – 138,600 SF
- A 10,500 SF penthouse

The building would provide the required 37,620 square feet of open space on the roof of the School and in the rear yard of the new residential building.

The rezoning would change all that by imposing a height limit of 80 feet. This results in a significantly tighter building envelope, with space for only about 125,700 square feet of floor area. This floor area would be developed in a seven story building, as follows:

- Full coverage on the ground floor – 26,650 SF
- 17,080 square foot floorplates on floors 2-6 – 85,400 SF
- 13,664 square foot seventh story – 13,650 SF

Within this envelope, about 81,000 square feet of floor area is generated by the Developer Lot and 44,700 square feet of floor area is generated by the School Lot and the Theater Lot. As in the case of the building developed under current zoning, the building would contain a 6,600 square foot theater, leaving only 38,100 square feet of floor area to be used for residences.

Thus, the rezoning would reduce the amount of floor area generated by the School Lot and the Theater Lot that would be usable on the Developer Lot by over 60%. This gravity of this loss is magnified by the fact that this floor area is a principal asset of the School. The School's leadership would be pleased to meet with you to discuss its long term plans and the importance of the use of its development rights to realizing them.

The School appreciates the Commission's willingness to consider leaving the door open to future actions that will offer the School the opportunity to use its full development potential. We trust that it will acknowledge in its report a willingness to consider action that will allow the School to realize this opportunity.

Very truly yours,

Paul D. Selver

**STATEMENT TO THE CITY PLANNING COMMISSION ON BEHALF OF
THE HARLEM SCHOOL OF THE ARTS**

KRAMER LEVIN NAFTALIS & FRANKEL LLP

JULY 25, 2012

SPEAK NEITHER IN FAVOR NOR AGAINST PROPOSED REZONING. RATHER, TO ASK THE COMMISSION, AS IT CONSIDERS THIS APPLICATION, TO LEAVE THE DOOR OPEN FOR CREATIVE WAYS TO MITIGATE THE NEGATIVE IMPACT IT WILL HAVE ON HSA.

YOU HAVE HEARD FROM YVETTE CAMPBELL ABOUT THE SCHOOL'S HISTORY AND ITS CURRENT PROGRAMS AND PLANS. THESE PROGRAMS SERVE A STUDENT BODY FROM ALL FIVE BOROUGHES AND BEYOND. THEY SERVE THE SCHOOL'S NEIGHBORHOOD. AND, THROUGH THE PUBLIC SCHOOL SYSTEM, THEY SERVE THE CITY AS A WHOLE.

RUNNING HIGH QUALITY PROGRAMS AND MAINTAINING AN ARRAY OF CULTURAL AND EDUCATIONAL FACILITIES IS EXPENSIVE. EXPANDING BOTH IS EVEN MORE SO. BUT ENHANCING ITS PROGRAM, IMPROVING ITS PHYSICAL PLANT, AND SERVING MORE YOUNG PEOPLE IS WHAT THE SCHOOL IS ALL ABOUT.

TO ACHIEVE ITS GOALS, THE SCHOOL MUST USE ALL OF ITS RESOURCES. AND, BECAUSE THE SCHOOL DOES NOT HAVE ACCESS TO THE RESOURCES AVAILABLE TO MANY OF THE CITY'S OTHER ARTS AND EDUCATIONAL INSTITUTIONS, THE IMPORTANCE OF ITS REAL ESTATE IS MAGNIFIED. AS A RESULT, THE IMMEDIATE EFFECT OF THE REZONING IS TO LIMIT SIGNIFICANTLY THE RESOURCES AVAILABLE FOR AN EXPANSION OF AND ENHANCEMENTS TO BOTH THE SCHOOL'S PHYSICAL PLANT AND ITS PROGRAMMING.

THE SCHOOL RECOGNIZES THAT THE PURPOSE OF THE REZONING IS TO REQUIRE FUTURE DEVELOPMENT TO FIT WITHIN THE SCALE AND CHARACTER OF THE NEIGHBORHOOD. HOWEVER, THE SCALE AND CHARACTER OF THIS AREA – AND IN PARTICULAR, THIS STRETCH OF ST. NICHOLAS AVENUE – ARE NOT MONOLITHIC. THE BUILDINGS THAT LINE THE AVENUE BETWEEN 141ST AND 145TH STREETS RANGE FROM ONE STORY TO EIGHT STORIES IN HEIGHT. THE SCALE OF HAMILTON TERRACE, WHICH SITS SOME 60 FEET ABOVE THE BOTTOM ELEVATION OF ST. NICHOLAS AVENUE, IS EQUALLY VARIED. IN OTHER WORDS, THE CONTEXT IS ONE OF VARIETY, NOT ONE OF CONSISTENCY.

WE SUGGEST THAT AN APPROPRIATE FOLLOW-UP ACTION CAN BOTH REQUIRE THAT FUTURE DEVELOPMENT RESPECT THE VARIED CONTEXT OF ST. NICHOLAS AVENUE AND ALLOW THE SCHOOL, AS AN INSTITUTION WITH BOTH EDUCATIONAL AND CULTURAL MISSIONS, CAN RECOVER MUCH OF THE VALUE OF ITS REAL ESTATE RESOURCES THAT WILL BEEN TAKEN BY THE REZONING. WE ARE PREPARED TO WORK WITH DCP STAFF TO CRAFT A ZONING TEXT THAT WOULD GIVE CPC, IN APPROPRIATE CIRCUMSTANCES, THE ABILITY TO AUTHORIZE ADDITIONAL ZONING FLOOR AREA AND HEIGHT TO INTEGRATED DEVELOPMENTS THAT INCLUDE ON THEIR ZONING LOTS BOTH AN EXISTING CULTURAL FACILITY AND AN ADDITION TO THAT CULTURAL FACILITY.

THE URGE THE COMMISSION TO ACKNOWLEDGE THIS OPPORTUNITY IN ITS REPORT ON THE REZONING. IT CAN DO SO BY RECOGNIZING THE IMPORTANCE OF THE SCHOOL AS A CULTURAL AND EDUCATIONAL FACILITY AND EXPRESSING A WILLINGNESS TO CONSIDER FUTURE ZONING ACTIONS THAT WILL ENCOURAGE RATHER THAN FORECLOSE ITS GROWTH.

THANK YOU FOR YOUR CONSIDERATION.

Founder

Dorothy Maynor

President Emeritus

Betty Allen

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July 26, 2012

Amanda N. Burden

Chair of the New York City Planning Commission
22 Reade Street
New York, NY 10007

**HARLEM SCHOOL OF THE ARTS STATEMENT
TO THE CITY PLANNING COMMISSION**

On behalf of the trustees, families, staff, faculty and the tens of thousands of students who have come through the doors of the Harlem School of the Arts, as the president and CEO of one of this city's pioneering and beloved arts institutions, I would like to offer our public statement regarding the rezoning of West Harlem. We have a vision for sustaining HSA, which includes preserving the value of all of its assets and resources including its unused development rights.

HSA does not want to do anything to impede or negatively impact the proposed rezoning, however we would like the commission's help in devising the best means for preserving our development rights. We would like to leave the door open for any future development that will enable us to continue to be a vibrant, sustainable, arts organization that makes a difference in young people's lives TODAY and into the future with a well-kept facility that serves its community as a vital resource.

ABOUT HARLEM SCHOOL OF THE ARTS

Who we are?

For nearly 50 years, the Harlem School of the Arts has empowered young people through world class training in the arts in an environment that teaches discipline, stimulates creativity, builds self-confidence and adds a dimension of beauty to their lives. HSA stands unique among the major cultural institutions in New York City as the sole provider of high-caliber, affordable arts education in five disciplines (music, dance, theatre, visual arts and most recently added musical theatre).

HSA is committed to the belief quality arts education stimulates the whole child, strengthens the family and gives pride of ownership to a community.

Who We Serve?

HSA annually provides the highest professional level of arts training to 1,000 students ages 2-18 on site at our 37,000 square foot facility nestled at the base of historic Hamilton Heights. Additionally, HSA provides 2,500 school children with quality arts-education programs as a cultural partner with 17 New York City schools. And 100% of our most talented scholarship students are accepted to prestigious arts institutions. Our unparalleled programs attract students from all 5 boroughs, New Jersey, Connecticut and Westchester County from diverse socio-economic and ethnic backgrounds.

In addition HSA presents concerts, exhibitions, workshops and performances for the community and provides affordable workspaces for aspiring artists. These programs annually reach over 7,000 people from Harlem and the greater New York City area to as far away as South Africa.

Our alumni are among some of our most talented leaders in the arts, including Katori Hall, Condola Rashad, and Giancarlo Esposito. Even those who have not pursued a professional career point to HSA as a critical transformational and grounding experience in their lives. Our faculty range from internationally acclaimed jazz artists like the late Max Roach to contemporary cellist Maria Ahn of the Ahn Trio.

Why we matter?

Many arts programs due to budgetary cuts are no longer available to our children in their public schools. Quality arts education can transform young lives and strong cultural institutions can enrich an underserved community like Harlem. Over and over, HSA has been a life boat for one young life after another and for many has been the key next step towards a successful professional career.

Every child deserves access to quality arts education and HSA is the only cultural resource in Upper Manhattan offering high-level, multi-discipline arts education. We matter because we change lives. We are a family-focused anchor in our community. And if HSA doesn't have the means to sustain itself for future New York City families, that would be a great loss to the City and the Harlem community.

Today's Success Story

Today, we are experiencing a rebirth. With a new board of 16 dedicated and inspired civic leaders, the School's progress has been extraordinary. HSA has renewed fundraising support from major donors, reduced operating expenses by over 30%, completed 4 audits, garnered exceptional national and local press, increased enrollment by 16%, and initiated community partnerships with other Harlem institutions like Harlem Children's Zone and Abyssinian Development Corporation, reaching and serving more of the families that need us most. And Disney chose HSA to pilot the first ever children's version of its landmark musical The Lion King.

But despite these successes...we are now facing the negative impact of the proposed West Harlem rezoning.

How the Rezoning Will Limit HSA's future It is our sincere hope to preserve the current value of our unused development rights, which have been valued at more than \$6MM under the current zoning. Under the proposed rezoning that value is greatly diminished. In more specific terms, under current R7-2 zoning, HSA owns more than 100,000 square feet of unused development rights that could be sold to a developer/owner of the lot next door. Under the zoning district now being considered for West Harlem, R7A, the transferable development rights would be reduced to little more than 26,000 square feet. HSA must be able to leverage all of its resources including its development rights for the long-term viability of the school. As you can imagine, a loss of potential revenue of that sort would be devastating to HSA and its future sustainability.

With this kind of value potential, HSA has an opportunity to eliminate its debt load and its black-box theatre can be upgraded into a safer, more audience-friendly facility that will enhance its ability to serve the Harlem community.

The added benefit to the community: Rather than the current trash-strewn lot next door to our current facility, where the homeless are living in an abandoned remnant of a building, imagine a new cultural corridor on Saint Nicholas Avenue with HSA as its anchor, a continuation of the beauty of the newly enhanced St. Nicholas Park from 135th to 141st Streets, currently the home of Hamilton Grange up to and including our neighbor, the lovely and historic St. James Presbyterian Church all the way up to the transit corridor at 145th Street, the express subway stop for the A and D trains.

As you can see, this substantial reduction in the benefit that HSA could gain from the sale of its development rights - as described above - is a lessened benefit for all of Harlem, for all of New York City and for the artistic and educational community at large, currently served in exemplary fashion by HSA and its world-class faculty.

Conclusion

What the Harlem School of the Arts has been able to accomplish in just 2 years since its rebirth is nothing short of remarkable. We need to honor the investment made by Mayor Michael Bloomberg, an impassioned board, generous major donors, and the entire city of New York. HSA has restored its well-earned place as one of this country's premier

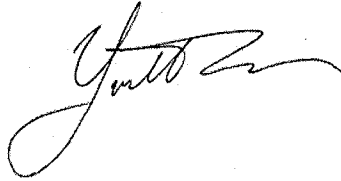
arts institutions and, once again, a cultural anchor within the Harlem community. This moment is pivotal: Not only are we sustainable, we are poised to grow.

I respectfully request that together we find a way to preserve the value of HSA's current zoning status and that of the block upon which we reside making our development rights the lifeline to our sustainable future.

Preserving our current zoning would position HSA as a vibrant, sustainable, arts organization that continues to make a difference in young people's lives TODAY and into the future.

The HSA of tomorrow is a bright and beautiful art-making place New York City!

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Yvette', with a stylized flourish extending to the right.

Yvette L. Campbell
President & CEO

CC: NYC Commissioner of Cultural Affairs, Kate Levin
Manhattan Borough President Scott Stringer
Councilman Robert Jackson
NYC Council Speaker, Christine C. Quinn
Adam Wolfe, Deputy Director, Dept. of City Planning

July 31, 2012

Amanda M. Burden, FAICP
Director of the NYC Department of City Planning
Chair of the City Planning Commission
22 Reade Street
New York, NY 10007

Chair Burden,

The Municipal Art Society (MAS) applauds the Department for working collaboratively with Community Board 9, community residents, NYC Council Member Robert Jackson and the Borough President to examine zoning changes in the West Harlem neighborhood.

One of the central goals of this re-zoning is to "preserve the strongly-established and varied character of the West Harlem residential neighborhoods." The Harlem School of the Arts (HSA) represents an essential part of this character.

For nearly 50 years, HSA located in the Hamilton Heights section of Harlem at 645 Saint Nicholas Avenue and 141st Street has empowered young people through world class training in the arts. The school has 1,000 students ages 2-18 on-site and provides an additional 2,500 school children with arts education through partnerships with 17 New York City schools. If that isn't enough HSA also presents concerts, exhibitions, workshops and performances for the community and affordable workspaces for aspiring artists. These programs reach over 7,000 people annually.

MAS' history with HSA goes back several decades to 1978 when MAS presented it with our Citation of Merit in recognition of the school's distinctive contribution to the cultural life of New York City. And we're very pleased to see that in subsequent decades it has only become a more vital organization - critical to supporting the artistic life of the Harlem community and the City as a whole. In the past the Department of City Planning and the City Council have clearly recognized the importance of the arts to the Harlem community by creating an arts bonus and arts requirements as part of the plan for 125th Street. It's essential that we continue to support these initiatives and seek ways to support the arts community in this neighborhood.

MAS appreciates that the re-zoning discussions have been a long and extended conversation but we urge the Commission to allow for the opportunity to explore alternate approaches for the HSA site. In particular, we strongly urge the Commission in its report to (i) recognize the importance of HSA to its community and to supporting the City's role as a cultural capital of the world and (ii) note that the Commission is open to a follow-up zoning action that would allow the HSA to take advantage of its unused development rights to improve its facilities and enhance its programming.

A follow up zoning action allowing for the use of unused development rights would help support essential programming and capital improvements to the school. This development potential also represents an opportunity for HSA to eliminate its debt load and upgrade the black-box theatre into

a safer, more audience-friendly facility – ultimately enhancing its ability to serve the Harlem community.

The continued success of the Harlem School for the Arts is an important component in the success and cultural vitality of the West Harlem community so we hope the City Planning Commission will work collaboratively with the HSA to ensure their concerns are addressed.

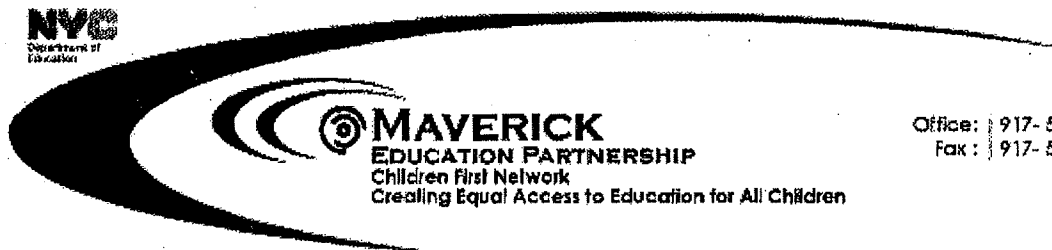
Thank you for your consideration of this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Vin Cipolla", with a stylized flourish at the end.

Vin Cipolla
President
Municipal Art Society

cc: NYC Commissioner of Cultural Affairs, Kate Levin
Manhattan Borough President Scott Stringer
Council Member Robert Jackson
NYC Council Speaker, Christine C. Quinn
Adam Wolff, Dept. of City Planning
Melissa Cerezo, Dept. of City Planning



Office: 917- 521- 3631
Fax: 917- 521- 3798

Ms. Nadege Noel,

This letter is written to acknowledge the Harlem School of the Arts engagement with Maverick Education Partnerships schools this past school year. All of our schools have immensely benefited from your fantastic program in ways that enhance our work as school support or New York City students.

We have noted increased interest by our teachers to formulate ways to integrate arts in their daily instruction. We have also witnessed excitement of our young people while actively participating in a program that is sorely missed. It is no secret that our children have been negatively impacted by cuts in arts programs and it is no surprise that your staff received warm welcome in all of our schools. Our parents have also responded favorably in all of our schools noting that they were pleased to see that their school took an interest in developing their child's art experience.

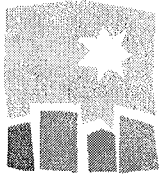
In honest we take very little responsibility for what HSA does so well. We do take responsibility for opening our doors to HSA to support our needy students.

We look forward to continued collaboration with HSA for the upcoming school year.

Thank you for everything

Varleton McDonald

Network Leader



Harlem Children's ZONE

August 3, 2012

PRESIDENT/CEO
Geoffrey Canada

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Tel: 212.663.0555
TRUCE Fitness &
Nutrition Center
Tel: 212.864.7159
Uptown Harlem Gems
Tel: 646.539.5898

Dear Sirs,

The Harlem Children's Zone (HCZ) would like to express their support of the Harlem School of the Arts (HSA) in preserving their current zoning.

It is vital that the current zoning be maintained so as not to diminish the positive impact that the Harlem School of the Arts has had on our organization. The Harlem School of the Arts currently serves approximately 300 children throughout the Harlem Children's Zone and in our Promise Academy Charter School, exposing them to music, dance and other creative arts. The Promise Academy strives to create a well-rounded student and the Harlem School of the Arts provides an essential contribution to the creation of that student.

Rezoning will limit the progress that they can make for the future and the loss of potential revenue could be devastating to HSA and its future sustainability.

I strongly recommend that the HSA is allowed to operate under its current zoning. If I may be of any other assistance, please contact me at (212) 360-3255.

Thank you,

Geoffrey Canada
President/CEO
Harlem Children's Zone



J. Kevin Healy
Partner
Direct: (212) 541-1078
Fax: (212) 541-1378
jkhealy@bryancave.com

**OFFICE OF THE
CHAIRPERSON**

July 9, 2012

JUL 9 - 2012

2523

Hon. Amanda M. Burden
Chairperson
New York City Planning Commission
22 Reade Street
New York, NY 10007

Re: Comments on Draft Environmental Impact Statement (the "DEIS") for the
West Harlem Rezoning, CEQR No. 12DCP070M; ULURP Nos. 120309
ZMM, N120310 ZRM

Dear Chairperson Burden:

This letter is submitted on behalf of affiliates of The Janus Property Company (together, "Janus") with respect to the DEIS that was issued under the City Environmental Quality Review ("CEQR") procedures and the State Environmental Quality Review Act ("SEQRA") by the City Planning Commission with respect to the West Harlem Rezoning (the "Proposed Action") on May 7, 2012. Janus is the owner of the properties designated collectively in the DEIS as "Site 40," which is located between West 126th and 128th Streets on Amsterdam Avenue in Manhattan.

At the outset, Janus would like to express its concurrence with the statements appearing in the DEIS concerning the importance of the proposed rezoning of Site 40. As the DEIS correctly points out, "the mapping of the MX district is a critical component of the revitalization effort for the area currently zoned M-1-1, and constitutes a key planning goal of the Proposed Action." DEIS at 19-12. Janus wholeheartedly agrees that the area is "one of the few places that could provide an opportunity for additional commercial and light manufacturing development ... as stated in the community board's 197-a Plan," DEIS at 1-6, and Janus intends to continue doing its part in "help[ing] to bring added vitality to the area." Id. Janus commends the Department of City Planning for its efforts over the last seven years in the development and implementation of this important rezoning action.

However, Janus must point out a fundamental flaw in the approach taken in analyzing the effects of the Proposed Action on Site 40, because if left uncorrected this error could impede unnecessarily the redevelopment of the newly created MX district. (See Point 1 below.) Moreover, Janus believes that the DEIS errs in its characterization of the impacts of the Proposed Action on any historic resources that may exist on Site

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40, and in its assessment of whether and how such potential impacts might be mitigated. (See Point 2 below.) Finally, a number of minor errors appear in the document, which should be corrected. (See Point 3 below.)

1. The Identification of Site 40, in its entirety, as a “development site” is in error and complicates unnecessarily the revitalization of the MX district.

(a) The DEIS erroneously assumes that all Site 40 parcels are “development sites.”

Janus acknowledges that certain portions of Site 40 should be analyzed as either “projected” or “potential” development sites. However, it objects to the entirety of Site 40 being considered as one “development site.” It is not reasonable for the DEIS to anticipate that the rezoning will trigger the complete demolition of existing structures on each of the 10 separate and distinct individual parcels that comprise the site, with each and every one of these individual structures replaced by new development by 2021. To the contrary, examination of the facts compels an entirely different conclusion – that several of the parcels that comprise Site 40 are not “development sites” at all under the definitions and criteria set forth in the DEIS, and others, at most, should be characterized as potential development sites.

The CEQR Technical Manual and the EIS itself (DEIS at ES-7; 1-12) define “projected development sites” as those with “known development plans” and “relatively low FAR and current utilization,” while “potential development sites” are defined as those that “are less likely to be developed over the same [ten-year] period because of their relatively higher FARs, existing utilization, and generally more cumbersome means of development.”

Page 1-12 of the DEIS further explains that “[d]evelopment sites were identified based on the following criteria:

- Constructed to less than half of the FAR allowed by the proposed zoning.
- Vacant, partially vacant and underutilized buildings that have not been recently improved.”

The DEIS is unequivocal in stating that in order to be a “projected development,” a site must “closely meet the criteria listed above. DEIS at 1-17 (emphasis added).

Many of the parcels on Site 40 clearly do not meet these criteria. Several of the Site 40 parcels contain structures that are currently developed to an FAR of between 5.0 and over 6.0 FAR, so there is little likelihood that they would be demolished and replaced with new construction as a result of a rezoning that would limit commercial/manufacturing FAR to 5.0, residential FAR to 3.44, and community facility FAR to 6.5. Importantly, the height limits and setback requirements under the proposed rezoning preclude the transfer of any FAR within Site 40 that may be available after a rezoning to create concentrated development or tall towers, so it is not reasonable to assume that the transfer of

development rights would create an incentive to demolish an existing high FAR, highly utilized structure.

In addition, the DEIS states that the list of projected and potential development sites was “further refined” by eliminating those sites where certain uses such as government offices are located and where there has been “[r]ecent major investment, including new construction, conversion or renovation.” DEIS at 1-12. Under these criteria, a number of buildings on Site 40 should have dropped out of the list of projected/potential sites due to a long-term leasing arrangement that is in place with a governmental entity, and the recent and continuing major investment Janus has made, and continues to make (including new construction, conversion, and/or renovation), at many of the buildings comprising the Site.

Janus understands that the EIS must examine the maximum new development that would occur on Site 40 in the reasonable worst case. However, formulation of the reasonable worst case scenario for purposes of the analysis must bear some relation to the facts on the ground. Thus, the circumstances surrounding each individual component of Site 40 must be taken into account in determining specifically where it would be reasonable to assume that new development could take place, where a conversion is more reasonable, and where no development logically can be projected.

For the last 15 years, Janus has pursued a redevelopment strategy for the Site 40 parcels on a building-by-building basis, implementing a mix of conversion and new development as appropriate for each particular site. Although Janus has been cooperating with DCP and Community Board 9 on the rezoning effort for the past seven years, it is clear -- from both the redevelopment work it has accomplished and the long-term commitments it has made -- that Janus has no intention of embarking upon a redevelopment program predicated on widespread demolition when and if the rezoning is adopted. Rather, its intention is to pursue the discrete opportunities offered by the rezoning to add new square footage in appropriate locations, along with broader opportunities to attract a wider range of uses to the Site, within a master plan that would most likely retain, but at the same time alter, most of the existing buildings.

Following is a description of the ten separate development parcels that make up Site 40, all located on Block 1967. The parcels are numbered and depicted on the site plan attached as Exhibit A, and are grouped beginning with those that would most likely be improved with new development (i.e., are properly characterized as “projected development sites” for new development) and progressing to those least likely to be developed at all during the study period.

The circumstances currently existing with respect to the Site 40 parcels are as follows:

<u>Most Likely Projected Development Sites for New Development or Conversion</u>	
Parcel 1 - Lot 89	0.00 Built FAR
Parcel 2 - Lot 89	1.65 Built FAR
Parcel 3 - Lot 60	1.80 Built FAR

<u>Most Likely Projected Development Sites for Conversion</u>	
Parcel 4 - Lot 50	1.50 Built FAR (4.50 FAR*)
Parcel 5 - Lot 45	2.35 Built FAR (3.10 FAR*)
Parcel 6 - Lot 50	3.00 Built FAR
Parcel 7 - Lot 60	3.00 Built FAR
* Actual calculated existing Built FAR is misleading as an indication of the likelihood of Parcels 4 and 5 to be projected development sites for new development. Because of the nature of the existing structures on these sites, the addition of new floors in a conversion would be a far easier and less expensive means of increasing density on these parcels than demolition and new construction. Specifically, Parcel 4 contains a 90-foot high structure into which additional floors may be inserted with relatively little work and expense. This allows for the existing calculated FAR of 1.50 to be readily increased to 4.50 subsequent to the rezoning, without any demolition. Parcel 5 was originally improved with a four-story building. Much of the fourth floor was demolished decades ago, but could readily be added back subsequent to a rezoning, which would increase the built FAR from 2.35 today to 3.10 without any demolition and without any new structural engineering or construction, other than a front wall and new roof.	

<u>Least Likely Sites for New Development</u>	
Parcel 8 - Lot 45	5.00 Built FAR
Parcel 9 - Lot 40	5.00 Built FAR
Parcel 10 - Lot 40	6.13 Built FAR

Additionally, as discussed in detail below, seven of the nine buildings (with the tenth parcel being the one vacant parcel) on Site 40 have been substantially altered and redeveloped in recent years at significant expense, and therefore, by the definitions in the DEIS itself, are not correctly defined as projected development sites for new development.

The specific state of facts with respect to the Site 40 parcels is as follows:

Most Likely Projected Development Sites for *New Development or Conversion*

Parcel 1 is a large vacant site that originally contained a six-story, full lot coverage building. (The building was demolished by a prior owner decades ago.) Less than 5,000 square feet of new commercial floor area may be added under current zoning because it currently shares a zoning lot with Parcel 2 (discussed below), which contains a two-story building, and the current allowable FAR under the existing M1-1 designation is 1.0 for commercial use. Under the Reasonable Worst Case Scenario, this parcel should be treated as a “projected development site” under a New Development Scenario only.

Parcels 2 and 3 are currently improved with low density, shed structures with no foundation walls or sub-grade structure. They do not meet the current Building Code, and are grossly obsolete. The north façade of the Parcel 3 shed building was built with no wall from the ground floor up to the 30-foot second floor elevation (the entire first floor on the rear façade) and is temporarily protected solely by a single layer of uninsulated, corrugated sheet metal. Although a Parcel 3 tenant has invested in its two leased floors, Janus has invested virtually nothing in either this structure or in Parcel 2 and has no current plans to do so. All occupancies in both of these buildings can be terminated at will by Janus. Based on these facts, Parcels 2 and 3 should be analyzed as “projected development sites” under both the New Development and Conversion scenarios.

Most Likely Projected Development Sites for *Conversion*

Parcels 4 through 7 contain medium-density buildings. Plans have been filed and approved by DOB, and building permits have been issued for each of these sites. Substantial construction has occurred, including significant structural and non-structural alterations, and continues daily in each of the buildings. The buildings are actively being offered for long-term lease through a contracted third-party institutional leasing agent. The building on Parcel 7 has been fully gut-rehabilitated, including widespread new structural, non-structural, and system replacement, and more than 50% of the north and south facades have been removed and re-skinned. This building is fully leased with non-cancelable long-term leases, except for half of the first floor, which currently has a temporary occupant. Janus is negotiating with several potential tenants to occupy significant portions of Parcels 4 through 6 at this time. Based on the recent significant investment that Janus has made and continues to make in each of these sites, their leasing status, and the minimal density benefit that would be derived under the proposed rezoning from the demolition and replacement of the existing buildings, these parcels should be identified either as not likely to be developed further, as is the case of Parcel 7, or as development sites under the Conversion scenario only, in the case of Parcels 4 through 6.

Least Likely Sites for New Development

Parcels 8 through 10 contain the highest density buildings on Site 40 and are not reasonably likely to be replaced with new construction as a result of the proposed rezoning. Janus has completed substantial structural and non-structural alterations to each of these buildings. Parcels 8, 9 and 10 are leased with non-cancellable long-term leases, and two of those leases – one with New York State and another just recently signed – involve major and expensive specialty build-out. Because (i) Janus has already made and continues to make major investments in each of the buildings on these sites; (ii) the additional floor area that could be built is too marginal to justify costly demolition and new construction; and (iii) the long-term tenancies in two of the buildings cannot be terminated, it is not reasonable to assume that the rezoning would result in demolition and new development on these sites. Again, because of the building height limitations under the proposed zoning, there can be no argument that Janus might demolish these buildings in order to accumulate FAR from other areas of Site 40 for use on these Parcels. Accordingly, these parcels should not be identified in the EIS either as “projected” or “potential” development sites.

In summary, it is reasonable to include Parcel 1 as a “projected development site” under the 40b (New Development) scenario; Parcels 2 and 3 are reasonably likely to be “projected development sites” that are properly included under both the 40a (Conversion) and 40b (New Development) scenarios, Parcels 4 through 7 should be included under the 40a (Conversion) scenario only, and Parcels 8 through 10 should not be included at all.

(b) Site 40 parcels that do not meet the criteria for projected or potential development sites should not receive “(E) Designations.”

The mistake the DEIS makes in sweeping the entirety of Site 40 into the list of projected and potential development sites has real world consequences for Janus. As noted in the DEIS, all projected and potential development sites – including every parcel comprising Site 40 – are to receive (E) Designations upon completion of the rezoning, requiring that development on any of the parcels comprising the Site be subject to review by the City’s Office of Environmental Remediation (“OER”). It is crystal clear under the regulations adopted by the Department of Environmental Protection for the placement of (E) Designations (the “(E) Designation Regulations”), which appear at Chapter 24 of Title 15 of the Rules of the City of New York, that this “all-in” approach to (E) Designations is improper. Under those regulations, (E) Designations are to be placed only on “Development Sites,” which are defined specifically as those sites “which the Lead Agency has identified pursuant to CEQR as *likely* to be developed as a direct consequence of the Zoning Map Amendment.” (E) Designation Regulations, §24-03. (Emphasis added.) As discussed above, it is highly *unlikely* that Parcels 8 through 10 will be substantially redeveloped as a result of the rezoning, or that Parcels 4 through 7 will undergo new development instead of conversion. By lumping all of these parcels together with properly identified development sites, the DEIS will require Janus to secure OER clearance whenever it seeks a building permit to perform work at these parcels, thereby unnecessarily complicating its efforts to revitalize this low income neighborhood.

Moreover, it is unclear from the record that the Lead Agency has undertaken the investigation required under the (E) Designation Regulations to justify the placement of (E) Designations on all of the Site 40 parcels. Under § 24-05 of those regulations, a Phase 1 Site Assessment should have been prepared and documented in a report filed with the Department of City Planning. Janus has submitted a request under the Freedom of Information Law to obtain a copy of that report, but no such report has been produced by the Department to date.

For the above reasons, the DEIS should be revised to indicate that (E) Designations will be placed only on Parcels 1, 2 and 3 of Site 40.

2. The Proposed Action would not have an “unavoidable significant impact” on any historic resources on Site 40.

The conclusion running throughout the DEIS -- that the proposed rezoning would result in “an unavoidable significant adverse impact” on architectural historic resources that may exist on Site 40 (See, e.g., DEIS at 7-2) is in error, for two fundamental reasons. First, any such potential adverse effect can be readily avoided through the exercise of the regulatory authority of the New York City Landmarks Preservation Commission (“LPC”). For more than 20 years, each of the buildings comprising Site 40 has been maintained by LPC in “calendared” status. As the DEIS acknowledges, a process is in place under DOB Operations and Policy and Procedure Notice #19/88 for calendared buildings, (the “LPC Notice Procedure”) pursuant to which no alteration permit can be issued by the Department of Buildings without 40 days prior notice to LPC. As further noted in the DEIS, during that period LPC may hold a hearing and designate the affected structure, and may work with the owners “to modify their plans to make them appropriate.” DEIS at 18-3. This critical protection would be invoked whether the DOB application is for complete demolition of any single building on Site 40, the entirety of Site 40, any structural alteration, or for that matter any work on a Site 40 building that requires a building permit.

Thus, the DEIS is inconsistent in accounting for the protection afforded by the DOB Notice Procedure for buildings on the LPC calendar. While in some places it describes the process as affording “partial mitigation,” and only “a measure of protection” (See, e.g., DEIS at 7-15 and 7-18), elsewhere it correctly acknowledges that it can effectively avoid an impact entirely. In assessing the “No Unmitigated Significant Adverse Impacts” alternative, the DEIS concludes that:

[i]n order to avoid the potential unmitigated impact [on historic resources that may be present on Site 40] LPC would need to make a determination regarding the status of former Bernheimer & Schwartz Pilsener Brewing complex. If the resource were deemed to be a landmark, then protection for redevelopment of the sites comprising this resource would be afforded. If the resource was not found to meet the criteria to be designated as a New York City Landmark, then its demolition would not be a significant adverse impact.

The FEIS should consistently, clearly and powerfully reflect the reality described in this language, and make clear that no impact may occur to any of the Site 40 properties without LPC having the opportunity to halt it before it ever begins. To assume that LPC would fall short in exercising its authority under City law and the LPC Notice Procedure or otherwise fail to take appropriate permanent action to protect a building, is unreasonable. Accordingly, the FEIS should recognize that LPC could exercise its statutory powers to eliminate any significant impact to any Site 40 resources.

Second, alterations will be made to the Site 40 buildings with or without the rezoning, just as Janus has been undertaking building improvements and expansions for the past 14 years, and will continue to do. Completed alterations have included extensive exterior and interior structural changes, including the removal of entire facades on certain floors, creation of large new masonry openings and replacement of load-bearing brick walls with steel structure, windows, storefronts, new lobby locations and lobby entry doors; removal of floors; additions of new stairwells, elevator shafts and building lobbies; and on one parcel, removal of the entire top 30 feet of the existing structure and construction of a new column-free, non-combustible steel and masonry structure with curtain wall, glazing, and new elevator and stair bulkheads. The work has included the installation of all new systems in order to both meet Building Code requirements and begin to re-position the unoccupied, obsolete buildings for rental. To date, Janus has filed no fewer than 143 separate Department of Buildings (“DOB”), Electrical, Elevator and LAA/ARA actions, resulting in numerous changes of use and new and amended certificates of occupancy, and is preparing additional filings currently that are not contingent on the proposed rezoning.

All of these extensive alterations have been implemented in the absence of any change in zoning. Likewise, whether the Proposed Action is adopted or not, Janus will continue to put the buildings it owns to beneficial use, and make the alterations necessary for that purpose, including partial or complete demolition where necessary. Thus, the assumption as stated on page 1-13 of the DEIS that “[f]or sites currently zoned M1-1, it is estimated that the existing conditions would remain in place given the limited amount of density allowed,” is incorrect. In addition, the DEIS is inaccurate in stating on page 7-16 that “demolition of buildings would ... not be expected...in the future without the Proposed Action.” One of the lots, Lot 89, is not currently built to the maximum FAR under the current zoning, and the existing two-story building located on a portion of it, 460 West 128th Street, is in a state of disrepair that is beyond salvaging. It is a combustible, structurally unsound building with no sub-grade structure. It is possible and logical that this building would be demolished with a new and larger building built on this lot even in a “No Action” condition.

The DEIS makes passing reference to the fact that “alterations to historic resources at Site 40 could be expected to continue in the future without the Proposed Action”(see DEIS at 7-16), but fails to acknowledge the extent of the alterations that have already occurred and that could be expected in the absence of the rezoning. Since extensive development activities would be ongoing in the No Action condition, and since any development resulting from the rezoning would be subject to the same protections of the LPC Notice Procedure that are currently in place, it is not reasonable to conclude

that the Proposed Action would result in an unavoidable significant adverse impact to historic structures that may exist on Site 40.

Nevertheless, Janus understands that CPC, in consultation with LPC and the State Historic Preservation Officer may wish to develop a procedure for the preparation and preservation of photographic documentation for buildings on Site 40 that are partially or completely demolished at some future time. Janus is willing to discuss such a procedure, and an appropriate mechanism for assuring its implementation, with representatives of the Department of City Planning. Janus believes that such procedures, which would be greater protection than the buildings have ever had, would be more than adequate to address any potential impact to historic resources that may be associated with Site 40.

3. Finally, Janus offers the following specific comments on the DEIS:

(a) Janus requests that the FEIS describe the status of the buildings on Site 40 under the New York City Landmarks Preservation Law in a consistently accurate manner. In numerous locations throughout the DEIS, including pages 1-3, 2-18, and 7-5, the document incorrectly states that these buildings have been “calendared for future designation.” This characterization implies that a decision has been made to designate, but that decision has not yet been effectuated. In fact, the buildings have been placed on the calendar for *consideration* as to whether they should be designated by the LPC. No determination has been made as to their eligibility.

(b) On p. 2-18, the DEIS states that Site 40 “comprises the majority of the Yuengling Brewery Complex (aka Mink Building).” The words, “the remnants of” should be inserted before the word “Yuengling” to more correctly describe the current status of the site, as virtually none of the original Yuengling Brewery Complex is extant. Additionally, the “Mink Building” has no relationship to most of Site 40. The moniker “Mink Building” is a marketing name invented by Janus to describe only the building located on Parcels 9 and 10, which was occupied as a fur storage warehouse years ago, prior to Janus’ redevelopment. The muddying of the various buildings, their histories, names and addresses has haunted these buildings for some time, and in this case, helps lead to illogical and inaccurate reasonable worst case scenarios.

(c) In discussing the potential impacts of the rezoning on Historic and Cultural Resources, the EIS should take note of the fact that the buildings on Site 40 have been on LPC’s calendar for consideration since 1991, and that – notwithstanding their having been considered at a public hearing held over two days by LPC – no action has been taken to designate them for 21 years. The very fact that LPC has chosen not to designate any of the properties after two days of public hearings held more than 20 years ago is illustrative of the buildings’ importance, or lack thereof, as historic resources.

(d) Page 1–2, last sentence in first paragraph under “B. Background and Existing Conditions”; second line in third paragraph; page 7-4, first full paragraph: it should be noted that the M1-1 manufacturing zone experienced significant disinvestment, resulting in the physical neglect, abandonment, and in

Hon. Amanda M. Burden
July 9, 2012
Page 10

Bryan Cave LLP

many cases, demolition of buildings. Remaining buildings became obsolete and fell out of compliance with Building and Fire Life Safety Codes. Addressing and reversing this situation is one of the primary goals of the rezoning.

(e) Page 1-3, eight lines from top of second paragraph; page 2-16, seven lines from top of second Manhattanville paragraph: There is no longer a building supply company in occupancy at this site.

(f) Page 2-18, seven lines down in the first paragraph: This is a partial five/partial six-story/partial seven-story building, not a five-story building. The portion that is six and seven stories contains approximately 35% of the now-combined building's square footage.

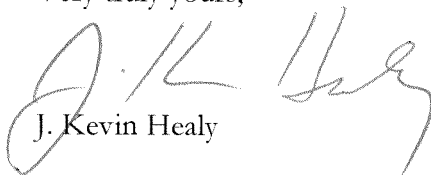
(g) Page 2-18, final line of Site 40 paragraph: The building and lot are unleased and unusable.

(h) Page 3-10, Table 3-4: The "NYS-operated State School" is located in 1361 Amsterdam Avenue, not 461 West 126th Street.

(i) Page 7-13/14: The reference to "the two-story brick vernacular building with medieval gothic-inspired decorative elements at 470 West 128th Street" should refer to 454 West 128th Street.

Janus appreciates the opportunity to submit these comments for this important action. I would be pleased to arrange a meeting between appropriate representatives of the Department of City Planning and Janus to discuss the issues raised in this letter, at your convenience.

Very truly yours,



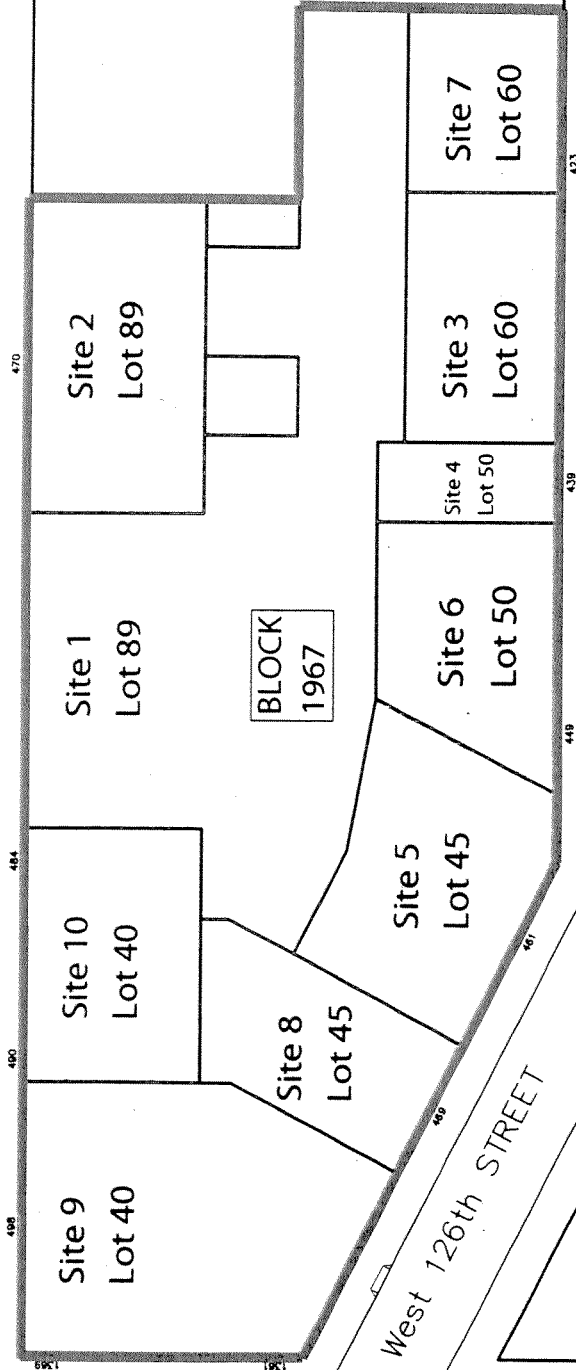
J. Kevin Healy

JKH:kc

cc: Robert Dobruskin
David Karnovsky, Esq.
Borough President Scott Stringer
Councilman Robert Jackson
Rev. Georgiette Morgan-Thomas, Chair CB9
Community Board 9 ULURP Committee

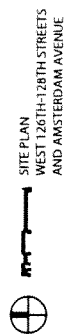
AMSTERDAM AVENUE

West 128th STREET



West 127th STREET

West 126th STREET



SITE PLAN
WEST 126TH-128TH STREETS
AND AMSTERDAM AVENUE



J. Kevin Healy
Partner
Direct: (212) 541-1078
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jkhealy@bryancave.com
2012 JUL 13 AM 10:29
DEPT OF CITY PLANNING
RECEIVED
ENVIRONMENTAL REVIEW DIV.

July 11, 2012

BY HAND

David Karnovsky, Esq.
New York City Department of City
Planning
22 Reade Street
New York, New York 10007

Re: Draft Environmental Impact Statement (the "DEIS") for the West Harlem
Rezoning, CEQR No. 12DCP070M; ULURP Nos. 120309 ZMM, N120310
ZRM

Dear David:

Thank you for meeting with me and other representatives of The Janus Property Company ("Janus") to discuss the DEIS for the West Harlem Rezoning. As you know, affiliates of Janus own the properties designated collectively in the DEIS as "Site 40," which is located between West 126th and 128th Streets on Amsterdam Avenue in Manhattan.

In my letter dated June 10, 2012, I provided a number of comments on behalf of Janus with respect to the DEIS. One of those comments addressed the statement appearing throughout the document that characterizes the effect of the proposed rezoning on the Site 40 buildings as an "unavoidable significant adverse impact" on architectural historic resources. See, e.g., DEIS at ES-15, ES-29, ES-35, 7-2, 7-25 and 19-2.

We understand that the State Environmental Quality Review Act ("SEQRA") requires agencies to identify in an EIS "any adverse impacts that cannot be avoided" and that in describing the potential for historic impacts at Site 40 the lead agency has taken great pains to adhere to this requirement. However, for the reasons described in the July 10 letter and discussed at our meeting, Janus believes that the impacts as described in the DEIS would not materialize in a "reasonable worst case," and, in any event, could readily be avoided by the exercise of LPC's authority under City law and Department of Building procedures.

Accordingly, we request that the characterization in the DEIS of the effect of the proposed rezoning on any historic resources that may exist on Site 40 be adjusted, and described as a "potentially unavoidable significant adverse impact that could be

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partially mitigated and/or avoided.” We further request that where such characterization appears, the DEIS explain how that potential impact could be partially mitigated or altogether avoided. In particular, we request that the following language (which draws in large measure from the existing language appearing in the DEIS at page 19-2) be included in both the Executive Summary and the body of the FEIS where the characterization of historic impacts on Site 40 appears:

In order to avoid this potential unmitigated impact LPC would need to make a determination regarding the status of former Bernheimer & Schwartz Pilsener Brewing complex. If the resource were deemed to be a landmark, then protection for redevelopment of the sites comprising this resource would be afforded. If the resource was not found to meet the criteria to be designated as a New York City Landmark, then its demolition would not be a significant adverse impact.

In addition, as discussed in the Response to Comments chapter of this FEIS, the owner of Site 40 has provided information to the lead agency indicating that numerous building improvements and expansions have been implemented in the No Action condition over the last 14 years, and that alterations and improvements will continue to be made, with or without the rezoning. Moreover, a process is in place under DOB Operations and Policy and Procedure Notice #19/88 for calendared buildings, (the “LPC Notice Procedure”) pursuant to which no alteration permit can be issued by the Department of Buildings without 40 days prior notice to LPC. During that period LPC may hold a hearing and designate the affected structure, and may work with the owners to modify their plans to make them appropriate. This protection would be invoked whether the DOB application is for complete demolition of any single building on Site 40, the entirety of Site 40, any structural alteration, or any work on a Site 40 building that requires a building permit.

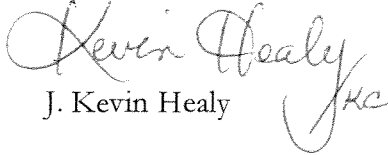
As further mitigation, Janus is willing to commit, by executing a restrictive declaration, to preparing Historic American Buildings Survey (“HABS”) Level III documentation to provide a record of the history and appearance of any building on Site 40 before it is demolished, or before an alteration is undertaken that involves the removal of more than 50% of the area of a building’s exterior walls, all floors at or above grade, and the building’s roof, or enlargement of any portion of the foundation system of such building.¹ Janus would further commit to submitting such documentation to an appropriate public repository. Of course, by making these commitments, Janus is in no way conceding that the Site 40 buildings merit protection under the historic or environmental review laws or that their removal or alteration would constitute a significant impact.

¹ These are the criteria set forth in DOB TPPN 1/02 for the filing of an application for a new building (“NB”) permit.

David Karnovsky, Esq.
July 11, 2012
Page 3

Please feel free to call if you would like to discuss any of these matters further.

Very truly yours,


J. Kevin Healy

JKH:kc

cc: Robert Dobruskin
Adam Wolff
Melissa Cerezo

HAMILTON HEIGHTS – WEST HARLEM

COMMUNITY PRESERVATION ORGANIZATION

July 24, 2012

Amanda Burden, Chair
City Planning Commission
22 Reade Street
New York, N.Y. 10007

Re: Proposed West Harlem Rezoning

Our sincere thanks and appreciation to City Planning and the community board 9, especially Ms. Patricia Jones, for their commitment and hard work during this process. It has not been an easy process, and although on many levels the rezoning proposal addresses the desire of the community as it relates to heights limits and protection of the historic / architectural character of the neighborhood, there still remains a few issues of concern to many of our neighbors and as well as for us – the West Harlem CPO, sponsors of the Hamilton Heights/Sugar Hill Historic Districts and one of the initial organizations which advocated for the creation and expansion of the West Harlem Rezoning and Special District. Our concerns are as follows:

1. Generally, we support the R6A zoning for row houses/brownstones, but there is still concern about potential opportunities for build-up of an additional floor on row houses and mid-block development for community facilities – both of which will destroy the historic fabric of side blocks and, overall, contribute to a saw-tooth sky line.
2. We want to ensure spot commercial overlay proposed for Hamilton Place from 144 to 135th will be restricted to existing foot print -- commercial on Hamilton Place on the NE corner at 139 and the NE corner at 141st Streets.
3. We support an FAR R7A for St Nicholas Avenue especially between W. 145 and W. 141st as appropriate and contextual for the historic districts. We do not support exception to the zoning for any individual organization.
4. We support an FAR R7A for West 145th Street, between St Nicholas and Broadway, with exception on the SW corner of Broadway and 145th. We do not support an FAR higher than R7A or up-zoning of the block between Amsterdam and Broadway for any individual organization.
5. While we acknowledge limited zoning changes for economic development may be necessary, we do not support up zoning in the northern end of the district. The proposed rezoning of the existing manufacturing district in the southern end for mixed use is more appropriate and we support the development of the special mixed use district -- driven by preservation of the Mink Building complex to be developed as a destination site for West Harlem. We strongly feel that the Mink Building is the last remaining manufacturing site of historic significance in Manhattanville | West Harlem. It should be preserved as part of Harlem's and New York City's history for future generation, and used as a central component in an overall economic development strategy for this district, complemented by Columbia's development plans.
6. The proposed R8-A for West 145th Street, between Amsterdam and Broadway and Edgecombe Avenue, is too high and is out of context for the district. It is our concern that up-zoning of this area will further worsen existing traffic congestion along West 145th from Broadway going east to the bridge and west to the Drive/Westside highway. Additionally, the proposed action would potentially negatively impact air quality, the historic character of the neighborhood and burden the infrastructure. There are currently a number of planned developments which were not addressed in the EIS – for example, Columbia's Broadway and 147/148th project, Sugar Hill project – 155th Street, City College South Campus – that will also contribute to the increase in density and negatively impact the 'village quality' of the residential district in the northern end.
7. We support an FAR R7A for both sides of West 145th between Amsterdam and Broadway as well as Edgecombe Avenue, West 155th and West 145th between St Nicholas and Bradhurst Avenue.

We would appreciate your consideration of the above comments and your support in helping us to preserve characteristics of our neighborhood that have drawn past and present residents to this section of West Harlem.

Sincerely,
Yuien Chin
Executive Director

June 18, 2012

Cc: Georgette Morgan-Thomas, Chair -Community Board 9
Manhattan Borough President, Scott Stringer
Landmarks Preservation Commission
Councilmember Robert Jackson

MELISSA CEREZO

From: ROBERT DOBRUSKIN
Sent: Wednesday, July 18, 2012 1:06 PM
To: ADAM WOLFF; MELISSA CEREZO; OLGA ABINADER
Cc: GLEN PRICE
Subject: FW: A letter of concern re: West Harlem Rezoning

FYI.

*Robert Dobruskin, AICP
Director, Environmental Assessment and Review Division
Department of City Planning
212 720-3423*

From: Mark Girand [<mailto:mgirand@hotmail.com>]
Sent: Wednesday, July 18, 2012 12:32 PM
To: ROBERT DOBRUSKIN
Subject: A letter of concern re: West Harlem Rezoning

July 13, 2012

31 Hamilton Terrace
New York, NY 10031

Mr. Robert Dobruskin
City Planning Commission
22 Reade Street
New York, NY 10007

By post and by email: R_Dobrus@planning.nyc.gov

Dear Mr. Dobruskin:

Recently I was studying the PDF presentation entitled "West Harlem Rezoning" that was presented at the City Planning Commission Review Session on May 7, 2012.

While I am pleased that the proposed rezoning does introduce a building height limit and will do much to maintain Harlem's historic character, there is one area of the proposed rezoning that I am deeply concerned about.

In the proposed rezoning of R7-2 to R7A, the proposed height limit of 80 feet for new buildings along the west side of St. Nicholas Avenue between 141st Street and 145th Street is too high.

The street immediately to the west of this section of St. Nicholas Avenue is Hamilton Terrace, a historic residential block; in fact, the entire block is landmarked.

If new buildings are permitted to be built 80 feet tall on this section of St. Nicholas Avenue, the height of these buildings will tower over all the historic residences on Hamilton Terrace. Buildings that were built 80 feet tall would even be visible from residences on the West side of Hamilton Terrace, dramatically changing the skyline for the block and negatively affecting the historic context and feel of the entire block.

In my conversations with other residents of Hamilton Terrace, this would be a major issue if buildings were permitted to be 80 feet tall on the west side of this section of St. Nicholas.

I strongly urge you to reconsider the proposed height restrictions on the West side of St. Nicholas Avenue between 141st Street and 145th Street. The height restrictions of this particular section should be much lower, somewhere in the 40-50 feet range.

Please feel free to contact me if you would like to discuss or have any questions. My phone number is 917.568.8156 and my email is mgirand@hotmail.com

Sincerely,

Mark A. Girand
Concerned Harlem resident and owner, 31 Hamilton Terrace

MELISSA CEREZO

From: ROBERT DOBRUSKIN
Sent: Friday, June 15, 2012 12:19 PM
To: OLGA ABINADER; MELISSA CEREZO
Cc: ADAM WOLFF
Subject: FW: West Harlem Rezoning Proposal Draft

FYI.

*Robert Dobruskin, AICP
Director, Environmental Assessment and Review Division
Department of City Planning
212 720-3423*

From: peepcohen@aol.com [<mailto:peepcohen@aol.com>]
Sent: Thursday, June 14, 2012 7:09 PM
To: ROBERT DOBRUSKIN
Subject: West Harlem Rezoning Proposal Draft

June 14, 2012

R. Dobruskin
NYC Department of City Planning

In December 2010, I attended a presentation given by the Department of City Planning regarding the West Harlem Rezoning Proposal Draft. Since then, I attended several meetings that encouraged feedback from the residents in my neighborhood. I was impressed by the process and the commitment of the presenters, especially their patience in dealing with repetitive questions from people who did not even take the time to read the posted draft proposal and the changes that evolved from each meeting. I have several meetings since then and followed the entire process via the internet. I am not sure whether I can attend the meeting at CB9 on Monday, June 18 but in case I don't make it, I want to express my viewpoints.

While it is impossible to please everyone, the final proposal is a good, thoughtful one that does reflect the views of the neighborhood and allows direction for a growing future.

- As a Harlem resident, I go out (our public transportation is so convenient!) of my neighborhood to go grocery shopping and to dine so I am especially pleased that the proposal identifies two commercial corridors, 145 and 125-6 with the capacity to add businesses and residential density. It is very much needed up here.
- The plan protects the integrity of our diverse areas from ground floor businesses with walk-up housing on Amsterdam Avenue to landmark districts on Convent Avenue. It also takes a comprehensive view of housing including low, affordable, middle and luxury; housing that reflects the diversity of the neighborhood.
- I especially like the fact that the plan is sensitive to light distribution, structural flow and continuity, and integration with the surrounding neighborhoods.
- Most importantly, I feel that the plan makes a compelling case for the kind of development that would strengthen our community, bring jobs, new business and services and establish, create and promote a Harlem that is vital and filled with possibilities.

In my opinion, City Planning did a wonderful job in paying careful and respectful attention to all expressed points of view from residents and Community Board members. It is a well balanced plan and will serve our neighborhood well.

Sincerely,

Gail Cohen
435 Convent Avenue #3
New York, NY 10031

Jeffrey Boscamp, MD
Yukiko Kimura, MD
417 Convent Avenue
New York, NY 10031

June 18, 2012

Robert Dobruskin, AICP
Director, Environmental Assessment and Review Division
City Planning Commission
22 Reade Street
New York, NY 10007

RE: Comments on the land use application (ULURP Application Nos. C 120309 ZMM & C 120310 ZRM)

To whom it may concern:

We are members of the community of West Harlem and reside at 417 Convent Avenue, New York, NY 10031.

We applaud the efforts of the City Planning Department and the Members of Community Board 9 for their diligent efforts on the huge task of rezoning West Harlem.

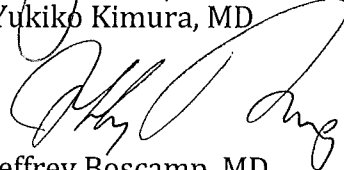
We would like to express our opinion in regard to the mid-block area of West 145 Street between Broadway and Amsterdam, as we feel strongly that the lower density R7A is the correct choice for the contextual zoning of this area.

Thank you for listening to the voice of the community.

Sincerely yours,



Yukiko Kimura, MD



Jeffrey Boscamp, MD

CC: Rev. Georgiette Morgan-Thomas Chair and CB9

475 West 141st Street
New York, NY 10031

15 June 2012

Mr. Robert Dobruskin
Director, Department of City Planning
22 Reade St. #4E
New York, NY 10007

Council Member Robert Jackson
425 West 144th St.
New York, NY 10031

Re: LETTER IN SUPPORT OF THE PROPOSED WEST HARLEM REZONING

Gentlemen, Other Representatives, and Guests;

I bought my home on West 141st Street last year for its location, grace and style. Having a home which is equidistant to transportation hubs, parks, educational and medical facilities, and commercial centers, but which is also a quiet oasis, is critical to facilitating a busy and successful New York City lifestyle. Continually managing growth within the City is equally as critical, to maintain our tax base and provide opportunities for all to live, grow, and succeed.

That said, overbuilding any neighborhood could destroy its character and result in social failure. This is especially true around the Hamilton Heights Historic District, which is protected by its landmark designation but is historically and architecturally 'flavored' contextually by adjacent areas.

I applaud the Department of City Planning for their diligence in process and product, and thank Council member Jackson and his associates for their support, to develop a rezoning plan which retains and enforces the lower-scale character of the neighborhoods, and allows for restricted growth along the commercial corridors and within the established manufacturing zone.

You have my support.

Sincerely,

Kate Dwyer



William C. Rudin
Chairman

Jennifer M. Hensley
Executive Director

Association for a Better New York
355 Lexington Avenue
New York, NY 10017

t. 212.370.5800
f. 212.661.5877

www.abny.org

August 1, 2012

Commissioner Amanda Burden
City Planning Commission
22 Reade Street, Room 2W
New York, NY 10007

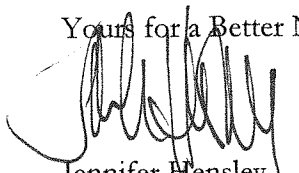
Dear Commissioner Burden:

I am writing to express the Association for a Better New York's support of the Harlem School of the Arts and its need to preserve its development rights as an important asset to the organization in an effort to fulfill its mission, while simultaneously recognizing and balancing the need to support Community District 9 through the City Planning Commission's proposed zoning changes.

ABNY is among the city's longest standing civic organizations advocating for the policies, programs and projects that make New York a better place to live, work and visit. We represent the broad fabric of New York's economy, and our membership includes New York's most influential businesses, non profits, arts & culture organization, educational institutions, labor unions and entrepreneurs. Therefore, we at ABNY recognize the place New York City has as the cultural capital of the world—a place it has secured because of institutions like the Harlem School of the Arts. For decades, the HSA has offered New York's young people affordable arts education while also fostering discipline, creativity, and self-confidence. This community staple has helped shape the caliber and integrity of Upper Manhattan.

As you consider making amendments to the current West Harlem zoning map, I urge you and the entire City Planning Commission to place careful weight on your first rezoning goal: preserving the strongly-established and diverse character of the West Harlem neighborhoods. Preserving the HSA's development rights would be a significant and noteworthy investment in the future of New York City's cultural growth and expansion, and we hope the Commission will consider all sides of the potential impact of the proposed rezoning plan. We have no doubt that the Commission can achieve a balance for the benefit of both the Harlem School of the Arts and Community District 9 by recognizing the key role these development rights play for the financial liability of this important school and protecting the character of this important neighborhood. We ask that you ensure that future Commissioners will be aware of your views by so noting them in your report.

Yours for a Better New York,



Jennifer Hensley
Executive Director

cc: Christine Quinn, New York City Council Speaker
Scott Stringer, Manhattan Borough President
Kate Levin, NYC Department of Cultural Affairs Commissioner
Robert Jackson, New York City Councilmember