



**Board of Standards
and Appeals**

250 Broadway, 29th Floor
New York, NY 10007
212-386-0009 - Phone
646-500-6271 - Fax
www.nyc.gov/bsa

APPEALS (A) CALENDAR

Application Form

2019-94-A

BSA APPLICATION NO.

Section A

**Applicant/
Owner**

Landmark West!

West 66th Sponsor LLC c/o Paul Hastings LLP

NAME OF APPLICANT

OWNER OF RECORD

45 West 67th Street

200 Park Ave

ADDRESS

ADDRESS

New York

NY

10023

New York

NY

10166

CITY

STATE

ZIP

CITY

STATE

ZIP

212

496-8110

AREA CODE

TELEPHONE

212

875-0209

AREA CODE

FAX

landmarkwest@landmarkwest.org

EMAIL

ADDRESS

CITY

STATE

ZIP

LESSEE / CONTRACT VENDEE

Section B

Site Data

36 West 66th Street (aka 50 West 66th Street)

10023

STREET ADDRESS (INCLUDE ANY A/K/A)

ZIP CODE

Between 65th and 66th Streets, between Central Park West and Columbus Avenue

DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS

1118

45*

Manhattan

7

N/A

BLOCK

LOT(S)

BOROUGH

COMMUNITY BOARD NO.

LANDMARK/ HISTORIC DISTRICT

Helen Rosenthal

C4-7, R8 (Special Lincoln Square District)

8c

CITY COUNCILMEMBER

EXISTING ZONING DISTRICT

ZONING MAP NUMBER

(include

special zoning district, if any)

*and Lot 52--air rights parcel

Section C

**Application
Type**



Dept. of Building or other Agency Appeals



Variance to Building, MDL or Other Code



Certificate of Occupancy Modification



Waivers to GCL 35/36



Vested Rights

Date of Final Determination

April 11, 2019

Acting on Application No.

Permit No 121190200-01-NB

Section D

Description

Legalization ☐ Yes ☐ No ☐ In part

Appeal from the Issuance of an NB Permit No. 121190200-01-NB for the address 36 West 66th Street

Section E

**BSA History
and Related
Actions**

If "YES" to any of the below questions, please explain in the STATEMENT OF FACTS

YES NO

1. Has the premises been the subject of any previous BSA application(s).....

☒ ☐

If yes, Prior BSA No 2018-199-A

2. Are there any applications concerning the premises pending before any other government agency?.....

☒ ☐

3. Is the property the subject of any court action?.....

☒ ☐

Section G

Signature

I HEREBY AFFIRM THAT BASED ON INFORMATION AND BELIEF, THE ABOVE STATEMENTS AND THE STATEMENTS CONTAINED IN THE PAPERS ARE TRUE.

M. Shyner

SWORN TO ME THIS 13th DAY OF May 20 19

Notary Public, State of New York

Mikhail Shyner

Attorney

Title

CHRISTOPHER N. SLOWIK
Notary Public, State of New York

NOTARY PUBLIC

Qualified in Kings County
Commission Expires August 20, 2019

R. 000298



250 Broadway, 29th Floor
New York, New York 10007
Phone: (212) 386-0009
Fax: (646) 500-6271
www.nyc.gov/bsa

APPLICATION DOCUMENT(S) CERTIFICATION

I, Mikhail Sheynker, Esq, am the [CHECK ALL APPLICABLE]
Printed Name

☐ APPLICANT

☐ PROPERTY OWNER

☐ CONTRACT VENDEE

☐ OTHER PERSON HAVING LEGAL OWNERSHIP OR
COTROL OF THE PROPERTY IN ACCORDANCE
WITH SECTION 202 OF THE NYC BUILDING CODE

☒ PREPARER OF Attached Exhibits

Document Title(s)

for an application relating to a variance, special permit and/or appeal filed on the Board of Standards and Appeals' BZ,
SOC or A Calendar for [ADDRESS] 36 West 66th Street, New York, New York and certify,
under penalty of perjury, that all of the factual information in this submission / the above referenced document(s),
submitted on [DATE] May 13, 2019, is correct to the best of my
knowledge and understanding.

I also understand that to "knowingly make or allow to be made a material false statement in any certificate,
professional certification, form, signed statement, application or report that is either submitted directly to the board of
standards and appeals or that is generated with the intent that the Board rely on its assertions" is a violation of New
York City Charter § 670 and may subject me to a civil penalty of up to \$15,000 for each such false statement and that the
Board may dismiss any application in connection with a final determination of such violation.

Subscribed and sworn to before me this

13 day of MAY, 2019

NOTARY PUBLIC

CHRISTOPHER M. SLOWIK
Notary Public, State of New York
No. 02SL6173097
Qualified in Kings County
Commission Expires August 20, 2019

SIGNATURE

DATE



250 Broadway, 29th Floor
New York, NY 10007
212-386-0009 - Phone
646-500-6271 - Fax
www.nyc.gov/bsa

AFFIDAVIT OF OWNERSHIP AND AUTHORIZATION**Affidavit of Ownership**

Page Cowley being duly sworn, deposes and says that she is the
Chair of the Board of Landmark West!, with offices at 45 West 67th Street, New York, New York 10023;
and that the statement of facts in the annexed application are true.

Check one of the following conditions:

- ☐ Sole property owner of zoning lot
☐ Cooperative Building
☐ Condominium Building
☐ Zoning lot contains more than one tax lot and property owner

Owner's Authorization

The owner identified above hereby authorizes the firm Klein Slowik, PLLC to make the annexed
application on behalf of Landmark West!.

Signature of Owner Page Cowley

Print Name Page Cowley

Print Title Chair, Landmark West!

Sworn to before me this 13th day

Of May 2019

Pascale Gabbey

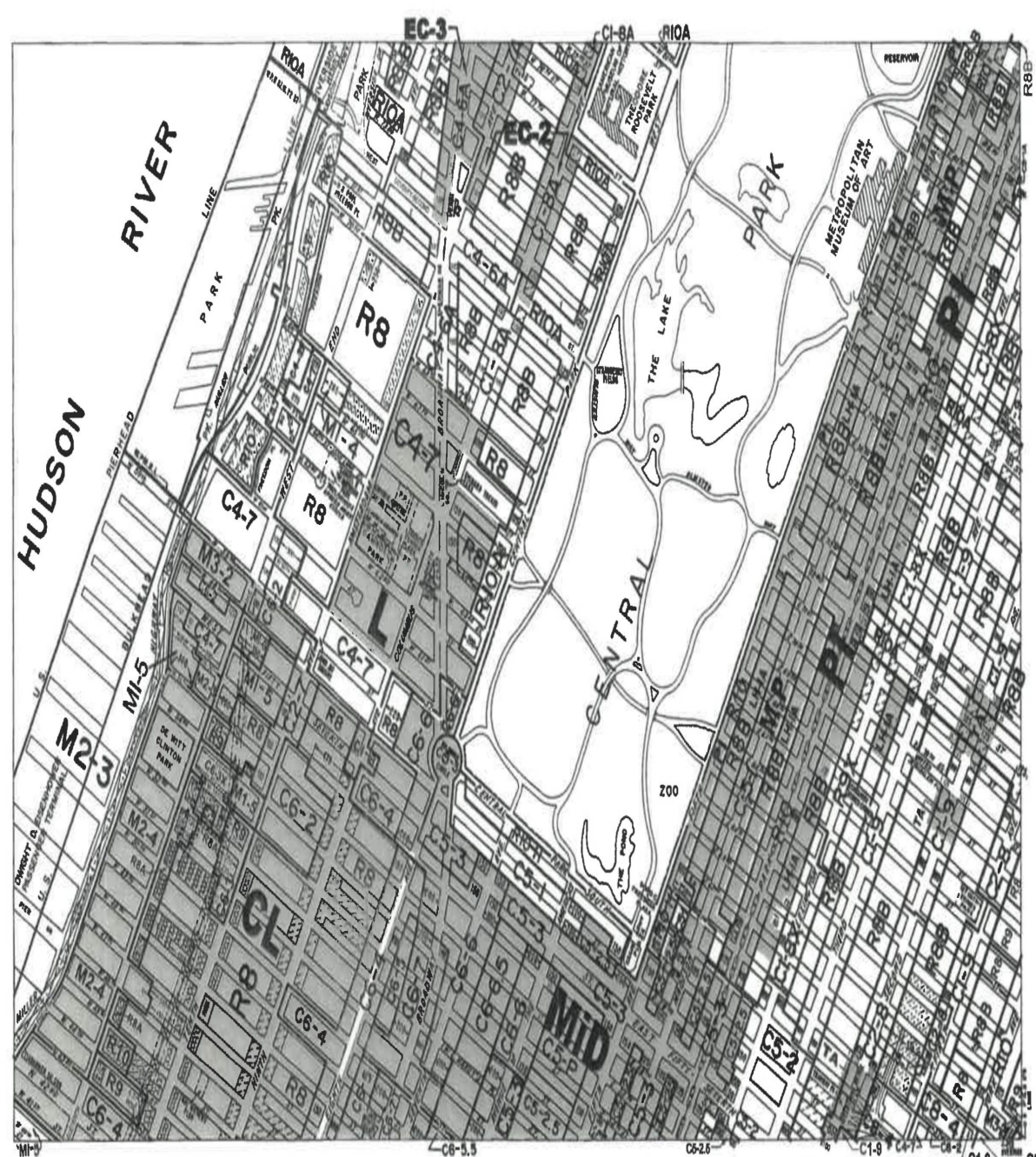


Revised March 8, 2012

R. 000300

05/14/2019

2019-94-A



ZONING MAP
THE NEW YORK CITY PLANNING COMMISSION

Major Zoning Classifications:
The number(s) and/or letter(s) that follows on R, C or M District designation indicates use, bulk and other controls as described in the text of the Zoning Resolution.

- R - RESIDENTIAL DISTRICT
 - C - COMMERCIAL DISTRICT
 - M - MANUFACTURING DISTRICT
 - SPECIAL PURPOSE DISTRICT
The letter(s) within the shaded area designates the special purpose district as described in the text of the Zoning Resolution.
 - AREA(S) REZONED
- Effective Date(s) of Rezoning:**
06-26-2014 C 140181 ZMM

Special Requirements:
For a list of lots subject to CEQR environmental requirements, see APPENDIX C.
For a list of lots subject to "d" restrictive declarations, see APPENDIX D.
For Inclusionary Housing designated areas on this map, see APPENDIX F.

MAP KEY

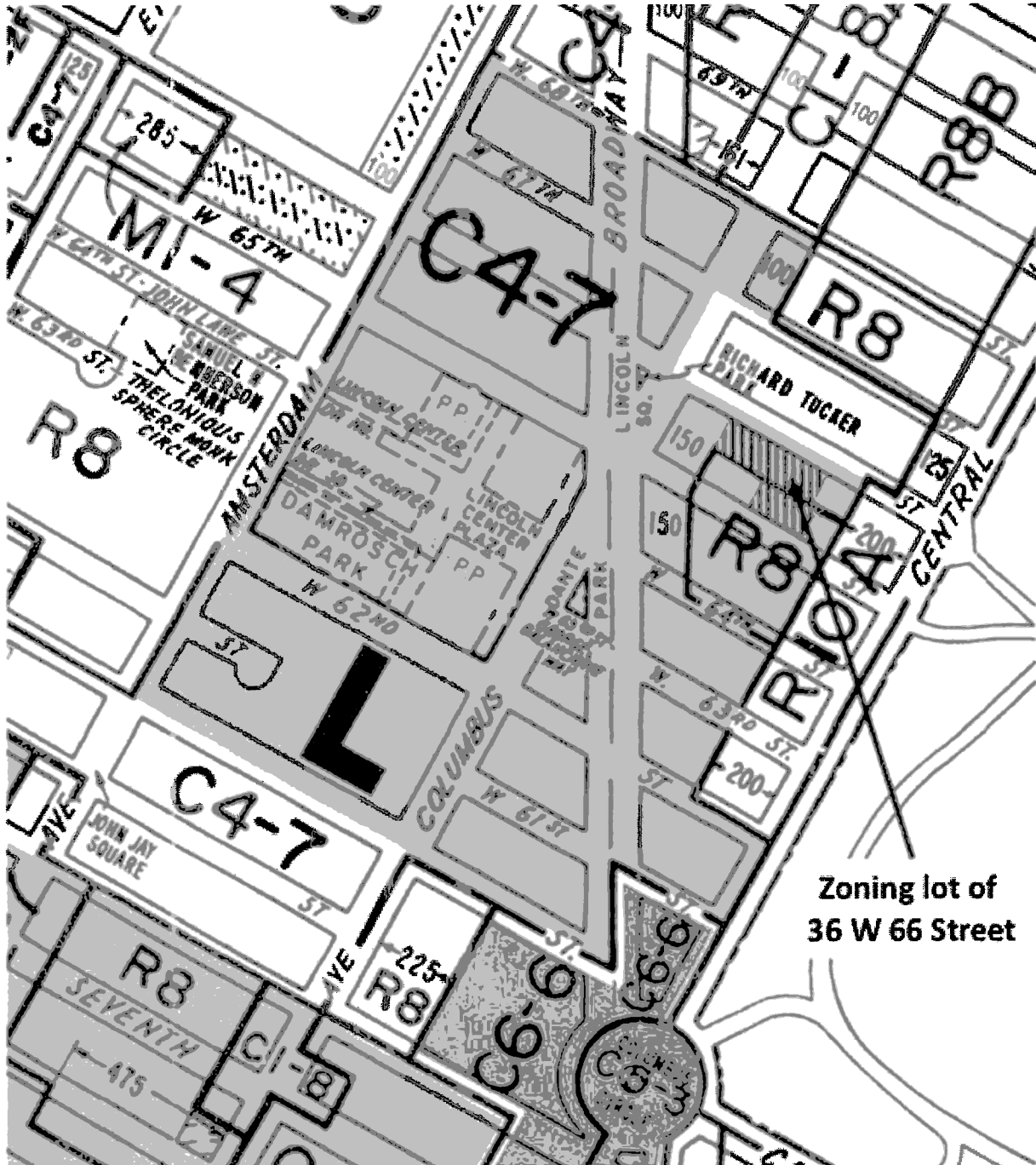
	5d	6b
8a	8c	9a
8b	8d	9b

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NOTE: Zoning information as shown on this map is subject to change. For the most up-to-date zoning information for this map, visit the Zoning section of the Department of City Planning website: www.nyc.gov/dcp/planning or contact the Zoning Information Desk at (212) 725-3291.

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5
NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.

05/14/2019



05/14/2019



Work Permit Department of Buildings

Permit Number: 121190200-01-NB

Issued: 04/11/2019

Expires: 04/10/2020

Address: MANHATTAN 36 WEST 66TH STREET

Issued to: SCOTT HAMBURG

Business: LENDLEASE(US)CONSTRUCTION

Contractor No: GC-16836

Description of Work:

NEW BUILDING - NEW BUILDING

Number of dwelling units occupied during construction: 0

Review is requested under Building Code: 2014

SITE FILL: ON-SITE

To see a Zoning Diagram (ZD1) or to challenge a zoning approval filed as part of a New Building application or Alteration application filed after 7/13/2009, please use "My Community" on the Buildings Department web site at www.nyc.gov/buildings.

Emergency Telephone Day or Night: 311 SITE SAFETY PHONE : 212 669-7043

Borough Commissioner:

Commissioner of Buildings:

Acting Commissioner of Buildings

This permit copy created on 05/13/2019 reflects the Commissioner(s) as of such date.

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.

06 05/13/2019

OP-35A (5/10)

2019-94-A



90 Broad Street, Suite 602
New York, NY 10004
(212) 564-7560
(212) 564-7845 fax
www.buildinglawnyc.com

Mikhail Sheynkey, Esq.
Ext. 111
msheyner@buildinglawnyc.com

STATEMENT OF FACTS

BSA Calendar No:

Premises: 36 West 66th Street, a/k/a 50 West 66th Street, Manhattan
Block 1118, Lot 45 (“the Parcel”)

**Determination
Challenged:** Issuance of Permit No. 121190200-01-NB (“the Permit”)

I. PRELIMINARY STATEMENT

Appellant LandMark West! (“LW!”), a non-profit corporation dedicated to preservation efforts for the Upper West Side of Manhattan,¹ hereby challenges, pursuant to New York City Charter §666, the issuance of the Permit to the applicant, West 66th Sponsor LLC (“the Owner”), a subsidiary of Extell Development Company, for the building to be constructed at the Parcel (“the Tower”).

The Tower is planned to reach a height of approximately 775 feet – making it the tallest building on the Upper West Side by hundreds of feet, dwarfing other buildings in the vicinity – but would contain only 39 stories of residential units. Thus, a substantial portion of the Tower’s height – 196 vertical feet - would be composed of empty spaces (“the Voids”), supposedly “used for mechanical equipment” and thus not counting toward floor area.

The Permit should be revoked, because the underlying plans contravene the Zoning Resolution (“ZR”) in that:

- a) the Owner’s attempts to exempt the Voids from floor area should be rejected, as the Voids are neither “used for mechanical equipment,” ZR §12-10, nor are they accessory uses to the residential uses in the Tower, ZR §22-12; and

¹ “Since 1985, LANDMARK WEST!, an award-winning non-profit, has worked to achieve landmark status for individual buildings and historic districts on the Upper West Side and to protect them from insensitive change and demolition. We are the proud stewards of more than 3,200 designated architectural and cultural landmarks from 59th to 110th Streets, Central Park to Riverside Park. We are dedicated to building community and promoting awareness of our neighborhood’s special character.” <https://www.landmarkwest.org/mission/> (last accessed May 10, 2019).

- b) Floor area calculations are contrary to two sections of the ZR which work in tandem to limit building height in the Special Lincoln Square District (“the Special District”) established by ZR art. VIII, ch. 2 (ZR §§82-00 *et seq.*):
- 1) The “Bulk Packing Rule,” ZR § 82-34, and
 - 2) The “Split Lot Rule,” ZR §§ 33-48 and 77-02.

The within applicant submitted an Appeals case on substantially similar grounds, Cal No. XX, which was withdrawn subsequent to approval of the Permit (“the Prior Appeal”). The within applicant respectfully resubmits the within Appeal to challenge the Permit.

II. FACTS

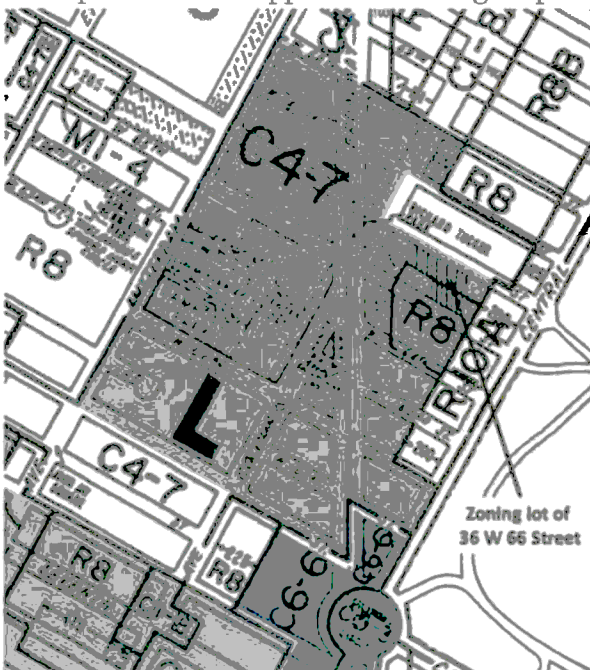
1. The Special District

The Special District was enacted in 1969. *See* CPC Report N 940127(A) ZRM (Dec. 20, 1993, adopted by the New York City Council on February 9, 1994, as amended) (“the 1993 Report”) (Exhibit A hereto).

Most of the Special District is zoned C4-7 with an R10 equivalent. R10 is the highest allowed residential density in the ZR (ZR art II. ch. 3, generally). Towers are allowed in R10; ZR §23-65 *et seq.*

Parts of two blocks in the Special District are zoned R8, a lower density residential designation where towers are not allowed.

The Special District appears on Zoning Map 8c. It is marked the lighter-gray shading with the “L.”



The Parcel is further indicated by diagonal lines.

In 1993, DCP reviewed zoning in the Special District generally (see its Zoning Review, May 1993, Exhibit B hereto (“the 1993 DCP Review”). The Bulk Packing Rule and the Split Lot Rule eventuated together from this review.

The 1993 DCP Review studied in particular a number of sites in the Special District. One of these was the “ABC assemblage,” three smaller lots on West 66th Street comprising a campus of the ABC television network (now landmarked). The “ABC assemblage” lay entirely within the C4-7/R10 portion of the District, i.e. the vast majority of the District, where high-density development and towers are allowed.

The 1993 DCP Review did not consider any of the R8 portion of the Special District, where towers are not permitted.

As per the Owner’s updated ZD1 diagram, filed with DOB on April 4, 2019 (“the 2019 ZD1”)(Exhibit C), the dividing line between the C4-7/R10 portion of the Special District, and the R8 portion, runs right through the Parcel, from west to east. The portion north of the line is the former “ABC assemblage”; south of the line is a tract that, prior to the Owner’s purchase of it and incorporation into the Parcel via execution of a zoning-lot merger, was the site of the Jewish Guild for the Blind, an 11-story building. The Owner demolished that building, upon information and belief, in 2017. 64% of the Parcel is north of the line and zoned C4-7/R10.

The Permit enables the Owner to build a tower more than half-again as large as the ZR allows – adding about 276 vertical feet to get to its outrageous height of 776 feet, through the subterfuge of adding the Voids in between residential floors. The Voids comprise purportedly non-floor area space of 20 vertical feet on the fifteenth floor; “residential amenity space,” 42 feet high, on the sixteenth floor; and more “mechanical space” on the seventeenth, eighteenth, and nineteenth floors for a total of 176 vertical feet. There are additionally two “mechanical floors” on two 64 feet high and one 48 feet high. The proposed building would achieve its exceptional height in substantial part by virtue of two illegalities that would add at least 276 vertical feet. Its evasion of the Bulk Packing Rule would allow The Owner to add at least five, and possibly as many as seven, residential tower floors over and above what would otherwise be allowed. Its inclusion of four largely empty mechanical spaces located above its base and below the residential floors of the tower section further increase the building’s height by 196 feet. There would be three contiguous putatively mechanical floors (17, 18, and 19), two 64 feet high and one 48 feet high. Just below these, on the 16th floor, would be a “residential amenity space” 42 feet high, and below that, on the 15th floor, yet another mechanical space, 20 feet high. The 40th and 41st floors are also devoted to “mechanical space”, for a total of 229 vertical feet of such non-floor area space. This is *twenty-three floors’ worth of height of mechanical space* – or roughly one vertical foot of such space to every two floors of residence. One struggles to conceive of a legitimate need for so much service equipment.

These various subterfuges also enable the Owner to add at least five floors more than indicated to the top portion of the Tower which, by virtue of the Voids, float hundreds of feet higher than surrounding buildings – thus commanding astounding views of the City and beyond, and therefore justifying astronomical prices for the residential units which, not the provision of “mechanical” services to the units, is the rationale for the Voids.

2. History of the Parcel

On November 24, 2015, the Owner applied build a 25-story residential building with a community facility on the former “ABC assemblage.” This building, at 292 vertical feet (“the 292ft. Building”), was as-of-right within the R10 zoning of most of the Special District, without resort to any tricks or artifice. See ZD1, filed 11/4/15 and approved 10/24/16, part of Exhibit D (“the 2016 ZD1”).

On June 7, 2017, DOB issued a New Building permit for the 292ft. Building. Although excavation began shortly thereafter, it is apparent in hindsight that the Owner never intended to build it; the Prior Appeal referred to it, aptly, as a “stalking horse,” to divert the attention of LW!, the public, and DOB while it planned the Tower. See ZD1, approved 7/26/18 and dated 4/15/15, part of Exhibit D (“the 2018 ZD1”).

Although the Board has seen this in the Prior Appeal and likely in other applications, it is imperative that consideration again be given to the statements of Jon Kalikow, another developer of like-sized projects, in praise of the Owner’s bait-and-switch here (which, presumably, unless a precedent can be set by the Board’s grant of the within application and revocation of the Permit, will allow similar towers with pretextual “voids” to sprout all over the City):

“A different developer did something smart at a site we looked at on W. 67th [sic] Street.” The developer filed for a building that was “this high.” Jon motioned a short length. But once he had his plans ready, he amended the tower to make it “that high.” Jon motioned a taller length. “His belief and hope, and he’s probably right, is that the community can’t muster the resources to stop him. But these are the kinds of tricks you have to do these days, if you even hope to be successful,” Jon said.

Betsy Kim, “Richard and Jon Kalikow Say What They’re Really Thinking,” *GlobeSt.com* (Feb. 20, 2018) (<https://www.globest.com/2018/02/20/richard-and-jon-kalikow-say-what-theyre-really-thinking/>) (Exhibit E hereto) (last accessed May 11, 2019).

On December 13, 2017, the Owner, revealing its true intentions, filed with DOB to build the Tower.² On July 26, 2018, DOB a ZD1. On September 9, 2018, LW! and 10 West 66th Street

²See <http://a810-bisweb.nyc.gov/bisweb/JobQueryByNumberServlet?passdocnumber=16&passjobnumber=121190200&requestid=18#FSup> (last accessed May 11, 2019).

Corporation filed a Zoning Challenge with DOB to challenge the ZD1, pursuant to 1 RCNY §101-15 (“the Zoning Challenge”) (the Zoning Challenge, with DOB’s response, Exhibit F hereto).

The grounds for the Zoning Challenge were that the “mechanical space” purportedly exempt from floor area was neither mechanical space nor accessory to the residential use; and that the plans were contrary to the Split Lot and Bulk Packing Rules.

On November 19, 2018, DOB rejected the Zoning Challenge with regard to the “mechanical space” stating that “[t]he Zoning Resolution does not prescribe a height limit for building floors.”

With respect to the Zoning Challenge’s attack on the bulk of the Tower, DOB responded, correctly, that under the Split Lot Rules, the provision governing tower bulk and lot coverage (ZR 82-36, the “Tower Coverage Rule”) can only apply to the C4-7/R10 portion of the Parcel, where towers are permitted. However, DOB then incorrectly found that that Split Lot Rules do not apply to the Bulk Packing Rule, because the Special District’s version of that rule “would be applicable to all portions of a zoning lot located within the Special District regardless of zoning district designations.” Ex. F.

This interpretation parroted one previously advanced by David Karnovsky, Esq., who is now counsel for the Owner, but previously had served as General Counsel of DCP. *See* December 18, 2017 email addressed to “Council Land Use, Office of Council Member Helen Rosenthal Staff,” Exhibit G hereto.

DOB based its finding on that the Bulk Packing Rule for the Special District begins with the phrase “Within the Special District,” Because both the R8 and the C4-7/R10 portions of the lot are “within the Special District, the Bulk Packing Rule purportedly applied to both portions, notwithstanding the Split Lot Rules.

Subsequently, LW! filed the Prior Appeal (annexed hereto as Exhibit H) to attack DOB’s determination regarding the Zoning Challenge. However, during the pendency of that proceeding, DOB issued a Notice of Intent to revoke its approval of the Zoning Challenge (Exhibit I hereto).

In the Notice of Intent, Exh. I, DOB opined that the Voids contravened the ZR: “The proposed mechanical space on the 18th floor of the Proposed Building does not meet the definition of ‘accessory use’ of § 12-10 of the New York City Zoning Resolution. Specifically, the mechanical space with floor-to-floor height of approximately 160 feet is not customarily found in connection with residential uses.”

The Notice also stated that DOB had rescinded its denial of LW!’s Zoning Challenge, thus mooting the Prior Appeal.

The Notice did not, however, reconsider whether the Owner's methodology for calculating the required floor area below 150 feet and the floor area allowed in the tower portion of the building violated the Bulk Packing Rule.

By letter dated January 25, 2018, the Owner objected to DOB's Notice of Intent, stating that it was inconsistent with DOB's earlier approval of voids and rejection of a challenge in the case of 15 East 30th Street, and with the BSA's affirmation of that decision in BSA Calendar No. 2016-4327-A.

On April 4, 2019, DOB reversed itself yet again: it withdrew its Notice of Intent to Revoke, approved a slightly revised Zoning Diagram, Exh. C, and, on April 11, 2019, for the first time, issued the Permit, Exhibit J.

Apparently in response to safety objections by the Fire Department, the Owner redesigned the Voids with three contiguous smaller ones totaling 176 feet, 16 feet more than the original 160-foot void. These are below the tower apartments and immediately above the 42-foot-high residential amenity space and another 20-foot-high mechanical space. The aggregate 196 vertical feet of mechanical spaces sandwiched into the middle of the building below the tower portion would be the most ever inserted into any building in the City, and far, far taller than necessary for any mechanical equipment. *See* Dep't of City Planning, Residential Mechanical Voids Findings ("Mechanical Voids Findings") (Apr. 2018, updated Feb. 2019) (Exhibit K attached).

3. The Bulk Packing Rules and the Tower Coverage Rule

In a "Discussion Document" titled "Regulating Residential Towers and Plazas" produced in 1993, year, DCP observed that "objections to towers have centered around their height" as well as "the erosion of streetwall character," noting that "apartments on the 30th floor typically are priced 30 percent more than identical units on the 10th floor." *See* DCP, "Regulating Residential Towers and Plazas: Issues and Options: A Discussion Document" (1989) ("Discussion Document"), at 7 (Exhibit L hereto).

DCP proposed to replace the "tower-on-a-plaza" form of building with a new form, the "tower-on-a-base," with "specified controls on the amount of floor area that could be massed in the tower portion" of a building. It introduced "packing-the-bulk" and minimum tower coverage as two complementary tools to regulate height. The Bulk Packing Rules would "require that a minimum percentage of the total floor area of the zoning lot be located at elevations less than 150 feet above the curb level. " This would ensure that buildings are not too top-heavy. The Tower Coverage Rule would require that any tower cover a minimum percentage of its lot area, making towers squatter and less needle-like, and keep the number of tower stories constant regardless of lot size.

However, the City did not act on this proposal until 1993. In the Special District, the 545-foot-tall Millennium Tower at 101 West 67th Street, announced in 1992 – obscenely tall, but still 230 feet shorter than the Tower - outraged the community³ and prompted action by the city.

The 1993 DCP Review stated, Exh. A, at 3:

Several buildings in the district have exceeded 40 stories in height, and are out of character with the neighborhood. Current district requirements do not effectively regulate height, nor govern specific aspects of urban design which relate to specific conditions of the Special District.

The Discussion Document, Exh. L, described the inversely proportional relationship between too-low lot coverage and too-tall buildings:

The original prototype of the residential tower entailed a 30 to 32 story building with tower coverage approaching the 40 percent standard. However, more recent buildings have been built at a coverage of 27 percent on the average, with the most extreme constructed at 20 percent. This lower tower coverage translates into buildings that are most recently ranging from 25 to 50 stories, averaging 40.

These amendments, together with other proposed sections intended to promote appropriately contextual development, were intended to limit building height not only in the Special District, but throughout Manhattan's high-density residential neighborhoods. The amendments included the Bulk Packing and Tower Coverage Rules as well as other rules designed to preserve the street wall and promote contextual development. They were approved by the CPC in two different versions, one for the Special Lincoln Square District and another for Manhattan's high density (R9 and R10) residential districts generally. ZR §§ 82-34 and 82-36 (Special District rules); ZR § 23-651 (general rules).

The Special District's version of the Bulk Packing Rule, ZR § 82-34, states:

Within the Special District, at least 60 percent of the total floor area permitted on a zoning lot shall be within stories located partially or entirely below a height of 150 feet from curb level.

This Rule differs in minor ways from the rule enacted for Manhattan's R9 and R10 districts generally. Compare ZR §§ 82-34 with ZR § 23-651(a)(2).

³ Emily Bernstein, "Upper West Side; New Tower Rules Come up Short," New York Times (Dec. 26, 1993), at 5 (<https://www.nytimes.com/1993/12/26/nyregion/neighborhood-report-upper-west-side-new-tower-rules-come-up-short.html?searchResultPosition=1>).

The Special District's version of the Tower Coverage Rule, § 82-36(a), states:

At any level at or above a height of 85 feet above curb level, a tower shall occupy in the aggregate: (1) not more than 40 percent of the lot area of a zoning lot; and
(2) not less than 30 percent of the lot area of a zoning lot...

The Bulk Packing and Tower Coverage Rules (together, the "Tower-on-a-Base Rules") govern the distribution of the allowable square footage within an envelope, the size of which is determined by the size of the lot and the FAR applicable to that area.

The Bulk Packing Rule ensures that, of the total allowable floor area that could otherwise go into the tower, 60 percent will be in the base, below 150 feet. Thus each square foot of floor area required for the base is one square foot less that can go into the tower, limiting the tower's bulk and height. The Tower Coverage Rule requires that the tower portion of the building cover at least 30 percent of the zoning lot area.

When applied correctly, these two rules ensure that the number of stories in the tower portion of the building (i.e., the portion above 150 feet) remains constant regardless of lot size.

A simplified hypothetical shows how the two rules work together to achieve that result. Consider a 10,000 square-foot lot in a tower-on-a-base district zoned C4-7, where the allowable square footage is 10 FAR. A hypothetical developer can put a maximum of 100,000 square feet on this lot. The Bulk Packing Rule requires that 60 percent of that, or 60,000 feet, be in the base, below 150 feet, leaving 40,000 square feet for the tower portion of the tower-on-a-base. Under the Tower Coverage Rule, the footprint of the tower above the base must cover at least 30 percent of the lot area, i.e., at least 3,000 square feet. At 3,000 square feet per floor, and with 40,000 square feet available for the tower, the developer can build a 13.3 story tower on top of its 150-foot high base.

If the lot is now quadrupled in size, to 40,000 square feet, then the allowable square footage is 400,000 square feet. Sixty percent of that, or 240,000 square feet, must be below 150 feet, leaving 160,000 square feet for the tower. Again, the footprint of the tower above the base must cover at least 30 percent of the lot area, which is now four times the previous size, i.e., 12,000 square feet. At 12,000 square feet per floor, and with 160,000 square feet available for the tower, the developer can still build only a 13.3 story tower.

As the envelope grows bigger, the square footage in the tower and base grow proportionately, but the Tower Coverage Rule applied over the larger lot broadens and extends the tower's floorplates, keeping its height constant regardless of lot size. But this mechanism can only work if the total allowable floor area, bulk below 150 feet, and tower coverage are all calculated based on the same area.

On the other hand, consider the result of using the Owner's methodology on a split lot with 10,000 sf in a C4-7/R10 district and 30,000 sf in an R8 district. The bulk packing calculation would be based on the entire 40,000 sf lot but tower coverage calculation would be based only on a smaller, 10,000 sf portion of the lot. There would be 100,000 sf allowable on the tower portion of the lot but the tower floors would only be 3,000 sf each. The required base could be entirely in the R8 portion of the zoning lot, leaving all the allowable 100,000 sf on the C4 - 7/R10 portion of the lot available for the tower. The result would be a 33.3 story tower (100,000 divided by 3,000) – over two and a half times the allowed number of stories – on top of a 150-foot high base.

The two reports accompanying these two sets of amendments make clear that the purpose of this legislation was to limit building heights to “the low-30 stories,” equivalent, at that time, to perhaps 350 feet. The report for the Special District noted that a City Planning discussion document issued earlier that same year had “found that the height of buildings in the Special District needed to be regulated”; that “[c]urrent district requirements do not effectively regulate height”; and that, “[s]everal buildings in the district have exceeded 40 stories in height, and are out of character with the neighborhood.” 1993 CPC Report, Exh. A, at 3.

The Report stated the Commission's belief that the Bulk Packing and Tower Coverage Rules “should predictably regulate the heights of new development,” and “would sufficiently regulate the resultant building form and scale even in the case of development involving zoning lot mergers,” so as to “produce building heights ranging from the mid-20 to the low-30 stories. . . on the remaining development sites” in the Special District. *Id.* at 19. The DCP report for the high-density residential districts elsewhere in Manhattan contained similar language. Exhibit A-1 (CPC Report N 940013 ZRM, dated Dec. 20, 1993, at 2-3, 5, 11-12)

III. THE OWNER'S MISAPPLICATION OF THE BULK PACKING RULE VIOLATES ZR §§ 82-34, 77-02 AND 33-48

The Zoning Resolution's split lot provisions mandate that the rules applicable to each portion of a split lot apply to that portion only. Therefore, the Tower Coverage Rule applies to the C4-7 portion of its lot only. However, DOB, following Mr. Karnovsky's interpretation, Exh. G, would except the Bulk Packing Rule from the rules generally applicable to split lots because of the prefatory phrase “Within the Special District,” which, they say, must be read to mean “Everywhere within the Special District”:

Within the Special District, at least 60 percent of the total floor area permitted on a zoning lot shall be within stories located partially or entirely below a height of 150 feet from curb level.

However, this vague introductory phrase does not overrule the split lot provisions. To read it as doing so is to presume that the CPC and the City Council intended an absurd result. Rather, as the

context and legislative history show, this phrase was intended to distinguish the Special District from other high- density residential districts, where the Bulk Packing Rule takes a slightly different form. As between two interpretations of the rule, one that makes nonsense of it and is inconsistent with its context and history and another that allows it to work as intended and is consistent with both context and history, the choice is obvious.

1. Applying the Bulk Packing Rule Where No Towers Are Allowed Negates the Rule and Leads to Absurd Results

The Tower-on-a-Base Rules form an integrated, interlocking mechanism that relies on lot area and FAR, bulk packing and tower coverage, to allocate bulk within the building's envelope between the tower and the base. As noted above, this mechanism can work only if the total allowable floor area, tower coverage and bulk packing are calculated based on a common denominator: one lot size, one FAR and one set of rules applicable to the entire envelope. Only in this way can it keep the number of tower floors constant even as lot size varies.

Both the Split Lot Rules, discussed below, and the logic of this mechanism dictate that the common denominator in this case must be that portion of the lot in which towers are allowed. That is the area in which the Owner in fact proposes to put its tower. The Owner correctly calculated the total allowable floor area for the tower-on-a-base portion of the lot. This is the envelope within which its tower must fit. It also correctly calculated the minimum coverage requirement for the tower as 30 percent of that area.

However, when the Owner did its bulk packing calculation, it did not calculate the amount permissible in the tower as 40 percent of the FAR allowed in the tower-on-a-base portion of its lot, but rather as 40 percent of the FAR allowed on the entire lot. Taking advantage of the split lot situation, it fulfilled the requirement of "60-below-150" with floor area much of which is outside the envelope, in the portion of its zoning lot where towers are not allowed. This not only does not reduce the floor area of the tower, but actually allows The Owner to add to it.

This erroneous methodology negates the rule's purpose. To work right, the calculation must be zero-sum: the total square footage of the tower and base must add up to the total allowed on C4-7 portion of the lot. Thus, assuming there is no space left within the C4-7 envelope, adding 60 square feet to the base must reduce the square footage in the tower by 60 square feet. But if those 60 square feet are added from outside the envelope, from the R8 portion, they do not force any reduction in the square footage of the tower. To the contrary, adding 60 square feet outside the envelope actually frees up 60 square feet within the C4-7 portion, allowing the developer to actually add 40 square feet to the tower. This is the opposite of what the rule is supposed to do: to force into the base a percentage of the total allowable square footage that could otherwise go into the tower.

The Owner's own 2019 Zoning Diagram shows how its tower fails to comply with the required 60/40 ratio between tower and base. All the numbers in what follows are taken from the Owner's 2019 ZD1. Exh. D. The amount allowed on the C4-7 portion of the lot is 421,260 square feet. That same document shows a building base with 329,132 square feet and a tower with 219,403 square feet, adding up to 548,535 square feet. The result of the Owner's mix-and-match approach is that instead of 60/40, the ratio of the base to the tower is 48/52 ratio. Only 48 percent of the bulk is in the base and a majority, 52 percent, is in the tower. This is an inversion of the correct ratio. Moreover, the Tower-on-a-Base Rules' basic requirement that the total square footage of the tower and the base not exceed the total allowable square footage is not met. The square footage of the tower and the base (548,535) adds up to 30 percent more than the allowed 421,260. The excess tower square footage (50,899) increases the height of the tower, while the excess base square footage is in a district where towers are not allowed. It might as well be on the moon for all the effect it has on the Tower.

Removing the excess square footage from the tower and leaving everything else unchanged would reduce the height of the tower by *at least five* floors. At 16-foot floor-to-floor heights, that adds up to 80 feet, and would bring the building's height down from 775 feet to 695 feet.

This is simple arithmetic. The Zoning Diagram shows 21 tower residential floors, but two (floors 16 and 39) have significantly less floor area than the others, so to be fair to The Owner, they were excluded from the calculation of average tower floor size. The 19 full-size residential floors have 197,972 sf of floor area. Dividing by 19 yields the average size of a residential floor in the tower: 10,420 sf. The excess floor area in the tower is 50,899 sf. Dividing this by the average floor size (10,419 sf) gives the number of floors that would have to be removed from the tower portion of the building: $50,899 / 10,419 = 4.9$ floors. Of course, one cannot remove 4.9 floors, so The Owner would have to remove 5 floors.

We say "at least five floors" because in order to put the full allowable square footage into its tower, The Owner would also have to put the full allowable square footage into its base. For every 6 sf in the base, the Owner can place 4 sf in the tower, up to the maximum allowed. However, if the Owner cannot build the base out to the maximum allowed, the tower will also be proportionately smaller. Although it may be theoretically possible to fit 252,761 square feet (60% of the maximum allowable square footage of 421,260) into the base, as a practical matter this will prove to be challenging on this site, because half of the area of the base is occupied by the landmarked Armory, and without a Certificate of Appropriateness from the Landmarks Preservation Commission, The Owner cannot build over the Armory.

By the Owner's logic, given a large enough R8 portion, it could satisfy the "60 below 150" requirement for the base entirely with floor area from that portion, allowing the tower in C4-7/R10 to grow until it fills the entire envelope of floor area allowed within that portion. If it did so, it could have a building with a 40-story tower. (The maximum allowable square footage on this portion of

the lot is 421,260 sf. Dividing that number by the average residential floor square footage of 10,419 sf yields 40.43 stories.) With the Owner's 16-foot floor-to-floor heights, 40 stories add up to 640 feet of tower height. The tower could start at 150 feet, making it 790 feet high. Adding the 229 feet of mechanical space that DOB has now approved for the building would bring the total height to 1,019 feet – about three times the “low 30 stories” in height that the drafters of the Tower-on-a-Base Rules stated would be the maximum!

2. The Owner's Interpretation Violates ZR §§ 77-02 and 33-48, Which Dictate How Zoning Applies to Split Lots

The ZR recognizes that the rules within each district form an integrated whole that regulates building form. That is why the drafters included specific provisions, ZR §§ 77-02 and 33-48, that dictate that when a zoning lot is split between two districts, the rules of each portion of the lot apply to that portion and to that portion alone. Thus, ZR § 77-02 provides:

Whenever a zoning lot is divided by a boundary between two or more districts . . . each portion of such zoning lot shall be regulated by all the provisions applicable to the district in which such portion of the zoning lot is located.

Section 33-48 applies this same rule to the precise situation here, stating specifically that the split-lot rule of ZR § 77-02 applies whenever a zoning lot is divided by a boundary between a district to which the provisions of Section 33-45 (Tower Regulations) apply and a district to which such provisions do not apply.

These rules flatly prohibit what the Owner has done, and DOB has ratified, here, and they are not overridden by the phrase “Within the Special District, . . .”

3. The Prefatory Phrase, “Within the District, . . .” Does Not Mean What DOB and The Owner's Counsel Say It Means

All that DOB and the Owner are left with are three words, “Within the Special District, . . .” which they claim, in defiance of both the statute and ordinary English, means “Everywhere within the Special District.” The words themselves do not say that, and it is implausible to suggest that the drafters would have written a provision so critical, and so directly contrary to the general rule -- and above all, so nonsensical -- in such an offhanded and vague manner.

Rather, this phrase must be read as distinguishing the District's rule, ZR § 82-34, from the Bulk Packing Rule applicable in Manhattan's other high-density residential districts, ZR § 23-651(a)(2), which the Commission approved on the same day. The general version differs from the Special District version in that it is slightly less demanding, and also more complex: the required percentage

of floor area below 150 feet starts at 55 percent and increases to 59.5 percent as tower lot coverage decreases from 40 percent to 31 percent.

ZR § 23-65(a)(2) illustrates the complementary but inverse relationship between bulk packing and tower coverage: the greater the tower coverage, the less bulk packing is required to keep tower height within the intended limits. For this relationship to work, however, both rules must be applied to the same area. Extell's mix and match tactic would illegally give it the best of both worlds.

The legislative history provides further evidence that the phrase "Within the Special District" was not intended to make the rule applicable to the R8 portion of the Special District. In its preparatory work for the tower-on-base rules for the Special Lincoln Square District, the City Planning Department had identified six, and only six, sites as "soft" sites where development might occur. 1993 CPC Report, at 6 (Exh. A); see also 1993 DCP Zoning Review, at 7-8 (including map showing potential development sites) (Exh. B). None of those sites was in the 5.3 percent of the District's area that is zoned R8.

One of those sites, the "ABC assemblage," is part of the Owner's zoning lot. However, the City Planning Department did not envision that a developer might one day add to the ABC assemblage by purchasing the Jewish Guild site and demolishing the 11-story building on that lot. This was no doubt because that building was then only 21 years old, and moreover used all or virtually all the development rights on its lot.

31 ZR § 23-65(a)(2) illustrates the complementary but inverse relationship between bulk packing and tower coverage: the greater the tower coverage, the less bulk packing is required to keep tower height within the intended limits. For this relationship to work, however, both rules must be applied to the same area. The Owner's mix and match tactic would illegally give it the best of both worlds. 32 1993 CPC Report, at 6 (Exh. A); see also 1993 DCP Zoning Review, at 7-8 (including map showing potential development sites) (Exh. B).

In further support of his argument, see Exh. G, Mr. Karnovsky cited the 1993 CPC Report that accompanied the Tower-on-a-Base Rules, asserting that it "describ[ed] proposed ZR § 82-34 as an urban design change that would apply 'throughout the district . . .'" to govern the massing and height of new buildings."

This does not support his argument; it fatally undermines it. Contrary to the Owner's counsel, those words in the Report refer not only to ZR § 82-34 (the Bulk Packing Rule), but also to ZR § 82-36 (the Tower Coverage Rule), which Mr. Karnovsky agrees does not apply to the R8 portion of the Owner's zoning lot.

The paragraph quoted by the Owner's counsel reads, in full, as follows:

Urban Design

Certain urban design changes would apply throughout the district:

- Section 82-34 [the Bulk Packing Rule] would establish envelope controls to govern the massing and height of new buildings by requiring a minimum of 60 percent of a development's total floor area to be located below an elevation of 150 feet.
- Section 82-36 [the Tower Coverage Rule] would establish minimum tower coverage standards, and allow for the penthouse provision at the top of buildings.

1993 CPC Report, Exh. A, at 7-8.

The underlined words are those quoted by Mr. Karnovsky. The full quote makes clear that he has misstated their meaning, and that if the Bulk Packing Rule applies “throughout the district,” so does the Tower Coverage Rule.” Another passage from the same report also makes clear that the Bulk Packing Rule and the Tower Coverage Rule are two inseparable pieces of a package intended to limit and shape towers “throughout the District”:

[I]n order to control the massing and height of development, envelope and floor area distribution regulations should be introduced throughout the district. These proposed regulations would introduce tower coverage controls for the base and tower portions of new development and require a minimum of 60 percent of a development's total floor area to be located below an elevation of 150 feet. This would produce building heights ranging from the mid-20 to the low-30 stories (including penthouse floors) on the remaining development sites.

Id. at 18-19 (underlining added). Again, if one of the rules applies “throughout the district,” they both do. There is no basis to distinguish between the Tower Coverage Rule and the Bulk Packing Rule with respect to their applicability to this zoning lot. Neither is applicable or relevant to the R8 portion of this lot.

Yet, as Mr. Karnvosky correctly argues, Exh. G, the Tower Coverage Rule does not apply to the R8 portion of the Special District. If it did, it would drastically reduce the height of the Owner's tower.

In reality, the phrase “throughout the district” was meant only to distinguish the Bulk Packing Rule from other provisions – ZR §§ 82-37, 82-38, 82-39, and 82-40 – discussed immediately afterward in the Report that apply only to specific portions of the District. Thus, the paragraph quoted by Mr. Karnovsky begins, “Certain urban design changes would apply throughout the District.”. The next paragraph begins with, “The following would apply along Broadway.”. The one after that begins with, “For the Bow Tie sites, the following would apply.”. And the one after that begins with, “On the Mayflower Block, the following would apply, in addition to the controls applicable to Broadway

sites.” Below each of these prefatory clauses, each successive paragraph contains bullet points summarizing the various new zoning provisions applicable to each location. *Id.* at 7-9. It is obvious, then, that the phrase “throughout the district” used with reference to the Bulk Packing and Tower Coverage Rules merely contrasts the area of applicability of those rules (“throughout the district”) to the areas of applicability of the other rules (respectively, “along Broadway,” “for the Bow Tie sites,” and “on the Mayflower block”).

The broader legislative history of the Tower-on-a-Base Rules also makes clear that the Owner’s interpretation is wrong. As stated above, those rules were intended to limit height to “the low-30 stories,” to prevent another Millennium Tower, the West 67th Street tower that reached its unexpected height with the help of very high ceiling heights in the movie theaters in its base. This was, as DCP observed,

an extreme case [that] will rise to 46 stories or 525 feet in height, with only 42 percent its bulk located below 150 feet. This is largely due to almost 125,000 square feet of movie theater uses, which create hollow spaces that substantially add to the mass and height of the building.

Exhibit D, p. 14.

The Tower here would be almost half as tall again as the Millennium Tower. And indeed, given a big enough R8 portion, under the Owner’s interpretation it could have been *1,019 feet high*, almost *double* the height of the Millennium Tower. Surely, an interpretation that does nothing to restrict height was not what the Legislature intended.

Finally, even if the prefatory phrase “Within the Special District, . . .” gives rise to ambiguity, which it does not, the statute could not be interpreted to negate the legislature’s purpose in enacting it. Long v. Adirondack Park Agency, 151 A.D.2d 189, 194 (3d Dep’t 1989), *aff’d*, 76 N.Y.2d 416 (1990) (“Adherence to the letter will not be suffered to ‘defeat the general purpose and manifest policy intended to be promoted’”) (*citing* Surace v. Danna, 248 N.Y. 18, 21 (1928) (Cardozo, J.)); Abood v. Hospital Ambulance Services, Inc., 30 N.Y.2d 295, 298 (1975) (“the literal language of the statute, where it does not express the statute’s manifest intent and purpose, need not be adhered to”); Local Gov’t Assistance Corp. v. Sales Tax Asset Receivable Corp., 2 N.Y.3d 524, 536-37 (2004) (“Statutes must be construed to effectuate the intent of the Legislature. . . [T]he failure to make that intent plain in the statute. . . cannot serve to void the Act.”); Matter of Jamie J., 30 N.Y.3d 275, 283-84 (2017) (“courts should not adopt ‘vacuum-like’ readings of statutes in ‘isolation with absolute literalness’ if such interpretation is ‘contrary to the purpose and intent of the underlying statutory scheme’”).

IV. EXTELL'S PURPORTED MECHANICAL SPACES VIOLATE SECTIONS 22-12 AND 12-10 OF THE ZONING RESOLUTION

The Owner's aggregate 196 feet – nearly 20 conventional floors – of purported mechanical spaces below the residential tower floors make up fully one-quarter of the height of its building. These spaces violate both use and bulk restrictions in the Zoning Resolution.

These floors do not fall within any Use Group in the Zoning Resolution. The Owner's ZD1, however, claims that they fall within the Zoning Resolution's Use Group 2, which allows residential uses and "accessory uses." ZR § 22-12.

"Accessory uses" is a defined term in the Zoning Resolution: "An 'accessory use': (a) is a use conducted on the same zoning lot as the principal use . . . ; and (b) is a use which is clearly incidental to, and customarily found in connection with, such principal use" ZR § 12-10.

These spaces violate the use restrictions because they are not a use "customarily found in connection with residential uses," and therefore do not fit within the Zoning Resolution's definition of "accessory use." New York courts have not hesitated to review agency determinations that a so-called accessory use is in fact "customary." See, e.g., *Gray v. Ward*, 74 Misc.2d 50, 55 (Sup. Ct. Nassau Co. 1973), *aff'd on opinion below*, 44 A.D.3d 597 (2d Dep't 1974) (overruling zoning board determination that heliport is accessory use for shopping center); *Exxon Corp. v. BSA*, 128 A.D.2d 289 (1st Dep't 1987) (overruling zoning board determination that convenience store is not accessory use for gas station).

The property owner must demonstrate that the accessory use has "commonly, habitually and by long practice been established as reasonably associated with the primary use." *Gray*, 74 Misc.2d at 55 (*citing Town of Harvard v. Maxant*, 275 N.E.2d 347 (Mass. S.J.C. 1971) (emphasis added)).

The Voids do not come close to meeting that high standard, and so on January 14, 2019, DOB issued a Notice of Intent to Revoke its prior approval of the Owner's 2018 Zoning Diagram:

The proposed mechanical space on the 18th floor of the Proposed Building does not meet the definition of "accessory use" of § 12-10 of the New York City Zoning Resolution. Specifically, the mechanical space with floor-to-floor height of approximately 160 feet is not customarily found in connection with residential uses.

Notice of Intent to Revoke, Exh. I.

DOB has not yet explained why, less than three months after issuing this Notice, it again reversed itself and approved a slightly tweaked new ZD1. There is certainly nothing in the new plan that explains the turnabout; it simply replaces a single 160-foot void with three contiguous smaller ones – 48, 64, and 64 feet in height totaling 176 feet in height. The combined height of these three spaces plus the fourth 20-foot high space is 196 feet – 25.3 percent of the building's 775-foot height.

Adding the 33 feet of mechanical space at the top of the building, the total is 229 feet – a ludicrous 30 percent of the building’s height. This volume is two-thirds as big as the 292-foot-high building the Owner pretended to be building for two years.

Presumably, however, DOB was responding to the Owner’s argument, in a January 25, 2019 letter to DOB, that DOB and BSA had previously approved such voids in the case of a building on 15 East 30th Street.⁴ The BSA’s decision concerning that building, BSA Cal. No. 2016-4327-A, was based in part on the appellant’s failure to provide any evidence or expert testimony in support of its claim that such voids were truly “irregular,” despite the Board’s request that it do so.

Since that decision, the DCP has provided decisive confirmation for this claim. In 2018, it conducted a survey of the mechanical space of 796 residential buildings constructed in R6 through R10 districts between 2007 and 2017. The Department found that “[o]nly a few TOB [tower-on-base] buildings had a mechanical floor below the highest residential floor (exclusive of cellars),” and although many non-TOB towers had one or more mechanical floors below it, “their typical height was 12-15 feet....” Exh. K, at 11.

“Larger mechanical spaces were generally reserved for the uppermost floors of the building in a mechanical penthouse, or in the cellar below ground” – where they were not simply being deployed to boost the expensive apartments above them. U DCP, Environmental Assessment Statement, Residential Mechanical Voids Text Amendment (Jan. 25, 2019, revised Apr. 9, 2019) Attachment A, at 2 (annexed hereto as Exhibit N). It was these anomalous buildings – far from “customary” – that provoked the agency to introduce new legislation prohibiting them. The proposed restrictions, now before the City Council, would clearly not allow the building here. In any event, Appellants believe that Cal. No. 2016-4327-A was wrongly decided and should be reversed.

In its January 25, 2019 letter, the Owner did not even try to claim that the voids in its proposed building are “customary.” Instead, it argued that they are not a “use,” based on the fact that they need not count as “floor area” under the bulk -- not use -- provisions of the statute. However, DOB had not contended that these spaces are separate “uses” but rather that they purport to be, but are not in fact, “accessory” to the residential uses of the building. The Owner itself has conceded this point, listing these spaces in its ZD1 as falling within Use Group 2, which is for residential uses other than single-family homes.

Moreover, The Owner’s argument is a non-sequitur. Why should the claimed exclusion of these spaces from the definition of “floor area” mean that they need not fit within a Use Group? The statute provides a definition of “use,” and despite the Owner’s efforts to argue otherwise, it strongly supports the argument that mechanical space qualifies under either independent criterion:

⁴ Letter from David Karnovsky to Martin Rebholz, R.A., and Scott Pavan, R.A. (Jan. 25, 2019), at 3 (Exh. M).

- (a) any purpose for which a #building or other structure# or an open tract of land may be designed, arranged, intended, maintained or occupied or
- (b) any activity, occupation, business or operation carried on, or intended to be carried on, in a #building or other structure# or on an open tract of land.

ZR § 12-10.

Whether one accepts the Owner's description or Appellants', the space here plainly qualifies as a use. According to the Owner, it will be "designed," "arranged," "intended," "maintained," and "occupied" for the purpose of providing necessary mechanical equipment. According to Appellants -- more accurately -- it will be "designed," "arranged," "intended," "maintained," and "occupied" for the purpose of boosting the heights of the tower apartments above it. In both instances, however, the space remains a "use." In both instances too, it qualifies under the alternative test as an "activity" or "operation" "carried on" in the building.

In addition to arguing that these supposed mechanical spaces are not accessory uses, the Owner claims that they are permissible as "space used for mechanical equipment," as provided for in ZR § 12-10. As already stated, that section excludes such space from the definition of "floor area" for the purposes of calculating FAR, the basic measure of bulk in the Zoning Resolution. To qualify for the exclusion, however, the space must actually be "used for mechanical equipment." ZR § 12-10 (emphasis added).

Nothing in the Owner's public documents supports its claim that this space is necessary to house mechanical equipment. The Owner does not even try or feign an attempt to justify the subject 48- or 64- foot tall clearance voids as necessary for the operation of the mechanical equipment. The subject mechanical equipment is not described, nor is any technical data about this equipment given to either the DOB or the court in the related action brought by the not-for-profit The City Club of New York, eponymously entitled The City Club of New York v Extell Development Company, pending in New York State Supreme Court, New York County, Index No. 154215/2019.

In its opposition filing, Extell, parent of the Owner, remains silent on the nature of the mechanical equipment or its operational characteristics that could clarify its spatial requirements and describe how the cavernous volumetric cubic footage is tied to the optimal technical exploitation of the subject equipment.

The pretextual nature of the "technical" need for the limitless high voids above the mechanical equipment is exposed upon a review of the April 4 ZD1. The July 26, 2018 ZD1 contained a 160-foot void. It has now been replaced by three smaller voids in response to the concerns raised by the Fire Department over the ability to fight a fire in what can essentially become a 160-foot high oven. The staircases and the connections that the Owner had to place within the void to mollify the Fire Department has eaten up valuable FAR. In response, the Owner converted a residential floor on

the upper level of the base of the structure into mechanical equipment space (for a schematic side-by-side comparison of the mechanical equipment voids exhibited in respective ZD1s, please see Exhibit N). This is despite the fact that the alterations needed to satisfy the Fire Department are not said to have displaced the mechanical equipment in the void. The mechanical equipment was moved simply to make up for the lost FAR. The void remained.

What is more, the use of the word composition “mechanical equipment voids” is a sort of a misnomer. There can be no mechanical void per se. The term “void” presupposes the absence of matter--emptiness. It is merely a void in space of any number of vertical feet that an architect can select to not use. There is nothing to stop the Owner from building a residential floor and use up the FAR at a reasonable height, say 20, 25 or 30 above the mechanical equipment. Going beyond the clearance that is specified by the manufacturer for the operation of the equipment, the Owner feels that the Zoning Resolution has no say in the height at which it can start building livable space. Hence the idea of the void. The logical extension of Kranovsky’s argument is that the Owner can build a 1,000-foot high structure with a floor of apartments at the highest point, suspended in mid-air above the voids of choice, as long as at the bottom of the bottomless pit there is a water boiler and an HVAC system. Such view of accessory use language in the ZR is fatuous on its face.

The fact that the statute does not itself draw a specific line between permissible and impermissible floor height is hardly determinative. The Court of Appeals, analyzing whether a 480-foot radio tower qualified as an accessory use on a university campus, wrote, “The fact that the definition of accessory radio towers contains no such size restrictions supports the conclusion that the size and scope of these structures must be based upon an individualized assessment of need.” N.Y. Botanical Garden v. BSA, 91 N.Y.2d 413 (1998). The New York County Supreme Court made the same point: “Since there is no specific definition of ‘mechanical equipment’ in the Zoning Resolution or any definitive finding by DOB on this issue, it demands administrative determination in the first instance.” Educ. Constr. Fund v. Verizon New York, 36 Misc.3d 1201(A) (Sup. Ct. N.Y. Co. 2012), *aff’d*, 114 A.D.2d 529 (1st Dep’t 2014). In other words, the question must be resolved based on the facts of the individual case.

In this vein, the BSA ruled that the DOB appropriately restricted the floor area of the cellar to qualify as accessory to residential use in the Matter of Chaya Schron and Eli Schron, BSA Cal. No. 14-11-A (a copy of decision is annexed hereto as Exhibit O). In that appeal, the BSA, in reliance on the Botanical Garden decision, accepted the principle that “where the ZR does not provide a size limitation, the appropriate limitations is based on an ‘individualized assessment of the need’ for the accessory use . . .” The BSA used the Botanical Garden “assessment of the need” analysis “in balancing the historical and practical purpose of accessory cellars with the policy considerations within the definition of accessory use.” In so doing, the BSA upheld the DOB’s restriction that residential cellars not exceed 49 percent of the floor area of the home, despite the fact that no spatial or area size limitation was present in the text of the Zoning Resolution. The BSA found that “size can be a rational and consistent form of establishing the accessory nature of certain uses . . .” The

BSA noted that “the ZR sets limits on above grade floor area, which counts towards zoning floor area and so it is reasonable to limit the below grade floor space, which is not addressed within bulk regulations as it does not count towards bulk, but does contribute to the home’s overall occupation of space.”

The Owner’s mechanical void is not only contrary to the plain language of the Zoning Resolution, but also contrary to the purpose of the 1993 tower-on-a-base amendments. No one in 1993 anticipated that a developer might insert enormous volumes of empty space in its building solely to make it higher. As the Chair of the Planning Commission, Marisa Lago, acknowledged at a town hall meeting last year, any further regulation of mechanical voids, such as the legislative proposal now before the City Council, would be a clarification, not new law⁵: “The notion that there are empty spaces for the sole purpose of making the building taller for the views at the top is not what was intended [by the City’s zoning laws].” Joe Anuta, “City Wants to Cut Down Supertalls,” Crain’s New York (Feb. 6, 2018), at 2 (Exhibit Q hereto).

To achieve the purpose of the 1993 tower-on-a-base amendments, the space housing the mechanical equipment, as accessory use exclusion to bulk, needs to be given its commonly accepted meaning of covering only footprint area and volumetric space, or spatial clearance, necessary for optimal operation of the equipment as per the manufacturer’s guidelines. The principle of the “commonly accepted meaning” that does not require definition in the Zoning Resolution was adopted by the BSA in the Matter of Benjamin Shaul, Magnum Management, BSA Cal. No. 67-07-A (a copy of decision is annexed hereto as Exhibit P).

In that appeal, the BSA encountered a conundrum of the word “height” in the context of the Sliver Law limitations. The word “height” was not defined in the Zoning Resolution. A developer betted that the absence of the definition created an ambiguity as to whether the limitations on the vertical height of the building could be defeated by setting back penthouses deep out of sight from the street view. The DOB adopted the “penthouse” trick, erroneously believing that as height limitations under the Sliver Law were merely aesthetic in purpose, the “word” height meant “visual” height, as opposed to “actual” height. The BSA disapproved of such a gallingly twisted logic, and adopted a definition of the word height as the vertical distance from curb to the highest roof level. The BSA relied on a common sense principle that where the Zoning Resolution uses a word that has an accepted common meaning, no discrete definition is required.

This common sense approach and the need to effectuate the 1993 tower-on-a-base amendments limiting tower heights, must result in the only accurate conclusion that can be reached here. At the time of the 1993 tower-on-a-base amendments, every building in New York City had areas with mechanical equipment in it. If the intent of the drafters of the 1993 amendments was to limit the height of towers in the special districts, as well as throughout the city, accessory use for mechanical equipment should cover only area and space necessary for the placement and use of the mechanical

⁵ For review of proposed 2019 Zoning Resolution Amendment, concerning residential Tower Mechanical Voids, please see Exhibit M.

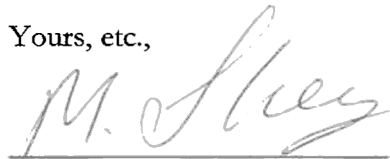
equipment. All other voids that a developer elects to leave undeveloped should be counted towards the FAR. In essence, if a developer decides not to develop a "void", it should bear the expense of its election.

V. CONCLUSION

Because the Owner's plans for 36 West 66th Street violate both the letter and the purpose of the Zoning Resolution, Appellant respectfully requests that the Board revoke the Permit.

Dated: New York, New York
April 13, 2018

Yours, etc.,



KLEIN SLOWIK PLLC

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LIST OF EXHIBITS

Exhibit A

CPC Report N 940127(A), dated December 20, 1993

Exhibit A-1

CPC Report N 940013(A) ZRM, at 3 (Dec. 20, 1993)

Exhibit B

Dep't of City Planning, Special Lincoln Square District Zoning Review (May 1993)

Exhibit C

Extell's 2019 Zoning Diagram, approved April 4, 2019

Exhibit D

ZD1 Zoning Diagram, filed Nov. 24, 2015, approved October 24, 2016

Exhibit E

Betsy Kim, "Richard and Jon Kalikow Say What They're Really Thinking," *GlobeSt.com*, dated Feb. 20, 2018

Exhibit F

The Zoning Challenge and DOB's denial, in document called a "ZRD2

Exhibit G

Email of David Karnovsky to Council Land Use [sic], Office of Council Member Helen Rosenthal, dated December 18, 2017

Exhibit H

A complete copy of the prior appeal filing BSA 2018 199 A, filed on December 19, 2018

Exhibit I

Notice of Intent to Revoke, dated January 14, 2019

Exhibit J

Work Permit Number 121190200-01-NB, issued for the address 36 West 66th Street, New York County, on April 11, 2019

Exhibit K

Dep't of City Planning, Residential Mechanical Voids Findings, dated Apr. 2018, updated Feb. 2019

Exhibit L

Dep't of City Planning, Regulating Residential Towers and Plazas: Issues and Options: A Discussion Document (1989)

Exhibit M

2019 Residential Tower Mechanical Voids Amendment

Exhibit N

Schematic Side-by-Side Comparison of Mechanical Spaces in Structures exhibit in 2018 and 2019 ZD1 filings

Exhibit O

A copy of BSA Decision in Matter of Chaya Schron and Eli Schron, BSA Cal. No. 14-11-A.

Exhibit P

A copy of BSA Decision Matter of Benjamin Shaul, Magnum Management, BSA Cal. No. 67-07-A

Exhibit Q

Joe Anuta, "City Wants to Cut Down Supertalls," Crain's New York, dated Feb. 6, 2018

**CITY PLANNING COMMISSION**

December 20, 1993/Calendar No. 3

N 940127 (A) ZRM

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 200 of the New York City Charter, for amendment of the Zoning Resolution of the City of New York, relating to Article VIII, Chapter 2, Section 82-00, to modify the use, bulk, and accessory parking and loading regulations of the Special Lincoln Square District and to reference in other sections.

Applications for amendments (N 940127 ZRM and N 940128 ZRM) to the Zoning Resolution were filed by the Department of City Planning on September 16, 1993 to amend the Special Lincoln Square District ("Special District"), located in the southern portion of Community District Seven between Central Park West, Amsterdam Avenue, and West 60th and West 68th Streets. The proposed text amendments would add additional urban design controls, modify commercial use regulations, mandate subway improvements in certain locations, amend mandatory arcade requirements, and permit public parking and curb cuts through different regulatory requirements.

The two alternative proposed text amendments are identical except for the proposed controls on arcades. Except where noted, all text changes relate to both text amendments. Application N 940127 ZRM proposes to retain the arcade as a mandated urban design requirement, with a reduced bonus from seven square feet per square foot of arcade to three square feet per square foot of arcade, and eliminate the requirement for an arcade on the north side of West 61st Street. Application N 940128 ZRM proposes to eliminate the arcade as a mandated urban design requirement and the bonus generated by the provision of such arcade.

On November 15, 1993, an alternative modification to both original applications was filed, (N 940127 (A) ZRM and N 940128 (A) ZRM) which proposes to reduce the special height limitation on Blocks 1 and 2 from 300 feet, with the penthouse provision, to 275 feet, with the penthouse provision.

On November 23, 1993, a second set of alternative modifications to the applications were filed (N 940127 (B) ZRM and N 940128 (B) ZRM) which proposes to eliminate the penthouse provision throughout the district, and to reduce the special height limitation on Blocks 1 and 2 from 300 feet, with the penthouse provision, to 275 feet, without the penthouse provision.

This report adopts with modifications one of the alternative modifications, N 940127 (A) ZRM.

RELATED ACTION

In addition to the zoning text amendment which is the subject of this report, the Department certified a zoning map amendment (C 940129 ZMM) for an area north of the Special District, along Broadway from West 68th Street to a midway point between West 71st and 72nd streets, on October 4, 1993. However, implementation of the proposed zoning text does not require action by the City Planning Commission on the proposed map change. This item is subject to ULURP regulations, and will be considered separately by the Commission.

BACKGROUND

The Department of City Planning has proposed a zoning text amendment to the Special Lincoln Square District in order to respond to planning issues relating the area's mix of uses and the form and height of new development. The Department explored these issues in its May 1993 discussion document entitled "Special Lincoln Square District Zoning Review". This report described the twenty year history of development pursuant to the Special District's controls, and recommended certain text changes. The proposed text evolved after extensive consultation with Community Board 7, the Manhattan Borough President's Office and a number of civic groups.

It was found that a series of interrelated problems affect the character of development in the Special Lincoln Square District. These issues include existing urban design

regulations and the amount of commercial use allowed in the underlying C4-7 district. With regard to land use, the great majority of developments in the Special District are predominately residential, with only limited amounts of commercial and/or community facility uses. In contrast, a project in the district now under construction will contain about 5 FAR of retail, movie and health club uses (plus another 1 FAR of below-grade, commercial use). The intensity of activity generated by this concentration of commercial uses greatly exceeds that of other buildings built in the district which average about 1 FAR of commercial use.

In terms of urban design controls, it was found that the height of buildings in the Special District needed to be regulated. Several buildings in the district have exceeded 40 stories in height, and are out of character with the neighborhood. Current district requirements do not effectively regulate height, nor govern specific aspects of urban design which relate to specific conditions of the Special District. In addition, the mandated tower-on-a-base form along Broadway needs to be refined so that development on large sites is compatible with the district.

Existing Zoning

In the early 1960's the Lincoln Square area was redeveloped for major cultural and institutional uses, with the city facilitating site acquisition under the 1957 Lincoln Square Urban Renewal Plan. After the development of Lincoln Center and Fordham University, the areas surrounding the Urban Renewal Area experienced increased development pressure. Recognizing the unique opportunity that this presented, the City Planning Commission created the Special Lincoln Square District in 1969 to guide new growth and uses in a way that would complement the newly-sited institutions.

To achieve its objectives, the district was established to regulate ground floor uses and urban design elements, and makes floor area bonuses available by City Planning Commission Special Permit in exchange for the provision of certain public amenities. Since it was created, certain changes have been made to the district relating to public

amenities, bonuses and floor area. Originally, bonuses could be granted for a variety of amenities, including arcades, plazas, pedestrian malls, covered plazas, subsurface connections to the subway and low or moderate income housing. The incentive bonuses permitted development on a zoning lot up to 14.4 FAR, with no more than 12 FAR for residential uses.

After the adoption of Upper West Side contextual zoning (1984) and the city-wide inclusionary housing program amendments (1987), all bonusable public amenities were eliminated, except for the arcade required along the east side of Broadway, subway improvements and low or moderate income housing. The 1984 amendment reduced the permitted maximum FAR from 14.4 to 12. The 1987 amendment substituted the as-of-right inclusionary housing program for the lower income housing bonus.

The following is a description of current special district controls:

Land Use. Most of the Special District is zoned C4-7, which permits high density residential, commercial and community facility development with a maximum FAR of 10, bonusable to 12. A small area of the district is zoned R8, which permits mid-density residential and community facility development. The Special District encourages retail uses compatible with the area by permitting those commercial uses allowed in the underlying zoning district or listed in Use Group L. Use Group L comprises uses selected from those permitted in the C4-7 district which promote pedestrian oriented activity and serve visitors to the area. Those uses not listed in Use Group L are limited to 40 feet of street frontage.

Urban Design. The Special District's urban design regulations require buildings fronting on Broadway, located on the east side of Broadway between West 61st and West 65th streets, West 67th and 68th streets, the east side of Columbus Avenue between West 65th and West 66th Streets, and the west side of Broadway between West 65th and 68th streets and West 60th and 62nd streets to have an 85-foot high base built at the

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streetline, with the tower above set back at least 15 feet on wide streets and 20 feet on narrow streets.

The special district recognized the distinct character of two sites in the area: the "bow tie" sites, located on the block bounded by West 66th, West 67th, Columbus Avenue and Broadway, and the block bounded by West 62nd, West 63rd, Columbus Avenue and Broadway. On these two blocks which frame the bow tie intersection and parks, the building walls of new developments must coincide with the streetlines, without any setback and with no minimum or maximum height specified.

Arcades. The Special District requires that mandatory arcades be provided on the following street frontages: the north side of West 61st Street between Central Park West and Broadway, the east side of Broadway between West 61st and West 65th Streets, and the east side of Columbus Avenue between West 65th and West 66th Streets. The arcade generates a bonus at the rate of seven square feet per square foot of arcade, for a maximum of 1 FAR.

Subway Improvements. Subway improvements affecting general accessibility, safety, or improving circulation are eligible to generate a bonus for a maximum of 2 FAR.

Parking and Loading. Accessory off-street parking and public parking garages are permitted only by CPC special permit. Off-street loading facilities are only permitted in conjunction with the granting of a special permit.

Existing Land Use

The Department's discussion document examined land use trends in the district since 1969 and identified three distinct sub-areas:

Sub-district A: The northern section of the district, between West 64th and West 68th streets, contains special district development that has predominately replicated the

traditional Upper West Side land use pattern found directly to the north: high density residential use with ground floor commercial uses.

Sub-district B: The district's major institutions, Lincoln Center and Fordham University, are located in the southwestern section of the district, west of Columbus Avenue between West 60th and West 68th streets.

Sub-district C: The southern portion of the district, between West 60th and West 64th streets is a center of commercial activity, due to its proximity to midtown and Columbus Circle. The area also contains offices in pre-1969 buildings, and the district's two hotels, the Mayflower on Central Park West and the Raddison Empire on West 63rd Street.

Six sites in the district were identified that could be potentially developed under existing zoning. The sites are:

1. Bank Leumi, a full-block site directly south of the Lincoln Square development between Broadway, Columbus Avenue, West 66th and West 67th Streets;
2. Tower Records/Penthouse Magazine building, a five story commercial building on Broadway, just north of Lincoln Center between West 66th and West 67th Streets;
3. Regency Theater, located at West 67th and Broadway;
4. Saloon/Chemical Bank buildings, a possible assemblage located on Broadway between West 64th and West 65th Streets;
5. Mayflower block, a full-block site bounded by Broadway, Central Park West, West 61st and West 62nd Streets, containing a vacant parcel facing Broadway and the Mayflower Hotel on Central Park West;
6. ABC assemblage, three low-rise structures located on the south side of West 66th Street, between Columbus Avenue and Central Park West.

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TEXT AMENDMENT AS ORIGINALLY REFERRED

The provisions of the text amendments as originally referred include six changes to the existing zoning. It proposes a limit of the amount on overall commercial density in the northern portion of the district; commercial use restrictions for entertainment uses and requirements for retail continuity; urban design controls to regulate building form and height, and to respond to specific site conditions; requirements for subway access; and requirements for parking and loading. In terms of arcades, it proposes two alternates: the continuation of this requirement (at a reduced bonus rate) or the elimination of this requirement.

A summary of the major changes are listed below:

Underlying zoning

- Section 82-31 would limit the amount of commercial floor area allowed to 3.4 FAR in sub-district A, where residential and institutional development predominates. Section 82-311 would permit an increase in commercial use by CPC special permit.

Use Restrictions

- Section 82-23 would limit Use Groups 8 and 12, including movie theaters, to 1 FAR in all areas of the district, except Sub-district B, the area dominated by Lincoln Center.
- Eliminate Use Group L from the district.
- Sections 82-21 and 82-24 would mandate retail continuity and transparency regulations at the ground level.

Urban Design

Certain urban design changes would apply throughout the District:

- Section 82-34 would establish envelope controls to govern the massing and height of new buildings by requiring a minimum of 60 percent of a development's total floor area to be located below an elevation of 150 feet.
- Section 82-36 would establish minimum tower coverage standards, and allow for the penthouse provision at the top of buildings.

The following would apply along Broadway:

- Section 82-37 would maintain the current requirement for an 85 foot high base along Broadway, with towers setback from the streetline for a minimum of 15 feet on wide streets and a minimum of 20 feet on narrow streets.
- Section 82-38 would require recesses below 85 feet for a minimum of 15 percent and a maximum of 30 percent.
- Section 82-39 would permit dormers as a permitted obstruction above 85 feet.

For the Bow Tie sites, the following would apply:

- Section 82-38 would require that these sites be developed with a streetwall building, with a setback at 150 feet of not less than 10 feet. New buildings would be built to the streetlines of West 63rd and West 66th Streets and continue around the adjoining corners for one-half of the Broadway and Columbus Avenue block frontages. The remaining portion of the Broadway frontage would provide a 85 foot streetwall.
- Section 82-38 would require two ranges of recesses: below 85 feet, recesses would be required for a minimum of 15 percent and a maximum of 30 percent of the length of the streetwall; above 85 feet, recesses would be required for a minimum of 30 percent and a maximum of 50 percent. An expression line would be required at 20 feet.
- A dormer would be permitted above 150 feet, for a minimum of 50 percent and a maximum of 100 percent of the streetwall width, reducing at a rate of 1 percent as the height of the dormer rises by a foot.

- Section 82-40 would establish a 300 foot height limit, with the penthouse provision permitted for up to 4 stories above this height.

On the Mayflower Block, the following would apply, in addition to the controls applicable to Broadway sites:

- Section 82-37 would require a contextual, high street wall envelope on the Central Park West frontage.

Mandatory Arcades

Text Amendment N 940127 ZRM proposes to:

- Retain the arcade as a mandated urban design requirement, with a reduced bonus from seven square feet per square foot of arcade to three square feet per square foot of arcade.
- Eliminate the requirement for an arcade on the north side of West 61st Street.

Text Amendment N 940128 ZRM proposes to:

- Eliminate the arcade as a mandated urban design requirement and the bonus generated by the provision.

Subway Access

- Section 82-11 would require subway stair relocation or access be provided in the development of sites adjacent to the West 66th Street and the 59th Street/Columbus Circle subway stations.
- Section 82-32 would retain the subway improvement bonus.

Parking and Loading Requirements

- Eliminate the district's special permit for public parking garages, since a special permit mechanism is provided in the underlying zoning regulations, Section 74-52.
- Section 82-50 would permit loading docks pursuant to underlying regulations, and establish a City Planning Commission authorization for curb cuts in instances

when they could not be accommodated on a narrow street, 50 feet from the intersection of a wide street.

Supplementary Use Regulations

Section 82-22 would permit commercial use to be located at or above the level of residential uses in the same building, provided that there is separate direct access to the street and no access to the residential portion of the building.

Right to Construct

Section 82-05 would terminate the right to continue construction in the Special District if the provisions of Section 11-30 are not met by the date of adoption of this zoning text amendment by the City Planning Commission.

POST-REFERRAL CHANGES

The zoning text amendment was referred to Manhattan Community Board 7 and the Manhattan Borough President on October 5, 1993. After referral, a number of issues were raised concerning the height of new development. As a result, the Department amended the proposed text. The changes included:

N 940127 (A) ZRM and N 940128 (A) ZRM, filed on November 15, 1993, proposes an alternative modification to Section 82-40 to reduce the special height limitation on Blocks 1 and 2 from 300 feet, with the penthouse provision, to 275 feet, with the penthouse provision.

N 940127 (B) ZRM and N 940128 (B) ZRM, filed on November 23, 1993, proposes a second set of alternative modifications to the applications to Sections 82-36 and 82-40 to eliminate the penthouse provision throughout the district, and to reduce the special height limitation on Blocks 1 and 2 from 300 feet, with the penthouse provision, to 275 feet, without the penthouse provision.

ENVIRONMENTAL REVIEW

These applications have been reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 94DCP007M. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on October 4, 1993.

After issuance of the Negative Declaration, the Department modified several sections of the proposed text amendment.

The Environmental Assessment and Review Division reviewed the modifications and determined these changes to be a minor modification on December 20, 1993.

PUBLIC REVIEW

On October 5, 1993 the original applications (N 940127 ZRM and N 940128 ZRM) were referred to Manhattan Community Board 7 and the Borough President of Manhattan.

Community Board Public Hearing

Community Board 7 held a public hearing on the original applications on October 28, 1993, and, on November 3, 1993, by a vote of 39 to 1 with 0 abstentions, adopted a resolution recommending approval of the application with the following conditions:

1. "A maximum FAR of 10. CB 7 believes this is an appropriate allowable density given the crowded conditions in the Special District. 10 FAR could be achieved by either reducing the density to 8 FAR and allowing a 2 FAR bonus for affordable housing, or eliminating FAR bonuses and mandating affordable housing within 10 FAR."

2. "Require a straightforward height limit of 275 feet throughout the Special District."
3. "Require a special permit for new development throughout the Special District... As prerequisite, any development within the Special District must abide by the following regulations:
Throughout the District: Maximum 10 FAR; 275 height limit;
Along the east side of Broadway (excluding bow tie sites): 85 foot streetwall, 15 foot setback, arcade requirement without bonus;
Mayflower site: 125 foot streetwall, 15 foot setback on Central Park West;
Northern bow tie site: Specific regulations to be determined during ULURP, though CB7 notes preference for the following proposal over City Planning's proposal for the northern bow tie site: No setback for 60% of linear frontage on 66 Street, Columbus and Broadway; 85 foot street wall on remaining 30 % of linear frontage on Broadway; 55-60 foot streetwall on remaining 30 % of linear frontage on Columbus..."
4. "Theaters should not be restricted to 1 FAR."
5. "Restrict zoning lot mergers to 20 percent of floor area"

Borough President Recommendation

The original applications were considered by the Manhattan Borough President, who issued a recommendation conditionally approving the application with conditions on November 15, 1993.

1. The Manhattan Borough President agrees with CB 7 that 10 FAR is more appropriate in the Lincoln Square area than 12 FAR.
2. In the event that the issues of density is deemed to fall outside the scope of the current action, the Borough President recommends 1) that the matters found to be within scope be evaluated within this public review process and adopted or modified, and 2) that DCP be directed to undertake a more comprehensive review of mapped vs. built vs. "livable" density within this district, and ultimately, to propose appropriate zoning actions.
3. The Borough President recommends: 1) the elimination of the arcade bonus; 2) the restriction of the inclusionary housing bonus to development on-site or entirely within the boundaries of the Special District; and 3) the reevaluation of the economics of the subway bonus to relate the amount of floor are granted

more clearly and directly to the effectiveness of the subway improvements in mitigating the impacts of high density development.

4. The Borough President recommends a 275 foot height limit on each of the two bow-tie sites as well as a district wide height limit.
5. A special permit requirement would result in better building design for what is really a unique area.
6. The Borough President supports the community's solution with regard to streetwall heights, setbacks and other building design controls and thinks that either CB 7's recommendation or those of Landmark West! are preferable to specifics of the DCP proposal.
7. The idea of restricting zoning lot mergers is generally a good one, and the Board's recommendation of 20 percent seems appropriate.
8. The Borough President is concerned about specific conditions on the Bank Leumi site (bow-tie site) and supports the preservation of the occupied tenements.
9. The Borough President supports the Board's position opposing the elimination of Use Group 8 uses (theaters and other entertainment uses) and urges DCP to devise a mechanism to require transparency from the curb level to the ceiling of the theater.
10. The Borough President acknowledges ABC's importance to the City and to the neighborhood. Therefore, continued dialogue between DCP/CPC and ABC is encouraged so that solutions to existing conflicts may be found.
11. DCP is urged to work with the community and other appropriate city agencies to help achieve improvements to the "bow-tie" parks and malls.
12. The Borough President urges DCP to move to expedite a full traffic/pedestrian circulation study of this area after adoption of the text.

City Planning Commission Public Hearing

On November 3, 1993 (Calendar Nos. 6 and 7), the City Planning Commission scheduled November 17, 1993 for public hearings on the original applications (N 940127 ZRM and N 940128 ZRM). The hearings were duly held on November 17, 1993 (Calendar Nos. 15 and 16) and were continued to December 1, 1993, (Cal. Nos. 8 and 9), and December 15, 1993 (Cal Nos. 21 and 22), when the hearing was closed.

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On November 17, 1993 (Supplemental Calendar Nos. 1 and 2), the City Planning Commission scheduled December 1, 1993 for public hearings on the modified applications (N 940127 (A) ZRM and N 940128 (A) ZRM). The hearings were duly held on December 1, 1993 (Calendar Nos. 6 and 7) and were continued to December 15 1993, (Cal. Nos. 23 and 24), and then closed.

On December 1, 1993 (Supplemental Calendar Nos. 1 and 2), the City Planning Commission scheduled December 15, 1993 for public hearings on the second modified applications (N 940127 (B) ZRM and N 940128 (B) ZRM). The hearings were duly held on December 15, 1993 (Calendar Nos. 25 and 26), and then closed.

On November 17, 1993, there were three speakers in favor of the application, and 22 speakers in opposition. Numerous speaking slips were submitted by people who were registered in opposition; however they did not speak.

Speakers in favor of the application included representatives of two property owners within the Special District.

Those opposed included the Manhattan Borough President, the local City Council member, two State Senators, a State Assemblyman, the chairperson of Community Board 7, representatives of civic organizations, a representative of a property owner and neighborhood residents.

Those in favor supported the appropriateness of the proposed changes to the zoning text, including the reduction in commercial density in the northern portion of the district and the changes to the urban design regulations.

Many of those testifying against the proposal indicated that they would support the Department's proposal for changes to the Special District, provided that additional actions be undertaken by the Commission, such as reducing the district's overall

The Commission further recognizes that one of the district's most distinguishing features is the strength of the Broadway retail corridor. Therefore the Commission believes that the retail continuity and transparency provisions of the proposed text would ensure to protect and enhance this character.

Urban Design: The Commission recognizes that the district's urban design controls need to be improved in response to the issues raised by the height and form of recent developments and specific site concerns for the remaining development sites within the district. After considering the range of urban forms presented by the Department and the community, and as depicted in the Environmental Simulation Center model and video analysis, the Commission believes that the urban design proposal as modified and described below is appropriate.

The Commission notes that since 1969 the special district's urban design regulations have required buildings fronting on Broadway to have an 85-foot high base built at the streetline, with the tower set back from the streetline at least 15 feet on wide streets and 20 feet on narrow streets. Subsequently, the 85-foot streetwall has come to strongly characterize the Broadway streetscape.

In terms of the height of new development, the Commission noted that buildings built under special district regulations range from 18 to 42 stories or 192 to 419 feet in height along Broadway, and that another project under construction will reach a height of 545 feet. The current regulations which prescribe only a maximum tower coverage, not a minimum tower coverage, have proven not be an effective control on the height of new development.

The Commission believes that development along Broadway should continue to maintain the current controls requiring an 85 foot high base along Broadway to relate to existing special district development and Lincoln Center, with tower development subject to setbacks as currently prescribed. Furthermore, in order to control the massing and

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pedestrian and vehicular traffic generated by this concentration of commercial uses greatly exceeds that of more typical district buildings which average about 1 FAR of commercial use.

The original proposal contained a restriction on commercial development in Sub-district A, where residential and institutional development predominates. The restriction would limit commercial uses to 3.4 FAR for as-of-right projects. This would in effect limit commercial use on the three large Broadway development sites in the sub-district to approximately 100,000 square feet of floor area. After evaluating the impact of the proposed regulation, the Commission modified this proposal to limit the amount of commercial floor area on a zoning lot to 100,000 square feet for as-of-right projects. Commercial use greater than 100,000 square feet would be permitted by City Planning Commission special permit only. The regulation would have essentially the same impact on the large Broadway sites, yet would permit more commercial use on smaller zoning lots. The Commission notes that the overall density of the sub-area would remain constant, while the amount of as-of-right commercial use would be reduced on the large development sites, thereby limiting the amount of future trips that would be generated from these uses. In special permit cases, the Commission would assess the proposed use, site plan and environmental effects on a case-by-case basis.

The Commission believes that the C4-7 district in the southern portion of the district, Sub-district C, where commercial uses predominate, and Sub-district B, where the district's major institutions are located, should be retained.

The original proposal contained a 1 FAR limitation on Use Group 8 and 12 in sub-districts A and C, in order to limit the amount of future movie theater development and the related traffic generated. The Commission has decided to delete this limitation, in response to Community Board 7's concerns that this limitation was not consistent with encouraging the expansion of entertainment uses within the district.

Those in favor spoke of both changes to the original text testified regarding the appropriateness of the 275 height limitation on the bow tie sites, and inappropriateness of permitting development above that height. Some speakers mentioned that they were not opposed to penthouses, but rather any development whatsoever above 275 feet in the district.

Those in favor of the 275 foot height limitation, but not the elimination of the penthouse provisions, asserted that without the penthouse provisions the bow tie site would not be developed with a full Broadway block frontage, and would therefore be a less desirable development solution.

Those in favor of the penthouse provision discussed the importance of permitting the architectural flexibility to shape the top of buildings, since so many New York City buildings are distinguished by their tops.

The hearing was closed.

CONSIDERATION

The Commission believes that the zoning text amendment to the Special Lincoln Square District, as modified, is appropriate. During the course of review, the Commission considered a wide range of issues in relation to the Special District including the urban design proposal; land use controls; arcades; and previously a approved special permit.

Land Use Controls: The Commission carefully considered the land use regulations of the Special District. Since 1969, the great majority of special district development has been predominately residential, with only limited amounts of commercial and/or community facility uses. In contrast, an as-of-right project now under construction will contain about 5 FAR of retail, movie and health club uses (plus another 1 FAR of below-grade, commercial use). The intensity of activity and the large amount of

density, applying height limitations district-wide, repealing bonus mechanisms, restricting zoning lot mergers, adding special permit requirements for development and prescribing the location of the low income built under the inclusionary housing program.

On December 1, 1993, there were 2 speakers in favor of the application for a reduction in the height limitation on Blocks 1 and 2, and 1 speaker in opposition. Those in favor included a representative of the Manhattan Borough President and a property owner. A representative of the New York City Chapter of the American Institute of Architects spoke against the proposal.

Of those speakers in favor of the 275 foot height limitation on the bow tie sites, one speaker was in favor of the continuation of the penthouse provision, and the other spoke in favor of eliminating the penthouse provision. The speaker opposed to the 275 foot height limitation asserted that there was no need for special height limitations in the district, since height limits are not as effective in minimizing the impact of development as compared with coverage controls and architectural articulation.

On December 15, 1993, there were 13 speakers. There were ten speakers in favor of the reduction in the height limitation on Blocks 1 and 2, and the elimination of the penthouse provision; two speakers in favor of the height limitation, but opposed to the elimination of the penthouse provision; one speaker in favor of the original proposal and opposed to the elimination of the penthouse provision; and one speaker was against the proposal as a whole. Those in favor of both modifications included representatives of local community groups, a representative of the Municipal Art Society and neighborhood residents. Those in favor of the height limit, yet opposed to the elimination of the penthouse provision included representative of the owner or developer of Development Block 1. Those opposed to the elimination of the penthouse provision included a representative of the Park Summit Realty Corp., a property owner. Those who were opposed included the local city council member, who remained opposed to the entire proposal.

height of development, envelope and floor area distribution regulations should be introduced throughout the district. These proposed regulations would introduce tower coverage controls for the base and tower portions of new development and require a minimum of 60 percent of a development's total floor area to be located below an elevation of 150 feet. This would produce building heights ranging from the mid-20 to the low-30 stories (including penthouse floors) on the remaining development sites.

In response to the Community Board's concern that a height limit of 275 feet should be applied throughout the district, the Commission believes that specific limits are not generally necessary in an area characterized by towers of various heights, and that the proposed mandated envelope and coverage controls should predictably regulate the heights of new development. The Commission also believes that these controls would sufficiently regulate the resultant building form and scale even in the case of development involving zoning lot mergers.

Articulation: The Commission embraces the goal of articulating the buildings within the district, especially in light of the fact that certain remaining development sites contain full block frontages along Broadway up to 230 feet long. Thus far, certain district developments have provided little articulation in the base form. The required minimum and maximum recesses range from 15 to 30 percent of the streetwall length, and shall have depths between one and ten feet. Consistent with current practice, details of recessed windows and the location of glass lines are unspecified. Therefore, the Commission believes that the mandated recesses in the base of Broadway developments would help to articulate the block fronts and would provide a better scale relationship with the street.

The dormer allowances in the required setback would provide articulation of the building above the base and provide a transition between the tower and base portions by promoting the incorporation of different architectural elements into the built form. Further, in response to suggestions from members of the New York City Chapter of the

AIA, the Commission has modified this provision to allow an additional dormer option which would permit a small amount of additional encroachment into the area of tower setback, and allow a higher streetwall base for up to 50 percent of the street frontage.

Penthouse Provisions (Section 82-36 and 82-40): During the course of public review, the Commission considered whether or not the penthouse provisions were a desirable element in the district. The penthouse provision as originally proposed permits the highest four stories or 40 feet of a development, whichever is less, to cover less than 30 percent minimum coverage which applies throughout the district, provided that the gross area of each story does not exceed 80 percent of the gross area of the story directly below it. The Commission believes that this option allows for greater architectural flexibility at a building's top, and therefore believes that the penthouse provisions of Section 82-36 and 82-40 should be maintained.

Development Blocks 1 and 2 (Bow Tie Sites): The Commission considered special urban design controls for Development Blocks 1 and 2, also known as the bow tie sites, due to their significant location at the confluence of Broadway and Columbus Avenue, and facing the district's two public spaces, Richard Tucker Park and Dante Park. According to the amendments as originally proposed and referred, these sites would have been required to be developed with a streetwall building setback at 150 feet, continuing around the adjoining corners for one-half of the Broadway and Columbus Avenue block frontages, on the southern half of the northern bow tie site and the northern half of the southern bow tie site. The remaining portion of the Broadway frontage would be required to provide an 85 foot streetwall. In addition, two different ranges of recesses would be required (below and above 85 feet); an expression line would be required at 20 feet; dormers would be permitted above 150 feet; and a 300 foot height limit would apply, with the penthouse provision permitted for up to 4 stories above this height.

The Commission studied the various urban design alternatives proposed for these sites, and has modified the proposal to require that new development rise without setback on streetwalls facing the public spaces and continuing around the corners for one-half of the Broadway and Columbus Avenue block frontages. The remaining Broadway frontages shall be required to contain an 85 foot high streetwall base, as originally proposed. The Commission also studied the appropriate height limitation for the sites, and has decided to adopt N 940127 (A) ZRM, the modified proposal to reduce the special height limitations to 275 feet, and maintain the ability to apply the penthouse provision above that height. Furthermore, the Commission notes that the other mandated articulation controls are important elements of the urban design controls. In total, the modified requirements are a large improvement over the simple 1969 requirements which only required that development coincide with the streetlines without setbacks, and contained no provision for variation or articulation in the building wall.

Development Block 3: The Commission believes that there are site conditions that warrant the addition of special controls for Development Block 3, known as the Mayflower site. This is the only site within the district to contain frontage on Central Park West, and it is immediately adjacent to the Central Park West Historic District and a New York City Landmark, the Century apartment house. Therefore, the Commission believes that contextual, high streetwall R10 A type envelope controls, rather than tower controls, should be required for the Central Park West frontage, which would ensure compatibility with adjacent historic structures.

Arcades: The Commission carefully considered the option of whether or not to continue the arcade requirement, as presented in the alternative text amendments. It was noted that since 1969, three arcades have been constructed along Broadway, and that one of these has been constructed in a modified form. They have provided an expanded and protected area for pedestrians along the length of Broadway opposite Lincoln Center and extra space for outdoor seating for the area's eating places which support the district's entertainment uses.

The Commission believes that the arcades have not been successful in providing the signature element along Broadway that was originally envisioned, and do not support retaining them as a mandated urban design requirement which generates a bonus. However, it is noted that the remaining sites along Broadway are adjacent to built arcades and present an opportunity to create a unified design feature that integrate the pedestrian space with activities characteristic of the Special District. Therefore, the mandated arcade of the proposed N 940127 (A) ZRM text amendment is modified, changing it from a mandated requirement with a bonus to a permitted option without a bonus.

Grandfather Clause: If adopted as proposed, the text amendment would have had the effect of jeopardizing a previously approved special permit granted for a project which has yet to be implemented. The Commission believes that this is inappropriate, and has modified Section 82-05 to provide a grandfather clause which would permit development under approved conditions.

During the deliberations on the text amendment, members of the Commission expressed frustration that many of the broader issues raised by Community Board 7 and others (i.e. a reduction in the density permitted in the district, height limits for all development, further restrictions in zoning lot mergers, the location of low and moderate income housing that qualifies for a bonus, special permits for all developments and a requirement for glazing above the first floor) were not included in the Department's application, and therefore could not be reviewed by the Commission. In addition, the Commission notes that the Department is scheduled to conduct a study of traffic and pedestrian circulation in the Lincoln Square bow tie during 1994. The Commission further recognizes that the Department of City Planning and the Manhattan Borough President have already convened a working group to discuss how one might substantiate the planning and environmental implication of these, and perhaps other, proposals.

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

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by the modification of Article VIII, Chapter 2, Section 82-00, as follows:

Matter in Underline is new, to be added;

Matter in ~~strikeout~~ is old, to be deleted;

Matter in italics or within # # is defined in Section 12-10;

*** indicate where unchanged text appears in the Zoning Resolution.

Article VIII

Chapter 2 Special Lincoln Square District

82-00 GENERAL PURPOSES

* * *

82-01

Definitions

* * *

Development

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For purposes of this Chapter a "development" includes both #development# and #enlargement# as defined in Section 12-10 (DEFINITIONS).

82-02

General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Lincoln Square District# and in accordance with the provisions of this Chapter, certain specified #bulk# regulations of the districts on which the #Special Lincoln Square District# is superimposed are made inapplicable, and special regulations are substituted in this Chapter. Each #development# within the Special District shall conform to and comply with all of the applicable district regulations of this Resolution, except as otherwise specifically provided in this Chapter. ~~and the City Planning Commission, by special permit after public notice and hearing and subject to Board of Estimate action, may grant special permits authorizing modifications of specified applicable district #bulk# regulations for any #development# in the #Special Lincoln Square District#.~~ In addition to meeting the requirements, conditions, and safeguards prescribed by the Commission as set forth in this Chapter, each such #development# shall conform to and comply with all of the applicable district regulations on #use#, #bulk#, supplementary #use# regulations, regulations applying along district boundaries, #accessory signs#, #accessory# off street parking and off street loading, and all other applicable provisions of this resolution, except as otherwise specifically provided in this Chapter.

82-03

Action by the Board of Estimate

Delete entire section

82-04

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82-03

Requirements for Applications

An application to the City Planning Commission for the grant of a special permit or an authorization respecting any #development# under the provisions of this Chapter shall include a site plan showing the location and the proposed #use# of all #buildings or other structures# on the site; the location of all vehicular entrances and exits and proposed off-street parking spaces, and such other information as may be required by the City Planning Commission for its determination as to whether or not a special permit or an authorization is warranted. Such information shall include, but not be limited to, justification of the proposed #development# in relation to the general purposes of the #Special Lincoln Square District#. ~~(Section 82-00), its relation to public improvements (82-05), its proposed #uses# (Section 82-06), its parking facilities (Section 82-07), and its bulk and height (Section 82-08), as well, in applicable locations, as the inclusion of Mandatory Arcades (Section 82-09), public amenities (Section 82-10) and location of #building# walls in relation to certain #street lines# (Section 82-11).~~

82-05~~Relationship to Public Improvement Projects~~

Delete entire section

82-04District Plan

The District Plan for the #Special Lincoln Square District# included as Appendix A identifies specific subdistricts in which special zoning regulations carry out the general purposes of the #Special Lincoln Square District#. These areas are: Subdistrict A, Subdistrict B and Subdistrict C.

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The District Plan also identifies #blocks# with mandatory #front lot line street walls#. The District Plan is hereby incorporated as an integral part of the #Special Lincoln Square District#.

82-05

Right to Construct

For the purpose of this Chapter, the right to continue to construct shall terminate if the provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT) are not met by the date of approval of this amendment by the City Planning Commission.

Notwithstanding the provisions of this chapter, any #development# approved by special permit of the City Planning Commission pursuant to this chapter prior to (the effective date of this amendment) may be started or continued pursuant to such special permit.

82-10

MANDATORY DISTRICT IMPROVEMENTS

The provisions of this Section specify mandatory or optional physical improvements to be provided in connection with #developments# on certain #zoning lots# located within the Special District.

82-09

82-11

Special Provisions for Optional Mandatory Arcades

Any #development# located on a #zoning lot# with a #lot line# which coincides with ~~any either~~ of the following #street lines#: ~~the north side of 61st Street between Central Park West and Broadway, the east side of Broadway between West 61st and West 65th Streets~~ or the east side of

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Columbus Avenue between West 65th and West 66th Streets, may shall contain an #arcade# as defined in Section 12-10, except that:

- (a)The #arcade# shall extend the full length of the #zoning lot# along the #street lines# described above. However, the required #arcade# along the east side of Columbus Avenue may be terminated at a point 40 feet south of West 66th Street;
- (b)The exterior face of #building# columns shall lie along the #street lines# described above;
- (c)The minimum depth of the #arcade# shall be 15 feet (measured perpendicular to the exterior face of the #building# columns located on the #street line#) and the average minimum height of the #arcade# along the center line of its longitudinal axis shall not be less than 20 feet;
- (d)The #arcade# shall contain no permanent obstruction within the area delineated by the minimum width and height requirements of this Section except for the following:
 - (1)Unenclosed cafes, provided that there is at least a 6 six-foot feet wide unobstructed pedestrian way adjacent to the #building# #street wall#. In no event may such cafes be enclosed at any time.
 - (2)Structural columns not exceeding 2 feet by 3 feet provided that the longer dimension of such columns is parallel to the #street line#, that such columns are spaced at a minimum of 17 feet on center, and that the space between such columns and the face of the #building# #street wall# is at least 13 feet wide. No other columns shall project beyond the face of the ~~building~~ #street wall#.

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(e) No #signs# may be affixed to any part of the #arcade# or #building# columns except on a parallel to the #building# #street wall# projecting no more than 18 inches therefrom parallel to the #street line# along which the #arcade# lies.

(f) The #arcade# shall be illuminated only by incandescent lighting to a standard of average 8 eight foot-candle intensity with a minimum 5 five foot-candle intensity at any point within the #arcade#.

82-12

Mandatory Off-Street Relocation of a Subway Stair

Where a #development# is constructed on a #zoning lot# that fronts on a sidewalk containing a stairway entrance into the West 59th Street (Columbus Circle) or the West 66th Street subway station and such #zoning lot# contains 5,000 square feet or more of #lot area#, the existing entrance shall be relocated from the #street# onto the #zoning lot# in accordance with the provisions of Section 37-032 (Standards for relocation, design and hours of public accessibility) and 37-033 (Administrative procedure for a subway stair relocation).

82-13

Special Provisions for a Transit Easement

Any #development# located on the east side of Broadway between West 66th Street and West 67th Street shall provide an easement on the #zoning lot# for public access to the subway mezzanine or station when required by the New York City Transit Authority (TA) in accordance with the procedure set forth in Section 95-04 (Certification of Transit Easement Volume) and hereby made applicable.

82-06

82-20

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SPECIAL USE AND SIGN REGULATIONS

~~In order to ensure that a wide variety of consumer and service needs of local residence are met, a special limitation is imposed on the amount of street frontage that can be elevated to any one type of commercial use, and a special incentive is provided to encourage uses compatible with the General Purposes of Section 82-00.~~

In order to provide for the special cultural needs, convenience, enjoyment, education and recreation of the residents of the area and of the many visitors who are attracted to the Lincoln Center for the Performing Arts, a limitation is imposed on the ground floor #uses# within the Special District.

The provisions of this Section shall apply to all a #development# or change of #use# within the Special District.

~~82-061~~

82-21

Restrictions on Street Level Uses

~~#Uses# on the ground floor level along Broadway, Amsterdam or Columbus Avenues except lobby space shall be limited to Use Group L uses or #commercial uses# permitted by the underlying district regulations. On any #zoning lot# which abuts Columbus, Amsterdam Avenues or Broadway, the maximum length of street frontage along Broadway or Columbus or Amsterdam Avenues which may be devoted to any permitted #use# shall be 40 feet unless the use also is included in Use Group L (Section 82-062) #Uses# under Use Group L are permitted without #street# frontage limitation.~~

Within 30 feet of Broadway, Columbus Avenue or Amsterdam Avenue #street lines#, #uses# located on the ground floor level or within five

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feet of #curb level# shall be limited to those listed in Use Groups 3A, 3B, 6A, 6C, 8A, 10A, eating or drinking establishments listed in 12A, or 12B. Within Use Groups 3A or 3B #uses# shall be limited to colleges, universities including professional schools, museums, libraries or non-commercial art galleries. Within such area, lobby space, required accessory loading berths, or access to subway stations are permitted.

~~82-062~~

~~Use Group L~~

Delete entire section

82-22

Location of Floors Occupied by Commercial Uses

The provisions of Section 32-422 (Location of Floors Occupied by Non-Residential Uses) shall not apply to any #commercial use# located in a portion of a #mixed building# that has separate direct access to the #street# and has no access within the #building# to the #residential# portion of the #building# at any #story#. In no event shall such #commercial use# be located directly over any #dwelling units#.

82-23

Street Wall Transparency

When the front building wall or #street wall# of any #development# is located on Broadway, Columbus Avenue or Amsterdam Avenue, at least 50 percent of the total surface area of the #street wall# between #curb level# and 12 feet above #curb level# or to the ceiling of the first #story#, whichever is higher, shall be transparent. Such transparency shall begin not higher than two feet six inches above #curb level#.

~~82-063~~

82-24

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Supplementary Sign Regulations

No permitted #business sign# shall extend above #curb level# at a height greater than 20 feet or obstruct an #arcade#.

~~82-07~~

~~Modification of Parking and off-street Loading Requirements~~

Delete entire section

~~82-08~~

~~Modification of Bulk and Height and Setback Requirements~~

Delete entire section

~~82-10~~

~~PUBLIC AMENITIES~~

Delete entire section

82-30

SPECIAL BULK REGULATIONS

82-31

Floor Area Ratio Regulations for Commercial Uses

Within Subdistrict A, for any #development# in a C4-7 District the maximum permitted # commercial floor area # on a #zoning lot# shall be 100,000 square feet.

82-311

Floor area increase by special permit

The City Planning Commission may by special permit allow the #commercial floor area ratio# permitted on a #zoning lot# pursuant to Section 82-31 (Floor Area Ratio Regulations for Commercial Uses)

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within Subdistrict A to be increased to 10.0 for #commercial uses#. As a condition for such special permit, the Commission shall find that:

- (a)the #uses# are appropriate for the location and shall not unduly affect the #residential uses# in the nearby area or impair the future land use and development of the adjacent areas;
- (b)the #uses# shall not require any significant addition to the supporting services of the neighborhood or that provision for adequate supporting services has been made;
- (c)the additional #bulk# devoted to #commercial uses# shall not create or contribute to serious traffic congestion and will not unduly inhibit vehicular and pedestrian flow; and
- (d)the #streets# providing access to such #use# are adequate to handle the traffic generated thereby or provision has been made to handle such traffic.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects of any such #uses# on the character of the surrounding area.

82-32

Special Provisions for Increases in Floor Area

The provisions of Sections 23-16, 24-14 or 33-13 (Floor Area Bonus for a Plaza), Sections 23-17, 24-15 or 33-14 (Floor Area Bonus for a Plaza-Connected Open Area), Sections 23-18, 24-16, or 33-15 (Floor Area Bonus for Arcades), or Section 23-23 (Density Bonus for a Plaza-Connected Open Area or Arcade) shall not apply. In lieu thereof the following provisions shall apply, which may be used separately or in

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combination, provided that the total #floor area ratio# permitted on a #zoning lot# does not exceed 12.0:

(a)Floor Area Increase for Inclusionary Housing

For any #development# to which the provisions of Section 23-90 (INCLUSIONARY HOUSING) are applicable, the maximum permitted #residential floor area ratio# may be increased by a maximum of 20 percent under the terms and conditions set forth in Section 23-90 (INCLUSIONARY HOUSING).

(b)Floor Area Bonus for Public Amenities

When a #development# is located on a #zoning lot# that is adjacent to the West 59th Street (Columbus Circle) or the West 66th Street subway station mezzanine, platform, concourse or connecting passageway, with no tracks intervening to separate the #zoning lot# from these elements, and such #zoning lot# contains 5,000 square feet or more of #lot area#, the City Planning Commission may, by special permit pursuant to Section 74-634 (Subway station improvements in commercial zones of 10 FAR and above in Manhattan) grant a maximum of 20 percent #floor area# bonus.

For a subway station improvement or for a subsurface concourse connection to a subway, the amount of #floor area# bonus that may be granted shall be at the discretion of the Commission. In determining the precise amount of #floor area# bonus, the Commission shall consider:

(i)the direct construction cost of the public amenity;

(ii)the cost of maintaining the public amenity; and

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- (iii) the degree to which the station's general accessibility and security will be improved by the provision of new connections, additions to or reconfigurations of circulation space, including provision of escalators or elevators.

82-33

Modification of Bulk Regulations

The Commission may, by special permit, modify the height and setback regulations, #yard# regulations, regulations governing minimum distance between #buildings# on a single #zoning lot# and regulations governing #courts# and minimum distance between #legally required windows# and walls or #lot lines# for any #development# provided the City Planning Commission finds that such modifications are necessary to:

- (a)facilitate good design; or
(b)allow design flexibility for any #development# to which the mandatory provisions of Section 82-10 are applicable; or
(c)incorporate a #floor area# allowance pursuant to Section 82-32 (Special Provisions for Increases in Floor Area) where inclusion of the proposed public amenity will significantly further the specific purposes for which the #Special Lincoln Square District# is established.

The #lot area# requirements for the non-#residential# portion of a #building# which is eligible for a #floor area# allowance under the provisions of paragraph (b) of Section 82-32 may be reduced or waived by the Commission provided that the Commission makes the additional finding that such modification will not adversely affect the #uses# within the #building# or the surrounding area.

82-34

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Bulk Distribution

Within the Special District, at least 60 percent of the total #floor area# permitted on a #zoning lot# shall be within #stories# located partially or entirely below a height of 150 feet from #curb level#.

For the purposes of determining allowable #floor area#, where a #zoning lot# has a mandatory 85 foot high #street wall# requirement along Broadway, the portion of the #zoning lot# located within 50 feet of Broadway shall not be included in #lot area# unless such portion contains or will contain a #building# with a wall at least 85 feet high coincident with the entire #street line# of Broadway.

82-35

Height and Setback Regulations

Within the Special District, all #developments# shall be subject to the height and setback regulations of the underlying districts, except as set forth in:

(a) Paragraph (a) of Section 82-37 (Street Walls along Certain Street Lines) where the #street wall# of a #building# is required to be located at the #street line#; and

(b) Paragraphs (b), (c) and (d) of Section 82-37 (Street Walls along Certain Street Lines) where the #street wall# of a #building# is required to be located at the #street line# and to penetrate the #sky exposure plane# above a height of 85 feet from #curb level#.

82-36

Special Tower Coverage and Setback Regulations

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The requirements set forth in Sections 33-45 (Tower Regulations) or 35-63 (Special Tower Regulations for Mixed Buildings) for any #building# or portion thereof that qualifies as a "tower" shall be modified as follows:

(a) At any level at or above a height of 85 feet above #curb level#, a tower shall occupy in the aggregate:

(i) not more than 40 per cent of the #lot area# of a #zoning lot# or, for a #zoning lot# of less than 20,000 square feet, the per cent set forth in Section 23-651 (Tower on small lots); and

(ii) not less than 30 per cent of the #lot area# of a #zoning lot#. However, the highest four #stories# of the tower or 40 feet, whichever is less, may cover less than 30 per cent of the #lot area# of a #zoning lot# if the gross area of each #story# does not exceed 80 per cent of the gross area of the #story# directly below it.

(b) At all levels at or above a height of 85 feet from #curb level#, the minimum required set back of the #street wall# of a tower shall be at least 15 feet from the street line of Broadway or Columbus Avenue, and at least 20 feet on a #narrow street#.

(c) In Subdistrict A, the provisions of paragraph (a) of Section 35-63, as modified by paragraphs (a) and (b) above, shall apply to any #mixed building#.

For the purposes of determining the permitted tower coverage in Block 3 as indicated on the District Plan, that portion of a #zoning lot# located within 100 feet of the west #street line# of Central Park West shall be treated as if it were a separate #zoning lot# and the tower regulations shall not apply to such portion.

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82-11

Building Walls Along Certain Street Lines

Delete the entire section

82-37

Street Walls along Certain Street Lines

(a) For any #development# on a #zoning lot# with a #front lot line# coincident with any of the following #street lines#, a #street wall# shall be located on such #street line# for the entire frontage of the #zoning lot# on that #street# and shall rise without setback to a height of 85 feet above #curb level#:

(1) the east side of Broadway between West 61st Street and West 65th Street;

(2) the east side of Columbus Avenue between West 65th Street and West 66th Street;

(3) the east side of Broadway between West 67th Street and West 68th Street;

(4) the west side of Broadway between West 66th Street and West 68th Street; and

(5) the west side of Broadway between West 60th Street and West 62nd Street.

Such #street wall# shall extend on a #narrow street# to a distance of not less than 50 feet from its intersection with the #street line# of Broadway or Columbus Avenue and shall include a 20-foot setback at a height of 85 feet above #curb level# as required in Section 33-432 (In Other Commercial Districts).

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(b) For any #development# on a #zoning lot# in Block 1 with a #front lot line# coincident with any of the following #street lines#, a #street wall# shall be located on such #street lines# for the entire frontage of the #zoning lot# on that #street#.

(1) the west side of Broadway between West 62nd Street and West 63rd Street;

(2) the south side of West 63rd Street between Broadway and Columbus Avenue; and

(3) the east side of Columbus Avenue between West 62nd Street and West 63rd Street.

The #street wall# located on the south side of West 63rd Street shall rise vertically without setback to the full height of the #building# except for the top four floors or 40 feet, whichever is less, and extend along Broadway and/or Columbus Avenue for one half of the length of the total #block# front. The #street wall# located on the remaining #block# front on Broadway shall rise to a height of 85 feet above #curb level# and then set back 20 feet as required in Section 33-432 (In Other Commercial Districts).

(c) For any #development# on a #zoning lot# in Block 2 with a #front lot line# coincident with any of the following #street lines#, a #street wall# shall be located on such #street line# for the entire frontage of the #zoning lot# on that #street#:

(1) the east side of Broadway between West 67th Street and West 66th Street;

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(2)the north side of West 66th Street between Broadway and Columbus Avenue; and

(3)the west side of Columbus Avenue between West 66th Street and West 67th Street.

The #street wall# located on the north side of West 66th Street shall rise vertically without setback to the full height of the #building# except for the top four floors or 40 feet, whichever is less, and extend on Broadway and/or Columbus Avenue for one-half of the length of the total #block# front. The #street wall# located on the remaining #block# front on Broadway shall rise to a height of 85 feet above #curb level# and then setback 20 feet as required in Section 33-432 (In Other Commercial Districts).

(d)For any #development# on a #zoning lot# in Block 3 with a #front lot line# coincident with the #street line# of Central Park West, the #street wall# shall be located on such #street line# for the entire frontage of the #zoning lot# on that #street#.

The #street wall# fronting on Central Park West shall rise vertically without setback to a height of at least 125 feet but not greater than 150 feet and shall extend along the #street line# of West 61st Street and along the #street line# of West 62nd Street to a distance of not less than 50 feet but not more than 100 feet from their intersection with the west #street line# of Central Park West. Above that height no #building or other structure# shall penetrate a #sky exposure plane# that starts at the #street line# and rises over the #zoning lot# at a ratio of 2.5 : 1.

82-38

Recesses in the Street Wall of a Building

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Recessed fenestration and special architectural expression lines in the #building# facade of a #development# are required as follows:

- (a) Except as set forth in paragraph (b) below, the aggregate length of all recesses in the #street wall# along Broadway of a #development# shall be between 15 per cent and 30 per cent of the entire length of such #street wall# at any #story# between the ground floor and 85 feet above #curb level#.
- (b) In Block 1, for any #development# that fronts on the #street line# of the south side of West 63rd Street and extends along the #street line# of Broadway and/or Columbus Avenue to a distance of not less than 50 percent of the #block# front, the aggregate length of all recesses in the #street walls# along each such #street# frontage shall be between 15 percent and 30 per cent of the entire length of each #street wall# at any #story# between the ground floor and 85 feet above #curb level# and shall be between 30 percent and 50 percent of the entire length of each #street wall# at any #story# above 85 feet above #curb level#.
- (c) In Block 2 the requirement of #street wall# recesses in paragraph (b) above shall also apply to a #development# that fronts on the #street line# of the north side of West 66th Street and extends along the #street line# of Broadway and/or Columbus Avenue to a distance of not less than 50 per cent of the #block# front.

Such recesses shall be a minimum of one foot in depth and shall not exceed a depth of 10 feet. Below a height of 85 feet above #curb level#, no recesses deeper than one foot shall be permitted in the #street wall# of a #building# within a distance of 10 feet from the intersection of any two #street lines#.

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In addition, along the #street lines# of Broadway, West 63rd Street and West 66th Street, within Blocks 1 and 2, the #street wall# shall provide at a height of 20 feet above #curb level#, an architectural expression line consisting of a minimum six inch recess or projection, for a minimum height of one foot and maximum height of two feet.

82-39

Permitted Obstructions within Required Setback Areas

The #street wall# of a #building# may be vertically extended above a height of 85 feet above #curb level# without setback in accordance with either of the following provisions:

(a) A dormer may be allowed as a permitted obstruction within the required #initial setback distance# above a height of 85 feet above #curb level#. The #street wall# of a dormer shall rise vertically as an extension of the #street wall# of the #building#. A dormer may be located anywhere on a #wide# or #narrow street# frontage.

On any #street# frontage the aggregate width of all dormers at the required initial setback level shall not exceed 60 per cent of the width of the #street wall# of the #story# immediately below the initial setback level. For each foot of height above the required initial setback level, the aggregate width of all dormers at that height shall be decreased by one per cent of the width of the #street wall# of the #story# immediately below the initial setback level. Such dormers shall count as #floor area# but not as tower #lot coverage#.

(b) On a #wide street# and on a #narrow street# within 50 feet of its intersection with a #wide street#, the #street wall# of a #building# may be vertically extended without setback within the required #initial setback distance# above a height of 85 feet above #curb

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level#, up to a maximum height of 125 feet, provided that the aggregate width of such #street walls# shall not exceed 50 percent of the width of the #street wall# of the #story# immediately below the initial setback level, and provided the #street wall# of the #building# contains special architectural expression lines at a height of 85 feet above #curb level#.

82-40

SPECIAL HEIGHT LIMITATION

For #developments# located in Block 1 or Block 2, the maximum height of a #building or other structure# or portion thereof shall not exceed 275 feet above #curb level#, except that a penthouse may be located above such height, provided that such penthouse:

(1)contains not more than four #stories# or 40 feet, whichever is less;
and

(2)the gross area of each #story# does not exceed 80 per cent of the gross area of that #story# directly below it.

82-121

82-50

OFF-STREET PARKING AND OFF-STREET LOADING
REGULATIONS

The regulations of Article I, Chapter 3 (COMPREHENSIVE OFF-STREET PARKING REGULATIONS IN COMMUNITY DISTRICTS 1, 2, 3, 4, 5, 6, 7 AND 8 IN THE BOROUGH OF MANHATTAN) and the applicable underlying district regulations of Article III, Chapter 6, relating to Off-Street Loading Regulations, shall apply in the #Special Lincoln Square District# except as otherwise provided in this Section.

N 940127 (A) ZRM

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(a) Accessory Off-Street Parking Spaces

#Accessory# off-street parking spaces are permitted only by special permit of the City Planning Commission pursuant to Section 13-461 (Accessory off-street parking spaces).

(b) Curb Cuts

The City Planning Commission may authorize curb cuts within 50 feet of the intersection of any two #street lines#, or on #wide streets#, where such curb cuts are needed exclusively for required off-street loading berths, provided the location of such curb cuts meets the findings in Section 13-453 (Curb Cuts) and the loading berths are arranged so as to permit head-in and head-out truck movements to and from the #zoning lot#.

(c) Waiver of Loading Berth Requirements

The City Planning Commission may authorize a waiver of the required off-street loading berths where the location of the required curb cuts would:

- (i) be hazardous to traffic safety; or
- (ii) create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement, or
- (iii) interfere with the efficient functioning of bus lanes, specially designated streets or public transit facilities.

The Commission shall refer these applications to the Department of Transportation for its comments.

~~82-122~~

~~Public parking garages~~

~~Delete entire section~~

82-60

PUBLIC PARKING GARAGES

N 940127 (A) ZRM

In that portion of the Special Lincoln Square District located within a C4-7 District, the Commission may permit #public parking garages# with any capacity pursuant to Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas).

~~82-13~~

~~Special Regulations for Zoning Lots Divided by District Boundaries~~
Delete entire section

~~82-14~~

~~82-70~~

EXISTING PLAZAS OR OTHER PUBLIC AMENITIES

No existing #plaza# or other public amenity, open or enclosed, for which a #floor area# bonus has been received, pursuant to regulations antedating May 24, 1984 shall be eliminated or reduced in size anywhere within the #Special Lincoln Square District#, without a corresponding reduction in the #floor area of the building# or the substitution of equivalent complying areas for such amenity elsewhere on the #zoning lot#.

Any elimination or reduction in size or volume of such an existing public amenity in #developments# which include prior approved #bulk modifications#, shall be permitted in the #Special Lincoln Square District# only by special permit of an authorization, ~~after public notice and hearing, by the City Planning Commission and by the Board of Estimate~~. As a condition for such permit authorization, the Commission shall find that the proposed change will provide a greater benefit in light of the public amenity's purposes and the purposes of the #Special Lincoln Square District#.

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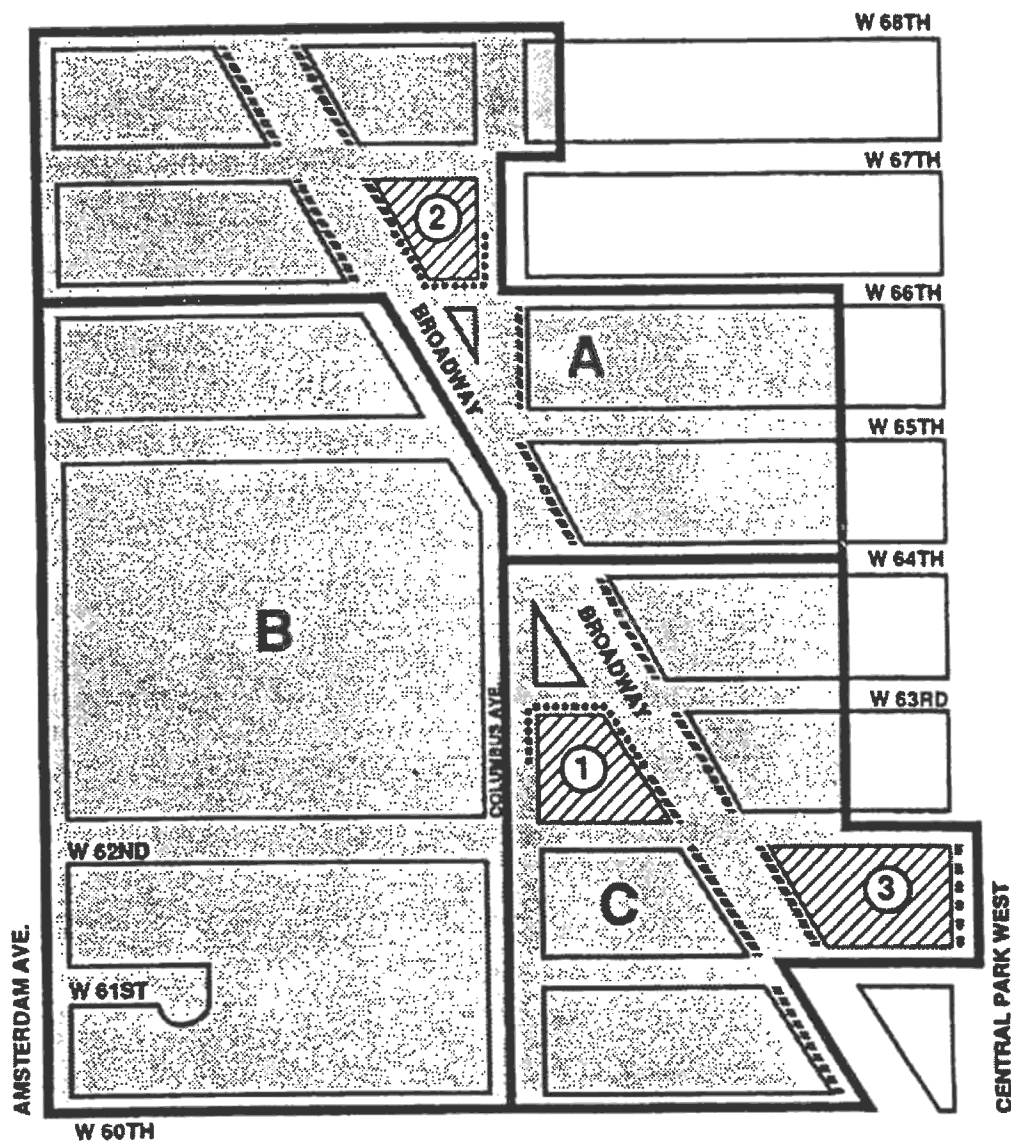
An application for such special permit authorization shall contain exact and detailed plans, drawings, and other description as to fully explain the use and quality of all features of the proposed public amenity revisions and any other information and documentation as may be required by the Commission.

~~The Chairman of the City Planning Commission shall furnish a copy of the application for such authorization to Community Board No. 7, Manhattan for 30 days and will give due consideration to their opinion as to the appropriateness of such a facility to the area. The Commission shall act within 45 days from the date of receipt of the Community Board recommendations or within 45 days of the date on which the Community Board review period expires, whichever is earlier. The Board of Estimate shall act on the application within 45 days of receipt of the Commission recommendations.~~

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SPECIAL LINCOLN SQUARE DISTRICT



- SPECIAL DISTRICT BOUNDARY
- SUBDISTRICT
- REQUIRED 85' STREETWALL
- REQUIRED 150' STREETWALL
- REQUIRED 125' STREETWALL
- DEVELOPMENT BLOCK

Other Related Amendments

1. The following definitions are hereby deleted in their entirety in Section 12-10:
#Covered Plaza#
#Pedestrian Mall#
2. All references to Section 82-08 (Modification of Bulk and Height and Setback Requirements) are hereby deleted in the following sections:
Section 23-15 (Maximum Floor Area Ratio in R10 Districts)
Section 33-131 (Commercial buildings in certain specified Commercial Districts)
Section 33-133 (Community facility buildings in certain other specified Commercial Districts)
Section 33-141 (Commercial buildings in certain specified Commercial Districts)
Section 33-151 (Commercial buildings in certain specified Commercial Districts)
Section 33-153 (Commercial facility buildings in certain other specified Commercial Districts)
Section 35-35 (Floor Area Bonus for Plaza, Plaza-Connected Open Area, or Arcade in connection with Mixed Buildings)
Section 33-43 (Maximum Height of Front Wall and Required Front Setbacks)
Section 33-44 (Alternate Front Setbacks)
Section 33-455 (Alternate regulations for towers on lots bounded by two or more streets)
Section 33-456 (Alternate setback regulations on lots bounded by two or more streets)
Section 35-41 (Lot Area Requirements for Non-residential Portions of Mixed Buildings)
Section 35-62 (Maximum Height of Front Wall in Initial Setback Distance)
Section 74-87 (Covered Pedestrian Space)

3. All reference to Section 82-11 (Building Walls Along Certain Street Lines) is hereby deleted in Section 33-43 (Maximum Height of Front Wall and Required Front Setbacks).
4. All references to Section 82-07 (Modification of Parking and Off-street Loading Requirements) are hereby deleted in the following sections:

Section 36-11	(General Provisions)
Section 36-21	(General Provisions)
Section 36-31	(General Provisions)
Section 36-33	(Requirements Where Group Parking Facilities Are Provided)
Section 36-34	(Modification of Requirements for Small Zoning Lots)
Section 36-61	(Permitted Accessory Off-street Loading Berths)

The above resolution, duly adopted by the City Planning Commission on December 20, 1993 (Calendar No. 3), is filed with the Office of the Speaker, City Council and the Borough President, together with a copy of the plans of the development, in accordance with the requirements of Section 197-d and 200 of the New York City Charter.

RICHARD L. SCHAFER, Chairman
VICTOR G. ALICEA, Vice-Chairman
EUGENIE L. BIRCH, A.I.C.P., ANTHONY I. GIACOBBE, ESQ., MAXINE GRIFFITH,
JOEL A. MIELE, SR., P.E., ANALISA TORRES, ESQ., JACOB B. WARD, ESQ.,
Commissioners

AMANDA M. BURDEN, A.I.C.P., BRENDA LEVIN, Commissioners voting no

RONALD SHIFFMAN, A.I.C.P., Commissioner voting no, dissenting report attached

JAMES C. JAO, R.A., EDWARD T. ROGOWSKY, Commissioners abstaining

Statement of
Ronald Shiffman
Member of the City Planning Commission
December 20, 1993

Regarding the
Amendment to the Special Lincoln Square District

I find myself in a difficult position. This is perhaps on of the last votes that we will cast while Richard Schaffer is still Chair of the Commission and Director of the Department. Since I have the utmost respect for him and the job that he has performed, I would normally have a hard time dissenting on a matter like this and at a time like this. However, I believe that the issues raised by the Amendment to the Lincoln Square Special District are too important to allow the timing of the vote to affect the substance of my decision.

I have always believed that planning must be a deliberative process in which the participation of citizenry is a critical element. I believe that participatory processes should inform and shape, not dictate, the planning debate and the resultant outcome. Effective participatory processes lead to effective planning. They are essential to a democratic society. Compromising those processes through narrowly conceived and interpreted "scopes" makes a mockery of this process and relegates the Planning Commission to a regulatory body whose only power is to reject or accept proposals, not to shape their outcome. This causes citizens to be alienated from government and the planning process.

Substantive comments and proposals on issues such as density controls, height limits, inclusionary housing requirements, limits on zoning lot mergers, urban design considerations and special permit requirements that were put forth by Community Board 7 and the Manhattan Borough President's Office were dismissed as being too "broad" for consideration by the members of the City Planning Commission. They were considered outside of the narrowly conceived and interpreted "scope." The issue here is not the substance of what the Borough President and the Community Board proposed, or whether we individually or collectively agree with them. The issue is our obligation to hear testimony and to consider and debate those recommendations. Restrictive and narrow interpretations of "scope," the absence of "information" and the need for further "study" to assess the alternatives put forth (particularly after months of meetings with civic organizations, the community board, and members of this Commission) are questionable, at best.

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The proposed amendments themselves only tinker at the edges. While they are better than what presently exists, they fall far short of what, in my opinion, should be adopted. The Lincoln Square Special District has not engendered good architecture or sensitivity to urban design criteria, and the architecture and development community that has worked in the Lincoln Square Area has not distinguished itself. We therefore need to amend the regulations so as to stimulate development that embodies good architecture and urban design. We need to be as sensitive to the articulation of the streetscape and the needs of pedestrians as we claim to be with the articulation and detail of the tops of buildings. We should not dismiss the idea of providing housing for all income groups within the boundaries of the Special District, nor should we ignore the need to retain and preserve existing tenement buildings.

Many people, including department staff, have worked too long and hard to allow this initiative to be wasted or compromised by a solution that does not address the myriad of problems engendered by the present Special District regulations. I therefore suggest that the scope of the working group that has been convened to review the work conducted to date be redefined so that it can plan for the area's enrichment, preservation and growth in a meaningful way. The major determinant of any future planning amendment should be the improvement of the quality of life of those that live, work and visit in the Lincoln Square area.

Most importantly, the City Planning Department and the members of the City Planning Commission must recognize that the way in which the scope is conceived and interpreted determines our ability to plan. If we continue to define "scope" in a narrow sense in order to achieve predetermined outcomes, we make a mockery of the citizen participation process and we betray our charter responsibility "to properly plan for the orderly growth of the city."

I VOTE NO.

COMMUNITY BOARD SEVEN/Manhattan

RESOLUTION

DATE: NOVEMBER 3, 1993

COMMITTEE OF ORIGIN: LAND USE

FULL BOARD VOTE: 39 IN FAVOR 1 AGAINST 0 ABSTENTION 0 PRESENT

RE: ULURP APPLICATION #N940127ZRM BY DEPARTMENT OF CITY PLANNING
FOR A ZONING TEXT AMENDMENT TO THE SPECIAL LINCOLN SQUARE
DISTRICT.

WHEREAS, Community Board 7/Manhattan enthusiastically supports zoning revisions to the Special Lincoln Square District and has been meeting repeatedly since November, 1992 with the Department of City Planning, community groups and private consultants to review necessary revisions; and

WHEREAS, zoning revisions should foster the original 1969 goals of the Special District: "To preserve, protect and promote the character of the Special Lincoln Square District area as the location of a unique cultural and architectural complex"; and

WHEREAS, an extraordinary level of intense development in the Special District has resulted in extremely overcrowded and dangerous pedestrian and vehicular traffic conditions, particularly at the intersections of West 65 and 66 Streets, Broadway and Columbus Avenue, which are operating above capacity with extensive congestion and traffic delays, causing each to have been identified by recent environmental impact statements (EIS's) as exceeding the 1990 Clean Air Act carbon monoxide concentration standards; and

WHEREAS, the traffic conditions are to become further exacerbated by the 41,500 person trips per day, as projected by the Department of City Planning, generated by the now under construction "Lincoln Square" mixed use development at 1992 Broadway; and

250 West 87 Street, New York, NY 10024 (212) 362-4008
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Lincoln Square District
November 3, 1993
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WHEREAS, the completion of the following City-approved developments to be located in and adjacent to the Special District will further add to the congestion: 9.7 million square feet at the Penn Yards site (Riverside South, Manhattan West and ABC); 700,000 square feet at the Alfred II and YMCA sites; and 2.5 million square feet at the New York Coliseum site; and

WHEREAS, the congestion already threatens to destroy both the quality of life of the surrounding residential community and the ability of the general public to gain access to Lincoln Center for the Performing Arts, one of the world's most treasured cultural institutions; and

WHEREAS, the allowable density, available bonuses, zoning lot mergers, and current design regulations have enabled the construction of oversized, out-of-context buildings and towers; and

WHEREAS, urban design controls in the Special District should respect the contiguous Central Park West Historic District; and

WHEREAS, the "bow tie" parks and Broadway Malls are unique features of the Special Lincoln Square District and special attention should be paid to their improvement; and

WHEREAS, the "Mayflower" site, the full square block bounded by West 61 and 62 Streets, Central Park West and Broadway, by its size and prominent location requires a mechanism that will encourage superlative urban design and excellent architecture consistent with its visible location at the gateway to the Central Park Historic District and its internationally recognized skyline; and

WHEREAS, the prominent location of the "bow tie" development sites, especially the Bank Leumi site, the gateway to the Upper West Side, also merits special consideration;

BE IT RESOLVED THAT Community Board 7/Manhattan approves the text amendment subject to the following conditions:

(1) **A maximum FAR of 10.0.** Community Board 7/Manhattan believes this is an appropriate allowable density given the crowded conditions in the Special District. 10.0 FAR could be achieved by either reducing the density to 8.0 FAR and allowing a 2.0 FAR bonus for affordable housing, or eliminating FAR bonuses and mandating affordable housing within 10 FAR.

Lincoln Square District

November 3, 1993

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(2) Require a straightforward height limit of 275 feet throughout the Special District.

City Planning's proposal to limit building height with "packing the bulk" (requiring 60% of the bulk below 150 feet) has not been tested on actual buildings, and is therefore unpredictable. Community Board 7/Manhattan applauds the Department's proposals for height limits on the bow tie sites, and believes it is only logical to mandate a height limit throughout the Special District. Height limits have worked successfully in the Limited Height Districts on the Upper East Side, and are a major component of City Planning's soon to be certified application for text amendments to the Quality Housing Program. A straightforward height limit of 275 feet would achieve the height goal of "packing" (see page 14 in the May, 1993 Lincoln Square Zoning report) with a predictability which would be beneficial to both private developers and the general public.

(3) Require special permit for new development throughout the Special District.

Community Board 7/Manhattan believes requiring a special permit provides the best means to achieve the original Special District goal to "preserve, protect and promote" Lincoln Center. The majority of buildings which have been constructed under the existing regulations bear little relationship to the Special District's focus - Lincoln Center - and underscore the inability of legislation to mandate appropriate design.

The device of a special permit would allow the developer's architect freedom to design an appropriate building for this world famous Special District. The special permit review process would ensure a design agreeable to the surrounding community. The precedent for design review exists in the current review requirements for alterations to landmarked buildings and new construction within landmark districts. As a prerequisite, any development within the Special District must abide by the following regulations:

Throughout the District: Maximum 10.0 FAR; 275 foot height limit;

Sites facing Broadway (excluding bow tie sites): 85 foot street wall, 15 foot setback;

East side of Broadway (61-65 Streets) and east side of Columbus (65-66 Streets): Arcade requirement without bonus;

Mayflower site: 125 foot street wall, 15 foot setback on Central Park West;

Northern bow tie site: Specific regulations to be determined during ULURP, though Community Board 7/Manhattan notes preference for the following proposal over City Planning's proposal for the northern bow tie site: No setback for 60% of linear frontage on 66 Street, Columbus and Broadway; 85 foot street wall on remaining 30% of linear frontage on Broadway; 55-60 foot street wall on remaining 30% of linear frontage on Columbus;

Sewage and sanitation facilities must be adequate to meet the needs of the new construction.

Lincoln Square District
November 3, 1993
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(4) **Theaters should not be restricted to 1 FAR.** Controlling the height of buildings could be achieved more directly by requiring a straightforward building height limit of 275 feet rather than restricting the FAR of theaters. One of the goals of the Special District is to attract uses which will enhance the cultural character of the area. By restricting the FAR for theaters, cultural and entertainment uses other than film may be inadvertently and regrettably restricted. To avoid facades without transparency, City Planning should devise a mechanism to require transparency from the curb level to the ceiling of the theater.

(5) **Restrict zoning lot mergers to 20% of floor area.** As proposed in "West Side Futures", the comprehensive planning report for the Upper West Side completed by Community Board 7/Manhattan and The Municipal Art Society, a maximum zoning lot merger of 20% of the floor area on the original lot would control the potential for overly bulky buildings. A 20% restriction already applies to development rights transfers from landmark sites; and

BE IT FURTHER RESOLVED THAT Community Board 7/Manhattan calls on the Department of City Planning to work with Community Board 7/Manhattan and the appropriate City agencies to restore the open space and improve pedestrian and vehicular traffic in the Special District; and

BE IT FURTHER RESOLVED THAT if the Department of City Planning determines that the Community Board's recommendations are not in the scope of the ULURP application, Community Board 7/Manhattan urges the Department to complete the necessary analysis for a major modification as expeditiously as possible.

Committee vote: 10-0-0-0; Board members vote: 2-0-0-0.



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

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

RUTH W. MESSINGER
BOROUGH PRESIDENT

November 15, 1993

ULURP NOS.:

N940127 ZRM
N940128 ZRM

APPLICANT:

Department of City Planning

REQUESTS:

The Department of City Planning (DCP) proposes two alternative zoning text amendments (Text Amendment #1 and Text Amendment #2) to the Special Lincoln Square District, located in the southern portion of Community Board 7. The proposed text amendments would add additional urban design controls, modify existing commercial use regulations, mandate subway improvements in certain locations, amend existing mandatory arcade requirements, and permit public parking and curb cuts through different regulatory requirements. Some portions of the text amendment would affect the entire district as a whole; others would affect only specific subdistricts. The two alternative proposed text amendments are identical except for the issue of arcades.

N940127 ZRM proposes to amend existing mandatory arcade requirements.
(Text Amendment #1)

N940128 ZRM proposes to eliminate existing mandatory arcade requirements.
(Text Amendment #2)

PROJECT DESCRIPTION:

The Special Lincoln Square District, established in 1969, is bounded by Amsterdam Avenue on the west; West 68th Street on the north; West 60th Street on the south; and on the east by a line 100 feet east of Columbus Avenue between West 68th Street and West 67th Street; Columbus Avenue between West 67th Street and West 66th Street; a line 200 feet west of Central Park West between West 66th Street and West 62nd Street; Central Park West between West 62nd

Street and West 61st Street; and the west side of Broadway between West 61st Street and West 60th Street.

DCP's recommendations for the Special Lincoln Square District would include the following elements:

Underlying Zoning/Density

- The amount of commercial floor area allowed would be limited to 3.4 FAR in the northern portion of the district, where residential and institutional development predominates, and would permit a full commercial build out by City Planning Commission (CPC) special permit only.

Use Restrictions

- Use Group 8, including movie theaters, would be limited to 1 FAR in all areas of the district, except the area dominated by Lincoln Center.
- Retail continuity and transparency regulations would be mandated at the ground level.

Urban Design

The following urban design changes would apply in the Special District. Additional site-specific recommendations would apply to Broadway, the bow-tie sites (Blocks 111 and 113) and the Mayflower block (Block 1114).

The following would apply to development throughout the Special District:

- Envelope controls would be established to govern the massing and height of new buildings throughout the district. A minimum of 60 percent of a development's total floor area would be required to be located below an elevation of 150 feet. This floor area would result in buildings ranging from the mid-20 to 30 stories in height.
- A minimum tower coverage control would be applied throughout the district.
- The requirement of a minimum tower coverage for penthouses would be eliminated.

The following would apply to development on Broadway sites:

- The current control requiring an 85 foot high base along Broadway would be maintained. Towers would be set back from the streetline for a minimum of 15 feet on wide streets and a minimum of 20 feet on narrow streets.

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- Recesses below 85 feet for a minimum of 15 percent and a maximum of 30 percent would be required to provide articulation of a building's facade.
- Dormer controls would be permitted above 85 feet.

The following would apply to development on the two bow-tie sites:

- Each site would be required to be developed with a streetwall building, requiring setbacks after 150 feet. The regulations would require new buildings to be constructed to the streetlines of West 63rd Street and West 66th Street and continue around the adjoining corners for one-half of the Broadway and Columbus Avenue block frontages.
- Development with frontage along the remaining portion of Broadway would be required to provide an 85 foot streetwall, to relate to the surrounding context.
- An expression line would be required at 20 feet, in addition to transparency requirements for the ground floor.
- Two range of recesses would be required -- one below and the other above 85 feet. Recesses below 85 feet would be required for a minimum of 15 percent of the length of the streetwall and would be permitted for a maximum of 30 percent. Recesses between 85 feet and 150 feet would be required for a minimum of 30 percent of the streetwall and would be permitted up to 50 percent.
- Above a height of 150 feet, a setback of at least 10 feet from the street line would be required, and a dormer would be permitted for a maximum of 60 percent of the streetwall width, reducing at a rate of 1 percent as the dormer's height rises by a foot.
- A height limit of 300 feet would be established, with the penthouse regulations applied for up to 4 stories above the height limit.

In addition to the controls applicable to Broadway sites, the following would apply to development on the Mayflower block site:

- Contextual regulation would be imposed on the Central Park West frontage.
- The arcade requirement would be eliminated from the north side of West 61st Street, but the mandated arcade along Broadway would be maintained.

- **Mandatory Arcades**

Text Amendment #1 proposes to:

- Retain the arcade as a mandated urban design requirement, with a reduced bonus from seven square feet per square foot of arcade to three square feet per square foot of arcade.
- Eliminate the requirement for an arcade on the north side of West 61st Street.

Text Amendment #2 proposes to:

- Eliminate the arcade as a mandated urban design requirement. The bonus generated by the provision of such arcade would also be eliminated from the Special District.

Subway Access

- New subway stair access would be required to be provided in the development of sites adjacent to the West 66th Street and the West 59th Street/Columbus Circle subway stations, i.e., the Bank Leumi, Tower Records and Mayflower sites.
- Improvements to the subway, such as improving general accessibility, safety, adding escalators or elevators and improving circulation, would be eligible to generate a bonus.

● Parking and Loading Requirements

- The district's special permit requirement for public parking garages would be eliminated, since a special permit mechanism is provided in the underlying zoning regulations, Section 74-52.
- Loading docks would be permitted pursuant to underlying regulations. A CPC authorization would be established for curb cuts on wide streets or 50 feet from the intersection of a wide street.

Right to Construct

The right to continue to construct would terminate in the Special District if the provisions of Section 11-30 are not met by the date of adoption of this zoning text amendment by CPC.

SUMMARY OF COMMUNITY BOARD ACTION:

On October 28, 1993, Community Board 7 held a public hearing on the DCP applications. On November 3, 1993, Community Board 7 voted 39 in favor, 1 opposed and 0 abstentions, to approve DCP's zoning text proposal subject to the following conditions:

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Density -- The Community Board recommended that the residential density of the Special District be reduced from a maximum of 12 FAR to a maximum of 10 FAR.

Building Height Limit -- The Board voted to require a building height limit of 275 feet throughout the Special District, which it felt would be consistent with evidence noted in the May, 1993 DCP Lincoln Square Zoning Report and which it felt would ensure more predictable development in the future. According to the Board, DCP's proposal for limiting building height by "packing the bulk" (requiring 60 percent of the bulk below 150 feet) had not been tested on actual buildings, and was therefore unpredictable. However, the Board commended DCP's proposals for height limits on the bow-tie sites, and believed it was therefore only logical to mandate a height limit throughout the Special District. In addition, the Board stated that height limits had worked successfully in Limited Height Districts on the Upper East Side and were a major component of CPC's soon-to-be certified application for text amendments to the Quality Housing Program.

Special Permit -- The Community Board voted to require a special permit for each new development throughout the Special District. The Board stated that a special permit requirement provided the best means to achieve the original goal of the district which was to "preserve, protect and promote" Lincoln Center and that the device of a special permit would allow the developer's architect freedom to design an appropriate building for this "world famous" District.

Additional Urban Design Controls for Specific Areas -- The Board recommended an 85 foot streetwall and a 15 foot setback requirement for buildings facing Broadway as well as mandated arcades requirements without a bonus for the east side of Broadway between West 61st and 65th Streets and the east side of Columbus Avenue between West 65th and 66th Streets (excluding bow-tie sites); and a 125 foot streetwall and a 15 foot setback requirement for the Mayflower site on Central Park West. With regard to the northern bow-tie site, specific regulations would be determined during the review cycle. However, Community Board 7 noted that it preferred the following design controls for this site over DCP's proposed controls: no setback for 60 percent of the linear frontage on 66th Street, Columbus Avenue and Broadway; an 85 foot streetwall on the remaining 30 percent of the linear frontage on Broadway; and a 55-60 foot streetwall on the remaining 30 percent of the linear frontage on Columbus Avenue.

Theaters -- Controlling the height of a building, the Board argued, could be achieved more directly by requiring a building height limit of 275 feet rather than requiring a floor area limit on theaters. Further, the Board stated that by limiting the floor area for theaters, cultural and entertainment uses other than film might be inadvertently restricted. To avoid facades without transparency, the Board recommended that DCP devise a mechanism to require transparency from the curb level to the ceiling of the theater.

Zoning Lot Mergers -- The Board recommended that zoning lot mergers be restricted to 20 percent of floor area of the original lot as proposed in "West Side Futures," the comprehensive planning report for the Upper West Side completed by Community Board 7 and The Municipal Art Society. Such a restriction would control the potential for overly bulky buildings.

Infrastructure --The Community Board called on DCP to work with Board members and appropriate City agencies to restore open space and improve pedestrian and vehicular traffic in the Special District.

Scope Issues -- The Board urged DCP to move expeditiously to complete the necessary analysis on the above recommendations if DCP deemed them outside the scope of the current actions.

Sewage -- The Board stated that sewer and sanitation facilities had to be adequate to meet the needs of the new construction.

With regard to density and design issues, the Board made the following observations:

The allowable density, available bonuses, zoning lot mergers and current design regulations had enabled the construction of oversized, out-of-context buildings and towers.

- The urban design controls in the Special District should respect the contiguous Central Park West Historic District.
- The bow-tie parks and Broadway Malls were unique features of the District.
- The bow-tie development sites, especially the Bank Leumi site, the gateway to the Upper West Site, merited special consideration.
- The Mayflower site, by virtue of its size and prominent location, required a mechanism that would encourage superlative urban design and excellent architecture consistent with its visible location at the gateway to the Central Park Historic District and its internationally recognized skyline.

With regard to traffic and congestion issues, the Board noted that:

Traffic conditions would become further exacerbated, with a DCP projection of 41,500 person trips per day, once the mixed-use development at 1992 Broadway (Millennium I) was completed.

The completion of additional City-approved developments in and adjacent to the Special District would further add to the congestion.

An extraordinary level of intense development had resulted in extremely overcrowded and dangerous pedestrian and vehicular traffic conditions: the intersections at West 65th and 66th Streets, Broadway and Columbus Avenue were operating above capacity with extensive congestion and traffic delays and each had been identified by recent environmental impact statements as exceeding the 1990 Clean Air Act carbon monoxide concentration standards.

The Community Board called on DCP to work with the Board and the appropriate City agencies to restore open space and improve pedestrian and vehicular traffic in the Special District.

- Existing congestion threatened to destroy both the quality of life of the surrounding residential community and the ability of the public to gain access to Lincoln Center, one of the world's most treasured cultural institutions.

SUMMARY OF MBPO "ROUNDTABLE" DISCUSSION:

On November 10, 1993, the Manhattan Borough President held a "roundtable" discussion on the two DCP zoning proposals. Participants in the discussion included: Elizabeth Starkey, Chairperson of Community Board 7; Madeleine Polayes, President of Coalition for a Livable West Side; David J. Myerson, General Media; Philip E. Aarons, Millennium Partners; Gary Handel, Kohn Pedersen Fox; Rafael Pelli, Cesar Pelli & Associates; Paul Phillips, Abeles Phillips; Robert E. Flahive, Director of the Manhattan Office, DCP; Paul Selver, Esq., Brown & Wood; Arlene Simon, President, Landmark West!; and Bruce Simon, Landmark West!.

Robert Flahive of DCP started the discussion and gave a brief description of the DCP proposals and the rationale for them.

In opening remarks, the Manhattan Borough President acknowledged that she was likely to hear divergent opinions concerning the proposed amendments. Nonetheless, she thanked the efforts of the participants in the evening's discussion. The Borough President noted that without the diligent work of DCP, Community Board 7, Landmark West!, all the elected officials and many others, the zoning text amendments would not have been prepared and referred out for public review so expeditiously.

The Borough President commended DCP's efforts to deal with the district's problems and for developing recommendations that DCP staff believed would address these concerns. She noted, however, that these modifications, while significantly better than the existing zoning text, might not be sufficient to make a meaningful improvement in this neighborhood. She also added that Community Board 7's and Landmark West!'s proposed modifications to DCP's proposals provided viable options which should be considered, not just by the Borough President but also by CPC and ultimately the City Council.

Elizabeth Starkey, Chair of Community Board 7, summarized the position of Community Board 7 as stated in its resolution.

Bruce Simon, of Landmark West!, stated that there was no substantive difference between the positions of Community Board 7 and Landmark West!. Nevertheless, he criticized the process by which DCP had arrived at its proposal. Fifteen months ago the community learned of the Millennium I project and was promised by the City that a proposal would be developed to stop similar projects from occurring again in the future. Mr. Simon was specifically opposed to DCP's proposal to limit height by "packing the bulk." He said that if the intention was to limit height in the district, then it should be done directly rather than resorting to "packing the bulk."

Madeleine Polayes, President of Coalition for a Livable West Side, stated that the Community Board's resolution represented the consensus of the community. She said that nobody would come to Lincoln Center if the area continued to be impacted. She pointed out that a traffic study needed to be conducted. Furthermore, the traffic congestion would be so great that pedestrian bridges would have to be built. She stated that CPC estimated 41,500 person trips per day for the Millennium I project and raised questions about the other trips from the already approved developments on the western side of the district. Ms. Polayes added that the City could not plan in this manner; density had to be limited otherwise Lincoln Center would be destroyed.

In regard to the inclusionary housing bonus, Elizabeth Starkey said that, in the past, the Board would not have eliminated the inclusionary housing bonus. However, the northern part of the district had been the recipient of many units of affordable housing, and now there was a dividing line between north and south of 96th Street which had become noticeable.

Robert Flahive responded that having all the affordable housing units at the northern end of the district was not a good idea. He added, however, that the Board's recommendation raised issues which had citywide implications and therefore could not be adopted at this late stage, without further study.

Paul Selver, Esq., of Brown & Wood, and representing ABC, said that ABC had two issues regarding DCP's proposals: design controls and the use restrictions. He added that the setback on the bow-tie site was an inappropriate solution; a better approach would be a lot line building similar to the Flatiron Building. He stated that the proposed use restrictions inhibited ABC's potential to use property it owned for corporate purposes.

David J. Myerson, owner of the Tower Records/Penthouse Magazine site, said that he had not been aware of the deep emotions running in the community. He added that he had invested a lot of money in the purchase of this site. Further, he stated that the City's development process had become irrational and it deprived flexibility. Also, if the recommendations of the Board were accepted, development costs would become too high. According to Mr. Myerson, the Lincoln Center area was the only place in the city where development was occurring.

Phil Aarons of Millennium Partners said that what he found exciting about the Lincoln Center area was the power, intensity and diversity of the area. He noted that he agreed with DCP that there were problems with the bow-tie site; but, he was concerned that the public response to the Millennium I project was strongly driving a process which would impact the site to the south. That process would hurt the area and the city. He further cautioned that the process was pushing to stop the building of a small, likable building.

Gary Handel, architect for the Millennium II project, said that he had consulted with DCP and Community Board 7. He recognized the strategic importance of the site but pointed out that if people could sit down and have a rational dialogue they would discover that the proposed building was closer to the guidelines proposed by Landmark West! than by those proposed by DCP. DCP's proposal called for a building on the site with a 150 foot setback and a total height of 350 to 360 feet. Millennium's proposal called for a 260-315 foot building, which was in line with what had been proposed by Landmark West!. He added that the recess regulation proposed by DCP was a carry-over from what was on the East Side and it was not appropriate for the West Side. He further noted that the Flatiron building would not comply with the DCP proposal.

Paul Phillips of Abeles Phillips reported on the Mayflower site. A survey of the area was conducted and he said that the findings buttressed DCP's findings. He noted that most of the DCP's proposed changes worked well with his firm's own research. His main objection, he stated, was to Community Board 7's proposal to limit height throughout the area because it would be difficult to make a commercial building economically viable with this restriction.

Madeleine Polayes asked Robert Flahive to explain how the Community Board's proposal could be reviewed by the Planning Commission. He responded that the proposal raised serious issues of scope, i.e., between what zoning allowed and what was advertised by DCP. Further, he said that the owners and the public had a right to know the maximum extent of changes that could be made. He pointed out that the Board's theater proposal did not raise scope issues, but others did. He added that DCP had not studied the issue of the community's proposal for a maximum 10 FAR within the district, and therefore a study would be legally required before the Commission could review this recommendation. With regard to the community's proposed height limit of 275 ft, of the six soft sites, he noted DCP had only recommended the two bow-tie sites for proposed height limits. Each of the other sites would require study which would take months, and DCP would probably come up with a different height limit than that proposed by Community Board 7.

Victor Caliandro, architect for Landmark West!, advocated for the following:

- Reducing density to 10 FAR;
- Limiting each building's height to 275 feet throughout the district; and
- Opposing "packing the bulk" building form.

He added that under the "packing the bulk" proposal, the Saloon site could still result in a 30 story building. He noted that it was time to rethink the building type itself as an urban planning concept. His proposal was for 10 FAR streetwall buildings that were contextual. He disagreed with criticism that design should not be regulated and pointed out that such buildings had been successful, e.g., on Central Park West.

COMMENTS:HISTORY/BACKGROUND

The Special Lincoln Square District was established in 1969. The area is characterized by a number of relatively recent mixed-use developments along Broadway as well as by major institutions, such as Lincoln Center for the Performing Arts and Fordham University.

The Special Lincoln Square District was established with the following purposes:

- To promote the area as a "location of a unique cultural and architectural complex" including "office headquarters and a cosmopolitan residential community";
- To improve circulation by improving subway stations and providing arcades, open space and subsurface concourses;
- To attract retail uses that would complement and enhance the area; and
- To encourage a "desirable urban design relationship of each building to its neighbors and to Broadway."

Since it was created, certain changes have been made to the District relating to public amenities, bonuses and floor area. Originally, bonuses could be granted for a variety of amenities, including arcades, plazas, pedestrian malls, covered plazas, subsurface connections to the subway and low-or moderate-income housing. The amount of development on a zoning lot was restricted to 14.4 FAR, with no more than 12 FAR for residential uses.

After the adoption, in 1984, of Upper West Side contextual zoning and the citywide inclusionary housing program amendments in 1987, all bonusable public amenities were eliminated, except for the arcade required along Broadway, subway improvements and low-or moderate-income housing. The contextual zoning amendment reduced the permitted maximum FAR from 14.4 to 12. The inclusionary housing program substituted the as-of-right inclusionary housing program for the lower-income housing bonus.

Nineteen buildings have been constructed since the enactment of the Special District. Ten of the 19 buildings are primarily residential with either ground floor retail, and offices or institutions in the base; five are entirely residential; three are institutions and one is an office building.

In addition, there is one project, Lincoln Square (also known as Millennium I) that is under construction, and two other projects (Alfred Court and the West Side YMCA) which were approved by the Board of Estimate, but have not commenced construction.

Lincoln Square -- This development is currently under construction on a full block site bounded by Broadway, Columbus Avenue, West 67th Street and West 68th Street. It

will be a 12 FAR building (662,428 square feet) with 4.9 FAR devoted to commercial uses and 7.1 FAR designated to residential use.

- Alfred Court -- This project would contain 253 residential units and ground floor retail uses along Amsterdam Avenue when completed.

West Side YMCA -- This proposal would include the renovation and expansion of the YMCA facilities and the construction of 120 - 140 market rate residential units and 59 permanent low-income units.

There are at least six remaining development sites in the District. The sites are as follows:

Bank Leumi -- A full-block site between Broadway, Columbus Avenue, West 66th Street and West 67th Street;

Tower Records/Penthouse Magazine Building -- A five story commercial building on Broadway, just north of Lincoln Center between West 66th Street and West 67th Street;

Regency Theater -- Located at West 67th Street and Broadway;

Saloon/Chemical Bank Buildings -- A possible assemblage located on Broadway between West 64th Street and West 65th Street;

Mayflower Block -- A full-block site bounded by Broadway, Central Park West, West 61st Street and West 62nd Street, containing a vacant parcel facing Broadway and the Mayflower Hotel on Central Park West; and

ABC Assemblage -- Three low-rise structures located on the south side of West 66th Street, between Columbus Avenue and Central Park West.

LINCOLN SQUARE ZONING: DENSITY/BONUS DISCUSSION

The Borough President agrees with the Community Board that sound planning principles compel the conclusion that the Lincoln Square area is fast reaching, and indeed exceeding, its capacity to sustain development at the density which is now mapped. It is no longer clear that this neighborhood can absorb such density. Conditions such as the acute traffic congestion, overcrowding on the transit lines, potential landmarking of Lincoln Center (with possible attendant air rights transfers) and pressures on the strained capacity of city service delivery are but a few of the issues that now compel a reconsideration of the area's generally high (10-12 FAR) mapped density.

In the West Side, from West 59th to West 72nd Streets, *West Side Futures* reported a then-built density of 3.78 FAR. The Community Board acknowledged that substantial floor area legitimately remained to be built out; however, it recommended that the future build-out be limited to an overall density of R8 (6.02 FAR).

By way of comparison, Riverside South was approved in 1992 at an overall FAR of 4.1, and the neighboring Manhattan West project was approved at 6.7 FAR. Similarly, the recently-approved ABC project has a residential density of about 2.89 FAR, within a total density (including the studio development) of 6.02 FAR. The Lincoln Towers area was built out at 4.3. A more typical R10/R8 Upper West Side context has an FAR of about 7.25, and the as-built context of the entire Upper West Side is about 6 FAR, very near the allowable R8 zoning benchmark of 6.02 FAR.

Nevertheless, within the Lincoln Square Special District, there are wide variations in the built density, and some noteworthy examples of disparity between what is mapped and what is built.

North of West 64th Streets and west of Columbus Avenue, virtually all of the area has an as-built context of approximately 10 FAR, and much of the area north of West 68th Street has an as-built density of 6 FAR or less.

Above West 68th Street, this as-built character largely conforms to the mapped zoning density, which is mainly R8B.

Below West 68th Street, while some areas are mapped R8, much of the rest of the district is mapped C4-7, or 10 FAR bonusable to 12 FAR.

Within the area between West 68th and West 64th Streets, while some development is built to a 10 FAR density, any use of the existing bonus to go to 12 FAR would yield very out-of-context developments; similarly, the C4-7 mapped across from the low density Lincoln Center complex could generate some massively out-of-scale developments.

- In the area below West 64th Street and east of Columbus Avenue the as-built context typically exceeds 10 FAR. In addition to the actual increment in built density in this area, its more commercial character tends to exaggerate the feeling of its dense character.¹

That said, it remains the case that the proposals now pending do not deal with density. Hence, the Borough President has been informed that the Department of City Planning is unlikely to find the question of underlying density to fall within the scope of what can be accomplished in the near-term. The Borough President urges that this question of scope be carefully considered, but does not believe that formal consideration of the current proposals should be delayed pending a "return to the drawing boards" for such study. In the event that density is deemed to fall

¹ Density translates into a rough measure of how development may interfere with or oppress the people who live in or experience an area before new buildings change it. Generally, residential development is perceived as less "dense" than more commercial development, even where the square footage or size of the buildings is the same. But even residential development contributes substantially to the perception of density. While population is up slightly as of the 1990 census, the overall population of Community Board No. 7 has declined from 212,400 in 1970 to 210,993 in 1990, according to U.S. Census data. Nevertheless, perhaps because of the (often accurate) perception that many services have declined also, area residents do not perceive a lessening of density, but rather, increased demand for scarce resources.

outside the scope of the current actions, the Borough President recommends 1) that the matters found to be within scope be evaluated within *this* public review process and adopted or modified as detailed in this report, and 2) that the Department of City Planning be directed to undertake a more comprehensive review of mapped vs. built vs. "livable" density within this district, and ultimately, to propose appropriate zoning actions.

The issue of the treatment of the bonuses in the district -- inclusionary housing, subway, arcade - warrants separate attention in this context. In 1989, the Community Board's *West Side Futures* study argued for an R10A zoning designation along Broadway, i.e., at a 10 FAR, and recommended that inclusionary housing be made mandatory. For the arcade and plaza bonuses, *West Side Futures* argued for elimination; for the subway bonus, it specifically supported retention of the bonus for this special district. The study recommended lower mid-block density only in the areas north of West 64th Street. As noted above, there has been substantial development in the intervening years, and more to come in the pipeline, all of which calls into question the continuing capacity of this area to absorb development in excess of 10 FAR.

Given the changed circumstances in Lincoln Square, the Borough President recommends: 1) the elimination of the arcade bonus; 2) the restriction of the inclusionary housing bonus to development on-site or entirely within the boundaries of the special district; and 3) the reevaluation of the economics of the subway bonus to relate the amount of floor area granted more clearly and directly to the effectiveness of the subway improvements in mitigating the impacts of high density development.

The Manhattan Borough President agrees with the Community Board that 10 FAR is more appropriate in the Lincoln Square area than 12 FAR. What should really happen, over the long-term, as the Borough President has stated since the release of her 1990 Strategic Policy Statement, is for inclusionary housing programs to be expanded in lower density districts, so that developments and communities could benefit from economic integration. Alternatively, the City should develop and implement an economically viable mandatory inclusionary housing program.

However, both of these are long-range approaches that cannot be accomplished within the foreseeable time frame. Given the existence of inclusionary housing, as a citywide *as-of-right* available bonus for all 10 FAR districts, the Borough President is concerned about the precedent of allowing areas to pick and choose where low-income housing would be welcomed. While the West Side has a long-standing tradition of welcoming economically integrated housing, the Borough President believes strongly that this kind of program works best when it is as-of-right and based on tough criteria.

Some aspects of this area are unique in the City, if not the world; density is already enormous and the chief defining "neighborhood character" is as a cultural hub. It is therefore unfair to allow the low-income units to go in a more economically depressed area (which requires more middle-income investment) far away from the District; this approach fails to create economic integration in the Special District, while continuing to overburden the area with additional density.

Since there is a special district in place, there are many precedents for modifications to citywide rules within the framework of special districts including what was once a special inclusionary housing type bonus only for this district that pre-dated the citywide program.

The Borough President proposes limiting any use of the inclusionary housing bonus to within this district: to units on-site; or within the district boundaries. While this could still add some density to the neighborhood -- and does not alter the mapped density in a way that would be inconsistent with the study and environmental work done by DCP on this proposal -- it would, at a minimum, ensure that the neighborhood saw both the burden and the benefit of such a development.

As for the subway bonus, the current formula bears no sound relationship of amount of FAR granted to the value of the improvement to the public. A classic example was the first Coliseum project proposal, overturned by courts as sale of zoning bonus, where the entire process was driven by the amount of FAR the developer wanted. The Borough President supports a complete reevaluation of this bonus, to bring the value of added floor area and the value of public benefit into line.

BUILDING HEIGHT LIMIT

The Borough President agrees with both DCP and the community that special treatment should be paid to the bow-tie sites. Because of their unique location, they serve as a gateway to the Upper West Side, and thus this distinct quality must be maintained and preserved. DCP's current proposal to have a 300 foot overall height limit is certainly an improvement to having no height limit; however, this proposal does not go far enough in achieving the goal of safeguarding these special sites.

It is therefore rather noteworthy that DCP has expressed a willingness to consider a 275 foot height limit on these sites and has also indicated that this modification to the proposed text could occur in a timely fashion, since the only legal requirement for such a change would involve the re-publishing of this proposed modification and a continuation on December 1, 1993, of the CPC public hearing on this modification in order to give all affected parties proper notice. This receptivity on the part of DCP is very welcomed.

There still remains the larger issue of a building height limit throughout the district. The Borough President agrees with the community's recommendation that a 275 foot building height limit be adopted by the Commission for the entire district. The decision to support this modification is based on DCP's Special Lincoln Square District zoning report which clearly studied building heights throughout the district, as indicated in the chart on page 6 of the report and in the text on page 14. In fact the report argued for "packing the bulk" in terms of this tool's ability to control height. The report stated that "to avoid excessive height, as in the Lincoln Square project (Millennium I), the Department proposes the following: 'Establish envelope controls to govern the massing and height of new buildings throughout the district. The proposed regulation would require a minimum of 60 percent of a development's total floor area to be located below an elevation of 150 feet. This regulation results in a better relationship

between the base and tower portions of buildings, producing building heights ranging from the mid-20 to 30 stories.' "

In addition, DCP participated in the analysis of the six development sites, within the Special District, undertaken by the New School's Environmental Simulation Center and funded by Landmark West!. This work involved the development of physical models for the six sites, and showed the cumulative impacts of the buildouts of these sites, under existing zoning, under DCP's proposed zoning, and under the 275 foot building height limit.

Hence the Commission needs to agree to hear this modification at its December 1, 1993 public hearing. The planning rationale, however, presently exists in the DCP study as well as in the Environmental Simulation Center's analysis. The only change is the tool to achieve this goal. Because the argument for a building height limit is very strong, it is essential to continue discussions with DCP during the review process so that a more suitable recommendation evolves that takes into account the context of the entire District as well as each of its sub-districts.

SPECIAL PERMIT REQUIREMENT

As-of-right design controls cannot address such unique sites as are created by the Broadway diagonal and the world-famous Lincoln Center complex. In acknowledgment of the singular character of this area, the City created the Special Lincoln Square District approximately 25 years ago. Previously in the district, loading docks triggered special permit requirements. It is also clear that a special permit requirement would result in better building design for what is really a unique area. The Borough President therefore urges the Commission to optimize such design controls in order to ensure that the area's distinctiveness continues.

URBAN DESIGN ISSUES

With regard to streetwall heights, setbacks and other building design controls, the Borough President supports the community's solution and thinks that either Community Board 7's recommendations or those of Landmark West! are preferable to the specifics of the DCP proposal. (See attached drawings.) CPC is urged to resolve these conflicts with the community in the same consultative process that it has used all along. In addition, any design controls that are ultimately adopted need to respect the adjacent Central Park West Historic District, whose southern portion falls within the Special District.

The Borough President has no strong opinions on the issue of arcades because experience has shown that sometimes arcades work well and sometimes they deaden the space. If properly designed, subject to some design review process, the Board would support arcades, without any bonus provision, along the east side of Broadway between 61st Street and 65th Street and along Columbus Avenue between 65th Street and 66th Street. The Board's position provides an appropriate middle-ground approach as opposed to DCP's proposals which would mandate arcades at a reduced bonus (amendment #1) or would entirely eliminate them (amendment #2). For these unusual streetscapes, experience has shown that a special permit process works better than an as-of-right solution.

ZONING LOT MERGERS

While the idea of restricting zoning lot mergers is generally a good one, and the Board's recommendation of 20 percent seems to be appropriate, the Borough President is concerned about specific conditions on the Bank Leumi site (bow-tie site) and supports the full preservation of the occupied tenements. Therefore, DCP is urged to come up with a mechanism that addresses both issues: restricting mergers that create unduly tall buildings on small portions of sites and preserving occupied housing.

COMMERCIAL DENSITY AND USE

The Borough President agrees with the Board's assessment that the area is overly congested and has major air quality problems (according to the Riverside South Final Environmental Impact Statement (FEIS), the northern bow-tie site exceeds the National Ambient Air Quality Standard for an 8-hour Carbon Monoxide Concentrations). This continuing overload is obviously not good for economic development. This excessive traffic impact also negatively affects Lincoln Center, a major cultural and economic resource.

As the Board's resolution indicates, there is substantial development planned for this area. Therefore, DCP's proposal to reduce the amount of commercial floor area from 10 FAR to 3.4 FAR in sub-district A of the Special District is strongly endorsed. This restriction is designed to prevent any more debacles like Lincoln Square (Millennium I) which will contain 4.9 FAR of commercial use including: 10 movie theaters (4,000 seats); high traffic generating ground floor retail; and the world's largest health club (10,000 members and 126,000 square feet, which is bigger than most regional mall department stores); there is also an additional 110,000 square feet of cellar retail space. The Millennium I project, because of the amount of commercial space permitted, will add significantly to the pedestrian and vehicular congestion that already exists in this area. This project will generate approximately 41,500 person trips per day, 144 percent more than a residential scenario. The intensity of activity generated by this concentration of commercial uses greatly exceeds that of more typical District buildings which average about 1 FAR of commercial use. Therefore, a reduction in allowable commercial floor area is one small way to reduce the impacts on this overly congested area.

The Borough President supports the Board's position opposing the limitation on Use Group 8 uses (theaters and other entertainment uses) and urges DCP to devise a mechanism to require transparency from the curb level to the ceiling of the theater.

The Borough President acknowledges ABC's importance in the entertainment industry and the enormous commitment of resources ABC has made not only to this neighborhood but also to this City's economy by developing its corporate headquarters and television production facilities in the Lincoln Square area. Therefore, continued dialogue between DCP/CPC and ABC is encouraged so that solutions to existing conflicts may be found.

SPECIAL DISTRICT SUB-AREA C

05/14/2019

Sub-area C, located in the southern portion of the district, between West 60th Street and West 64th Street, is a center of commercial activity due to its proximity to midtown, Columbus Circle and the Paramount Building. The more commercial character of Sub-area C, specifically the area including and around the Mayflower Hotel site, means somewhat different building forms, especially those which allow larger floorplates. With regard to the Mayflower Hotel site, its visible location at the gateway to the Central Park West Historic District and its internationally recognized skyline requires any building on this site to respect these unique site conditions.

PEDESTRIAN CONDITIONS

DCP's proposal to mandate retail continuity at the ground level along Broadway, Columbus Avenue and Amsterdam Avenue to ensure the continuation of the area's pedestrian-oriented character, clearly deserves support. In addition, DCP's proposal to mandate transparency regulations which would require glazing on the ground floor of new developments to encourage active street life and give pedestrians visual access to the interior of retail shops also warrants the Borough President's endorsement.

Given the level of density and congestion in this neighborhood, Community Board 7's desire for area-wide landscape and streetscape improvements to enhance the District, including the need to refurbish the "bow-tie" parks and malls, would not only provide some minimal relief from these impacts, but would also act as a unifying element for the District. DCP is urged to work with the community and other appropriate city agencies to help achieve these improvements.

TEXT ENACTMENT AND FOLLOW-UP

The DCP proposal to make the new zoning effective with the date of approval by the Commission is strongly endorsed by the Borough President. Further, the Commission is strongly encouraged to enact the most comprehensive zoning package possible for this review cycle.

As to follow-up after enactment, the Borough President urges DCP to move to expedite a full traffic/pedestrian circulation study of this area so that the issues of traffic and congestion are addressed. DCP should also move quickly to complete the necessary supporting documentation on any proposals that are deemed outside scope at this point.

CONCLUSION

The Manhattan Borough President applauds DCP for its collaborative work with the Community Board, community groups, other elected officials as well as with the Manhattan Borough President's Office in identifying problems and proposing solutions to the many issues facing the Lincoln Square District. Chairman Schaffer, Manhattan Planning Director Robert Flahive and Regina Myer should be complimented for prioritizing the Special Lincoln Square District zoning Text Amendments and the extra effort expended to prepare and refer the amendments out for public review so expeditiously.

The Lincoln Square Task Force has played an invaluable role in this process. Besides the contribution of the Community Board, DCP, Manhattan Borough President's Office staff and other elected officials and their staffs, many other people contributed greatly to this planning effort, such as: Arlene Simon of Landmark West!; Doug Cogan of The Municipal Art Society; Paul Buckhurst of Buckhurst, Fish and Jacquemart; Marilyn Taylor of SOM; Michael Kwartler of the Environmental Simulation Center at the New School.

In addition to the cooperative work concerning the rezoning of the Lincoln Square area, the community also organized a Millennium Construction Safety Task Force shortly after the collapse of the Ansonia Post Office. This Task Force, jointly chaired by Community Board 7 and the Manhattan Borough President's Office, has worked to assure site safety for the area and has addressed specific problems raised by local residents. Recently, the Task Force has expanded its scope of work to include two other sites: the Bank Leumi site (bow-tie site); and the ABC assemblage on West 66th Street between Central Park West and Columbus Avenue.

The Borough President supports proactive planning in regard to changes to the Zoning Resolution. However, no one realized how flawed the zoning was for the Special Lincoln Square District until the Millennium I project was proposed as an as-of-right development. Sometimes it takes a project that is so out of scale with the surrounding community, so inappropriate in terms of a mix of land uses, and so visually offensive, to galvanize the local community, elected officials and city staff to respond quickly and cooperatively to correct a glaring failure in the Zoning Resolution.

In order to avoid the recurrence of such excessive out of scale development and to enhance the uniqueness of the Special District, the Borough President urges the Commission and then the City Council to move expeditiously to enact the most comprehensive zoning package possible for this review cycle. In order to allow the Commission to hear the Community Board's modifications concerning the proposed zoning amendment, the Borough President requests the Commission to facilitate the airing of these modifications at its December 1st, 1993 public hearing. By allowing the inclusion of the Board's modifications, the Commission expands its own ability to approve the most comprehensive set of zoning amendments possible.

Report and Recommendation Accepted:



RUTH W. MESSINGER
Manhattan Borough President

2019-04-A
05/14/2019**CITY PLANNING COMMISSION**

December 20, 1993/Calendar No. 7

N 940013 ZRM

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 200 of the New York City Charter, for **amendment of the Zoning Resolution** of the City of New York relating to Sections 23-15, 24-11, 27-01, 34-11, 35-35, 37-02, 23-64, 23-65, 24-54, 33-44, 35-63, 74-88, 74-96, 78-31, and 79-21.

The application for amendment to the Zoning Resolution was filed by the Department of City Planning (DCP) on July 2, 1993. The proposed amendments, applicable on avenues and wide streets in high-density residential zoning districts, would for predominantly residential buildings, eliminate plaza and arcade bonuses, make inapplicable the alternate front setback, and replace the tower regulations with a tower-on-a-base building form.

BACKGROUND

The DCP proposes to replace the current zoning regulations which encourage a "tower-in-a-plaza" building form with regulations requiring a "tower-on-a-base" building form which would be more compatible with existing neighborhood character. The issues associated with high-density residential development have been the subject of continued debate even before the most recent comprehensive zoning amendment was adopted in 1961. Although these zoning regulations significantly reduced the maximum allowable density permitted on the avenues and midblocks, they introduced a new building form – a tower in a plaza – in neighborhoods previously developed with streetwall buildings, i.e. brownstones, rowhouses, tenements and high coverage apartment houses of various heights.

Since the mid-1980's DCP has been studying the planning and urban design issues related to the current residential tower regulations in high density districts. During that time the Commission has adopted bulk regulations that would require new development to be built in a form that complements the existing scale and character of many residential neighborhoods. In response to community concerns, contextual zoning regulations were

approved for significant areas of both the Upper West Side, and Upper and Mid-East sides of Manhattan, and regulations were adopted to halt the development of 'sliver' buildings.

In Community District 8 on the Upper East Side almost all of the mid-blocks were rezoned in 1985 to reduce the permitted density by one-third and eliminate the intrusion of tower developments into the midblocks through restrictive envelope controls of the contextual R8B district. Special districts have also been enacted for Madison Avenue and Park and Fifth avenues that prescribe bulk regulations which preclude tower developments and eliminate the plaza bonus. Lexington Avenue was rezoned to decrease the maximum allowable density by twenty-five percent and mandate streetwall buildings without plazas. Most recently, in 1990, the wide crosstown streets in CD 8 and on East End Avenue were remapped to contextual districts that mandate high streetwall buildings and preclude the use of the plaza bonus. As a result of these actions, the tower regulations and plaza bonus are now only applicable in CD 8 for avenue sites along Third, Second, First and York avenues.

In 1989 DCP examined, in its discussion document entitled "Regulating Residential Towers and Plazas: Issues and Options", the regulations that govern residential towers on the Upper East Side. A comprehensive study was undertaken of residential buildings constructed between 1978 and 1988 in Community District 8. These analyses indicated that the current tower regulations result in buildings that are not compatible with the established neighborhood character.

The report found that many blocks in neighborhoods with an established streetwall character have had this context eroded by towers that are set back from the streetline in plazas and rise without setback. It was also found that the plaza bonus which provides up to two FAR of additional bulk often produces plazas that provide little public benefit and are often sited and designed in a manner that discourages public use. Also among the findings was that excessively tall buildings have sprouted on small footprints through the

use of zoning lot mergers, which allow the transfer of unused development potential from one or more adjacent buildings to new development on the same zoning lot. The study concluded that the combination of the tower regulations, the plaza bonus and zoning lot mergers has resulted in the construction of increasingly taller buildings that have little relationship to the surrounding built context.

Recommendations were made to replace the current tower controls in certain high-density residential districts with regulations that would require a "tower-on-a-base" form of building. The base of the building would reinforce the traditional streetwall character of the districts and the mandated setback would reduce the tower's impact on the streetscape. The proposal recommended a set of floor area controls to achieve the objectives of regulating the height of the tower and the impact of zoning lot mergers. The report also recommended limiting the bonus for residential plazas.

Extensive discussion with representatives of the civic, professional and development communities followed but failed to produce a consensus on a proposal. These groups decided to apply an emerging planning tool – computer simulation – to assist in the review of issues associated with towers. In 1991, each of the four groups – AIA's OCULUS Committee, CIVITAS, the Real Estate Board of New York (REBNY), and the Department of City Planning – developed guidelines and illustrative drawings for theoretical buildings on a common set of sites on the Upper East Side. Information on the proposed building envelopes was processed by computer and a set of drawings and computer simulations depicted the proposed buildings forms of the various proposals. The proposals were presented at a public meeting.

Although a single proposal did not result from this collaboration, the working sessions were invaluable in helping each of the four proposers, joined by representatives of Community Board 8 and the Manhattan Borough President's Office, to recognize the wide range of viewpoints held by the participants as well as to understand the many common

elements.

Description of Text Amendment (as referred for public comment)

The proposed zoning text amendment incorporates many of the common elements that were identified by the participants in the working group, and also reflects the extensive analyses done by the Department in its studies of residential towers and plazas and the Quality Housing II proposal. The results of recent discussions at the City Planning Commission on various techniques to achieve greater articulation of buildings in waterfront developments have also been incorporated.

These proposed regulations set up a middle ground between contextual buildings and tower development. They mandate a tower-on-a-base building form that will facilitate a compatible relationship between future development and existing neighborhoods. This will be accomplished through a set of bulk controls and the elimination of the plaza and arcade bonuses. Buildings that are occupied entirely or predominantly by community facility uses would continue to use the existing regulations. The proposed changes would be applicable to buildings that are entirely or partially residential in R9, R10, C1-8, C1-9, C2-7, and C2-8 zoning district or in C1 or C2 districts mapped within R9 or R10 districts. Although the proposed zoning amendment would primarily affect the development of sites in Community Districts 6 and 8, certain sites in Community Districts 2, 4, 7, 10 and 11 also have these zoning designations.

The proposed regulations require a building base, located within eight feet of the street line in residential districts and at the street line in applicable commercial districts. Up to 30% of the base would be permitted to be recessed along the length of the street line. All recesses, except for the entrance, must be landscaped. The height of the required base would be between 60 and 85 feet. However, if the height of an adjacent building is between 60 and 100 feet along an avenue or wide street, the height of the new building must match that of the existing building for at least 20 feet in length. These controls seek to achieve a

building form which complements the existing streetwall frontages, yet provides sufficient design flexibility.

The tower portion of the new development must be set back 10 feet on a wide street and 15 feet on a narrow street above the required base . Dormers would be allowed as a device to provide a transition between the base and the tower. The height of the tower would be effectively regulated by using a defined range of tower coverage (30 to 40%) together with a required percentage of floor area under 150 feet (55 to 60%). The top four floors of the tower could have a coverage less than 30% if each penthouse floor is at least 20% smaller in area than the floor below it. This allows for articulation at the top of the tower and is referred to as the penthouse rule.

The proposal includes a prohibition on locating any portion of a tower in the "transition zone" which is defined as that area between 100 to 125 feet from the avenue. An existing building within the transition zone could be preserved and included on the zoning lot. However, if a portion of the new building is in the transition zone, its base must match the height of the adjacent building or built to a height of 60 feet. In no case can the new building in the transition zone be higher than 85 feet.

Under this proposal, the height of residential towers and the effect of zoning lot mergers on building scale would become more predictable, resulting in buildings likely to range in height from 28 to 33 stories (including up to 4 penthouse floors).

Post Referral Text Changes

The proposal was revised prior to the Commission's public hearing on December 1st, to incorporate controls that further encourage the articulation of the tower-on-a-base building form in response to suggestions made by the Commission, the Manhattan Borough President, and Community Boards and to address some of the concerns articulated by representatives of the architectural and development communities with whom the

Department has continued to meet. The proposed refinements include:

- * Relaxation of the streetwall location requirement beyond 30 feet of the corner on narrow streets in commercial districts to allow a maximum 8 foot recess at ground level. Streetwalls must still be located at the streetline in commercial districts on wide streets.
- * Up to 50% of the streetwall length at each level in residential buildings, and above the first floor in commercial buildings (including the building entrance recess) may be recessed up to 8 feet.

Two additional options for meeting the height matching requirement have been developed, in addition to the 20 foot wide precise height matching in the original proposal, as follows:

- * Dormers may qualify as the required height matching with an existing adjacent building on a wide street as an alternative to the 20 foot wide precise height matching.
- * Massing above the base may also meet the matching requirement if its width is at least 50% of the length of the streetwall base.

Most significantly, an incentive system has been proposed to encourage articulation of the base of the building and the use of design elements that integrate the base and tower portions of the building.

- * Both recesses and dormers qualify for articulation credits. Articulation credits can be used to reduce the minimum tower coverage from 30% down to 28%, and floor area distribution controls can be reduced. The combination of both articulation credits could result in up to two additional floors in the tower portion of the

building.

The proposed combination of streetwall controls, floor area distribution, tower coverage and articulation credits work together to ensure a flexible building design which will enhance existing streetscapes, reinforce neighborhood character, and still allow for reasonable tower development.

ENVIRONMENTAL REVIEW

This application (N 940013 ZRM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 93DCP047M. The lead agency is the Department of City Planning.

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

PUBLIC REVIEW

On August 16, 1993, this text change application was referred to Community Boards 2, 4, 6, 7, 8, 10, and 11 in Manhattan, the Manhattan Borough President and the Manhattan Borough Board for information and review in accordance with the procedures for referring non-ULURP matters. Because of the significance and scope of the proposed amendment the CPC extended the typical 30-day period was extended to 60 days. The Department of City Planning staff has had numerous meetings with those groups most affected by the proposal.

On October 21, 1993, Community Board 2 adopted a resolution in support of the proposal by a vote of 35-0-0, with a proviso that the following concerns be addressed, limiting the transfer of development rights, that permitting front wall recesses will not help in achieving the goal of a uniform street wall, that the tower setbacks proposed are not adequate, and that the resultant building form may not blend well with the historic quality of communities.

On October 6, Community Board 4 met, and adopted a resolution in support of the proposal by a vote of 28-0-1.

On October 20, 1993, Community Board 6 adopted a resolution in support of the proposal by a vote of 27-0-0, with the following recommendations: that the zoning lot depth on the Upper East Side be reduced to 100 feet, that CPC limit tower coverage to 30-40% to limit excessive height, that the CPC review the Oculus committee design recommendations, that CPC assess the affects of the text changes in two and five years, that CPC develop rules that will prevent tower and plaza community facility buildings from converting to residential buildings, that CPC expedite the completion of the community facility text, and that residential uses in community facilities be required to build the tower-on-a-base.

On October 13, 1993 Community Board 8 adopted a resolution in support of the proposal by a vote of 23-0-3, with the following recommendations: that 'street wall height of the avenue buildings must match the average height of the mid-block buildings for 100 adjacent feet, that the CD 8 supports 'REBNY's desire to incorporate landscape details in the streetline setbacks,' that the CD 8 supports Oculus' suggestion to encourage windows on all four sides of the tower, and that this text change should only be approved in conjunction with the Upper East Side rezoning which would reduce the depth of the avenue zoning districts.

In addition, community boards 2, 4, and 8 stated in their resolutions that community

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facilities should not be allowed to continue to use the tower regulations or plaza regulations.

Borough President Review

This application (N 940013 ZRM) was considered by the Manhattan Borough President, who issued a recommendation approving the application on November 24, 1993, with the following recommendations:

That the City Planning Commission expedite completion of the community facility text changes and develop regulations that bring community facility buildings into a compatible urban design context with buildings generated by new tower-on-a-base zoning, including the elimination of additional floor area for community facilities.

That the City Planning Commission develop rules that will prevent tower and plaza community facility buildings from being easily converted to residential buildings.

That the City Planning Commission review the Oculus design recommendations in order to incorporate more flexibility and creativity into the design of tower-on-a-base buildings.

The Manhattan Borough President further stated that her joint application with CD 8 to reduce the Upper East Side avenue zoning depth from 125 feet to 100 feet be approved in conjunction with this text change .

City Planning Commission Public Hearing

On November 17, 1993 (Calendar No. 5), the City Planning Commission scheduled December 1, 1993 for a public hearing on this application (N 940013 ZRM). The hearing was duly held on December 1, 1993 (Calendar No. 12).

There were 28 speakers in favor of the application, and 3 speakers in opposition.

Those speaking in favor included the Manhattan Borough President, representatives of assembly districts 65 and 73, Congressional District 14, City Council districts 4 and 5, State Senatorial District 26, the Chairperson of Community Board 8, representatives of community boards 6, 10, and 11, a representative of the Municipal Arts Society and representatives of various community organizations. Among the reasons offered in support of this application were the desire to build lower buildings that are more in scale with the existing neighborhood, the importance of requiring a streetwall, the need to preserve the mid-block scale, and the elimination of the plaza bonus.

The Manhattan Borough President commended the collaborative effort amongst the many groups which made this proposed text change possible.

Those speaking in opposition included a representative of the Real Estate Board of New York who stated that the proposed changes would reduce the amount of new affordable housing, and make it more difficult to build. He also suggested that the City would be better served if the residential plaza regulations were strengthened rather than eliminated. Another speaker, who generally supported the text, stated that packing of floor area below 150 feet would lead to uneconomical apartments in the base of the building. A speaker representing the Oculus committee of the American Institute of Architects presented an alternative proposal which used coverage and streetwall controls to govern the tower-on-a-base building form.

The hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), adopted by the Board of Estimate on September 30, 1982 (Calendar No. 17), pursuant to the New

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York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York 3 State Executive Law, Section 910 et seq.). The designated WRP number is WRP-087-93. This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that the proposed amendments, as modified, are appropriate, and concludes that the buildings developed under this new text will represent a significant advance in the evolution of a building form which better complements the existing neighborhood context.

Recent high density residential development, particularly on the east side of Manhattan, has all too frequently been out of scale with its context. The streetwall scale and neighborhood context have been eroded as towers have become increasingly taller and thinner. This text change would create a new building form that would reinforce the established neighborhood character.

In considering the provisions of this text amendment, the Commission addressed specific aspects which were the important concerns articulated at various public hearings and meetings with interested community organizations, the architectural and development communities, and DCP staff. A discussion of those aspects follow.

Plaza bonus

The regulation that permits floor area bonuses for the provision of residential plazas was part of the "incentive zoning" approach introduced in the 1961 Zoning Resolution. Few design guidelines were incorporated into these provisions. In 1977, more specific residential plaza guidelines were included in the Zoning Resolution. Unfortunately, even with the revised design standards, the plaza bonus has not resulted in quality open spaces that

encourage public usage. In many cases, plazas have been poorly designed and located in a manner that discourage public use. The plaza erodes the streetwall character of the neighborhoods and also results in the increased heights of the towers. The plaza bonus also competes with the inclusionary housing bonus program which was enacted in 1987.

In order to achieve the goals of the tower-on-a-base building form and to address concerns regarding the use and design of plazas, the Commission has decided to eliminate the residential plaza bonus. Although there has been some testimony requesting that the plaza bonus be maintained, the Commission has concluded that, for predominantly residential buildings, the plaza bonus has not provided sufficient public benefit.

Bulk Regulations

The Commission believes that new zoning controls are needed for certain high density residential zones in Manhattan's traditional residential neighborhoods. The current zoning regulations do not specify a minimum floor size or otherwise regulate height, nor ensure a building form that is compatible with established neighborhood character. Many streetwall frontages have been eroded, by towers that are set back from the streetline and rise without setback. The public perception of the character of the neighborhood has been altered by these new buildings.

The Commission recognizes that there are several interrelated problems with the current regulations which encourage the construction of buildings that are out of context with the scale and character of the neighborhoods. As development sites have become more difficult to assemble, large buildings are increasingly being constructed on small footprints through the use of zoning lot mergers. In the Department's study of residential development on the Upper East Side, it was documented that nearly two-thirds of the additional bulk above the base floor area of the building "footprint" resulted from zoning lot mergers, while the rest was generated by the plaza bonus. The Commission agrees with the findings in the Department's 1989 report that the combination of the tower regulations, the residential

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plaza bonus, and zoning lot mergers have resulted in the construction of increasingly taller buildings. The Commission believes that the new regulations effectively address these problems.

During the course of review the Commission heard testimony from groups expressing concern about the proposed regulations which would require a percentage of floor area (55 to 60%) to be located below 150 feet. Concerns were expressed by some architects that this regulation would limit architectural expression by discouraging articulation of street walls. Other concerns were expressed by the development community that this regulation would create inefficient apartments in the base portion of the building and penalize ground floor retail which customarily has higher ceiling heights. The Commission asked the staff to evaluate alternative controls, including those put forward by the architectural and development communities during the last several years, that could achieve the same result.

The Department staff, both during the formal review period as well as in the working groups that the Department had participated in prior to drafting the proposed regulations, has had a continuing dialogue with professional groups, the development community and the community and civic groups interested in this issue. The DCP staff has studied alternatives to the proposed floor area distribution controls, including minimum coverage regulations, height limits, restriction on zoning lot mergers, and more defined streetwall controls. The Department's analysis of these alternatives indicates that individually they do not provide the same level of predictability in regard to building height, nor do they establish as strong a streetwall context as the proposed floor area distribution controls.

Articulation credits

In order to respond to the concern that articulation of street walls would be discouraged by the floor area distribution control, the Department developed an incentive regulation to encourage articulation in the buildings by giving credit in the form of a lower coverage tower and reduced floor area distribution requirements. The articulation could take the

form of enhanced recesses and/or dormers. The Commission believes that these articulation credits would provide sufficient incentive to provide articulation and has received positive responses from both the architectural and development communities in this regard.

Apartment layouts

The Department also examined the impact on apartment layouts in the bases of the resulting buildings, in response to concerns from the development community. The Department documented many examples of existing buildings in the city which have achieved successful apartment layouts in streetwall type buildings.

Community facility use of plaza bonus

The Commission notes the concern of the Manhattan Borough President and community boards that most community facilities would continue to be eligible for a plaza bonus. The proposed text more strictly defines community facility buildings so that a building that is more than 25 percent residential is not eligible for a plaza bonus and must utilize the tower-on-a-base regulations. In addition, the Department intends as part of the Community Facility Zoning Study to recommend that the plaza bonus be eliminated for college dormitories and staff dwellings which are similar to residential buildings.

Post approval monitoring

The Department has proposed to undertake a program of monitoring buildings as they are approved by the Department of Buildings in order to assess the effectiveness of the new regulations and to refine the regulations if necessary. The approach would be similar to the followup evaluation that was undertaken after new bulk regulations were adopted for Midtown. The Department also intends to continue discussions with Oculus and REBNY to further develop the concepts that have been suggested since the public hearing. The Department will initiate this monitoring effort beginning with the first building by providing the Commission with a verbal report. After five buildings have been built under the new regulations the Department will prepare a written summary of the effectiveness of

the tower-on-a-base controls and, if needed, propose changes or refinements.

RESOLUTION

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

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

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination, and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by the modifications of various sections as follows:

Matter Underlined is new, to be added;

Matter in ~~Strikeout~~ is old, to be deleted;

Matter in italics or within # # is defined in Section 12-10;

*** indicate where unchanged text appears in the Zoning Resolution.

23-10 OPEN SPACE AND FLOOR AREA REGULATIONS

* * *

23-15

Maximum Floor Area Ratio in R10 Districts

* * *

In R10 Districts, except in R10 equivalent C4, C5 or C6 Districts, the bonus provisions of Sections 23-16 (Floor Area Bonus for a Plaza), 23-17 (Floor Area Bonus for a Plaza-Connected Open Area) or 23-18 (Floor Area Bonus for Arcades), shall not apply to any #development# or #enlargement# with more than 25 percent of its total floor area in #residential use# after (the effective date of this amendment).

In R10 Districts, no existing #plaza#, plaza-connected open area, #residential plaza#, #arcade# or other public amenity, open or enclosed, for which a #floor area# bonus has been received pursuant to regulations antedating (the effective date of this amendment), shall be eliminated or reduced in size without a corresponding reduction in the #floor area# of the #building# or the substitution of equivalent complying area for such amenity elsewhere on the #zoning lot#.

* * *

24-10 FLOOR AREA AND LOT COVERAGE REGULATIONS

* * *

24-11

Maximum Floor Area Ratio and Percentage of Lot Coverage

* * *

In R9 or R10 Districts, the bonus provisions of Sections 24-14 (Floor Area Bonus for a Plaza), 24-15 (Floor Area Bonus for a Plaza-Connected Open Area) or 24-16 (Floor Area Bonus for Arcades), shall not apply to any #development# or #enlargement# with more than 25 percent of its total #floor area# in #residential use# after (the effective date of this amendment).

In R9 or R10 Districts, no existing #plaza#, plaza-connected open area, #residential plaza#, #arcade# or other public amenity, open or enclosed, for which a #floor area# bonus has been received pursuant to regulations antedating (the effective date of this amendment), shall be eliminated or reduced in size without a corresponding reduction in the #floor area# of the #building# or the substitution of equivalent complying area for such amenity elsewhere on the #zoning lot#.

* * *

Chapter 7 Special Urban Design Guidelines - Residential Plazas

* * *

27-01

Applicability of this Chapter

The provisions of this Chapter shall apply to all #developments# constructed after April 21, 1977 containing a #plaza# ~~which~~ that qualifies for a #floor area# bonus under the provisions of Sections 23-16 (Floor Area Bonus for a Plaza) and 24-14 (Floor Area Bonus for a Plaza), except that after (the effective date of this amendment), these provisions shall not apply to any #development# or #enlargement# with more than 25 percent of its total #floor area# in #residential use# located in R9, R10, C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts.

A #development# that contains a #residential plaza# and that has been granted a special permit by the City Planning Commission prior to (the effective date of this amendment), may be started or continued pursuant to that special permit.

* * *

34-11 General Provisions

* * *

In C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, the bonus provisions of Sections 23-16 (Floor Area Bonus for a Plaza), 23-17 (Floor Area Bonus for a Plaza Connected Open Area), 23-18 (Floor Area Bonus for Arcades), 24-14 (Floor Area Bonus for a Plaza), 24-15 (Floor Area Bonus for a Plaza-Connected Open Area) or

24-16 (Floor Area Bonus for Arcades), shall not apply to any #development# or #enlargement# with more than 25 percent of its total #floor area# in #residential use# after (the effective date of this amendment).

In C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, no existing #plaza#, plaza-connected open area, #residential plaza#, #arcade# or other public amenity, open or enclosed, for which a #floor area# bonus has been received pursuant to regulations antedating (the effective date of this amendment), shall be eliminated or reduced in size without a corresponding reduction in the #floor area# of the #building# or the substitution of equivalent complying area for such amenity elsewhere on the #zoning lot#.

* * *

35-30 APPLICABILITY OF FLOOR AREA AND OPEN SPACE REGULATIONS

* * *

35-35

Floor Area Bonus for Plaza, Plaza-Connected Open Area, or Arcade in connection with Mixed Buildings.

* * *

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In C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, the bonus provisions of Sections 23-16 (Floor Area Bonus for a Plaza), 23-17 (Floor Area Bonus for a Plaza-Connected Open Area), 23-18 (Floor Area Bonus for Arcades), 24-14 (Floor Area Bonus for a Plaza), 24-15 (Floor Area Bonus for a Plaza-connected Open Area) or 24-16 (Floor Area Bonus for Arcades), shall not apply to any #development# or #enlargement# with more than 25 percent of its total #floor area# in #residential use# after (the effective date of this amendment).

In C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, no existing #plaza#, plaza-connected open area, #residential plaza#, #arcade# or other public amenity, open or enclosed, for which a #floor area# bonus has been received pursuant to regulations antedating (the effective date of this amendment), shall be eliminated or reduced in size without a corresponding reduction in the #floor area# of the #building# or the substitution of equivalent complying area for such amenity elsewhere on the #zoning lot#.

* * *

Chapter 7 Special Regulations

37-02

Applicability of Article II, Chapter 7 - Special Urban Design Guidelines - Residential Plazas

In ~~C1-9, C2-8~~, C4-6, C4-7, C5-1, C5-2, C5-4, C6-4, C6-5 and C6-8 districts and ~~C1 or C2 districts, mapped within an R10 district~~, the regulations of ARTICLE II, CHAPTER 7 (SPECIAL URBAN DESIGN GUIDELINES - RESIDENTIAL PLAZAS) shall apply to any #residential development# or to any #development# occupied by #predominantly residential use# which obtains a #floor area# bonus pursuant to Section 23-16 (Floor Area Bonus for a Plaza) or 24-14 (Floor Area Bonus for a Plaza), except as modified by the provisions of Section 37-021 to 37-026, inclusive, relating to Modifications to Applicability of ARTICLE II, CHAPTER 7.

In C1-8, C1-9, C2-7, or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, the provisions of this Section shall not apply to any #development# or #enlargement# with more than 25 percent of its total #floor area# in #residential use# after (the effective date of this amendment).

In C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, no existing #plaza#, plaza-connected open area, #residential plaza#, #arcade# or other public amenity, open or enclosed, for which a #floor area# bonus has been received pursuant to regulations antedating (the effective date of this amendment), shall be eliminated or reduced in size without a corresponding reduction in the #floor area# of the #building# or the substitution of equivalent complying area for such amenity elsewhere on the #zoning lot#.

In the #Special Midtown District# (Article VIII, Chapter 1), the provisions of this section shall not apply.

* * *

23-60 HEIGHT AND SETBACK REGULATIONS

* * *

23-64 Alternate Front Setbacks

* * *

In R9 or R10 Districts, the provisions of this Section shall be inapplicable to any #development# or #enlargement# with more than 25 percent of its total #floor area# in #residential use#.

* * *

Supplementary Regulations

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23-65

Tower Regulations

R9, R10

In the districts indicated, any #building# or #buildings# or portions thereof which in the aggregate occupy not more than 40 percent of the #lot area# of a #zoning lot# or, for #zoning lots# of less than 20,000 square feet, the percentage set forth in Section 23-651 (Towers on small lots), may penetrate an established #sky exposure plane#. (Such #building# or portion thereof is hereinafter referred to as a tower).

At all levels, such tower shall be located not less than 15 feet from the #street line# of a #narrow street#, and not less than 10 feet from the #street line# of a #wide street#.

Unenclosed balconies, subject to the provisions of Section 23-13 (Balconies) are permitted to project into or over open areas not occupied by towers.

The provisions of this Section shall not apply to any #building#, located wholly or partly in a #Residence District#, that which is within 100 feet of (a) a #public park# with an area of one acre or more, or (b) a #street line# opposite such a #public park#.

Furthermore, the provisions of this Section shall not apply to any #development# or #enlargement# that:

- (a) is located on a #wide street# and either within 125 feet from such #wide street# frontage along the short dimension of the #block# or within 100 feet from such #wide street# frontage along the long dimension of the #block#; and

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(b) contains more than 25 percent of its total #floor area# in #residential use#.

If a portion of such #development# or #enlargement# is developed as a tower the entire #development# or #enlargement# shall be subject to the provisions of Section 23-652 (Tower-on-a-base).

23-651
Towers on small lots
R9, R10

* * *

23-652
Tower-on-a-base
R9, R10

In the districts indicated, any #development# or #enlargement# that will contain more than 25 per cent of the total #floor area# for #residential use# may be constructed as a tower-on-a-base, in accordance with the regulations set forth in this Section. The height of all #buildings or other structures# shall be measured from the #base plane#.

(a) Tower regulations

(1) At any level above a building base (referred to hereinafter as a "base"), any

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portion of a #building# (referred to hereinafter as a "tower") shall occupy in the aggregate:

- (i) not more than 40 percent of the #lot area# of a #zoning lot# or, for a #zoning lot# of less than 20,000 square feet, the percentage set forth in Section 23-651 (Towers on small lots); and
- (ii) not less than 30 percent of the #lot area# of a #zoning lot#. However, the highest four stories of the tower or 40 feet, whichever is less, may cover less than 30 percent of the #lot area# of a #zoning lot# if the gross area of each #story# does not exceed 80 percent of the gross area of that #story# directly below it.
- (2) Any tower located above a base shall not be subject to the provisions of Sections 23-63 (Maximum Height of Walls and Required Setbacks).
- (3) Within any #building# that includes a tower, at least 55 percent of the total #floor area# permitted on the #zoning lot# shall be located in #stories# located either partially or entirely below a height of 150 feet.

When the #lot coverage# of the tower portion is less than 40 percent, the required 55 percent of the total #floor area# distribution, within a height of 150 feet shall be increased in accordance with the requirement set forth below:

<u>Percent of #lot coverage# of the tower portion</u>	<u>Minimum percent of total building #floor area# distribution below the level of 150 feet</u>
<u>40.0 or greater</u>	<u>55.0</u>
<u>39.0 to 39.9</u>	<u>55.5</u>
<u>38.0 to 38.9</u>	<u>56.0</u>
<u>37.0 to 37.9</u>	<u>56.5</u>
<u>36.0 to 36.9</u>	<u>57.0</u>
<u>35.0 to 35.9</u>	<u>57.5</u>
<u>34.0 to 34.9</u>	<u>58.0</u>
<u>33.0 to 33.9</u>	<u>58.5</u>
<u>32.0 to 32.9</u>	<u>59.0</u>
<u>31.0 to 31.9</u>	<u>59.5</u>
<u>30.0 to 30.9</u>	<u>60.0</u>

(4) At all levels, such tower shall be set back from the #street wall# of a base at least 15 feet along a #narrow street# and at least 10 feet along a #wide street#, except such dimensions shall include the depth of any permitted recesses in the #street wall#.

(5) No tower or portion thereof shall be located on a #narrow street#, at a distance that is more than 100 feet from the intersection with a #wide street#.

Unenclosed balconies, subject to the provisions of Section 23-13 (Balconies) are permitted to

project into or over open areas not occupied by towers.

For the purposes of determining the permitted tower coverage and the required minimum distance between #buildings# or portions thereof, that portion of a #development# located within 125 feet from the #wide street# frontage along the short dimension of a #block# shall be treated as if it were a separate #zoning lot#.

A #development# that contains a tower proposed pursuant to Section 23-65 (Tower Regulations) and that has been granted a special permit by the City Planning Commission prior to (the effective date of this amendment) may be started or continued pursuant to that special permit.

(b) Building base regulations

(1) Street wall location

- (i) On a #wide street#, and on a #narrow street# within 125 feet of its intersection with a #wide street#, the #street wall# of the base shall occupy the entire #street frontage# of a #zoning lot# not occupied by existing #buildings#. At any height, at least 70 percent of the length of such #street wall# shall be located within eight feet of the #street line#, and the remaining 30 percent of such #street wall# may be recessed beyond eight feet of the #street line# to provide #outer courts# or

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balconies. However, no such recesses shall be permitted within 20 feet of an adjacent #building# fronting on the same #street line#, or within 30 feet of the intersection of two #street lines#.

- (ii) On a #narrow street# beyond 125 feet from its intersection with a #wide street#, no #street wall# of a base is required nor shall any #street wall# provided beyond 125 feet count toward the computation of any permitted recesses on such wall.
- (iii) For #outer courts#, the provisions of Section 23-84 (Outer Court Regulations) shall not apply. In lieu thereof, the width of any such #court# shall be at least one and one third times its depth.
- (iv) Where the #street wall# of an adjacent #building# fronting on the same #street line# is located within 10 feet of the #street line#, the #street wall# of the base shall be either located at the #street line# or aligned with the #street wall# of the adjacent #building# for a distance of not less than 20 feet measured horizontally from the side wall of such existing #building#.

(2) Height of Street Wall

All #street walls# of a base shall rise vertically without setback to a height of not less than 60 feet nor more than 85 feet except as provided below:

- (i) On a #wide street#, if the height of the #street wall# of an adjacent #building# fronting on the same #street line# exceeds 60 feet and if such

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#street wall# is located within 10 feet of the #street line#, the #street wall# of the base shall match the height of the #street wall# of the adjacent #building# to a maximum height of 100 feet by either of three alternatives:

- (a) the #street wall# of the base shall be extended vertically to the height of the adjacent #building# for a distance of not less than 20 feet measured horizontally from the side wall of such adjacent #building#;
- (b) at least 50 percent of the width of the #street wall# of the base shall be extended vertically to the height of the adjacent #building#; or
- (c) a dormer shall be provided pursuant to paragraph (3) of this Section. Such dormer shall match the height of the adjacent #building#.

Such #street wall# of the base fronting on a #wide street# may be extended along a #narrow street# within 70 feet of its intersection with the #wide street#.

- (ii) On a #narrow street# beyond 100 feet of its intersection with a #wide street#, the #street wall# of a base shall rise vertically to a height of at least 60 feet when the adjacent #building# is either less than 60 feet or greater than 85

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feet, or match the height of the adjacent #building# when the height of such #building# is between 60 feet and 85 feet.

For the purposes of this paragraph (2), the height of an adjacent #building# shall be the height of a #street wall#, before setback, if applicable, of that portion of an existing #building# nearest the new #development# or #enlargement#, fronting on the same #street line#, and located on the same or an adjoining #zoning lot#.

(3) Dormer

For the purposes of this Section, a dormer shall be a vertical extension of the #street wall# of a base allowed as a permitted obstruction within a required front setback area. A dormer may be located anywhere on a #wide street#, and on a #narrow street# within 70 feet of its intersection with a #wide street#.

On any #street# frontage the aggregate width of all dormers at the required initial setback level shall not exceed 60 percent of the width of the #street wall# of the highest #story# of the base. For each foot of height above the base, the aggregate width of all dormers at that height shall be decreased by one percent of the #street wall# width of the highest #story# of the base.

Such dormer shall count as #floor area# but not as tower #lot coverage#.

(4) Open areas

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All open areas at ground level, located between the #street line# and the #street wall# of a base shall be landscaped except in front of entrances and exits to the #building#.

(c) Modification of tower coverage and #floor area# distribution requirements

The tower #lot coverage# and #floor area# distribution requirements set forth in paragraph (a)(3) of this Section shall be modified for #buildings# that provide articulation of a base in accordance with the following provisions:

(1) Recesses

Recesses shall occupy, in the aggregate, between 30 and 50 percent of the width of each eligible #story# of the base, and measure at least two feet in depth. In addition, the width of any individual recess provided within eight feet of the #street line# shall not exceed 25 percent of the width of the #street wall# of the base, unless such recess is provided in combination with an additional recess located beyond eight feet of the #street line#. Furthermore, all recesses shall comply with the provisions of paragraph (b)(1) of this Section or paragraph (a)(1) of Section 35-63, as applicable. For each #street# frontage of a #building# with recesses provided in accordance with this subparagraph, the percent of #lot coverage# of the tower portion of the #building# may be decreased by 0.5 percent, and the minimum percent of total building #floor area# distribution below a level of 150 feet may be reduced by 0.25 percent.

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(2) Dormers

For each #street# frontage with dormers provided in accordance with paragraph (b)(3) of this Section that measure, at their lowest level, at least 50 percent of the length of the #street wall# of the highest #story# of the base, and measure, at their highest level, at least 25 percent of the length of the highest #story# of the base, and rise at least 25 feet above the base, the percent of #lot coverage# of the tower portion of the #building# may be decreased by 0.5 percent, and the minimum percent of total building #floor area# distribution below a level of 150 feet may be reduced by 0.25 percent.

(3) Matching Provision

For each #street# frontage that provides an extension of the #street wall# of a base that matches the height of an adjacent #building# in accordance with paragraph (b)(2)(i)(b) of this Section, the percent of #lot coverage# of the tower portion of the #building# may be decreased by 0.5 percent, and the minimum percent of total building #floor area# distribution below a level of 150 feet may be reduced by 0.25 percent.

However, the total percent of #lot coverage# of the tower portion of the #building# shall not be decreased by more than 2.0 percent, nor shall the minimum percent of total building #floor area# distribution below a level of 150 feet be reduced by more than 1.0 percent.

* * *

24-50 HEIGHT AND SETBACK REGULATIONS

* * *

24-53

Alternate Front Setbacks

* * *

In R9 or R10 Districts, the provisions of this Section shall be inapplicable to any #development# or #enlargement# with more than 25 percent of its total #floor area# in #residential use#.

* * *

Supplementary Regulations

24-54

Tower Regulations

R7-2, R8, R9, R10

In the districts indicated, except as set forth herein, any #building# or #buildings# or portions

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thereof which in the aggregate occupy not more than 40 percent of the #lot area# of a #zoning lot# or, for #zoning lots# of less than 20,000 square feet, the percentage set forth in Section 24-541 (Towers on small lots), may penetrate an established #sky exposure plane#. (Such #building# or portion thereof is hereinafter referred to as a tower.)

At all levels, such tower shall be located not less than 15 feet from the #street line# of a #narrow street#, and not less than 10 feet from the #street line# of a #wide street#.

Unenclosed balconies, subject to the provisions of Section 24-175 (Balconies) are permitted to project into or over open areas not occupied by towers.

The provisions of this Section shall not apply to any building, located wholly or partly in a #Residence District#, that which is within 100 feet of (a) a #public park# with an area of one acre or more or (b) a #street line# opposite such a public park.

However, in R9 or R10 Districts, the provisions of Section 23-652 (Tower-on-a-base) shall apply to any #development# or #enlargement# that:

- (a) is located on a #wide street# and either within 125 feet from such #wide street# frontage along the short dimension of the #block# or within 100 feet from such #wide street# frontage along the long dimension of the #block#; and
- (b) contains less than 75 percent of its total #floor area# in #community facility use#.

* * *

33-44
Alternate Front Setbacks

* * *

In C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, the provisions of this Section shall be inapplicable to any #development# or #enlargement# with more than 25 percent of its total #floor area# in #residential use#.

* * *

35-60 MODIFICATION OF HEIGHT AND SETBACK REGULATIONS FOR MIXED
BUILDINGS

* * *

35-63
Special Tower Regulations for Mixed Buildings

In the districts as indicated, when a #mixed building# is subject to tower regulations, the #residential# tower regulations of paragraphs (a) and (b) or the commercial tower regulations of paragraph ~~(b)~~ (c) of this Section shall apply to the entire #building#.

- (a) In C1 or C2 Districts mapped within R9 or R10 Districts, or in C1-8, C1-9, C2-7 or C2-8 Districts, a #mixed building# that meets the requirements of a tower-on-a-base set forth in Section 23-65 (Tower Regulations), shall be governed by the provisions of Sections 23-652 (Tower-on-a-base), except that paragraph (b), Section 23-652 (Building base regulations) shall be amended as follows:
- (1) On a #wide street#, and on a #narrow street# within 30 feet of its intersection with a #wide street#, the entire length of the #street wall# of a base shall be located on the #street line#. However, to allow for articulation of corners at the intersection of two #street lines#, the #street wall# may be located anywhere within an area bounded by the two #street lines# and a line connecting such #street lines# at points 15 feet from their intersection. Recesses, not to exceed three feet in depth from the #street line#, shall be permitted on the ground floor where required to provide access to the #building#.
- (2) On a #narrow street# beyond 30 feet of its intersection with a #wide street#, the #street wall# of a base shall be located within eight feet of a #street line#.
- (3) On a #wide street#, recesses above the ground floor are permitted at any level in the #street wall# of a base for #outer courts# or balconies. The aggregate length of such recesses shall not exceed 50 percent of the length of the entire #street

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wall# at any level. However, not more than 30 percent of the aggregate length of such recesses shall exceed a depth of eight feet. Furthermore, no recesses shall be permitted below a height of 12 feet, within 20 feet of an adjacent #building#, or within 30 feet of the intersection of two #street lines#, except for corner articulation as provided for in paragraph (1) above.

- (4) On a #narrow street#, recesses are permitted at any level in the #street wall# of a base for #outer courts# or balconies. The aggregate length of such recesses shall not exceed 50 percent of the length of the entire #street wall# at any level.
- However, not more than 30 percent of the aggregate length of such recesses shall exceed a depth of eight feet. Furthermore, no recesses shall be permitted below a height of 12 feet, within 20 feet of an adjacent #building#, or within 30 feet of the intersection of two #street lines#, except for corner articulation as provided for in paragraph (1) above.

- (a)(b) In ~~C1 or C2 Districts mapped within R9 or R10 Districts, or in C1-8, C1-9, C2-7, C2-8, C4-6, C5-1 or C6-3 Districts~~, the #residential# portion of a #mixed building# ~~which that~~ in the aggregate occupies not more than 40 percent of the #lot area# of a #zoning lot# or, for #zoning lots# of less than 20,000 square feet, the percentage set forth in Section 23-651 (Towers on small lots), may be constructed in conformance with the provisions of

Section 23-65 (Tower Regulations), provided the following conditions are met:

- (1) at least 65 percent of the total allowable #floor area# on a #zoning lot# under the applicable district regulations is occupied by #residential uses#;
- (2) all non-#residential uses# within such #mixed building# shall comply with the provisions of Section 32-42 (Location within Buildings); and
- (3) no non-#residential# portion of a #mixed building# penetrates the #sky exposure plane# as set forth in ~~Section 33-43 (Maximum Height of Front Wall and Required Front Setbacks) or 33-44 (Alternate Front Setbacks)~~ Sections 33-432 (In other Commercial Districts) or 33-442 (In other Commercial Districts).

~~(c)(b)~~ In C4-7, C5-2, C5-3, C5-4, C5-5, C6-4, C6-5, C6-6, C6-7, C6-8 or C6-9 Districts, the tower regulations applicable to any #mixed building# shall be the regulations set forth in Section 33-45 (Tower Regulations).

However, in in C4-7, C5-2, C5-4, C6-4, C6-5 or C6-8 Districts, when no more than two #stories# of a #mixed building# are occupied by non-#residential uses#, the tower regulations applicable to the #residential# portion of such #mixed building# may be governed by the provisions of Sections 23-65 (Tower Regulations) or 23-651 (Towers on small lots).

All non #residential uses# within such #mixed building# shall comply with the provisions of Section 32-42 (Location Within Buildings);

* * *

~~74-88~~

~~Special Tower Regulations~~

~~[Delete the entire text of Section 74-88]~~

74-88

Modification of Height and Setback and Street Wall Regulations

Upon application, the City Planning Commission may permit the modification of height and setback and #street wall# regulations of Sections 23-652 (Tower-on-a-base), paragraph (b) of Section 24-54 (Tower Regulations) and paragraph (a) of Section 35-63 (Special Tower Regulations for Mixed Buildings), except for the permitted tower coverage or the required #floor area# distribution below a height of 150 feet, provided the Commission makes the following findings:

- (a) that such modification will enhance the contextual relationship of the new #building# to nearby #buildings# and improve the overall scale, site design and architectural harmony among #buildings# in the neighborhood; and
- (b) that such modification will not unduly obstruct access of light and air to the detriment of the occupants or users of the #buildings# in the #block# or nearby #blocks# or of people

using the public #street#.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the scale and character of the surrounding area.

* * *

74-96

Special Urban Design Guidelines - Residential Plaza Modifications

In R10, C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, no existing #plaza#, plaza-connected open area, #residential plaza#, #arcade# or other public amenity, open or enclosed, for which a #floor area# bonus has been received pursuant to regulations antedating the effective date of this amendment, shall be eliminated or reduced in size without a corresponding reduction in the #floor area# of the #building# or the substitution of equivalent complying area for such amenity elsewhere on the #zoning lot#.

* * *

78-31

Location of Buildings, Distribution of Bulk and Open Space, and Modification of Height and Setbacks.

* * *

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(e) In R9, R10, C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, the bonus provisions of Sections 23-16 (Floor Area Bonus for a Plaza), 23-17 (Floor Area Bonus for a Plaza-Connected Open Area), 23-18 (Floor Area Bonus for Arcades), 24-14 (Floor Area Bonus for a Plaza), 24-15 (Floor Area Bonus for a Plaza-Connected Open Area), 24-16 (Floor Area Bonus for Arcades) or 27-00 (GENERAL PURPOSES) shall not apply to any #development# or #enlargement# with more than 25 percent of its total #floor area# in #residential use# after (the effective date of this amendment).

In R9, R10, C1-8, C1-9, C2-7 or C2-8 Districts or in C1 or C2 Districts mapped within R9 or R10 Districts, no existing #plaza#, plaza-connected open area, #residential plaza#, #arcade# or other public amenity, open or enclosed, for which a #floor area# bonus has been received pursuant to regulations antedating (the effective date of this amendment), shall be eliminated or reduced in size without a corresponding reduction in the #floor area# of the #building# or the substitution of equivalent complying area for such amenity elsewhere on the #zoning lot#.

* * *

79-21
General Provisions

* * *

In R9, R10, C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, the bonus provisions of Sections 23-16 (Floor Area Bonus for a Plaza), 23-17 (Floor Area Bonus for a Plaza-Connected Open Area), 23-18 (Floor Area Bonus for Arcades), 24-14 (Floor Area Bonus for a Plaza), 24-15 (Floor Area Bonus for a Plaza-Connected Open Area), 24-16 (Floor Area Bonus for Arcades), or 27-00 (GENERAL PURPOSES) shall not apply to any #development or #enlargement# with more than 25 percent of its total floor area in #residential use# after (the effective date of this amendment).

In R9, R10, C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, no existing #plaza#, plaza-connected open area, #residential plaza#, #arcade# or other public amenity, open or enclosed, for which a #floor area# bonus has been received pursuant to regulations antedating (the effective date of this amendment), shall be eliminated or reduced in size without a corresponding reduction in the #floor area# of the #building# or the substitution of equivalent complying area for such amenity elsewhere on the #zoning lot#.

* * *

The above resolution, duly adopted by the City Planning Commission on December 20, 1993 (Calendar No. 7), is filed with the Office of the Speaker, City Council and the Borough President, together with a copy of the plans of the development, in accordance with the requirements of Section 197-d and 200 of the New York City Charter.

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



CITY OF NEW YORK COMMUNITY BOARD NO. 2, MANHATTAN

3 Washington Square Village • New York, New York 10012-1899 • (212) 979-2272 • FAX 212-254-5102
Greenwich Village • Little Italy • Soho • Noho

rol Feinman
dir

October 25, 1993

in Lee
dist Manager

Gold
njank B. Green
Chair

car Gonzalez
secretary

wald Cohn
dist Secretary

an Gerson
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Richard Shaffer
Director
Department of City Planning
22 Reade Street
New York, New York 10007

Dear Director Shaffer:

At its full Board meeting held on October 21, 1993,
Community Board #2, Manhattan adopted the following
resolution:

"Tower-on-a-Base" Zoning Text Change.

WHEREAS this is an amendment to the Zoning Resolution
regarding development in High Density Residential District;
and

WHEREAS these changes include new setback and tower
regulations, new urban design guidelines for building bases,
modified bulk and use regulations and the elimination of plaza
bonuses for residential buildings, the change would affect R10
and C2-7 zones in our Community Board district; and

WHEREAS although the problem of plaza bonuses has been
addressed, our Community Board has many serious concerns
related to tower development not addressed in the present text
proposal;

THEREFORE BE IT RESOLVED that Community Board #2, Manhattan
applauds the Department of City Planning for eliminating the
20% plaza bonuses in residential buildings. Community Board
#2, Manhattan also endorses the provisions which would require
that, where a building has received a 20% bonus for a plaza or
an arcade, if such plaza or arcade is reduced or eliminated,
there must be a corresponding reduction in the floor area of
the building which received the bonus.

We recommend approval of the concept in the zoning text
change but with the proviso that the following concerns be
addressed:

1. The zoning text continues to permit the transfer of
development rights that will produce buildings entirely
too tall for many of the city's neighborhoods;

2. The "tower-on-the-bas" proposal has not achieved its
goal of a uniform street wall. Front wall recesses
permitted will break the street wall and depending on
their placement could lead to the tower wall, rather than
the street wall, being seen by the public;

3. From the diagrams and sketches submitted, it appears that the small setbacks required would not adequately mask the tower (without the 20% bonus) from view;

4. The proposal introduces peculiar building designs with many indentations that may not be in keeping with the historic quality of communities;

5. The text only addresses residential buildings and not community facilities that continue to be vulnerable to tower construction and bonuses.

Vote: Passed Unanimously; 35 in favor.

Please advise us of your decision and any action taken in response to this proposal.

Sincerely,

Carol Feinman

Carol Feinman
Chair
Community Board #2, Manhattan

Marie Dormuth

Marie Dormuth
Chair
Zoning Committee

cc: Mayor David N. Dinkins
Man. Borough President Ruth W. Messinger
Council Speaker Peter Vallone
Councilmember Kathryn Freed
Attorney General Robert Abraham
Executive Deputy Commissioner, Stewart D. O'Brien,
Dept. of Buildings
Susan Shepard, Commissioner, Dept. of Investigation
Lawrence Parnes, Technical Review Unit, CPC

05/14/2019



JOSS GRAHAM

HARR

JULIA FITZGERALD

DISTRICT MANAGER

CITY OF NEW YORK

COMMUNITY BOARD NO. 4

330 WEST 42ND STREET • NEW YORK, N.Y. 10036

TEL. 738-4536

October 15, 1993

Hon. Richard Schaffer
Commissioner
Dept. of City Planning
22 Reade Street
New York, NY 10007-1216

RE: N940013ZRM ZONING TEXT CHANGE GOVERNING NEW TOWER DEVELOPMENT
IN HIGH DENSITY RESIDENTIAL ZONING DISTRICTS

Dear Commissioner Schaffer:

Vote 28-0-1

Whereas, a zoning text change governing new tower development impacts the following
zoning districts and areas of Manhattan Community Board No. 4:

Zoning District C2-7: 10th Avenue - on the west side of the Avenue from
the north side of West 55th Street up to and including the south side of 58th
Street, and on the east side of the Avenue from the north side of West 56th
Street up to and including the south side of West 58th Street;

Zoning District R-9: 10th Avenue - on the west side of the Avenue from the
north side of West 54th Street up to and including the south side of 55th
Street; 11th Avenue - on the east side of the Avenue from the north side of
West 54th Street up to and including the south side of 55th Street; and

Whereas, the goal of the text change is to bring future "tower" buildings more into
character with existing neighborhood buildings; and

Whereas, it will accomplish this goal by (i) lowering the maximum height of any new
residential building in an R9 or C2-7 zoning district from 57 stories down to 17-20 stories

Hon. Richard Schaffer

October 15, 1993

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(by eliminating the residential plaza bonus as well as increasing the mandated-minimum size "floor footprint" for tower floors); and (ii) mandating a street wall base of 60 to 85 feet, with requisite tower set back requirement above that height; and

Whereas, since the elimination of plaza bonus would not apply to a predominantly community facility building, there is a potential for abuse if, in the future, a community facility building were to be converted to residential use, or if part of the building were to be for high-rise, high cost residential use; now, therefore, be it

Resolved, that Manhattan Community Board No. 4 supports the New Tower Regulations zoning text change (No. N940013RZM) with the condition that the plaza bonus also be eliminated for community facility buildings, or, at the least, not be as-of-right but available only by special permit on findings that require a demonstration of the usefulness of the plaza to the residents of the buildings or to the sponsoring institution.

Sincerely,



Ross Graham
Chair
Community Board No. 4

cc: Hon. Ruth Messinger, Manhattan Borough President
Hon. Ronnie Eldridge, City Councilmember
Hon. Tom Duane, City Councilmember
Manhattan Community Boards Nos. 6 & 8

CITY OF NEW YORK COMMUNITY BOARD NO. 6 MANHATTAN

330 East 26th Street, New York, N.Y. 10010-1997 (212) 679-0907 Fax 683-3749

OCTOBER 1993

RE - ZONING TEXT AMENDMENT TO CLARIFY THE APPLICABILITY OF THE RESIDENTIAL PLAZA PROVISIONS TO CERTAIN BUILDINGS OCCUPIED BY RESIDENTIAL USES, AND TO REQUIRE TOWERS WITH SPECIFIC BASE HEIGHTS IN CERTAIN DISTRICTS

WHEREAS, the text amendment will include new setback and tower regulations, new urban design guidelines for building bases, modified bulk and use regulations and the elimination of plaza and arcade bonuses for residential buildings, and

WHEREAS, the text changes are meant to relate new buildings to established neighborhood character, and

WHEREAS, the plaza bonus available since 1961 has resulted in many undesirable and underutilized public plazas, and

WHEREAS, public bonused plazas have not been viewed as public by new condo and co-op boards which are now responsible for the maintenance of many of the bonused plazas, and

WHEREAS, the extra floor area generated by the plaza bonus has usually resulted in tall towers which do not relate well to its urban context, and

WHEREAS, the ability to merge zoning lots and the tower provisions of the Zoning Resolution have created buildings that are totally out of scale with neighborhood contexts and are a cause for alarm in affected neighborhoods, particularly on the east side of Manhattan, and

WHEREAS, the tower on a base text will help reduce the excessive transfer of floor area to receiving sites, a goal long sought by CB6, and

WHEREAS, Community Board 6 has supported Community Board 8 in a 197-C application to re-map avenue setbacks from 125' to 100' in order to stop the proliferation of tall, inappropriate avenue buildings, and

WHEREAS, the proposed 14th St. to 34th St. re-zoning proposal sponsored by the East Side Re-zoning Alliance (ESRA) will contain opportunities for tower on a base zoning along portions of avenues and East 23rd St. and East 34th St., and

05/14/2019

WHEREAS, towers are permitted in the zoning resolution, with the maximum allowable tower coverage of 40%. However, many of the tower buildings constructed in the 1980s were built as small as 21%, thus creating extremely tall inappropriate buildings, and

WHEREAS, community facilities are not covered under the proposed text amendment and still retain the plaza bonus, and

WHEREAS, because there are no provisions which will prevent community facility buildings constructed as towers with plazas from converting to residential uses, there exists a potential loophole in the proposed text's intent, and

WHEREAS, the Department of City Planning is currently working on text revisions regarding community facilities, and it is unclear how the community facility text changes will affect the retention of tower zoning for community facilities, and

WHEREAS, the "Oculus" design recommendations seem to allow for more design creativity and flexibility than the text proposed by DCP,

WHEREAS, the design implication of the tower on a base text change are untested and unknown at this time, and

WHEREAS, the proposed text changes do not have provisions for an assessment of the text changes, and

WHEREAS, there is no inducement for allowing developers more opportunity to articulate the base building since it could result in losing floor area, i.e., eroding the building form, now

THEREFORE BE IT

RESOLVED, that Community Board 6 supports the proposed zoning text changes with the following recommendations:

1. that the 125' avenue zoning lot depth be reduced to 100' at all locations.
2. that in order to limit the excessive height of tower development, the City Planning Commission limit towers to a suggested range of 30-40% of lot size.
3. that the City Planning Commission expedite the completion of the community facility text changes, and develop regulations that will bring community facility buildings into a compatible urban design context with buildings generated by the new tower on a base zoning, including eliminating additional floor area for community facility buildings.

4. that th City Planning Commission develop rules that will prevent tower and plaza community facility buildings from being easily converted to residential buildings soon after construction.
5. that the City Planning Commission review the Oculus design recommendations in order to incorporate more flexibility and creativity into the design of tower-on-a-base buildings.

and be it further

RESOLVED, that the City Planning Commission provide for an assessment of the text changes in two years and five years, and be it further

RESOLVED, that the City Planning Commission develop rules to allow for greater articulation and design flexibility by permitting a lower percentage of floor area below 150' for increased articulation of the building, and be it further

RESOLVED, that the City Planning Commission amend the community facility use group, and classify buildings having more than 75% of th ir floor area used as apartments, from a community facility to a residential use. This change would result in such buildings being constructed as tower on a base type buildings and be more harmonious with existing neighborhoods. All other community facility uses can still utilize plaza type buildings with public plazas available to workers and clients of community facilities.

PASSED: 27 IN FAVOR, 0 OPPOSED, 0 ABSTENTIONS, 0 ABSTENTIONS FOR CAUSE, 1 PRESENT AND NOT VOTING

ARRIE L. PRICE
Chairperson

WARD BENSON
District Manager



THE CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD 8

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OCTOBER 14, 1993

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

RE: ZONING TEXT AMENDMENT GOVERNING TOWER DEVELOPMENT
DCP #N940013ZRM

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

WHEREAS, Community Board 8M and the Upper Eastside community has repeatedly requested the elimination of the plaza bonus, which has produced many "poorly located, ill designed and underutilized" plazas in our district;

WHEREAS, expansion of major community facilities generates significant community concern and the proposed text changes continue to allow the plaza bonus for community facilities;

WHEREAS, DCP is currently completing a study of community facilities to determine new zoning regulations;

WHEREAS, the proposed text changes retain the Inclusionary Housing bonus;

WHEREAS, Community Board 8M has stressed its concern for preservation of neighborhood character and contextual building height;

WHEREAS, the proposed text changes address the relationship between the avenue buildings' base and the neighboring mid-block and the street wall height;

WHEREAS, the proposed text changes recommend urban design rules and guidelines to create a compatible street wall integration using the following elements:

- street wall height and match up
- street wall length and recesses
- street wall location (for landscape set back)
- street wall line up;

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RESOLUTION RE: Supplemental Zoning Regulations Governing New Tower Development in High Density Residential Zoning Districts.

WHEREAS, Community Board 8M supports the DCP text changes only in conjunction with the 197(c) ULURP #C930136ZMM;

WHEREAS, the proposed text changes recommend new tower regulations to regulate zoning lot mergers, and tower height and to encourage building articulation;

WHEREAS, the proposed text changes incorporate provisions for dormers, recesses and penthouses.

WHEREAS, Community Board 8M wants to encourage an improved architectural relationship between the tower and the base including tower fenestration (windows) on all four sides of the tower;

THEREFORE BE IT RESOLVED, that Community Board 8M supports the elimination of the plaza bonus in residential zones and finds it troubling that the plaza bonus is still permitted for community facilities;

FURTHER RESOLVED, that Community Board 8M recommends that the street wall height of the avenue buildings must match the average height of the mid-block buildings for 100 adjacent feet;

FURTHER RESOLVED, that Community Board 8M supports the Real Estate Board of New York's desire to incorporate landscape details in the street line setbacks;

FURTHER RESOLVED, that Community Board 8M supports the DCP guidelines to regulate tower height, zoning lot mergers and encourage building articulation with the requirement of a minimum 70% street wall length, minimum 30% coverage for the tower, and incentives for surface articulation with use of dormers, recesses and penthouses and additionally supports OCULUS's suggestion to encourage windows on all four sides of the tower.

FURTHER RESOLVED, that Community Board 8M believes that these text changes should be approved only in conjunction with the 197(c) application ULURP #C930136ZMM.

Sincerely,

Warrie L. Price
Warrie L. Price,
Chairperson

CC: Ruth Messinger, Manhattan Borough President
Victor G. Alicea, City Planning Commissioner
Maxine Griffith, City Planning Commissioner
Edward T. Rogowsky, City Planning Commissioner

PAGE THREE

RESOLUTION RE: Supplemental Zoning Regulations Governing New Tower Development in High Density Residential Zoning Districts.

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

**Borough Board Resolution
regarding the
Proposed Zoning Text Amendment Governing Development
in High-Density Residential Districts
(a.k.a. Tower & Plaza Text Change) N 940013 ZRM**

WHEREAS, the New Tower Regulations to the Zoning Resolution affects development in High-Density Residential Districts in Manhattan Community Districts 2, 4, 6, 7, 8, 10 and 11; and

WHEREAS, the text amendment will include new tower regulations, new urban design guidelines for buildings' base, provisions for building articulation, modified bulk, use regulations and the elimination of plaza and arcade bonuses for residential buildings; and

WHEREAS, the goal of the text change is to adopt new rules for future "tower" buildings to be in character with existing prevailing neighborhood context; and

WHEREAS, the text amendment recognizes the relationship between the avenue buildings' base, the mid-block streetwall height and established neighborhood character; and

WHEREAS, the ability to merge zoning lots and the existing tower regulations of the Zoning Resolution have created buildings that are out of scale and destroy neighborhood character; and

WHEREAS, the proposed text changes recommend new tower regulations that limit zoning lot mergers; and

WHEREAS, the bonus available since 1961 has resulted in many undesirable and underutilized public plazas and the extra floor area generated by the plaza bonus has resulted in tall towers which do not relate to its urban context; and

WHEREAS, community facilities are not covered under the proposed text amendment and still retain the plaza bonus; and

WHEREAS, expansion of major community facilities generates significant community concern; and

WHEREAS, the Department of City Planning is currently working on text changes to amend community facility regulations, and it is unclear how the community facility text changes will affect the retention of tower and plaza zoning for community facilities; and

WHEREAS, the proposed text changes retain the Inclusionary Housing bonus; and

WHEREAS, other concerns have been raised which include:

- the maintenance of existing plazas
- allowable tower coverage under existing regulations
- new tower regulations are untested
- no provisions have been proposed to assess proposed regulations
- proposed text does address other issues regarding tower development.

WHEREAS, Manhattan Community Boards 6, 8, 10 and 11 support the proposed text change only in conjunction with zoning map amendment to reduce the high-density zoning depth in Community District 8 from 125 feet to 100 feet, ULURP No. C 930136 ZMM.

THEREFORE BE IT RESOLVED, that Manhattan Borough Board applauds the Department of City Planning for eliminating the 20% plaza bonus in high-density residential districts and supports the proposed text amendment with the following recommendations:

That the City Planning Commission expedite the completion of the community facility text changes and develop regulations that bring community facility buildings into a compatible urban design context with buildings generated by new tower on a base zoning, including the elimination of additional floor area for community facility buildings.

That the City Planning Commission develop rules that will prevent tower and plaza community facility buildings from being easily converted to residential buildings.

That the City Planning Commission review the Oculus design recommendations in order to incorporate more flexibility and creativity into the design of tower-on-a-base buildings.

FURTHER RESOLVED, that the 125-foot avenue zoning depth be reduced to 100 feet in Community District 8 as described in ULURP No. C 930136 ZMM be approved in conjunction with the text change.



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

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

RUTH W. MESSINGER
BOROUGH PRESIDENT

November 24, 1993

ULURP NOS.

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

APPLICANTS

Zoning Map Amendment:

Manhattan Community Board 8
Manhattan Borough President Ruth W. Messinger

• **Text Amendment #1:**

Department of City Planning (DCP)

Text Amendment #2:

Carnegie Hill Neighbors, Inc.
Manhattan Community Board 8

REQUESTS

Zoning Map Amendment (Upper East Side Rezoning):

To reduce the mapped zoning depth along the avenues located within the eastern portion of Manhattan Community Board 8, from 125 feet to 100 feet.

Text Amendment #1 (Residential Tower and Plaza Text Change):

To introduce supplemental regulations governing new tower development in high-density residential zoning districts.

Text Amendment #2 (Madison Avenue Text Change):

To amend Section 99-00 of the Zoning Resolution with more restrictive regulations which would include a height limit.

PROJECT DESCRIPTIONS

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

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

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

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

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

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

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

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

Architectural Controls

Base

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

- The new streetwall would be required to match the streetwall height of any existing building located on a wide street, where that height exceeds 85 feet. The maximum height which the new streetwall would be required to match would be set at 100 feet.
- In a commercial district, the streetwall would be required to extend out to the street line for the entire length of the building, except for a 15-foot permitted (but not required) corner cut.
- In commercial districts, recesses would be permitted above the first story, up to 30% of the building length.
- The new streetwall would be required to align with, i.e., match the location of, the streetwall of the any existing building abutting the site, for a minimum distance of 20 feet measured from the side wall of the existing building.
- In residential zones, the new streetwall could set back up to a distance of eight feet of the existing street line, for at least 70% of the building lot line length. The remaining 30% would be permitted to recess beyond eight feet of the streetline in order to provide outer courts, balconies or corner cuts (up to 15 feet in width).
- "Dormers"² would be permitted to extend above the streetwall height.

Tower

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

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

The portion of the building located above the base would be required to set back at least 10 feet from a wide street and 15 feet from a narrow street, measured from the streetwall of the base.

- The height, shape, width and fenestration of the building above the maximum streetwall height would not be regulated.
- A penthouse (the top four stories or top 40 feet of the tower) would be permitted. Each story of the penthouse would be required to cover no more than 80% of the floor area of the story below.

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

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

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

The significant changes include:

Streetwalls

Recesses

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

Dormers

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

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Height

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

Building Height

Height limit

A 170-foot height limit would be established.

Penthouse

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

BACKGROUND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUMMARY OF COMMUNITY BOARD ACTIONS

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

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

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

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

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

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

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

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

SUMMARY OF BOROUGH BOARD ACTION

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

SUMMARY OF BOROUGH PRESIDENT PUBLIC HEARING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

05/14/2019

BOROUGH PRESIDENT ACTION (ULURP No. C 930136 ZMM)

The Manhattan Borough President recommends approval.

The Manhattan Borough President recommends disapproval.

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

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

COMMENTS**Zoning Map Amendment**

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

- **Compliance**

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

- **Conformance**

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

- **Density and Development Potential**

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

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

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

To determine development potential on the Upper East Side potential soft sites were identified. The criteria⁵ identified a total of 58 soft sites within the project area. About half (26 sites) of these soft sites include lots within the 25-foot strip. However, many community residents and civic groups believe that additional soft sites exist. Throughout the study area, five- and six-story buildings flank the avenues; DCP criteria disqualify these sites as "soft", because of the State regulations protecting rental occupancy in residential buildings with at least four occupied dwelling units. Notwithstanding, history shows that there remains a significant possibility for such buildings to be vacated and sites to be assembled that include mid-block buildings within the 25-foot strip. Thus, any list of existing soft sites is but a snapshot in time and can increase or decrease depending on a number of factors. This proposed rezoning would better protect the mid-block buildings from this type of development pressure.

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

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

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

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

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

Light and Air

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

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

Affordable Housing

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

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

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

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

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

Split lot provisions

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

⁶ See footnote 4.

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

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

Commercial floor area

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

Text Amendment #1 (Tower and Plaza Text Change)

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

Architectural Controls

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

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

Residential Plaza Bonus

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

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

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

Transition zone

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

Community facilities

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

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

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

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

Text Amendment #2 (Madison Avenue Text Change)

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

CONCLUSION

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

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

05/14/2019

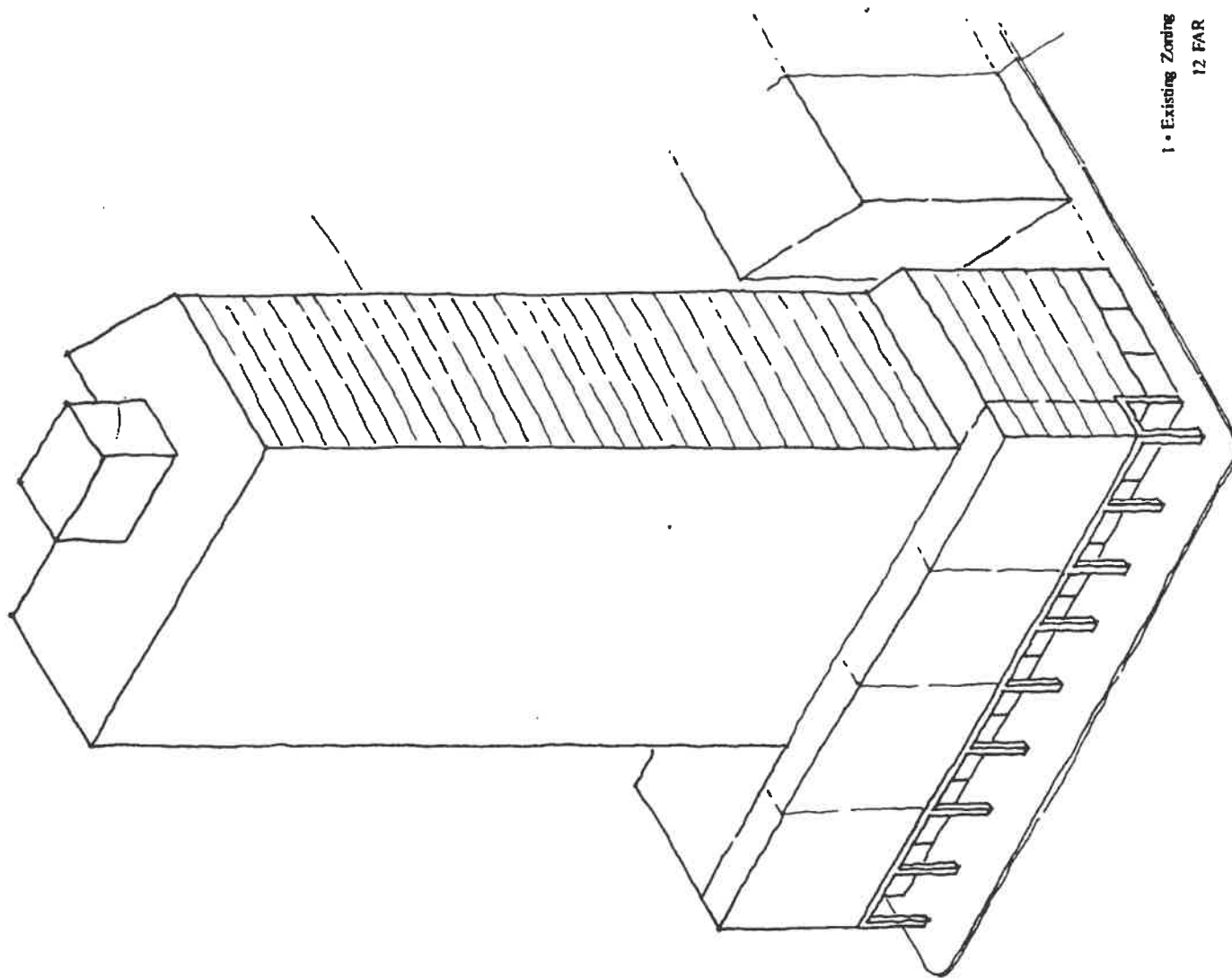
Taken in sum, these proposals provide an opportunity to preserve the neighborhood character and urban fabric of the Upper East Side and similar high-density residential areas. The Borough President strongly supports all three proposals.

Report and Recommendation Accepted:



Ruth W. Messinger
Borough President

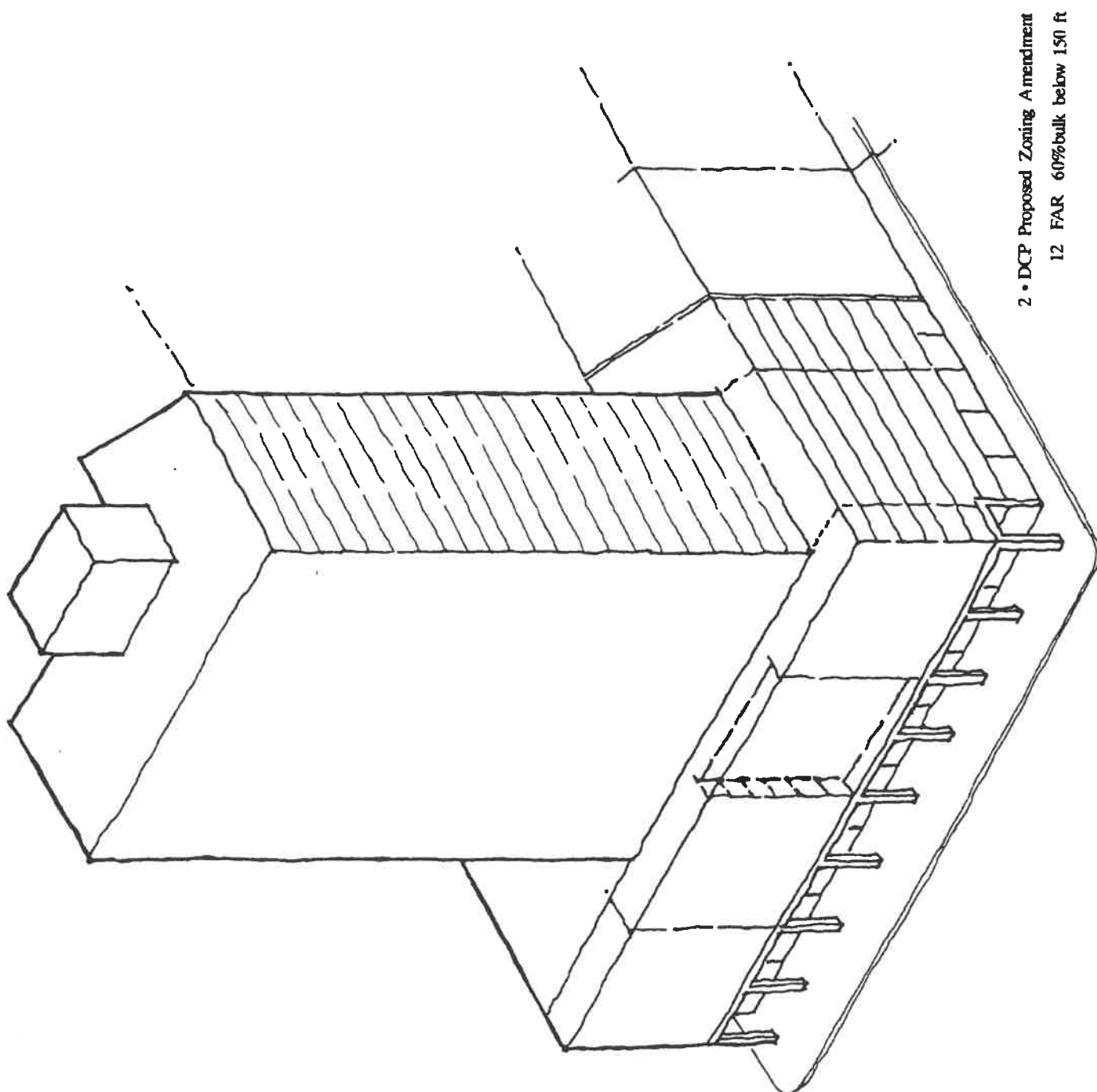
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1 - Existing Zoning
12 FAR

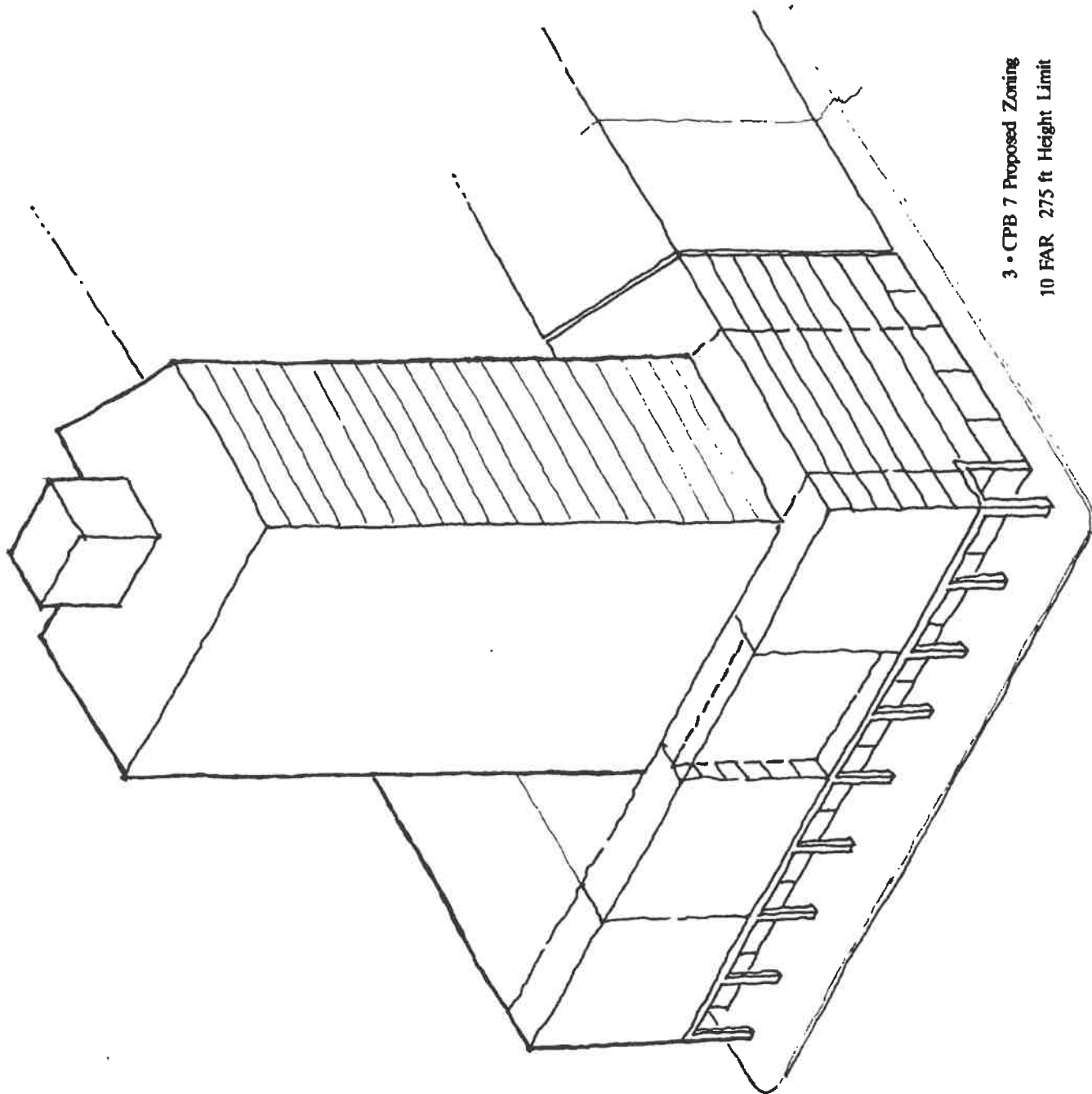
SPECIAL LINCOLN SQUARE ZONING DISTRICT PROPOSED ZONING CONTROLS November 1993

05/14/2019



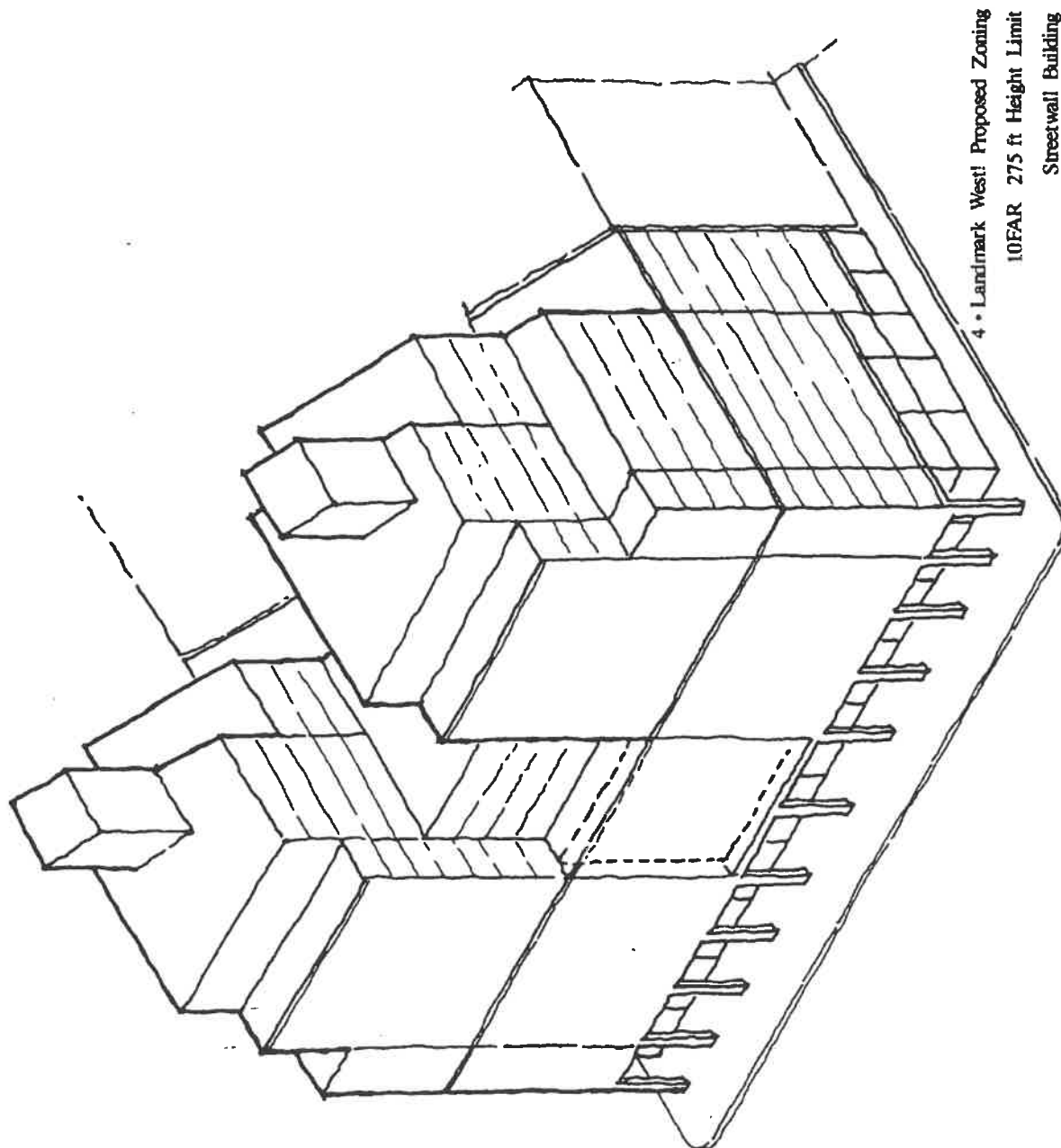
2 • DCP Proposed Zoning Amendment
12 FAR 60% bulk below 150 ft

SPECIAL LINCOLN SQUARE ZONING DISTRICT PROPOSED ZONING CONTROLS November 1993



3 • CPB 7 Proposed Zoning
10 FAR 275 ft Height Limit

SPECIAL LINCOLN SQUARE ZONING DISTRICT PROPOSED ZONING CONTROLS November 1993



SPECIAL LINCOLN SQUARE ZONING DISTRICT PROPOSED ZONING CONTROLS November 1993

SPECIAL LINCOLN SQUARE DISTRICT ZONING REVIEW



David N. Dinkins, Mayor
City of New York

Richard L. Schaffer, Director
Department of City Planning

May 1993
NYC DCP 93-17

**JBX
F - 777**

EXECUTIVE SUMMARY

The Special Lincoln Square District, located in the southern portion of Community District Seven between Central Park West, Amsterdam Avenue, and West 60th and West 68th streets, was established in 1969. The area is characterized by major institutions, such as Lincoln Center for the Performing Arts, and a number of relatively recent mixed-use developments along Broadway.

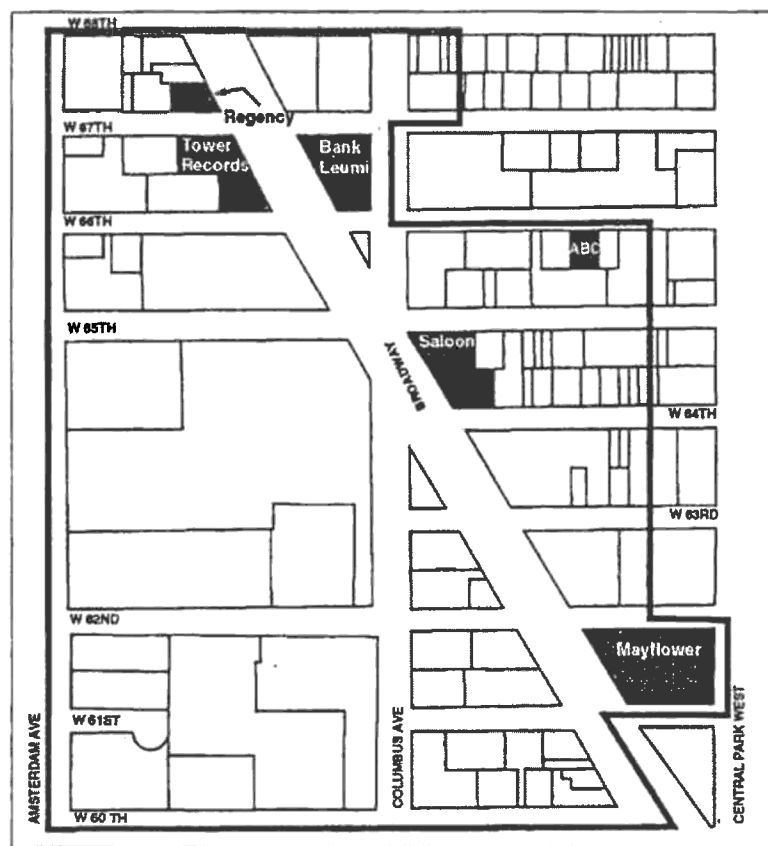
After evaluating more than twenty years of development pursuant to the special district's controls, the Department of City Planning has identified several outstanding planning issues relating to the mix of uses, and the form and height of development. These issues are particularly relevant to Broadway, which is the spine of the district and contains its most significant development opportunities.

The Department proposes revisions to the special district in order to guide development in a more predictable form, with a level of commercial use that is consistent with the area's overall development pattern and with building heights that are compatible with the character of the district.

The first major recommendation relates to the regulation of commercial use. The current regulations permit a maximum base of 10 FAR of either commercial or residential use within the district's C4-7 zoning. The Department proposes to reduce the allowable amount of commercial use in future as-of-right development from 10 to 3.4 FAR in those areas of the district where residential use predominates. In addition, the amount of floor area allowed for theaters and other entertainment uses (Use Group 8), is proposed to be limited in areas of the district.

The second major recommendation relates to building form. The Department proposes an envelope control that would reinforce the "tower on a base" form already mandated along Broadway. These regulations combined would result in building heights in the range of the mid-20 to 30 stories tall, which would complement the district's existing neighborhood character.

Other recommendations address additional land use and urban design issues. Principal among them is a proposed requirement for subway stair relocation or access, applicable to sites adjacent to the district's two subway stations. Modifications to the arcade, parking and off-street loading provisions are also proposed.



DEVELOPMENT SITES

DEVELOPMENT SITES

There are six remaining development sites in the district (Figure 3). For the purposes of this study, a property is considered a development site if it is either vacant land or contains a vacant building; contains a commercial building which is at least 50 percent under allowable FAR; or is a residential building with less than four occupied units. The sites are:

1. **Bank Leumi**, a full-block site directly south of the Lincoln Square development between Broadway, Columbus Avenue, West 66th and West 67th streets;
2. **Tower Records/Penthouse Magazine building**, a five story commercial building on Broadway, just north of Lincoln Center between West 66th and West 67th streets;

3. **Regency Theater**, located at West 67th and Broadway;
4. **Saloon/Chemical Bank buildings**, a possible assemblage located on Broadway between West 64th and West 65th streets;
5. **Mayflower block**, a full-block site bounded by Broadway, Central Park West, West 61st and West 62nd streets, containing a vacant parcel facing Broadway and the Mayflower Hotel on Central Park West;
6. **ABC assemblage**, three low-rise structures located on the south side of West 66th Street, between Columbus Avenue and Central Park West.

LANDMARKS

The special district contains three buildings designated as landmarks by the New York City Landmark Preservation Commission: the Sofia Warehouse; the First Battery Armory; and the Century Apartments. In addition, the southern portion of the Central Park West Historic District falls within the district. It should also be noted that the Lincoln Center complex, or its individual buildings, would be candidates for designation in the near future.

OTHER PLANNING INITIATIVES

Community Board 7 and Landmark West!, a community organization, are currently studying the special district in response to the Lincoln Square development and other issues that have been raised by recent developments in the district. This effort is to include recommendations regarding zoning, urban design and pedestrian conditions.

ISSUES AND RECOMMENDATIONS

LAND USE

Most of the district is zoned C4-7, which permits high density residential, commercial and community facility development with a base maximum FAR of 10, bonusable to 12. The district encourages retail uses compatible with the area by permitting those commercial uses allowed in the underlying district or listed in Use Group L. Use Group L comprises uses selected from those permitted in the C4-7 district which promote pedestrian oriented activity and serve visitors to the area. On any zoning lot fronting on Broadway, Columbus or Amsterdam avenues, the street frontage devoted to any permitted use is limited to 40 feet, unless the use is also listed in Use Group L, in which case there is no street frontage limitation.

Overall, the district can be characterized as mixed-use and conforms to the C4-7 designation: over a third of its land contains institutional uses such as Lincoln Center, Fordham University and other schools, and cultural and religious facilities. Residential use is found throughout the district, primarily in highrise apartments along Broadway, Columbus Avenue and Amsterdam Avenue, and in midrise buildings east of Broadway. Retail uses line Broadway, and occur less frequently on Columbus and Amsterdam avenues. Office uses are generally located in the southern part of the study area.

Issues

The great majority of developments in the special district are predominately residential, with only limited amounts of commercial and/or community facility uses. In contrast, the Lincoln Square project now under construction will contain about 5 FAR of retail, movie and health club uses (plus another 1 FAR of below-grade, commercial use). The intensity of activity generated by this concentration of commercial uses greatly exceeds that of more typical district buildings which average about 1 FAR of commercial use. The amount and type of commercial use permitted by the current regulations is one of the major issues that needs to be addressed.

Among the issues raised by the Lincoln Square project are the space allocated to movie theaters and the traffic generated by these and other intense commercial uses. Currently, the district contains approximately 13,000 seats in Lincoln Center's major theaters and 1,700 movie theater seats. Just south of the district is the 500-seat Paramount movie theater. The 10 movie theaters under construction in the Lincoln Square project will add 4,000 more seats by 1994. Due to the fact that theaters typically require double height or higher spaces, theater complexes are relatively hollow spaces, containing less floor area than residential or other commercial spaces would normally have in the same volume. These hollow spaces

In addition, an analysis of the distribution of floor area within the Broadway buildings envelopes was performed. This reveals a direct relationship between the height of the buildings and the amount of floor area located below 150 feet. For example, 1991 Broadway (263 feet) and Checquers (264 feet) are both 26 stories tall and 1995 Broadway (192 feet) is 18 stories. The amount of floor area located below 150 feet in these projects is 60, 63 and 87 percent respectively.

In comparison, when a lower percentage of bulk is located below 150 feet, buildings are higher. For instance, in 1 Lincoln Plaza (42 stories, 419 feet), 2 Lincoln Square (36 stories, 362 feet) and 30 Lincoln Plaza (32 stories, 298 feet), the corresponding amount of floor area located below 150 feet is 45, 48 and 49 percent. In an extreme case, the new Lincoln Square building will rise to 46 stories or 525 feet in height, with only 42 percent its bulk located below 150 feet. This is largely due to almost 125,000 square feet of movie theater uses, which create hollow spaces that substantially add to the mass and height of the building.

In order to foster a positive relationship between the tower and base and a more successful massing of a development's bulk, and to avoid excessive height, as in the Lincoln Square project, the Department proposes the following:

- Maintain the current controls requiring an 85 foot high base along Broadway, to relate to existing special district development and Lincoln Center. Towers should continue to be setback from the streetline for a minimum of 15 feet on wide streets and a minimum of 20 feet on narrow streets.
- Establish envelope controls to govern the massing and height of new buildings throughout the district. The proposed regulation would require a minimum of 60 percent of a development's total floor area to be located below an elevation of 150 feet. This regulation, "Packing-the-Bulk," results in a better relationship between the base and tower portions of buildings, producing building heights ranging from the mid-20 to 30 stories.



Job Number



Scan Code

ZONING CALCULATIONS

ZONING DISTRICT: C4-7 (R10 EQUIVALENT)

R8
SPECIAL LINCOLN SQUARE DISTRICT
SUBDISTRICT A

MAP:

BC

BLOCK:

1118

LOT:

14, 45, 46, 47, 48 & 52

LOT AREA: C4-7 DISTRICT = 35,105 SF

R8 DISTRICT = 19,582 SF

TOTAL LOT AREA = 54,687 SF

NO PARKING REQUIRED WITHIN MANHATTAN CORE AS PER ZR 13-10. NONE PROVIDED

STREET TREE PLANTING AS PER ZR 24-41 & 33-03

4) ZONING FLOOR AREA

a. Floor Area Permitted

C4-7 District (R10 equivalent)

33-122	Commercial	10 FAR	351,050.00 SF
33-123	Community Facility	10 FAR	351,050.00 SF
23-152, 23-16	Residential	10 FAR	351,050.00 SF
23-154	Inclusionary Bonus (see below)	2 FAR	70,210.00 SF
35-31	Res. with inclusionary (see below)	12 FAR	421,260.00 SF
	Max. Total		421,260.00 SF

R8 District

23-151	Community Facility	6.5 FAR	127,283.00 SF
24-11	Residential (See HF Calcs. Z-012)	5.92 FAR	115,925.44 SF
	Max. Total	6.5 FAR	127,283.00 SF

Total All Districts

Commercial	351,050.00 SF
Community Facility	478,333.00 SF
Residential w/ Inclusionary	537,185.44 SF
Max. Total	548,543.00 SF

b. Inclusionary Housing Bonus in C4-7

23-154	Base Residential	10 FAR	351,050.00 SF
	Max. Inclusionary Bonus	2 FAR	70,210.00 SF
	Max. Residential with Inclusionary	12 FAR	421,260.00 SF

Low Income Floor Area Provided

70,210.00 SF

Off-site, see HPD Certificates and Table 1 on Z-001

Base Residential

351,050.00 SF

Actual Inclusionary Bonus

70,210.00 SF

Actual Residential with Inclusionary

421,260.00 SF

c. Floor Area Proposed

C4-7 District (R10 equivalent)

Existing Lot 52

Commercial

43,053.00 SF

(See AIL 1 #120422729)

Proposed

Community Facility

6,285.22 SF

Residential

371,920.68 SF

Total

378,205.90 SF

C4-7 Total

Commercial

43,053.00 SF

Community Facility

6,285.22 SF

Residential

371,920.68 SF

Total

421,258.90 SF

R8 District

Proposed / R8 Total

Community Facility

16,058.67 SF

Residential

111,217.62 SF

Total

127,276.48 SF

Total both Zones

Proposed Both Zones Total

Community Facility

22,344.09 SF

Residential

483,138.30 SF

Total

505,482.39 SF

Commercial

43,053.00 SF

Proposed Both Zones Total

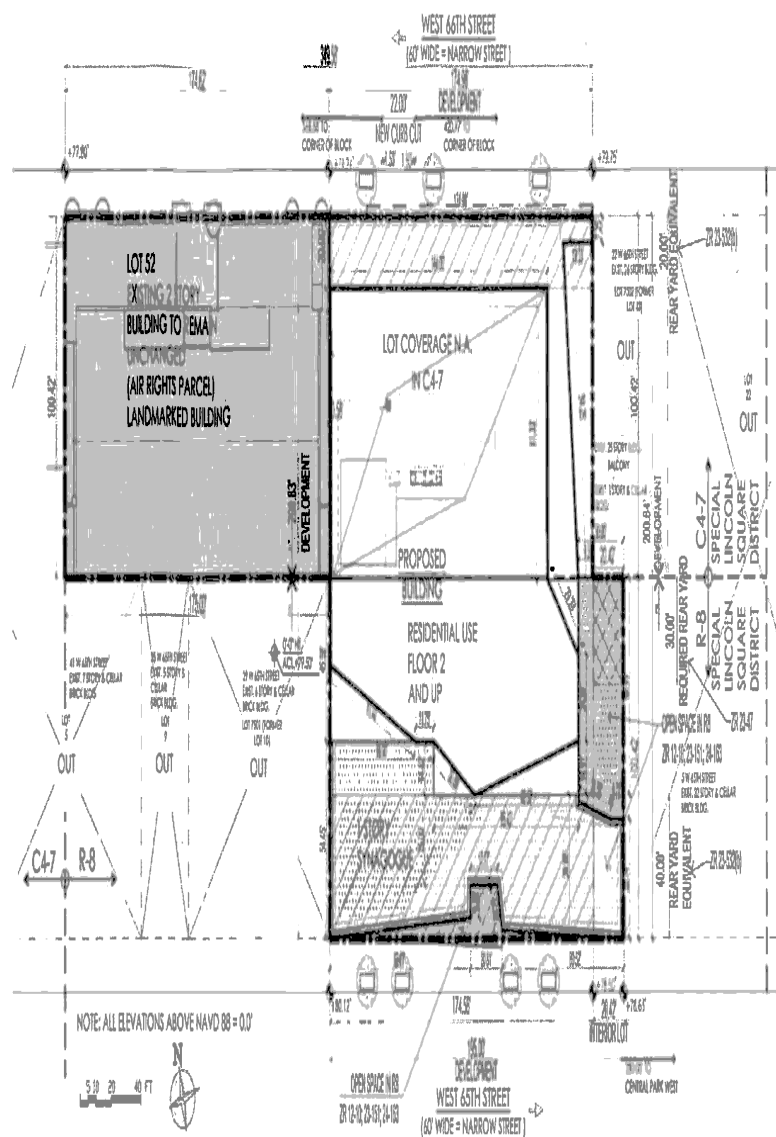
505,482.39 SF

Total

548,535.39 SF

SITE PLAN

Scale: 1/64" = 1'-0"



RESIDENTIAL FAR CALCULATIONS IN R8

12-10 Open Space shall not be included in Lot Coverage

23-151 Residential

Height Factor for Residential FAR

a. H.F. for FAR = Total Floor Area / Total Lot Coverage

H.F. for FAR = 127,276 SF / 8,899 SF = 14

F.A.R. @ H.F. 14 = 5.92

OPEN SPACE CALCULATIONS IN R8

23-151 a. Height Factor for OSR

24-163 H.F. for OSR = Residential FA / Residential Lot Coverage

H.F. for OSR = 111,218 SF / 8,899 SF = 12

b. Required Open Space

Open Space Ratio @ H.F. 12 = 9.2 %

Min. Open Space = 111,218 X 0.092 = 10,232 SF

c. Open Space Provided =

10,636 SF Complies

d. Open Space at Grade

12-10 Open space at grade shall be accessible and usable by all residential occupants.

e. Open Space on Roof

12-10 - Open Space on roof in R8 need not be accessible

12-10 - No dimension less than 25' except that area adjoining street line or rear yard min. depth 9' and max. length min. 2 times depth (or full width of zoning lot or 50', whichever is less).

24-16 Open Space permitted on roof of community facility

COMMUNITY FACILITY COVERAGE IN R8

24-11 Max. 65% Community Facility Coverage in R8 Zone

19,582 SF X 65 % = 12,728 SF

Provided 0 SF Complies

24-12 Community Facility use below 23' may be excluded from Lot Coverage

LEGEND

EXISTING BUILDING

PROPOSED BUILDING

REAR YARD EQUIVALENT

REQUIRED REAR YARD

OPEN SPACE AT ROOF IN R8

OPEN SPACE AT GRADE IN R8

RESIDENTIAL COVERAGE IN R8

TOWER COVERAGE IN C4-7

ZONING LOT LINE

STREET TREE

SKY EXPOSURE PLANE

PROPERTY LINE



ZD1 Zoning Diagram

Submitted to resolve objections stated in a notice of intent to revoke issued pursuant to rule 101-15.

☐ YES ☒ NO

Location Information

House No(s) 36

Street Name West 66th Street

Borough Manhattan

Block 1118

Lot 45

Bin 1028168

Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a city employee, or for a city employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine or both. I understand that if I am found after hearing to have knowingly or negligently made false statement or to have knowingly or negligently falsified or allowed to be falsified any certificate, form, signed statement, application, report or certification of the correction of a violation required under the provisions of this code or of a rule of any agency, I may be barred from filing further applications or documents with the Department.

NAME (PLEASE PRINT)

Luigi P. Russo

SIGNATURE

DATE

P.E.R.A. SEAL (APPLY SEAL, SIGN AND DATE OVER SEAL)

Internal Use Only

BIS Doc #

PLAN EXAMINERS SIGN AND DATE



ZD1 Zoning Diagram

Must be typewritten.
Sheet 3 of 3

1 Applicant Information Required for all applications.

Last Name	Russo	First Name	Luigi	Middle Initial	
Business Name	SLCE Architects, LLP			Business Telephone	(212) 979-8400
Business Address	1359 Broadway, 14th Floor			Business Fax	(212) 979-8387
City	New York	State	NY	Zip	10018
E-Mail	lrusso@slcearch.com			Mobile Telephone	
				License Number	020741

2 Additional Zoning Characteristics Required as applicable.

Dwelling Units	127	Parking area	sq. ft.	Parking Spaces: Total	Enclosed
----------------	-----	--------------	---------	-----------------------	----------

3 BSA and/or CPC Approval for Subject Application Required as applicable.

Board of Standards & Appeals (BSA)

☐ Variance

Cal. No. _____

Authorizing Zoning Section 72-21

☐ Special Permit

Cal. No. _____

Authorizing Zoning Section _____

☐ General City Law Waiver

Cal. No. _____

General City Law Section _____

☐ Other

Cal. No. _____

City Planning Commission (CPC)

☐ Special Permit

ULURP No. _____

Authorizing Zoning Section _____

☐ Authorization

App. No. _____

Authorizing Zoning Section _____

☐ Certification

App. No. _____

Authorizing Zoning Section _____

☐ Other

App. No. _____

4 Proposed Floor Area Required for all applications. One Use Group per line.

Floor Number	Building Code Gross Floor Area (sq. ft.)	Use Group	Zoning Floor Area (sq. ft.)				FAR
			Residential	Community Facility	Commercial	Manufacturing	
SUB	27,754.58	2	0				0
SUB	9,359.07	4		0			0
CEL	28,108.47	2	0				0
CEL	9,004.88	4		0			0
001	9,384.48	2	8,989.42				0.18
001	22,344.09	4		22,344.09			0.41
MEZ1	1,604.41	2	969.95				0.02
MEZ1	2,002.10	4		0			0
002	20,478.30	2	19,510.38				0.38
003	20,478.30	2	19,515.75				0.38
004	20,478.30	2	19,516.25				0.38
005	20,478.30	2	19,513.47				0.38
006	20,478.30	2	19,526.06				0.38

ZD1

Sheet 3 of 3

4 Proposed Floor Area Required for all applications. One Use Group per line.

Floor Number	Building Code Gross Floor Area (sq. ft.)	Use Group	Zoning Floor Area (sq. ft.)				FAR
			Residential	Community Facility	Commercial	Manufacturing	
007-008	40,956.60	2	39,052.12				0.71
009-011	61,434.90	2	58,570.35				1.07
012-014	61,434.90	2	58,571.10				1.07
015	20,478.25	2	0				0
016	10,644.64	2	7,899.31				0.14
016 E.M.R.	1,987.77	2	1,279.99				0.02
017	10,218.58	2	0				0
FDNY AC 1	993.13	2	898.07				0.02
FDNY AC 2	993.13	2	892.47				0.02
FDNY AC 3	993.13	2	898.07				0.02
018	10,240.54	2	0				0
FDNY AC 4	993.13	2	892.47				0.02
FDNY AC 5	993.13	2	892.47				0.02
FDNY AC 6	993.13	2	892.47				0.02
019	10,917.09	2	0				0
FDNY AC 7	993.13	2	892.47				0.02
FDNY AC 8	1,317.38	2	1,218.71				0.02
020-026	75,402.50	2	72,769.87				1.33
027-030	43,087.15	2	41,495.43				0.78
031	10,771.79	2	10,372.49				0.19
032-033	21,543.58	2	20,747.98				0.38
034	10,173.91	2	9,849.83				0.18
035	10,687.73	2	10,353.45				0.19
036	11,156.42	2	10,832.14				0.20
037	11,127.45	2	10,803.17				0.20
038	11,098.54	2	10,747.41				0.20
039	10,825.28	2	4,781.38				0.09
ROOF (40)	3,914.45	2	0				0
BH RF (41)	820.79	2	0				0
Totals	669,011.84		483,198.3	22,344.09			9.24

Total Zoning Floor Area505,482.39



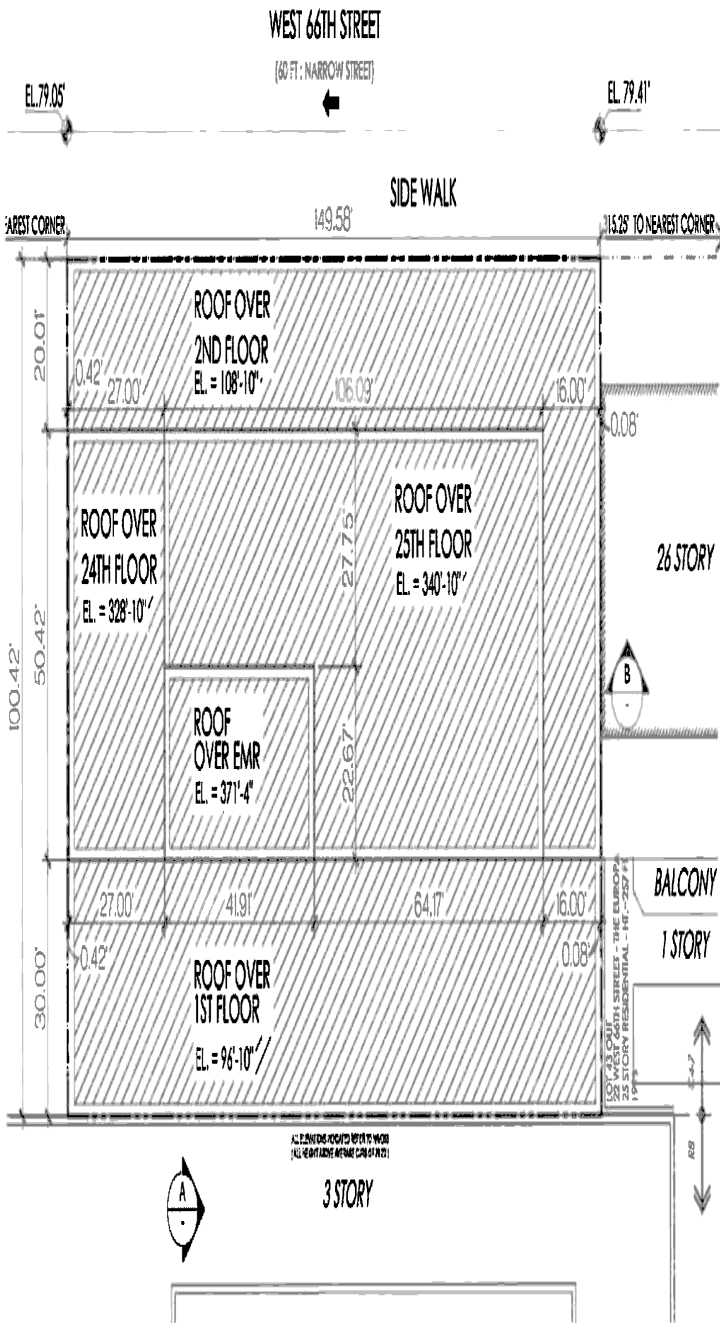
07/09

DEPT OF BLDGS121190200 Job Number

ES336402953 Scan Code

SITE PLAN

Scale: 1/32" = 1'-0"

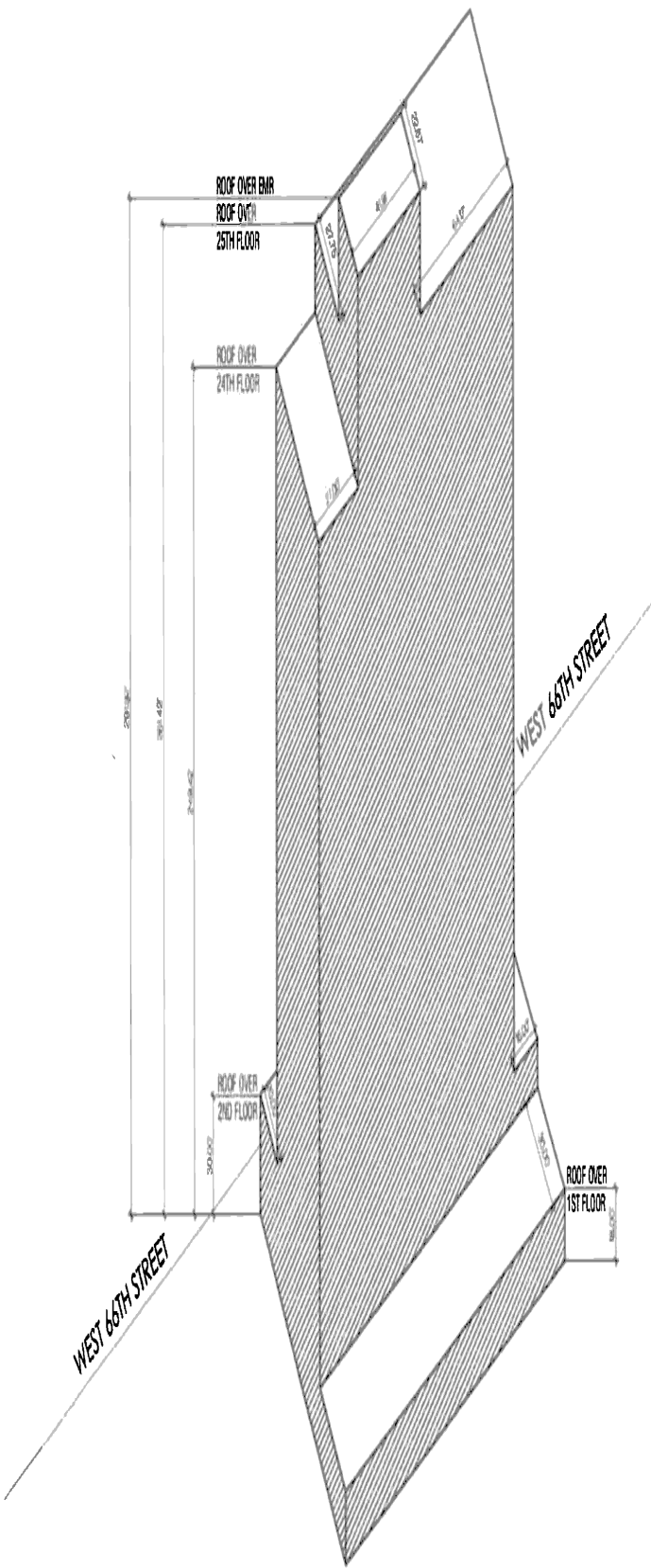


AXONOMETRIC DIAGRAM

SCALE: 1/64" = 1'-0"

STANDARD SETBACK REQUIREMENT AS PER
ZR 82-36 (b):
20' MINIMUM SETBACK ABOVE STREETWALL

REQUIREMENT SETBACK:
FRONT: 20'-0"
REAR: 30'-0"
SIDE: NOT REQUIRED



ZD1 Zoning Diagram

Location Information

House No(s) 36
Street Name West 66th Street
Borough Manhattan
Block 1118
Lot 45
Bin 108168

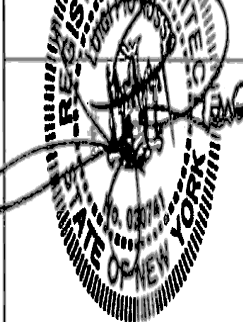
For additional zoning characteristics,
see Section 12 of the PW1.

Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a city employee, or for a city employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine or both. I understand that if I am found after hearing to have knowingly or negligently made false statement or to have knowingly or negligently falsified or allowed to be falsified any certificate, form, signed statement, application, report or certification of the correction of a violation required under the provisions of this code or of a rule of any agency, I may be barred from filing further applications or documents with the Department.

NAME (PLEASE PRINT)

Luigi P. R.

SIGNATURE DATE



P.E.R.A. SEAL (APPLY SEAL, SIGN AND DATE OVER SEAL)

Internal Use Only

BIS Doc #

PLAN EXAMINERS SIGN AND DATE

ZONING CONSIDERATION

ZONE	C4-7 / R10 Eq.	Map 8D, Special Lincoln Square District Subdistrict A
SITE AREA	15,021 SF	Block: 1118, Lot: 45, 46, 47, 48
MAX. BASE FAR	30	
MAX. BASE ZONING FLOOR AREA	150,210 SF	
INCLUSIONARY HOUSING INCREASE	20%	ZR 82-32 (a)
	30,042 SF	
TOTAL ALLOW. ZONING FLOOR AREA	180,252 SF	
PERMITTED COMMERCIAL FLOOR AREA	100,000 SF	ZR 82-31
MAXIMUM TOWER COVERAGE	45%	ZR 23-65
	6,759 SF	
MINIMUM TOWER COVERAGE	30%	ZR 82-36 (a) (2)
	4,506 SF	
MAXIMUM STREET WALL	85 FT	
MINIMUM SETBACK ABOVE STREETWALL	20 FT	NARROW STREET, ZR 82-36 (b)
MINIMUM BULK DISTRIBUTION	60%	BELOW 150 FT, ZR 82-34
MINIMUM FLOOR AREA BELOW 150 FT.	108,111 SF	

LEGEND

C4-7/ R-10 EQUIVALENT -
(SPECIAL LINCOLN SQUARE
DISTRICT - SUB DISTRICT A)

PROPOSED BUILDING

ZONING LOT



Must be typewritten.
Sheet 1 of 2

ZD1

Sheet 2 of 2

☐ Special Permit ULURP No. _____ Authorizing Zoning Section _____

☐ Authorization App. No. _____ Authorizing Zoning Section _____

☐ Certification App. No. _____ Authorizing Zoning Section _____

☐ Other App. No. _____

Floor Number	Building Code Gross Floor Area (sq. ft.)	Use Group	Zoning Floor Area (sq. ft.)				FAR
			Residential	Community Facility	Commercial	Manufacturing	
SC1	15,021		-				
CEL	15,021		-	-			
001	14,962		6,161	3,299	5,442		0.99
002	10,492			10,492			0.70
003	6,684		6,429				0.43
004	6,684		6,429				0.43
005	6,684		6,429				0.43
006	6,684		6,429				0.43
007	6,684		6,429				0.43
008	6,684		6,429				0.43
009	6,684		6,429				0.43
010	6,684		6,429				0.43
011	6,684		6,429				0.43

Total Zoning Floor Area	172,256
-------------------------	---------

DEPT OF BLDGS 121190200 Job Number

ES555372378 Scan Code

ZONING CALCULATIONS

SITE PLAN

Scale: 1/64" = 1'-0"

ZONING DISTRICT: C-7 (R-10 EQUIVALENT)
R8
SPECIAL LINCOLN SQUARE DISTRICT
SUBDISTRICT A
MAP: 8C
BLOCK: 1118
LOT: 14, 45, 46, 47, 48 & 52

LOT AREA: C-7 DISTRICT = 35,105 SF
R8 DISTRICT = 19,582 SF
TOTAL LOT AREA = 54,687 SF

NO PARKING REQUIRED WITHIN MANHATTAN CORE AS PER ZR 13-10, NONE PROVIDED

STREET TREE PLANTING AS PER ZR 26-41 & 33-03

4) ZONING FLOOR AREA

a. Floor Area Permitted

C-7 District (R10 equivalent)

33-122	Commercial	10 FAR	351,050.00 SF
33-123	Community Facility	10 FAR	351,050.00 SF
23-152, 23-16	Residential	10 FAR	351,050.00 SF
23-154	Inclusionary Bonus (see below)	2 FAR	70,210.00 SF
35-31	Res. with Inclusionary (see below)	12 FAR	421,260.00 SF
Max. Total			421,260.00 SF

R8 District

23-151	Community Facility	6.5 FAR	127,283.00 SF
24-11	Residential (See HF Calcs. Z-013)	5.92 FAR	115,925.44 SF
Max. Total		6.5 FAR	127,283.00 SF

Total All Districts

Commercial	351,050.00 SF
Community Facility	478,333.00 SF
Residential w/ Inclusionary	537,185.44 SF
Max. Total	548,543.00 SF

b. Inclusionary Housing Bonus in C-7

23-154	Base Residential	10 FAR	351,050.00 SF
	Max. Inclusionary Bonus	2 FAR	70,210.00 SF
	Max. Residential with Inclusionary	12 FAR	421,260.00 SF
Low Income Floor Area Provided			70,210.00 SF
Off-site, see HPD Certificates and Table 1 on Z-001			
Base Residential			351,050.00 SF
Actual Inclusionary Bonus			70,210.00 SF
Actual Residential with Inclusionary			421,260.00 SF

c. Floor Area Proposed

C-7 District (R10 equivalent)

Existing Lot 52

Commercial	43,053.00 SF
(See Alt. 1 #120422729)	

Proposed

Community Facility	6,350.89 SF
Residential	371,855.27 SF
Total	378,206.16 SF

C-7 Total

Commercial	43,053.00 SF
Community Facility	6,350.89 SF
Residential	371,855.27 SF
Total	421,259.16 SF

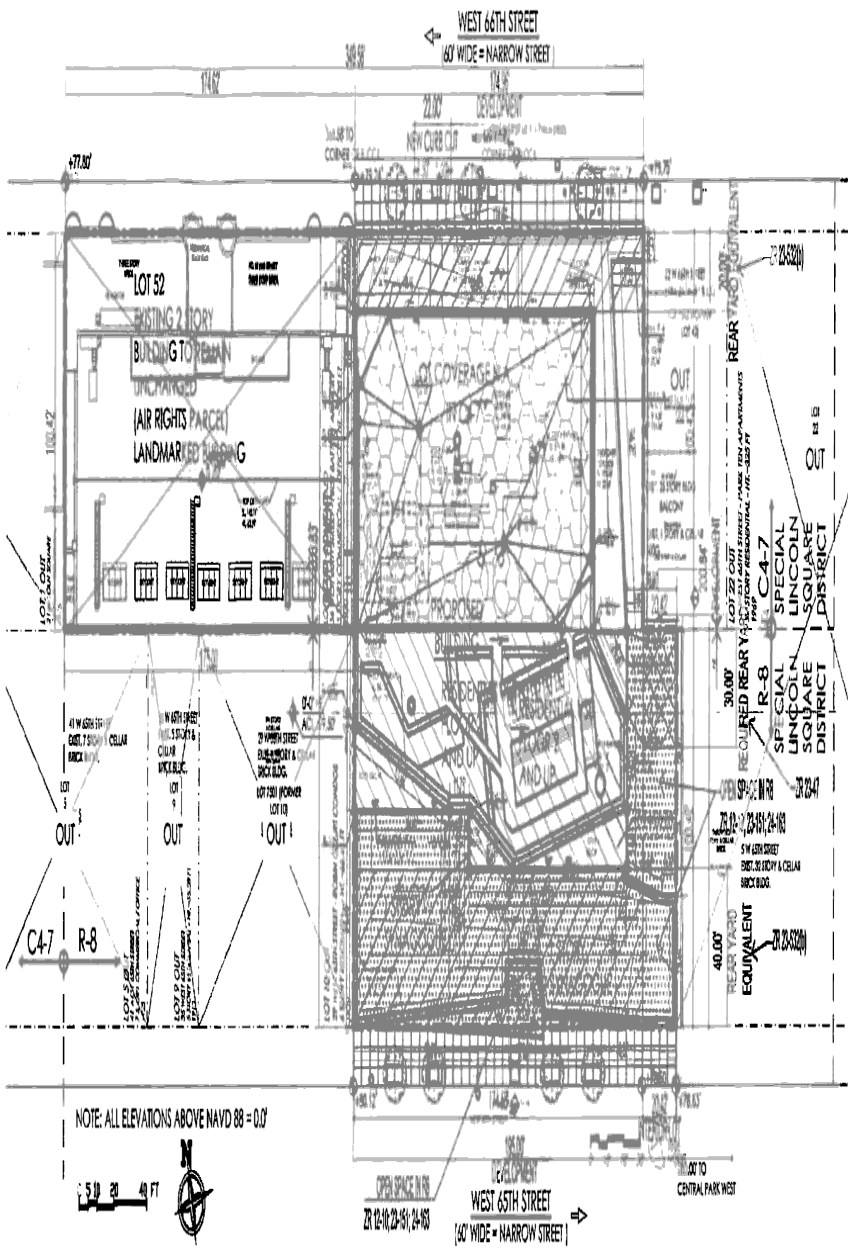
R8 District

Proposed / R8 Total

Community Facility	16,054.60 SF
Residential	111,227.78 SF
Total	127,282.38 SF

Total both Zones

Commercial	43,053.00 SF
Community Facility	22,405.49 SF
Residential	483,083.05 SF
Total	548,541.54 SF



RESIDENTIAL FAR CALCULATIONS IN R8

12-10 Open Space shall not be included in Lot Coverage

23-151 Residential

Height Factor for Residential FAR

a. H.F. for FAR = Total Floor Area / Total Lot Coverage

H.F. for FAR = 127,282 SF / 8,899 SF = 14

F.A.R. @ H.F. 14 = 5.92

OPEN SPACE CALCULATIONS IN R8

23-151 a. Height Factor for OSR

24-163 H.F. for OSR = Residential FAR / Residential Lot Coverage

H.F. for OSR = 111,228 SF / 8,899 SF = 12

b. Required Open Space

Open Space Ratio @ H.F. 12 = 9.2 %

Min. Open Space = 111,228 X 0.092 = 10,233 SF

c. Open Space Provided = 10,635 SF Complies

d. Open Space at Grade

12-10 Open space at grade shall be accessible and usable by all residential occupants.

e. Open Space on Roof

12-10 - Open Space on roof in R8 need not be accessible

12-10 - No dimension less than 25' except that area adjoining street line or rear yard min. depth 9' and max. length min. 2 times depth (or full width of zoning lot or 50', whichever is less).

24-16 Open Space permitted on roof of community facility

COMMUNITY FACILITY COVERAGE IN R8

24-11 Max. 65% Community Facility Coverage in R8 Zone
19,582 SF X 65 % = 12,728 SF

Provided 0 SF Complies

24-12 Community Facility use below 23' may be excluded from Lot Coverage

LEGEND

EXISTING BUILDING

PROPOSED BUILDING

REAR YARD EQUIVALENT

REQUIRED REAR YARD

OPEN SPACE AT ROOF IN R8

OPEN SPACE AT GRADE IN R8

RESIDENTIAL COVERAGE IN R8

TOWER COVERAGE IN C-7

ZONING LOT LINE

STREET TREE

SKY EXPOSURE PLANE

PROPERTY LINE

TOB TOP OF BEAM WITHIN NON-OCCUPIABLE SPACE



ZD1 Zoning Diagram

Submitted to resolve objections stated in a notice of intent to revoke issued pursuant to rule 101-15.

YES NO

Location Information

House No(s) 36

Street Name West 66th Street

Borough Manhattan

Block 1118

Lot 45

Bin 1028168

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NAME (PLEASE PRINT)

Luigi P. R...

SIGNATURE

DATE

P.E.R.A. SEAL (APPLY SEAL, SIGN AND DATE OVER SEAL)

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BIS Doc #

PLAN EXAMINERS SIGN AND DATE

R. 000490

ZONING CALCULATIONS

HEIGHT & SETBACK IN BOTH ZONES

- 15-21 Maximum Height of Wall and Required Setbacks
23-641 20' minimum setback above 85'
2.7:1 Sky Exposure Plane

TOWER IN C4-7

a. Lot Area in C4-7	35,105.00 SF
82-36 (a) b. Max. Tower Coverage Permitted	35,105.00 SF X 0.4 = 14,042.00 SF
c. Min. Tower Coverage Permitted	35,105.00 SF X 0.3 = 10,531.50 SF
d. Proposed Tower at floors 7-15	11,579.52 SF Complies
Proposed Tower at floor 16	10,644.64 SF Complies
Proposed Tower at floor 17	10,770.86 SF Complies
Proposed Tower at floor 18	11,092.88 SF Complies
Proposed Tower at floor 19	11,208.99 SF Complies
Proposed Tower at floors 20-33	11,208.57 SF Complies
Proposed Tower at floors 34	11,208.51 SF Complies
Proposed Tower at floors 35	11,183.32 SF Complies
Proposed Tower at floors 36	11,156.28 SF Complies
Proposed Tower at floors 37	11,127.40 SF Complies
Proposed Tower at floor 38	11,097.02 SF Complies
Proposed Tower at floor 39	11,064.13 SF Complies
Proposed Tower at floor 40	11,028.24 SF Complies
Proposed Tower at floor 41	10,538.00 SF Complies
e. Minimum Setback 20' above 85'	Complies

TOP 40' OF TOWER

- 82-36 (a) The highest 4 stories of the tower or 40 feet, whichever is less, may cover less than 30% of the lot area if the GFA of each story does not exceed 80% of GFA of the story directly below it.
- | | |
|--|--|
| Proposed tower at 42nd Floor, Bulkhead (Ht. 732.73') | 8,311.00 SF |
| Max. 80% of 41st Floor | 80% x 10,538 SF = 8,430.40 SF Complies |

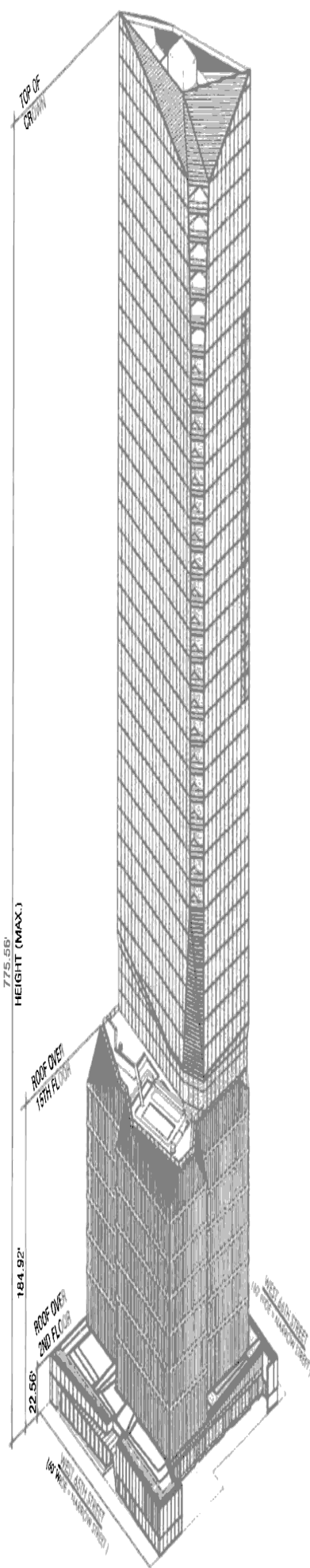
BULK DISTRIBUTION BELOW 150' IN HEIGHT

82-34 Total Permitted Floor Area	548,543.00 SF
Min. Required ZFA Below 150'	548,543.00 SF X 0.6 = 329,125.80
14th Floor - Finished Floor	
Floor Elevation	228.98 Ft
Floor Height in C4-7 Through Lot Portion 1	149.48 Ft
Floor Height in R8 Through Lot Portion 2	149.67 Ft

Provided:	
Existing Building	43,053.00 SF
New Building Floors 1-14 (See Floor Area Table)	286,078.04 SF
Total Below 150'	329,129.04 SF Complies

AXONOMETRIC DIAGRAM

Scale: NTS

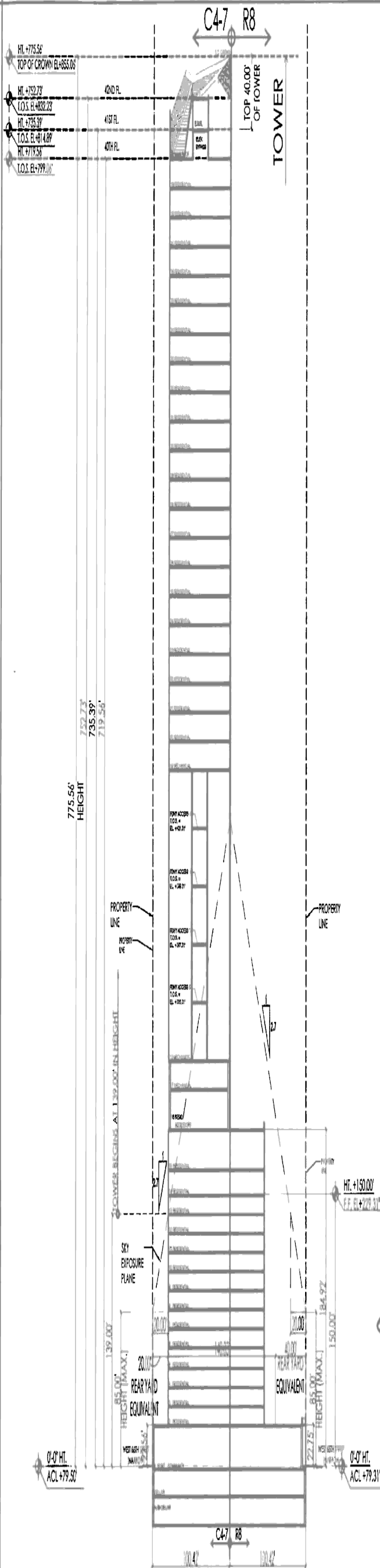


LEGEND

- SKY EXPOSURE PLANE
--- PROPERTY LINE

SECTION DIAGRAM

Scale: NTS



ZD1 Zoning Diagram

Submitted to resolve objections stated in a notice of intent to revoke issued pursuant to rule 101-15.
☐ YES ☒ NO

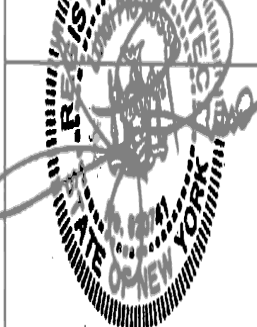
Location Information

House No(s) 36
Street Name West 66th Street
Borough Manhattan
Block 1118
Lot 45
Bin 1028168

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NAME (PLEASE PRINT)

Luigi P. R. DATE



P.E./A. SEAL (APPLY SEAL: SIGN AND DATE OVER SEAL)

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BIS Doc #

PLAN EXAMINERS SIGN AND DATE



Buildings

ZD1 Zoning Diagram

Must be typewritten.
Sheet 2 of 2

1 Applicant Information Required for all applications.

Last Name	Russo	First Name	Luigi	Middle Initial	
Business Name	SLCE Architects, LLP			Business Telephone	(212) 979-8400
Business Address	1359 Broadway, 14th Floor			Business Fax	(212) 979-8387
City	New York	State	NY	Zip	10018
				Mobile Telephone	
E-Mail	lrusso@slcearch.com			License Number	020741

2 Additional Zoning Characteristics Required as applicable.

Dwelling Units	127	Parking area	sq. ft.	Parking Spaces: Total	Enclosed
----------------	-----	--------------	---------	-----------------------	----------

3 BSA and/or CPC Approval for Subject Application Required as applicable.

Board of Standards & Appeals (BSA)

<input type="checkbox"/> Variance	Cal. No. _____	Authorizing Zoning Section	72-21
<input type="checkbox"/> Special Permit	Cal. No. _____	Authorizing Zoning Section	
<input type="checkbox"/> General City Law Waiver	Cal. No. _____	General City Law Section	
<input type="checkbox"/> Other	Cal. No. _____		

City Planning Commission (CPC)

<input type="checkbox"/> Special Permit	ULURP No. _____	Authorizing Zoning Section	
<input type="checkbox"/> Authorization	App. No. _____	Authorizing Zoning Section	
<input type="checkbox"/> Certification	App. No. _____	Authorizing Zoning Section	
<input type="checkbox"/> Other	App. No. _____		

4 Proposed Floor Area Required for all applications. One Use Group per line.

Floor Number	Building Code Gross Floor Area (sq. ft.)	Use Group	Zoning Floor Area (sq. ft.)				FAR
			Residential	Community Facility	Commercial	Manufacturing	
SUB	27,751.62	2B	0				0
SUB	9,362.04	4A		0			0
CEL	27,721.93	2B	0				0
CEL	9,391.64	4A		0			0
001	9,370.60	2	8,923.74				0.16
001	22,405.49	4A		22,405.49			0.41
MEZ1	1,691.49	2	910.32				0.02
MEZ1	2,020.23	4A		0			0
002	20,478.30	2	19,507.39				0.36
003	20,478.30	2	19,509.56				0.36
004	20,478.30	2	19,509.56				0.36
005	20,478.30	2	19,509.56				0.36
006	20,478.30	2	19,531.26				0.36

ZD1

Sheet 2 of 2

4 Proposed Floor Area Required for all applications. One Use Group per line.

Floor Number	Building Code Gross Floor Area (sq. ft.)	Use Group	Zoning Floor Area (sq. ft.)				FAR
			Residential	Community Facility	Commercial	Manufacturing	
007-008	40,956.60	2	39,062.52				0.71
009-014	122,869.80	2	117,206.64				2.14
015	17,402.80	2	0				0
016	10,644.64	2B	7,746.54				0.14
017	6,637.02	2	0				0
018	10,240.55	2	0				0
FDNY AC 1	334.25	2	334.25				0.01
FDNY AC 2	334.25	2	334.25				0.01
FDNY AC 3	334.25	2	334.25				0.01
FDNY AC 4	334.25	2	334.25				0.01
019	10,916.98	2	0				0
020-026	78,459.99	2	75,739.86				1.38
027-031	56,042.85	2	54,076.90				0.99
032-033	22,417.14	2	21,631.76				0.40
034	11,208.58	2	10,883.73				0.20
035	11,183.38	2	10,858.54				0.20
036	11,156.28	2	10,831.50				0.20
037	11,127.40	2	10,802.62				0.20
038	11,097.02	2	10,747.10				0.20
039	10,626.00	2	4,756.95				0.09
040	928.55	2	0				0
041	927.82	2	0				0
Totals	658,286.81		483,083.05	22,405.49			9.24

Total Zoning Floor Area	505,488.54
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07/09



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Richard and Jon Kalikow Say What They Really Think

The top Gamma Real Estate executives are betting on the Southeast and beef about the Sutton Place drama.

By Betsy Kim | February 20, 2018

NEW YORK CITY—Gamma Real Estate has a hard money lending business, making short-term loans of up to \$200 million secured by real estate and owns a commercial bank. They have developed more than 10 million square feet of office property and more than 10,000 residential units.



From left: Richard Kalikow, Jon Kalikow and Jay Neveloff (moderating talk)

The Dakota Pipeline

Jon Kalikow, the president of Gamma Real Estate, described fracking as “one of the most exciting plays around 2011.” He and his father, Richard Kalikow, the CEO and chairman of the company, presented at Anchin’s Construction & Development Forum’s “Fireside Chat,” on Thursday. “Not because we know a lot about the oil drilling business, but we know if you were going to have a flood of people out there, they would need places to live.”

For a few years, the North Dakota multifamily properties were very lucrative, rivaling prices of New York City. However, when the oil prices fell and people left, valuations dropped and institutional loans dried up. So, now Gamma is “weathering the storm” in the Dakota plains.

Although Gamma has recently been under a firestorm of headlines for 3 Sutton Place in New York City, the concentration of their residential portfolio is in the Southeast.

Betting on the Southeast

According to government projections 35% of the population will live in the Southeast in the next 35 to 40 years including the retirees who move, Jon noted.

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state income tax, Jon anticipates a flood of people moving there from the Northeast for that reason, alone.

Jon credited “right-to-work” laws, which weaken unions by prohibiting unionized workplaces from requiring union membership or payment of dues, with boosting the regional economy. He stressed six or seven car companies recently moved to the Southeast including a BMW plant in South Carolina, which is now the leading US automobile exporter. All southeastern states have “right-to-work” laws.

He described Atlanta as the central transportation hub, with the largest port following New York, Newark, Los Angeles and Long Beach. He praised the city’s leadership for gentrifying its downtown and for streamlining governmental processes, such as building permits.

Richard noted the Port of Savannah is growing faster due to the widening of the Panama Canal. “Out of the three biggest ports, it’s the only non-union port,” he said. “Nobody wants their goods tied up for a week or two like when there was a strike in Los Angeles.”

Charlotte, Orlando, Tampa, Austin and Dallas are cities with generational legs, said Jon. “We absolutely think the college graduating community, many who had focused on Wall Street as the easy place for wealth are now more likely focused on these jurisdictions in the Southeast, mostly because of quality of life and cost.”

For Amazon HQ2, Richard predicted Atlanta, Newark or DC would be picked, pointing to ports and interstate airport access.

Jon believes Atlanta or Dallas will be selected due to their transportation. Plus, Atlanta’s large and educated population would work at rates significantly cheaper than in DC or New York, he said, then discounted Newark anticipating the required tax incentives would be back breaking.

3 Sutton Place – Now at the Board of Standards and Appeals

Joseph Beninati’s Bauhouse Group borrowed \$147 million from Gamma to develop 3 Sutton Place and defaulted. Gamma foreclosed on the property and acquired it for \$98 million including air rights.

Several lawsuits were filed including Beninati’s 26-count lawsuit against Gamma. Philip Pilevsky, the CEO of Philips International, sued Gamma to try to stop the foreclosure. Gamma then sued Pilevsky for tortious interference of Beninati’s contract with Gamma.

These lawsuits were mere subplots. The main drama occurred when community members learned of Beninati’s plans to build a 950-foot, 87-story tower as the R-10 zoning put no height limitation in place. Gamma then planned to build a 700-foot, 67-

A community group, East River Fifties Alliance (<http://erfa.nyc/nyc-city-council-45-0-vote-in-favor-of-rezoning/>), backed by New York city council members Ben Kallos and Dan Garodnick, Manhattan borough president, Gale Brewer, and state senator, Liz Krueger, advocated capping building heights at 260 feet, between 51st and 59th streets, east of First Avenue. On Nov. 30, the New York city council voted 45-0 in favor of the rezoning. It did not grandfather 3 Sutton to allow an exception.

Gamma had poured concrete, but then their work was stopped. However, the buildings department allowed them to finish the foundations citing safety reasons. Gamma is appealing to the Board of Standards and Appeals for authorization to construct its tower as planned.

"What happened here sets a precedent that is unfathomable in this city. What you need now to grandfather zoning is a building permit and a complete foundation, which is unheard of," said Richard. "In every other jurisdiction in America, usually when you have a building permit, you have grandfathered zoning and here in New York if you had zoning, it was sacrosanct. That doesn't exist anymore since this project."

Jon noted, "A different developer did something smart at a site we looked at on W. 67th Street." The developer filed for a building that was "this high." Jon motioned a short length. But once he had his plans ready, he amended the tower to make it "that high." Jon motioned a taller length.

"His belief and hope, and he's probably right, is that the community can't muster the resources to stop him. But these are the kinds of tricks you have to do these days, if you even hope to be successful," Jon said.

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