



CITY PLANNING COMMISSION

August 24, 2011/Calendar No. 17

C 100063 ZMM

IN THE MATTER OF an application submitted by 249 W 28th Street Properties, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of Zoning Map Section No. 8d, by changing an M1-5 District to an M1-6D District property bounded by West 30th Street, a line 100 feet westerly of Fashion Avenue (7th Avenue), West 28th Street and a line 100 feet easterly of Eighth Avenue, as shown on a diagram (for illustrative purposes only), dated April 25, 2011, and subject to the conditions of CEQR Declaration E-276, Borough of Manhattan, Community District 5.

This application for a zoning map amendment was filed by 249 W 28th Street Properties, LLC on August 6, 2009. The application would rezone the midblock portions of two blocks bounded by West 28th Street, West 30th Street, Eighth Avenue, and Seventh Avenue, in Manhattan Community District 5, from an M1-5 district to M1-6D. The proposed zoning map amendment represents the first application for the M1-6D district, which would be created through a separate, related application by the Department of City Planning (N 110285 ZRY). The subject application would facilitate the development of two predominantly residential buildings containing a total of approximately 407 residential units on the site of an existing parking facility owned by the applicant.

RELATED ACTIONS

In addition to the application for a zoning map amendment which is the subject of this report (C 100063 ZMM), implementation of the proposed project also requires action by the City Planning Commission on the following applications which are considered concurrently with this application:

N 110285 ZRY **Zoning Text Amendment** by the Department of City Planning to create a new zoning district (M1-6D) that would preserve existing concentrations of Class B and C office and light industrial space, allow infill contextual

residential development, including affordable housing, and generally support the development of mixed-use areas

C 100064 ZSM **Special Permit** pursuant to Sections 13-562 and 74-52 of the Zoning Resolution to allow an attended public parking garage with a maximum capacity of 325 spaces.

BACKGROUND

The applicant, 249 W. 28th Street Properties, LLC, proposes to rezone the midblock portions of two blocks bounded by West 28th Street, West 30th Street, Eighth Avenue, and Seventh Avenue from an existing M1-5 zoning district to M1-6D. The rezoning would facilitate two new, 20-story buildings containing residential uses, including affordable housing, ground floor commercial office and retail uses, and a below grade public parking garage pursuant to a related special permit (C 100064 ZSM).

The proposed rezoning area consists of the project site and 48 other tax lots (or portions thereof) located on the same block as the project site and the block immediately to the north. These blocks are a transition point between the more residential areas of Chelsea to the south and west and the Midtown office districts and commercial retail and entertainment center to the north and east.

The area to the north of the proposed rezoning area is developed with high density commercial uses. Large office buildings, including One Penn Plaza and Two Penn Plaza, are located a few blocks north, as are major entertainment uses (Madison Square Garden) and major transportation uses (Pennsylvania Station). The area to the northeast also contains numerous retail stores, including Macy's, JC Penny, Old Navy, and many chain apparel stores.

Seventh Avenue, immediately east of the proposed rezoning area, is lined with large loft buildings, the majority of which have been entirely converted to office use. Fashion design companies, publishing houses, architects, engineers, and graphic designers occupy much of this

space. The No. 1 subway line runs along Seventh Avenue and stops at West 28th Street, immediately adjacent to the proposed rezoning area. The blocks to the east of Seventh Avenue contain a mix of light manufacturing, commercial uses, parking facilities, and hotels. The rezoning of Sixth Avenue between West 24th and West 31st streets in 1998 has led to the construction of new high rise apartment towers.

The neighborhood to the west and southwest of the proposed rezoning area is heavily residential, with some commercial uses. Residential uses include the Onyx, a new 12 story residential building located on the east side of Eighth Avenue between West 28th and West 29th streets (on the same block as the project site) and the Penn South apartment complex, a middle income development, located on the west side of Eighth Avenue between West 26th and West 29th streets. Farther to the southwest, is the Chelsea neighborhood.

South of the Rezoning Area is a mixed-use neighborhood. The Fashion Institute of Technology is located immediately south of the proposed rezoning area, occupying the majority of the blocks between West 26th and West 28th streets, between Seventh and Eighth avenues. Retail, restaurant, and similar uses line the ground floors of buildings along Sixth, Seventh and Eighth Avenues and the major east-west corridors, including West 23rd Street and West 34th Street.

Zoning districts in the surrounding areas reflect the mix of commercial, residential, light industrial, entertainment, institutional, and transportation-related uses discussed above. The midblock portion of the block containing the project site and the two midblocks immediately to the north are zoned M1-5, a medium density manufacturing district that permits commercial and light manufacturing uses up to 5.0 FAR. The M1-6 district along Seventh Avenue and the majority of blocks to the east permit commercial and light industrial uses at 10.0 FAR, bonusable to 12.0 FAR through the plaza bonus. Very high density commercial districts (C6-6, C6-4.5, and C6-4) within the Midtown Special District and Hudson Yards Special District are further to the north. The Eighth Avenue block fronts, adjacent to the proposed rezoning area, include both a C6-3X zoning district (between West 29th and West 30th streets), which allows 6.0 FAR for commercial uses, 9.0 FAR for residential uses, and 9.0 FAR for community facility uses, and a

C6-2A zoning district (between West 28th and West 29th streets), which allows 6.0 FAR for commercial uses, 6.02 FAR for residential uses, and 6.5 FAR for community facility uses. Immediately to the south, at FIT, is a C6-2 district, which permits the same uses and density as C6-2A districts. Finally, across Eight Avenue to the west, at the Penn South residential complex, is an R8 district, which allows 6.02 FAR and 6.5 FAR for residential and community facility uses respectively.

The proposed rezoning area consists of the midblock portions of the blocks bounded by West 28th Street, Eight Avenue, West 30th Street, and Seventh Avenue. During the first half of the twentieth century, these two blocks were part of the industrial heart of New York City however, since the 1960s, the area has experienced a sharp decline in manufacturing uses that continues to the present. Once part of the Fur District, many of the fur related businesses within the proposed rezoning area have left and the fur businesses that remain have mostly shifted from production to commercial sales.

Today, the proposed rezoning area contains a concentration of class B and C offices, a secondary presence of residential uses, and a mix of warehouse and other light industrial uses. There are also five surface parking lots, highlighting the lack of new investment in the proposed rezoning area. The only recent development was the construction of a hotel in 2005, on what was a sixth surface parking lot.

The EAS for the proposed rezoning indicates that office use is the principal business in the proposed rezoning area, comprising approximately 54% of the total employment. Retail uses comprise approximately 11%, wholesale uses comprise approximately 10%, and manufacturing uses account for approximately 6% of the total jobs. There are an estimated 336 residents in the proposed rezoning area.

The proposed rezoning area contains variety of building types, however several large loft buildings constructed in the early twentieth century have a significant presence and give the area its predominant character. Many of these existing masonry buildings have floor area ratios significantly above 5.0, have high floor to ceiling heights, and rise to heights of approximately

200 feet. In addition, these buildings are built to the street line, have substantial base heights, and tiered, articulated, setback, tops.

The project site (Block 778; Lots 13, 16, 18, and 66) is a through lot which has approximately 149 feet of frontage along West 28th Street and 145 feet of frontage along West 29th Street, with a lot area of 29,373 square feet. Lots 13 and 16 are currently occupied by an at-grade public parking lot with 131 parking spaces, Lot 18 has a four-story, 240-space, attended public parking garage with approximately 33,000 square feet of floor area, and Lot 66 is currently vacant (a two-story building that was formerly on Lot 66 has been demolished).

The applicant proposes to demolish the existing garage and develop the site with two 20-story, mixed-use buildings. The buildings are proposed to be developed pursuant to the proposed M1-6D district regulations and include a total of 407 market rate and affordable housing units constructed in accordance with the Inclusionary Housing Program. The buildings would be located on each street line and would be connected by a ground floor that extends from West 28th Street to West 29th Street. A central courtyard would be located in the rear of the buildings above the first floor. Required retail uses would occupy 50% of the frontage on West 28th Street and 50% of the frontage on West 29th Street. The proposed 325-space public parking garage would be located below-grade.

ZONING MAP AMENDMENT (100063 ZMM)

The proposed rezoning area includes the project site and 48 other lots on both the applicant's block and the block directly to the north. The proposed zoning map amendment would change the existing M1-5 zoning district, mapped 100 feet east of Eight Avenue and 100 feet west of Seventh Avenue, between West 28th Street and West 30th Street, to M1-6D. As mentioned above, the proposed rezoning area would also be located within an Inclusionary Housing designated area.

The existing M1-5 zoning district is a medium density manufacturing district that allows 5.0 FAR for manufacturing and commercial uses and a limited number of community facility uses.

As described in the related application (N 110285 ZRY), the M1-6D district is a high density mixed use district that allows 10.0 FAR for manufacturing, commercial, community facility, and residential uses. When mapped within an inclusionary housing designated area, as is proposed pursuant to the related text amendment (N 110285 ZRY), the residential FAR is 9.0, bonusable to 12.0 through the inclusionary housing bonus. The proposed M1-6D district also requires buildings to line up at the streetline and limits building heights to 210 feet on narrow streets and 290 feet on wide streets.

A total of 52 privately-owned lots (or portions thereof) would be included in the proposed rezoning area. Eighteen lots (approximately 35%) contain uses that are non-conforming in the existing M1-5 zoning district. The proposed rezoning to M1-6D would make all existing uses conforming, with the possible exception of one building that contains unidentified UG 17 uses.

Currently, 31 lots within the proposed rezoning area (approximately 60%) comply with the 5.0 FAR allowed in the M1-5 district. Under the proposed rezoning to M1-6D, 39 lots (75%) would comply with the 10.0 FAR allowed for community facility, commercial, and light industrial uses, and 41 lots (approximately 79%) would comply with the 12.0 FAR allowed with the Inclusionary Housing bonus. Significantly, the remaining 11 lots within the rezoning area (approximately 21%) have FARs that exceed 12.0 FAR.

SPECIAL PERMIT (C 100064 ZSM)

Pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, the applicant is proposing to construct a fully attended 325 space public parking garage on portions of the ground floor, cellar and sub-cellar levels of the new development. The garage would occupy approximately 49,000 square feet of floor area and would contain 139 two-car stackers (34 in the cellar and 105 in the sub-cellar). 218 parking spaces would be provided to parkers on a monthly basis only. Additionally, the proposed garage would include spaces for car-share services and a charging station for electric cars. It would also have 33 bicycle parking spaces, rented at \$1 per day, with separate elevator access to prevent bicycle/vehicular conflict on the entrance and egress ramps.

Ingress would be from both West 28th Street, a one-way narrow eastbound street, and West 29th Street, a one-way narrow westbound street; the exit would be located on West 29th Street. There would be one 16 foot-wide curb cut on West 28th Street, and one 25 foot-wide curb cut on West 29th Street. Sixteen (16) reservoir spaces would be required; nine would be located on the entry ramp on West 28th Street, and seven would be located on the entry ramp on West 29th Street.

ENVIRONMENTAL REVIEW

This application (C 100063 ZMM), in conjunction with the applications for the related actions (N 110285 ZRY and C 100064 ZSM), 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 lead agency is the City Planning Commission. The designated CEQR number is 10DCP004M.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on April 25, 2011.

UNIFORM LAND USE REVIEW

This application (C 100063 ZMM), in conjunction with the applications for the related action (C 100064 ZSM), was certified as complete by the Department of City Planning on April 25, 2011, and was duly referred to Manhattan Community Board 5 and the Manhattan Borough President in accordance with Title 62 of the rules of the City of New York, Section 2-02(b), along with the related text amendment (N 110285 ZRY) which was referred pursuant to the procedure for non-ULURP applications.

Community Board Review

Community Board 5 held a public hearing on this application (C 100063 ZMM) on June 9, 2011, and on that date, by a vote of 36 to 0 with 1 abstention, adopted a resolution recommending

approval of this application. In its recommendation, Community Board 5 made the following requests:

- substantial effort should be made to achieve LEED Silver certification;
- the retail spaces should include residentially-oriented uses;
- superior noise-blocking glass should be used for the residential units;
- explore ways to allow neighborhood access to the rear yard of the proposed development
- continue to work with Community Board 5 on potential future development

Borough President Recommendation

This application (C 100063 ZMM) was considered by the Office of the Manhattan Borough President, which issued a recommendation approving the application on July 13, 2011, subject to the conditions described below:

- the benchmark for determining a “qualifying building” be lowered from 50,000 square feet to 40,000 square feet;
- the hotel special permit be extended to zoning lots with “qualifying buildings” to protect Class B and C office space;
- the hotel special permit is modified to ensure that only new residential units count toward meeting the residential development goal;
- the mandatory retail requirement not count toward raising the base residential FAR of the inclusionary housing bonus;
- the plaza bonus is maintained along Seventh Avenue in the M1-6 district and the contextual controls only apply if the plaza bonus is not utilized.

City Planning Commission Public Hearing

On July 13, 2011 (Calendar No. 8), the City Planning Commission scheduled July 27, 2011, for a public hearing on this application (C 100063 ZMM) in conjunction with the hearings on the related applications (N 110285 ZRY and C 100064 ZSM). The hearing was duly held on July 27, 2011 (Calendar No. 12). There were nine speakers in favor and none in opposition.

Three representatives of Manhattan Community Board 5 expressed their support for the proposed text amendment, the goals it intends to achieve, and summarized their recommendations to make

it stronger. Two representatives of the applicant for the proposed zoning map amendment noted their support for the proposed text amendment and described the project it would help facilitate.

The Director of Land Use for the Manhattan Borough President expressed support for proposed zoning text amendment, the zoning map amendment, and the special permit, and noted that the text amendment application should be modified to reflect the recommendations of the Borough President.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of zoning map amendment (C 100063 ZMM), in conjunction with the related application for a special permit (C 100064 ZSM), is appropriate.

Zoning Map Amendment (C 100063 ZMM)

The Commission believes that the existing M1-5 zoning district neither reflects the current land uses in the proposed rezoning area nor the densities of existing buildings.

The Commission recognizes that the existing M1-5 zoning district was adopted in 1961 at a time when manufacturing uses were the predominant land use in this area, but over the last 50 years it has transitioned into what is most accurately described as a commercial office district that contains a secondary presence of light industrial and residential uses. The Commission notes that the EAS for the proposed rezoning estimates that 18 lots within the proposed rezoning area (or 35% of the total) contain uses that are non-conforming in the M1-5 district. The Commission believes that the proposed M1-6D district would allow a wide range of uses that is more reflective of the existing land uses in the proposed rezoning area.

The Commission further notes that a significant proportion of the buildings in the proposed rezoning area, approximately 40 percent, are built to densities that far exceed the existing 5.0

FAR allowed in M1-5 zoning districts. The Commission notes that under the proposed M1-6D district, 75% of the buildings would comply with the 10.0 FAR allowed for manufacturing, commercial, and community facility uses, and 79% of the buildings would comply with 12.0 FAR allowed through the utilization of the inclusionary housing bonus. The Commission also notes that approximately 21% of the buildings in the proposed rezoning area exceed 12.0 FAR,

The Commission notes that the proposed rezoning area is located at the confluence of medium to high density residential and community facility uses to the south and west and high to very high density commercial and light industrial uses to the north and east, indicating the appropriateness of the proposed M1-6D district's use and bulk regulations for this particular area. The Commission believes that high density uses are appropriate in an area that is located in such close proximity to Penn Station.

The Commission also recognizes that the formulation of the proposed M1-6D use and bulk regulations came out of an in depth analysis of the area proposed to be rezoned as part of this application and that therefore, the appropriateness of this application is closely linked to the proposed text amendment (N 110285 ZRY), and the goals it intends to achieve. The Commission believes that this proposed zoning map amendment will not only facilitate reinvestment within the proposed rezoning area by the applicant, and potentially others, but will help to secure and enhance the affordable office market that currently exists and will ensure that non-residential uses will continue to play a critical role in creating the vibrant mixed-use environment that is envisioned. The Commission also believes that the proposed zoning map amendment will facilitate new development that respects the rich character of the larger pre-war buildings that currently exist.

The Commission acknowledges the comments of the Community Board and encourages the applicant to continue to work with the Board as the development of their proposal advances.

The Commission notes that the conditions of the Borough President's approval are considered in the report for the related application for a zoning text amendment (N 110285 ZRY).

Special Permit (C 100064 ZSM)

The Commission believes that the proposed public parking garage, with a maximum of 325 spaces, is appropriate. The Commission notes that the applicant's proposed project would displace an existing public parking facility with 379 spaces.

The Commission notes that the proposed public parking garage is located in a high-density predominantly commercial area. The Commission notes that access to the garage would be from Seventh or Eighth Avenue, and from West 28th Street or West 29th Street, and egress from the garage would be on West 29th Street, which are not local residential streets. The Commission notes that the proposed mixed-use development will include approximately 407 residential units and will create a high accessory demand for the public parking garage. The Commission notes the applicant has agreed to rent at least 218 of the proposed parking spaces on a monthly basis.

The Commission notes that, according to the environmental assessment statement completed for the zoning map amendment application and the public parking garage special permit, a maximum of 53 vehicular trips would result in the P.M. peak hours throughout the entire rezoning area; a relatively modest increase that would not impact existing conditions. The Commission believes those additional vehicles would not unduly inhibit traffic and pedestrian flow.

Sixteen reservoir spaces would be provided along the length of the ramps descending to the cellar of the building. The Commission further notes that warning signals and buzzers located on the garage's exit ramp would alert pedestrians to the presence of a vehicle exiting the garage.

RESOLUTION

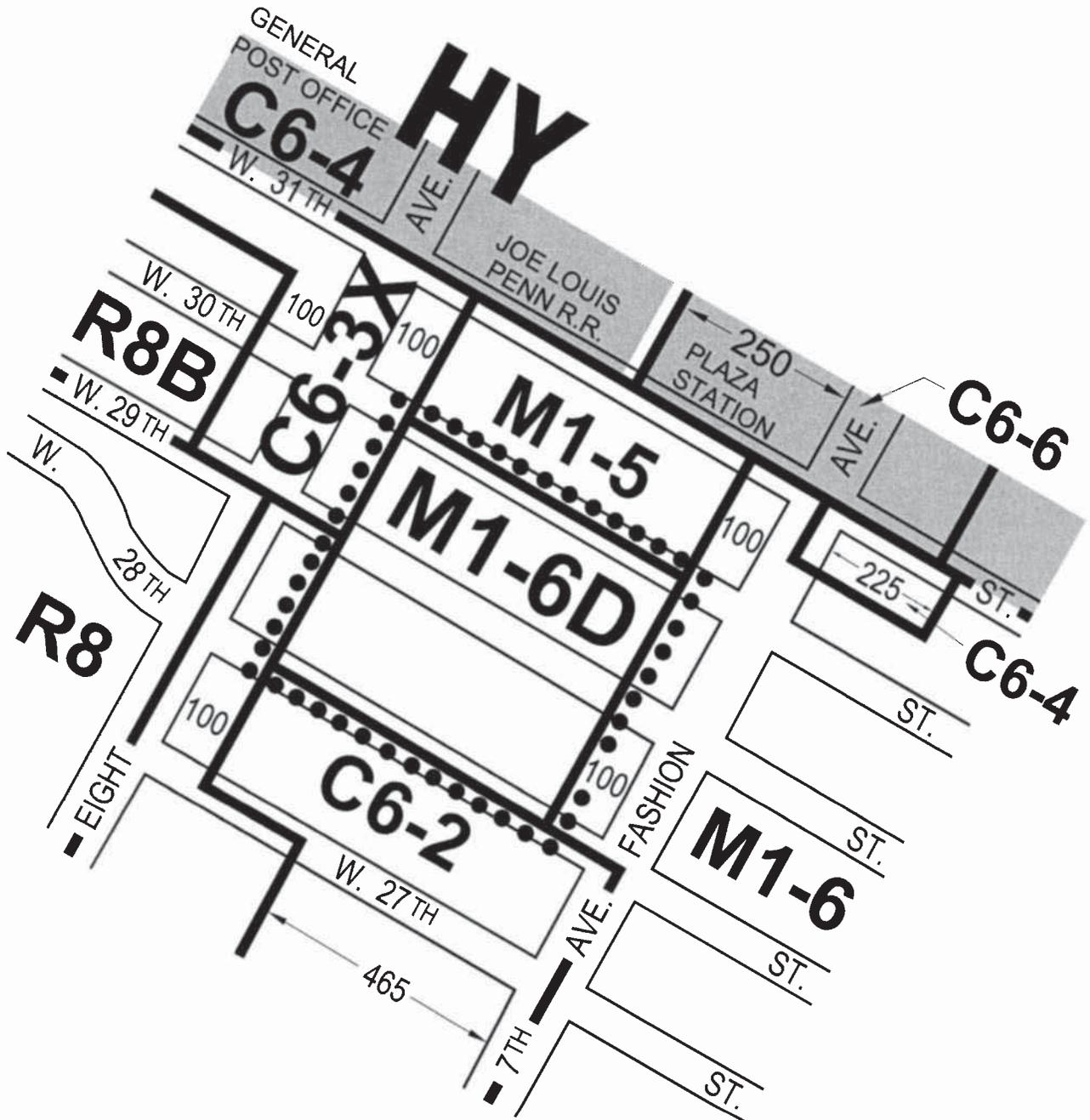
RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination, and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently modified, is further amended by changing the Zoning Map, Section No. 8d: by changing an M1-5 District to an M1-6D District property bounded by West 30th Street, a line 100 feet westerly of Fashion Avenue (7th Avenue), West 28th Street and a line 100 feet easterly of Eight Avenue, as shown on a diagram (for illustrative purposes only), dated April 25, 2011, and subject to the conditions of CEQR Declaration E-276.

The above resolution (C 100063 ZMM), duly adopted by the City Planning Commission on August 24, 2011 (Calendar No. 17), is filed with the Office of the Speaker, City Council, and Borough President together with a copy of the plans of the public parking garage, in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair
RICHARD W. EADDY, Vice Chairman,
ANGELA M. BATTAGLIA, RAYANNE BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, NATHAN LEVENTHAL, ANNA HAYES LEVIN,
SHIRLEY A. MCRAE, KAREN A. PHILLIPS, Commissioners

ORLAND MARIN, Commissioner, ABSTAINED



CITY PLANNING COMMISSION
 CITY OF NEW YORK
 DIAGRAM SHOWING PROPOSED
ZONING CHANGE
 ON SECTIONAL MAP
8d



New York, Certification Date
 MARCH 14, 2011

BOROUGH OF
MANHATTAN

S. Voyages, R.A. Director
 Technical Review Division



- NOTE:**
- Indicates Zoning District Boundary.
 - The area enclosed by the dotted line is proposed to be rezoned by changing an M1-5 District to an M1-6D District.
 - Indicates a Special Hudson Yards District.

MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
212.465.0907 f-212.465.1628

Wally Rubin, District Manager

June 10, 2011

Hon. Amanda Burden
Chair
Department of City Planning
22 Reade Street, Room 2E
New York, NY 10007

Re: APPLICATION 100063ZMM BY 249 WEST 28TH STREET PROPERTIES LLC (APPLICANT) FOR AN AMENDMENT OF THE ZONING MAP 8D TO CHANGE THE MID-BLOCK PORTION OF TWO CITY BLOCKS BOUNDED BY WEST 28TH ST, WEST 30TH ST, SEVENTH AVE. AND EIGHTH AVE. FROM AN M1-5 TO AN M1-6D ZONING DISTRICT;

AND APPLICATION 100064ZSM BY 249 WEST 28TH STREET PROPERTIES LLC (APPLICANT) FOR A SPECIAL PERMIT PURSUANT TO SECTION 13-562 AND SECTION 74-52 OF THE ZONING RESOLUTION TO ALLOW A BELOW GRADE ATTENDED PUBLIC PARKING GARAGE AT 241-251 WEST 28TH STREET/240-250 WEST 29TH STREET.

Dear Chair Burden:

At the regularly scheduled monthly meeting of Community Board Five on Thursday, June 9, 2011, the Board passed the following resolution by a vote of 36 in favor, 0 opposed, 1 abstaining:

WHEREAS, 249 W. 28th Street Properties, LLC has applied for an amendment of the Zoning Map to change the mid-block portion of two city blocks bounded by West 28th Street, West 30th Street, Seventh Avenue, and Eighth Avenue from an M1-5 (allows manufacturing and light industrial, commercial, hotel, and community facilities) to an M1-6D (allows mixed-use manufacturing and light industrial, commercial, hotel, contextual residential, and community facilities) zoning district; and

WHEREAS, If the rezoning is granted, the applicant is proposing to construct, as-of-right, two approximately 20-story, 210-foot mixed-use buildings located at 241-251 West 28th Street/240-250 West 29th Street, between Seventh and Eighth Avenues, in the proposed M1-6D zoning district, with approximately 407 market-rate and affordable residential units that are targeted to include 15% studio, 75% one-bedroom, and 10% two-bedroom units, translating to approximately 336,401 square feet of residential floor area, 4,685 square feet of retail floor area, and 11,390 square feet of office floor area, and further, the applicant intends to include 20% of the buildings' square footage as affordable housing; and

WHEREAS, The new buildings would be constructed on the street line on both West 28th and West 29th Streets, with a central courtyard above a one-story office building that will extend between the two residential towers, and retail use occupying 50% of the frontage on both streets; and

WHEREAS, This neighborhood is currently zoned M1-5 and does not permit new residential use, nor does it have requirements for street wall or maximum building height, a reflection of the area's history as a manufacturing and commercial district; and

WHEREAS, Over the past decades, this neighborhood, just south of Penn Station and north of The Fashion Institute of Technology and Penn South (a 2,820-unit residential complex), has evolved from being part of Manhattan's industrial heart into one notable for its Class B and C office space largely occupied by creative and media-related businesses, plus the remnants of the New York fur industry; and

WHEREAS, In addition to the rezoning application, 249 W. 28th Street Properties, LLC seeks a Special Permit to build a below grade attended public parking garage beneath the two proposed buildings, that will include 325 below grade vehicle spaces, 204 bicycle spaces for building residents, 33 bicycle spaces for public rental, and 16 reservoir spaces; and

WHEREAS, The proposed public parking garage will result in a reduction of 46 spaces due to the elimination of the above grade parking lots, owned by the applicant, that currently have 371 spaces; the proposed garage will be in operation 24-hours a day, with all parking done by attendants, and with an entrance and exit on West 28th Street and an exit on West 29th Street; and

WHEREAS, The applicant has completed and submitted an Environmental Assessment Statement which includes a finding that this proposed development, as well as other potential residential development in the new M1-6D district, would cumulatively add 4.93% and 2.56% to our already overcrowded public elementary and intermediate schools, respectively, disturbingly close to the 5% threshold for a significant adverse impact under the CEQR methodology. As such, Community Board Five strongly urges that the Department of City Planning and the applicant in consultation with the School Construction Authority, the Department of Education, and local elected officials work together to develop an approach to help address the inevitable overcrowding that will accompany the introduction of potentially 1,200 residential units; and

WHEREAS, Community Board Five strongly endorses the development of mixed-use projects for the vitality and diversity they bring to our district and thus supports the applicant's plan to take maximum advantage of the M1-6D bulk regulations by adding retail and commercial space, and adding 20% on-site affordable housing under the Inclusionary Housing Program; and

WHEREAS, The applicant has invited suggestions for types of retail and commercial tenants, and in response to this invitation as well as observing other issues and conditions, Community Board Five makes these requests:

- That in designing and constructing the two mixed-use buildings the applicant make substantial effort to achieve a minimum of LEED Silver Certification from the U.S. Green Building Council;
- That tenants for the retail areas of the two buildings include services such as commercial play places for children and/or pet daycare and veterinarian services, services that are viewed by some current residents of the area as under-provided in the neighborhood;
- That because of the adjacency to Madison Square Garden and neighborhood clubs, we urge the applicant to construct the two buildings with noise-blocking glass, with an efficacy

superior to the minimum required by the City, for those residential units facing W. 28th and W. 29th Streets;

- To explore ways to maintain an open green space on the roof of the commercial unit between the two buildings to which residents of the neighborhood can have access, such as by hosting neighborhood events or serving as a depot for a neighborhood Community Supported Agriculture (CSA);
- To work with Community Board Five on future developments that may be proposed elsewhere in CB5 as M1-6D projects so as to achieve the most successful and best practiced ways to bring residential and mixed-use investment into Midtown Manhattan's emerging neighborhoods.

Therefore be it

RESOLVED, That Community Board Five **approves** of the application of 249 W 28th Street Properties, LLC for an amendment of the Zoning Map to change the mid-block portion of two city blocks bounded by West 28th Street, West 30th Street, Seventh Avenue, and Eighth Avenue from an M1-5 to an M1-6D zoning district, and for a Special Permit pursuant to Section 13-562 and Section 74-52 of the Zoning Resolution to allow a below grade attended public parking garage at 241-251 West 28th Street/240-250 West 29th Street.

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero
Chair



Katherine McDonough
Chair, Land Use and Zoning Committee

Borough President Recommendation

City Planning Commission
22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

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

Application #: **C 100063 ZMM, C 100064 ZSM, N 110285 ZRY**

Docket Description:

(C 100063 ZMM) In the matter of an application submitted by 249 W 28th Street Properties, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map Section No. 8d, by changing an M1-5 District to an M1-6D* District property bounded by West 30th Street, a line 100 feet westerly of Fashion Avenue (7th Avenue), West 28th Street and a line 100 feet easterly of Eight Avenue

(C 100064 ZSM) In the matter of an application submitted by 249 W 28th Street Properties, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 13-562 and 74-52 of the Zoning Resolution to allow an attended Public Parking Garage with a maximum capacity of 325 spaces on portions of the ground floor, cellar level and sub-cellar level of a proposed mixed-use development on property located at 241-251 West 28th Street a.k.a. 240-250 West 29th Street (Block 778, Lots 13, 16, 18 & 66), in an M1-6D District.

(N 110285 ZRY) In the matter of an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York to create a new zoning district, M1-6D, and to modify related Sections pertaining to the establishment of the new district; and to modify Appendix F to facilitate a new Inclusionary Housing designated area.

COMMUNITY BOARD NO:

5

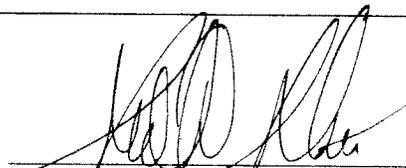
BOROUGH: Manhattan

RECOMMENDATION

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

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

See Attached


BOROUGH PRESIDENT

7-13-11
DATE



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

SCOTT STRINGER
BOROUGH PRESIDENT

July 13th, 2011

Recommendation on
ULURP Application Nos. C 100063 ZMM, C 100064 ZSM, N 110285 ZRY–
M1-6D/West 28th Street Rezoning
by 249 West 28th Street Properties, LLC and
the New York City Department of City Planning

PROPOSED ACTION

249 West 28th Street Properties, LLC¹ seeks approval of **Zoning Map changes** (C 100063 ZMM) relating to an area bound by West 28th and West 30th streets between a line 100 foot east of 8th Avenue and a line 100 foot west of 7th Avenue. The map amendment would change an existing M1-5 zoning district to a M1-6D zoning district to be created in a related action N 110285 ZRY by the New York City Department of City Planning (“DCP”).

In a related action, DCP has filed a **Zoning Text amendment** (N 100285 ZRY) to modify the New York City Zoning Resolution (ZR) in order to create a new M1-6D zoning district and to modify bulk regulations of the M1-6 zoning district along 7th Avenue between West 28th and West 30th streets. The text amendment will primarily modify Article 4 Chapter 2 (Use Regulations in Manufacturing Zoning Districts) and Article 4 Chapter 3 (Bulk Regulations in Manufacturing Zoning Districts). Generally these amendments will:

1. create a new M1-6D zoning district;
2. establish uses and contextual bulk controls for such district;
3. introduce a new inclusionary housing bonus for such district;
4. establish new controls to preserve existing large commercial buildings in such district;
5. create a new special permit for hotel uses in the rezoning area; and
6. create new height and setback regulations for the M1-6 zoning district on 7th Avenue between West 28th and West 30th streets.

Additionally 249 West 28th Street Properties, LLC seek an approval of a **special permit** pursuant to sections ZR §§ 13-562 and 74-52 to allow an attended public parking garage with a maximum capacity of 325 spaces on portions of the ground floor, cellar and sub cellar of a property located at 241-251 West 28th Street (Block 778, Lots 13, 16, 18 and 66) in an M1-6D District, Borough of Manhattan.

¹ 249 West 28th Street Properties, LLC is a subsidiary of Edison Parking Corporation, LLC whose president is Jerry Gottesman

In order for a special permit to be granted, the City Planning Commission (“CPC”) must find that the garage will not adversely impact or affect the growth or development of other uses in the area; will not create or contribute to serious traffic congestion or pedestrian flow; will not draw traffic through areas which are primarily residential; contains adequate reservoir space; is surrounded by streets that are adequate for generated traffic; and, where rooftop parking is permitted, is so located as not to impair the essential character, future use or development of adjacent areas.

PROJECT DESCRIPTION

249 West 28th Street Properties, LLC and DCP seek a zoning text amendment and related mapping action to rezone an existing M1-5 manufacturing district to a new M1-6D, mixed use zoning district. The zoning district would be created by DCP and mapped by 249 West 28th Street Properties, LLC in an area between West 28th and West 30th streets between a line 100 foot east of 8th Avenue and a line 100 foot west of 7th Avenue. The new zoning district would increase the total density, introduce a range of new potential uses, create new bulk controls to match the prevailing character of the area, and create a new inclusionary housing bonus for the proposed district. The district also proposes to introduce new protection on existing manufacturing and commercial spaces and introduces a new hotel special permit for the area. In addition, DCP seeks to add new bulk controls for the M1-6 District between West 28th and West 30th streets along 7th Avenue.

The current zoning for the area is M1-5. M1-5 zoning districts are medium-density, light manufacturing and industrial zoning districts, which allow high performance industrial uses and a range of commercial uses. This manufacturing district allows a maximum allowable FAR of 5.0 for manufacturing and commercial uses and 6.5 for certain community facilities. The M1-5 district does not contain requirements for street wall and building heights. Residential development is generally not allowed as of right. The remaining zoning districts on the block are a C6-2A (a contextual, mid-density commercial district) along 8th avenue and M1-6 (a high-density manufacturing district) along 7th Avenue.

The subject area historically served as a center for the fur industry. However, as fur manufacturing and sales have evolved from production to wholesale, the area’s character has become more varied. The rezoning area consists of 52 privately owned lots. Businesses in the area include offices (45%), retail (15%), light industrial (5%), wholesale uses (11%), creative industry (23%) and one hotel (2%). The fur industry comprises 31 businesses in the area. In addition, the area has 216 residential units located in 17 buildings.

Most of the businesses are located in class B and C office space in loft buildings many dating from the early twentieth century. These buildings have a range of densities and heights, many of which are non-conforming with the existing zoning. Almost half of the buildings (46%) are built to a larger bulk than would be allowed under the existing zoning.

The neighborhood surrounding the area has a varied character, containing a wide range of uses and densities. North of the site is the central business district and the Hudson Yards Special

district. These areas are marked by the highest densities in the City and including the recently approved 15 Penn Plaza on 7th Avenue and West 33rd Street. Immediately to the West of the rezoning area is mixed residential district and Penn South, a large tower-in-the-park, residential complex. The area is also immediately south of the Pennsylvania Station and near Herald Square – two regional and local transportation hubs. The surrounding area includes a variety of zoning including residential (mid-density), manufacturing (mid- to high-density) and commercial (mid- to very high-density).

In a related action, 249 West 28th Street Properties, LLC seeks a special permit for a 325 space public parking garage with 218 monthly parking spaces. The proposed garage would replace two public parking lots and a public parking garage with 371 public parking spaces. The new garage will have an entrance on West 28th street and an entrance/egress on West 29th. The garage will be located on the ground floor, cellar and sub-cellars of two buildings on a through lot (Block 778, Lots 13, 16, 18 and 66) with up to 407 units of housing (82 affordable units) and ground floor retail. The building would have a maximum height of 210 feet and would be built according to the rules of the proposed M1-6D zoning district.

Proposed Zoning Districts

DCP proposes to create the M1-6D zoning district to achieve five core goals:

- support a vibrant mixed use district;
- protect concentrations of existing class B and C office and light manufacturing uses;
- encourage the introduction of residential uses on underutilized sites;
- promote the creation of affordable housing; and
- ensure that new development reflects the existing built character.

To achieve these five goals, the new zoning district would allow commercial, manufacturing, community facility and residential uses as-of-right. It will introduce new contextual bulk regulations, an affordable housing component through the inclusionary housing bonus, a special permit for hotel uses and protections to preserve large commercial buildings. Finally, as part of the application DCP proposes to create contextual bulk controls for the M1-6 area located on 7th Avenue between West 28th and 30th streets.

Bulk Regulations

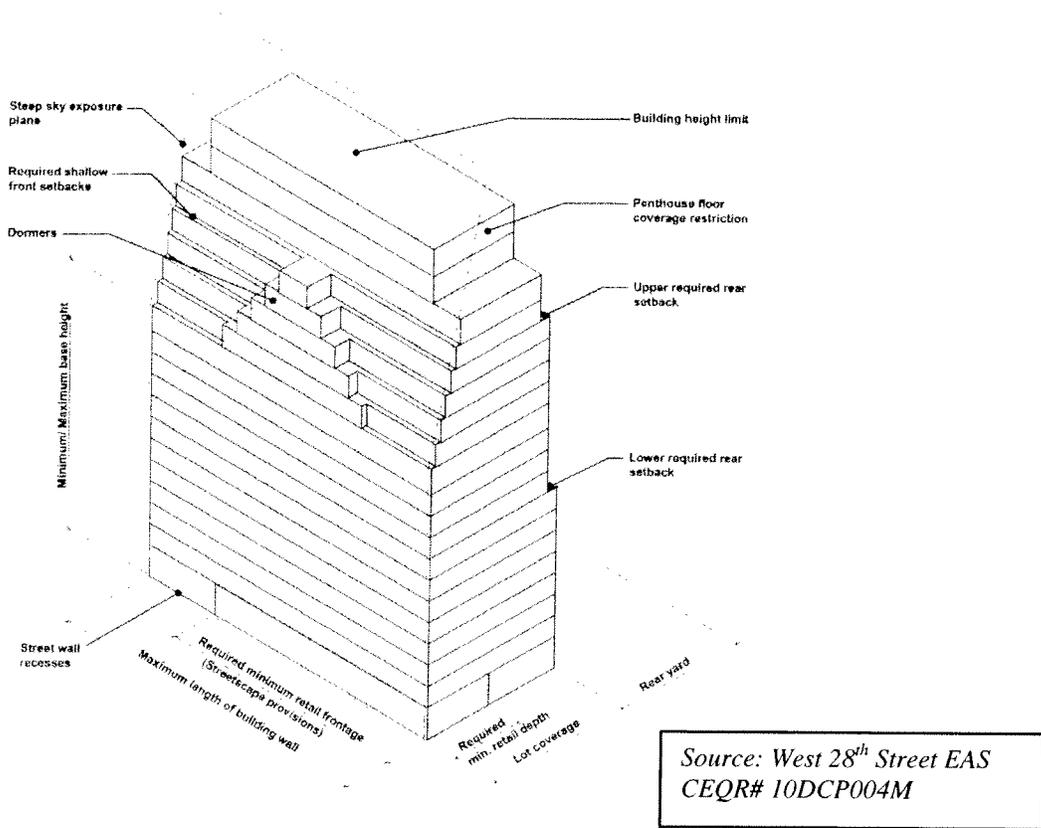
The newly proposed zoning district will generally allow residential, commercial, community facility and light manufacturing uses as-of-right. The proposed uses will be allowed at a maximum floor area ratio of 10.0 for commercial, community facility and light manufacturing uses. Residential uses will be allowed at a density up to 12.0 under the inclusionary housing program.

The new district will require buildings to be built on the street line (known as a “streetwall”) with a maximum base height of between 85 and 125 feet. Buildings would then be able to rise to a maximum building height of up to 210 feet. Above the maximum base height, buildings would be required to set back according to a sky exposure plane. However, dormers would be allowed to break the sky exposure plane for up to 60% of the streetwall width. The dormers will

be required to narrow by 1% of the streetwall width for each foot they rise above the maximum base height. Additionally, the top two floor plates of any building would be limited to 80% of the gross area of the story below and buildings would need to have a rear yard set back of 10 feet.²

The proposed building form is intended to produce buildings that closely mimic the existing large loft-style office buildings in the area. Many of these buildings were built under the 1916 zoning resolution in the early part of the 20th Century.

Illustrative Building Form:



Protections for commercial and manufacturing uses

A primary goal of the proposed zoning district is to protect existing commercial and manufacturing uses, while introducing greater development flexibility. To achieve this important goal, the DCP proposes to create a new protection for zoning lots that contain buildings with more than 50,000 SF of density, known as “Qualifying Buildings.” While on most zoning lots residential density is allowed as-of-right, Qualifying Buildings are not allowed new residential density unless the new development maintains or replaces the existing non-residential density.

² The rear yard set back could be split into two five foot setbacks located equidistance from the base height.

To demonstrate that the non-residential uses are being maintained/replaced, developers will be required to receive a certification from the City Planning Commissioner. The maintained/replaced non-residential density can be used for commercial, manufacturing or community facility uses regardless of the original use in the Qualifying Building. However, community facilities uses with sleeping accommodations, such as dormitories, could not occupy the preserved space.

Hotels

In order to encourage a vibrant residential presence, the proposed district would limit hotels greater than 100 rooms on zoning lots where residential uses are allowed as-of-right. Large hotels would only be allowed by special permit. To grant the special permit, the City Planning Commission (“CPC”) must find that there is sufficient development sites available to meet the residential development goal of 865 residential units for the area and that a harmonious mix of residential and non-residential uses has been established. Once the residential goal of 865 residential units for the area is met, hotels will be allowed as-of-right on all zoning lots.

Inclusionary Housing Bonus

Sites within the new M1-6D zoning district would be eligible for a residential density bonus under the City’s Inclusionary Housing Program. The residential density would have a base FAR of 9.0 and a maximum FAR of 12.0 if affordable housing is provided. The maximum FAR can only be achieved if the developer provides 20 percent of the density as permanent affordable housing to households earning up to 80 percent of the Area Median Income (“AMI”). The affordable housing may be located in the development, within one-half mile, or elsewhere in the community district. Even if the Inclusionary Housing bonus is utilized, the development must still conform to the contextual envelope.

Additionally, the proposed M1-6D would have a unique provision in order to encourage mixed use buildings. Developers would be able to raise their residential base by .25 FAR for every 1 FAR of non-residential density provided.³ The residential base could be raised to a maximum FAR of 10.0. The non-residential density would not count towards the affordability requirement and the total density of the building would remain at a maximum of 12.0.

Ground floor retail/transparency

In order to encourage an active pedestrian environment, the proposed zoning text will introduce new requirements for ground floor retail. Zoning lots with more than 50 feet of frontage will be required to have commercial retail spaces at a minimum depth of 30 feet. Additionally, 50% of the ground floor street wall will be required to be made of glazed, transparent materials.

7th Avenue Bulk Controls

³ For example, if a developer provided 2 FAR of non-residential uses, the residential base would be a 9.50 FAR in stead of 9.0.

Finally, as part of the proposed text amendment DCP proposes to add new bulk controls for the M1-6 zoning districts on 7th Avenue between West 28th and West 30th streets. The new bulk controls will require streetwalls and a base height between 125 and 150 feet. After the required base, developments may continue to rise provided that they either comply with tower regulations or the existing sky exposure plane. Additionally, as part of the proposed text amendment, developments along 7th Avenue would no longer be able to use the public plaza bonus. The public plaza bonus allows developments to increase their total density in exchange for providing privately owned, publicly accessible open spaces.

Anticipated Development under the Reasonable Worst Case Scenario Development

The Environmental Assessment Statement (“EAS”) indicates that under a Reasonable Worst Case Scenario Development, the proposed actions would result in 10 “projected” development sites⁴ and 4 “potential” development sites. It is anticipated that the development of the 10 projected sites would result in a net increase (from a “No-Action” condition) of 1,134 dwelling units (approximately 949,403 SF), of which approximately 220 would be affordable housing units. There would also be an anticipated net increase of 42,206 SF of retail space. In addition, the EAS estimates that there would be a net decrease of 15,153 SF of office space, 8,596 SF in industrial/light manufacturing uses, and 56,700 SF of hotel uses. On April 4, 2011, the City Planning Department certified that the proposed actions will have no significant adverse effect on the quality of the environment.⁵

COMMUNITY BOARD’S RECOMMENDATION

At its Full Board meeting on June 9, 2011, Manhattan Community Board 5 recommended **approval** of applications by a unanimous vote of 36 in favor, 0 opposed and 1 abstained.

While the approval was without condition, in the resolution the community board requested the following modifications be made to the application:

1. that DCP monitor and evaluate how community facility uses could potentially interfere with the zoning change’s stated goal of achieving a mixed use district while protecting Class B and C office space;
2. that the zoning district be modified to protect buildings of 40,000 SF or more instead of 50,000 SF or more in order to protect an additional 2 commercial buildings of similar character;
3. that City Planning work with the Department of Education to prevent school overcrowding in the area as the proposed rezoning will add new residential units; and
4. that all new residential buildings include off street solutions for trash pick-up and loading.

⁴ Projected developments are considered more likely to occur during the analysis period than potential developments.

⁵ As part of the Negative Declaration, (E) designations were placed on 13 properties for hazardous materials; 11 properties for air quality; and on 14 properties for noise to ensure there would be no significant adverse effect.

Further, the board noted that they are appreciative of City Planning's efforts to protect class B and C office space, which has been a long standing Community Board concern and is interested in exploring other areas that may be appropriate for the new M1-6D zoning district.

Additionally, the community board noted that they endorsed the proposed mixed use development by 249 West 28th Street Properties, LLC and requested that:

1. the new buildings be built to achieve a minimum of LEED silver;
2. that the tenants for the retail space in the buildings be locally oriented commercial uses such as play places for children and/or pet daycare/veterinarian services;
3. that the buildings be built with noise-blocking glass;
4. that the rear yard of the building have neighborhood access such as by hosting neighborhood events or serving as a depot for a neighborhood Community Supported Agriculture (CSA); and
5. that they continue to work with the board on future applications to achieve the most successful and residential and mixed use developments.

BOROUGH PRESIDENT'S COMMENTS

The proposed rezoning area has had a long history as one of the City's economic generators. The area is characterized by its industrial and commercial uses, in particular its high concentration of class B and C office space. It successfully serves a multitude of industries including the fur industry, the creative sector, traditional office uses, and light manufacturing. These businesses employ over 3,100 individuals over a varied set of industries. Areas, such as this one, are critical to maintaining New York's diverse economy and require special attention and consideration of the City.

Despite the area's economic vibrancy in existing buildings, many lots in the area remain under- or un-developed, with 16 lots built to less than 50% of the allowable density. Since 1928, only one new development has occurred in the area – a non-contextual building with a hotel. While the existing zoning is not encouraging new development, any development pursued would likely follow suit—non-contextual buildings favoring hotel uses. Such development would fail to encourage the vibrant mixed uses and create additional pressures on the existing class B and C office space.

The M1-6D zoning district is generally appropriate as it encourages new development and allows a wide range of uses while protecting the existing commercial spaces. The surrounding area is well served by mass transit and appropriate for new growth. Additionally, many of the existing buildings are built to significantly higher density and height than would be allowed under the existing zoning. The proposed district will bring the area in greater compliance zoning bulk regulations. Without a zoning change, it is unlikely that the area will see new contextual development.

The proposed district will introduce a variety of new use and bulk controls ensuring a vibrant neighborhood with contextual form. Additionally, the district's new protections for existing large commercial buildings and hotel special permit will direct new growth towards a 24-hour community while preventing displacement of the area's economic generators. Finally, the

district's affordable housing provisions will meet a long standing City-wide and Borough-wide need.

After thorough review, the community board unanimously approved the zoning district based on its stated goals. However, the community has expressed valid concerns over impacts on essential residential infrastructure and made concrete recommendations to strengthen the mechanisms particularly as they relate to the protection of class B and C office space.

While the proposed density, bulk and zoning goals are generally appropriate, the City is proposing new zoning mechanisms to achieve these goals. It is, therefore, important that these mechanisms get a careful and thorough review to ensure that they will meet the stated goals.

Preservation of Concentrations of Class B and C Office Space

One of the most unique aspects of the proposed rezoning is its protections for existing commercial and manufacturing spaces. The proposal aims to balance the need to encourage new development on vacant or substantially under-built sites, while maintaining a minimum of non-residential uses in the area. The area is characterized by its class B and C office space. Class A office space competes for prime office users with above average rents and a definitive market presence. Class B office space, however, is complete for a wide range of office users with average rents. Class C office space competes for tenants requiring functional space at below average rents.

Class B and C offices are essential to the overall health and vitality of the City as they allow a wide range of users and support a wide range of industries. In midtown, for example, class B office spaces charge an average rent around 40 dollars per square foot compared to class A office space, which charges around 60 dollars per square foot. Maintaining this more affordable space is essential to continuing to grow many of the City's businesses.

Under DCP's proposal any building with at least 50,000 SF of existing density must maintain their non-residential density in perpetuity. After a thorough review of the existing buildings in the area, the community board has requested that the protection be extended to include buildings of at least 40,000 SF.

Lowering the proposed density will allow two additional buildings to be protected. These buildings have a similar character and use to the other loft style buildings that qualify for the protections. Further, reducing the benchmark for Qualify Buildings will ensure that over 85% of the existing commercial space in the area remains protected. Additionally, according to the EAS these buildings are not projected or potential development sites and therefore should not impede any projected development in the area. As such, lowering the square footage of buildings qualifying for commercial/manufacturing protections is appropriate and in line with the zoning's stated goals of protecting class B and C office space.

Unfortunately, while the rezoning intends to protect class B and C office space, certain proposed zoning mechanisms may create new pressures on the protected commercial spaces. The proposed hotel special permit applies only to zoning lots where residential is allowed as-of-right, and therefore does not apply to zoning lots with protected commercial buildings. As hotels will

not be allowed on the substantially vacant lots, there will be additional pressure to locate them on zoning lots with Qualifying Buildings. This pressure will increase the risk that the Qualified Buildings will be converted to or replaced with hotels and cause the City will continue to lose its class B and C office space.

As currently written, the proposed text amendment does not do enough to protect class B and C office space. The proposed special permit for hotels should be extended to all zoning lots in this area, not just those where residential is allowed as-of-right.

Hotel Special Permit

The proposed special permit for hotels will serve as an important measure to ensure sound growth in the rezoning area. Currently, the special permit will apply in the West 28th Street area until 865 residential units are developed. Each residential unit is considered to count towards the residential goal when it receives a new Certificate of Occupancy. The intention of this benchmark is to allow hotels only when roughly 75% of the projected developments in the area are developed with affordable housing, based on the EAS.

While the intention is to capture new developments, the proposed residential goal, as currently written, may additionally capture existing units in the area. Many of the 261 existing residential units in the area are in buildings built prior to the City requiring certificates of occupancy and others are simply illegal uses. These units would now be eligible to be legalized and would, if legalized, effectively lower the residential goal to 604 units. This is contrary to the intention of the text as it would lower the benchmark to 50% of the projected developments, not 75%.

Therefore, in order to ensure the hotel special permit encourages a mixed use neighborhood, as originally intended, the text should be modified to either only count units in new buildings to meet the residential goal or the residential goal should be raised by 261 units.

Inclusionary Housing FAR

Inclusionary housing text amendment is an essential tool to meeting the City's affordable housing goals. The proposed M1-6D text introduces a new inclusionary housing mechanism, which is intended to incentive the creation of mixed use buildings. The text encourages developers to add non-residential density to new buildings by raising the base residential FAR by .25 FAR for every 1 FAR of non-residential density provided.

The proposed FAR mechanism reduces the total amount of affordable housing provided, but as a trade off increases the total amount of floor area that contributes to the City's economic base. As the area serves as an economic generator for the City, the proposed text is appropriate. However, the new inclusionary housing mechanism applies to all non-residential development, including the mandatory retail requirement. While it is appropriate to create incentives for mixed buildings in this area, the text should not reward developments for providing the mandatory amount of ground floor retail. Therefore, the proposed text should be modified to exclude the mandatory retail from the commercial uses that qualify to alter the residential base FAR.

In addition to the proposed M1-6D district, the City is proposing changes to the M1-6 zoning district along 7th Avenue between West 28th and West 30th streets. The proposed bulk changes are intended to ensure that the Seventh Avenue portions of the block are developed with contextual forms similar to the M1-6D requirements. In addition, the proposed text eliminates the plaza bonus, which encourages developments to set back from the street and creates a non-uniform street wall.

The proposed bulk changes are generally appropriate; however, the elimination of the plaza bonus potentially removes a needed community resource. Community District 5 is underserved in the amount of total open space and public plazas can serve an important amenity to both businesses and residents in the area. These open spaces will likely be in higher demand as the area is redeveloped and the City should continue to encourage their creation. Further, the community board in its statement of district needs has requested that the creation of new public plazas and green parks be an integral part of planning and new development.

Therefore, DCP should explore maintaining the existing public plaza bonus along Seventh Avenue and only if the public plaza bonus is not utilized should the new contextual bulk restrictions apply.

Residential Infrastructure

Comprehensive planning must be greater than comprehensive zoning and requires the coordination of multiple City agencies. The proposed rezoning is not anticipated to have any significant negative impacts. However, the community has expressed a valid concern that the environmental review process is not quantifying the incremental effect of multiple discrete rezonings. These rezonings have caused significant residential growth which has impacted many types of residential infrastructure including open space quality and sanitation services. However, the impacts are acutely pronounced in the public school system. School District 2, where this proposed rezoning is located, is one of the most overcrowded school districts in the City.

According to the EAS, absent the proposed action, elementary schools will be at 213.5% utilization by 2019. With the proposed action, the neighboring public elementary schools will be at 218.4% utilization. This change is below the threshold that would trigger a significant impact. However, the projected condition of the school system is simply unacceptable. The City cannot continue to ignore the potential detrimental environmental conditions created by the lack of comprehensive, strategic planning.

The City needs to develop new strategies to tackle the strain new residents will continue to place on all residential infrastructure, particularly the public school system. Failing to do so will drive families out of New York City to other nearby municipalities and reduce our ability to contend with our regional and national competitors.

Public Parking Garage

The proposed 325 space public parking garage is replacing existing public parking of 375 spaces. As the garage reduces the total number of spaces, the garage should not introduce new adverse

impact on the environment. The proposed garage is compatible with the surrounding uses in the area. In addition, the nearby streets, some of which are major City arterials, can adequately handle traffic generated by the garage.

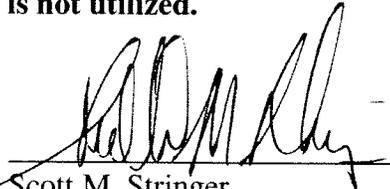
Of the 325 public parking spaces, 218 are proposed to be reserved for monthly parkers. The proposed number of monthly parkers will adequately cover the residential demand anticipated from the residential development. Further, Edison Parking Corporation, as one of the largest garage operators in the City, has in place existing systems to identify monthly parkers and can reasonably anticipate meeting 218 monthly parkers based on their current lot's usage.

BOROUGH PRESIDENT'S RECOMMENDATION

The proposed densities, height and bulk controls are appropriate. In addition, the proposed rezoning strives to meet many important goals including preserving existing commercial uses and allowing a wide range of new users. While the proposed zoning text is generally appropriate, the text should be modified to ensure that the rezoning sufficiently meets its goals.

Therefore, the Manhattan Borough President recommends conditional approval of ULURP Application Nos. C 100063 ZMM, C 100064 ZSM, N 110285 ZRY provided that:

- 1. The benchmark for determining a Qualifying Building be lowered from 50,000 SF to 40,000 SF;**
- 2. The hotel special permit be extended to zoning lots with Qualifying Buildings to protect class B and C office space;**
- 3. The hotel special permit is modified to ensure that only new residential units count towards meeting the residential development goal;**
- 4. The mandatory retail requirement not count toward raising the base residential FAR of the inclusionary housing bonus;**
- 5. The plaza bonus is maintained along 7th Avenue in the M1-6 District and the contextual controls only apply if the plaza bonus is not utilized.**


Scott M. Stringer
Manhattan Borough President