



## CITY PLANNING COMMISSION

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January 10, 2007/Calendar No. 14

C 060105 ZSM

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**IN THE MATTER OF** an application submitted by West 60th Street Associates, LLC and West End Properties, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to:

1. Section 74-743(a)(2) of the Zoning Resolution to modify the following Sections of the Zoning Resolution:
  - a. Section 23-47 to allow the modification of the rear yard depth regulations;
  - b. Section 23-533 to allow the modification of the rear yard equivalent depth regulations;
  - c. Section 23-841 to allow the modification of the narrow outer court width regulations;
  - d. Section 23-852 to allow the modification of the inner court recess width regulations;
  - e. Section 23-711 to allow the modification of the minimum distance between buildings regulations;
  - f. Section 23-632 to allow the modification of the height and setback regulations; and
  - g. Section 23-663 to allow the modification of the rear setback for tall building regulations; and
2. Section 74-743(a)(4) of the Zoning Resolution to allow the maximum floor area ratio permitted pursuant to Section 23-142 for the applicable district without regard for the height factor or open space ratio requirements;

in connection with a proposed mixed use development on property generally east of West End Avenue, between West 60th and West 61st Streets (Block 1152, Lots 5, 8, 10, 11, 12, 13, 43, 52, 53, 55, 56 and 57), in C6-2 and R8 Districts, within a general large scale development, Community District 7, Borough of Manhattan.

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\*197-d(b)(2) eligible

This application for a Special Permit was filed by West 60<sup>th</sup> Street Associates, LLC and West End Properties, LLC on August 26, 2005, to facilitate the construction of a general large scale development consisting of 342 residential units, approximately 12,600 square feet of commercial floor area and 4,000 square feet of community facility floor area, on the midblock portion of the block bound by West End Avenue, Amsterdam Avenue, West 60<sup>th</sup> Street and West 61<sup>st</sup> Street.

## **RELATED ACTIONS**

In addition to the application for a Special Permit which is the subject of this report (C 060105 ZSM), implementation of the proposed development also requires action by the City Planning Commission on the following applications which are considered concurrently with this application:

**N 060103 ZRY:** A Zoning Text Amendment concerning Section 74-74 of the Zoning Resolution (General Large-Scale Development);

**C 060104 ZMM:** An amendment to the Zoning Map, changing an existing M1-6 District to C4-7/C6-2 Districts; and

**C 060106 ZSM:** A Special Permit pursuant to Sections 13-562 and 74-52 of the Zoning Resolution to permit a public parking garage with a maximum of 200 spaces.

## **BACKGROUND**

West 60<sup>th</sup> Street Associates, LLC and West End Properties, LLC request a special permit pursuant to Section 74-743 of the Zoning Resolution for the modification of bulk regulations in order to construct a general large scale development containing 342 residential units, ground floor retail, and community facility uses. The applicant's proposal also requires a zoning map change (C 060104 ZMM) that would allow residential uses on the western half of the block bound by West 60<sup>th</sup> Street, West End Avenue, West 61<sup>st</sup> Street, and Amsterdam Avenue, and a zoning text amendment (N 060103 ZRY) to Section 74-743 of the Zoning Resolution that would allow an additional modification of bulk regulations. In addition, a 200-space public parking garage is proposed in the cellar and sub-cellar of the development (C 060106 ZSM).

The project site is located on the midblock portion of the block bounded by West 60<sup>th</sup> Street, West End Avenue, West 61<sup>st</sup> Street, and Amsterdam Avenue in Manhattan Community District 7. The project site consists of an "S" shaped zoning lot that includes

Block 1152, Lots 5, 8, 10, 11, 12, 13, 43, 52, 53, 55, 56, and 57. Lots 56 and 57 are not owned by the applicant, but have been incorporated into the project site through zoning lot merger. Three additional lots (Block 1152, Lots 1, 58, and 61) located immediately to the west of the project site are not owned by the applicant, but are proposed to be rezoned as part of this application.

The project site has a total lot area of approximately 67,781 square feet. The site has approximately 375 feet of frontage along West 61<sup>st</sup> Street and 300 feet of frontage along West 60<sup>th</sup> Street. Except for two existing five-story residential buildings that will remain on the project site (Lots 56 and 57), the project site has recently been cleared of its former uses. Prior uses on the site include parking facilities (including 100 public parking spaces), a warehouse, auto repair shop, and a television and sound studio. The existing residential buildings contain 27 dwelling units and 19,540 square feet of residential floor area.

### **Existing Zoning**

The project site is located within two different zoning districts. The majority of the site (approximately 52,718 square feet of lot area) is located in an M1-6 zoning district. The easternmost 150 feet of frontage on West 61<sup>st</sup> Street (approximately 15,063 square feet of lot area) is located in a R8 zoning district. The M1-6 district permits 10 FAR for light manufacturing, commercial, and certain community facility uses. The R8 zoning district permits 6.02 FAR for residential uses and 6.5 FAR for community facility uses.

Zoning districts surrounding the project site include R8, C4-7, and C6-2 zoning districts. The eastern half of the project block and Amsterdam Houses to the north are zoned R8. The area west of West End Avenue across from the project block, the vast majority of blocks to the east (within the Special Lincoln Square District), and the West End Avenue frontages on the blocks to the south are zoned C4-7. The C4-7 district is a high-density commercial district that permits 10 FAR for commercial, community facility, and residential uses. The two midblocks immediately to the south of the project site are zoned C6-2, a medium density commercial district that permits 6.0 FAR for commercial uses, 6.02 FAR for residential uses and 6.5 FAR for community facility uses.

In 1999, the Department established a planning framework to guide applicant-sponsored rezoning actions of the M1-6 manufacturing districts bounded by West 58<sup>th</sup> Street, West 61<sup>st</sup> Street, Amsterdam Avenue, and West End Avenue. The planning framework represented recognition that the M1-6 designation no longer represented the area's growing institutional and residential land uses and the fact that the area's isolation from larger, more active manufacturing uses limited its viability as a future location for such growth. Instead, the framework recommended rezoning the M1-6 district to allow high-density (10 FAR) residential, community facility, and commercial uses along West End Avenue, and medium-density residential, community facility, and commercial uses on the midblocks. The rezoning action proposed as part of this application represents the last step toward completion of this zoning framework.

### **Project Area**

The project site is located in the southern portion of Manhattan Community District 7, an area undergoing a transformation from manufacturing, industrial, and transportation-related uses to residential, institutional, and commercial uses. Projects currently under construction or recently completed include: 2-10 West End Ave, a 31-story, mixed use building located between West 59<sup>th</sup> and West 60<sup>th</sup> Street, immediately south of the project site; Touro College/Hudson Condos, a 20-story residential and community facility building, adjacent to the project site to the east; and Building "O" of the Riverside South development, located on the west side of West End Avenue at West 61<sup>st</sup> Street.

These newly constructed projects reinforce the existing residential and institutional character located to the north and east, and on the same block as the project site.

Amsterdam Houses, a 13-building New York City Housing Authority development, is located immediately to the north and several high rise residential towers stretch eastward from the project site, toward Columbus Circle. In addition, three schools surround the project site: the Heschel School, a private high school (Block 1152, Lot 1), is within the proposed rezoning area and adjacent to the project site; P.S. 191 (Block 1152, Lot 29), an

elementary school located immediately east of the project site; and the Beacon School, a public high school located directly north of the project site, across West 61<sup>st</sup> Street.

### **Proposed Project**

The proposed project would consist of a new mixed-use building containing a total of 342 residential units and an underground attended public parking garage with a maximum of 200 spaces. The total development would consist of approximately 386,502 square feet of residential floor area, 12,590 square feet of ground floor commercial floor area, and 4,047 square feet of community facility floor area. In addition, the owner of the two existing residential buildings on the project site (Lots 56 and 57) would enlarge both structures by a total of 2,000 square feet.

The proposed mixed-use building would be designed as three distinct building forms, with heights of 27, 14, and nine stories, different building materials, and individual entrances, although all three buildings would be connected through a common circulation space at the ground floor. The 27-story tower would front on West 61<sup>st</sup> Street and contain approximately 224,330 square feet of residential floor area (209 rental units) and 4,047 square feet of community facility floor area. The 14-story building would abut the tower and front on West 60<sup>th</sup> Street. This building would contain approximately 97,468 square feet of residential floor area (92 rental units) and 2,207 square feet of ground floor retail. The nine-story building would be located immediately to the west of the 14-story building on West 60<sup>th</sup> Street and would consist of 41 condominium apartments totaling 64,702 square feet of residential floor area. The ground floor would contain approximately 7,717 square feet of ground floor retail. On the ground floor an accessory gym, screening room, and meeting spaces would be shared by residents of the new buildings.

Open space is provided at two locations on the project site. A backward “L” shaped interior landscaped courtyard of approximately 7,664 square feet would abut all three buildings on the western portion of the project site. This space would function as a passive recreation area. The second open area would be adjacent to the streetline on West 61<sup>st</sup> Street, east of the proposed 27-story tower, and would be visible from the sidewalk through

an iron fence. This space would have approximately 161 linear feet of frontage along West 61<sup>st</sup> Street and would include a total of 15,422 square feet of landscaped open area, including a regulation size tennis court for active recreation.

## **REQUESTED ACTIONS**

To facilitate the proposed development, the following actions are required:

### **Zoning Map Amendment (C 060104 ZMM)**

The rezoning area includes the site of the proposed development (Block 1152; Lots 8, 10, 11, 12, 13, p/o 43, 52, 53, 55, 56, and 57) and additional properties located immediately to the west (Block 1152; Lots 1, 61, and 58). The proposed zoning map amendment would change the existing M1-6 district to C6-2 on the midblock, from a depth of 100 feet from West End Avenue, to the half block point 400 feet from West End Avenue. The proposed zoning map amendment would also change the M1-6 district to C4-7 on West End Avenue, up to a depth of 100 feet.

#### M1-6 to C4-7

The application proposes to rezone the avenue portion of the existing M1-6 district to C4-7, a commercial district that allows residential, community facility and commercial uses up to 10 FAR. Block 1152, Lots 1 and 61 would be located in the C4-7 district. Both lots are owned by the Heschel School. Lot 1 (approximately 10,000 square feet) was improved in 2002 with a six-story high school. Lot 61 (approximately 10,000 square feet) currently contains a four-story automobile showroom.

#### M1-6 to C6-2

The proposed midblock rezoning would change the existing M1-6 district to C6-2, a commercial district that allows commercial uses up to 6.0 FAR, residential use up to 6.02 FAR, and community facility uses up to 6.5 FAR. In addition, Lot 58 (approximately 7,500 square feet), which contains an existing automobile-repair facility and is also owned by the Heschel School, would be rezoned as part of the proposed rezoning. With the

proposed zoning map change, the existing automobile-related use would become non-conforming.

### **Special Permit to modify bulk regulations (C 060105 ZSM)**

The proposed special permit, which is the subject of this report, would allow modification of height and setback, yards, courts, minimum distance between buildings, and permit the maximum floor area ratio permitted pursuant to Section 23-142 of the Zoning Resolution without regard for height factor and open space ratio requirements pursuant to Section 74-743 of the Zoning Resolution.

#### Height and Setback

On West 61<sup>st</sup> Street, a narrow 60-foot-wide street, the proposed 27-story tower sets back 15 feet above a seven-story base (at a height of approximately 83 feet) and then rises straight up to the top of the 25<sup>th</sup> floor or a height of approximately 275 feet before setting back twice again at the 26<sup>th</sup> and 27<sup>th</sup> floors. On narrow streets, the minimum required initial setback in the proposed C6-2 district is 20 feet above the height of 85 feet. In addition, sky exposure plane regulations require the building set back one foot for every 2.7 vertical feet from the streetline above 85 feet, which would require additional setbacks above approximately 140 feet.

On West 60<sup>th</sup> Street, also a narrow 60-foot-wide street, the 14-story building sets back 15 feet above the seventh floor at a height of approximately 83 feet, before rising straight up to the total building height of approximately 167 feet. The minimum required initial setback in the C6-2 district is 20 feet above the height of 85 feet and sky exposure plane regulations would require addition setbacks above the height of approximately 140 feet.

The nine story condominium building sets back ten feet above the top of the sixth floor at a height of approximately 82 feet, before rising to the top of the eighth story (approximately 106 feet) where the building sets back again. The C6-2 regulations require the building to setback 20 feet above a height of 85 feet.

In addition, the 27-story tower and 14-story building are required to set back 20 feet from the rear yard line above the height of 125 feet, however both buildings penetrate this setback requirement. The 27-story tower penetrates the rear yard setback requirement from a height of 125 feet to the maximum building height of approximately 300 feet. The 14-story building penetrates the rear yard setback requirement from a height of 125 feet to the maximum building height of approximately 167 feet.

The applicant has proposed these modifications to height and setback requirements to facilitate a site plan that creates a streetwall presence and minimizes shadow impacts on Amsterdam Houses to the north.

#### Yard Regulations

The proposed project will be constructed on an interior lot and a through lot. On an interior lot a rear yard of at least 30 feet in depth must be provided. On a through lot the rear yard requirement can be met by providing a yard 60 feet in depth in the middle of the through lot. The proposed project provides a partial rear yard equivalent for the through lot but a significant portion of the 27-story tower and the 14-story building penetrate the required rear yard. A small portion of the nine-story condominium building does not meet the 30-foot rear yard requirement. Consequently, modifications of yard regulations are requested.

#### Inner and Outer Courts

In three separate areas of the proposed site plan, minimum width to depth ratio requirements for inner court recesses (2:1) are not provided. Additionally, one narrow outer court along West 60<sup>th</sup> Street does not comply with the minimum width to depth ratio (1.33:1). Consequently, modifications of inner and outer court regulations are requested.

#### Minimum Distance Between Buildings

The distance between the nine-story condominium building and the 14-story building is 30 feet up to a height of the sixth floor (where the condominium sets back) and 40 feet up to a height of the seventh floor (where the 14-story building sets back). The minimum required distance between windows is 60 feet. The applicant is also requesting a waiver of the



minimum required distance between the 14-story building and the 27-story building, where the proposed distance between buildings is 30 feet up to the maximum height of approximately 167 feet.

#### Maximum permitted floor area ratio

Pursuant to the related action for a proposed text amendment, the applicant is requesting to utilize the maximum floor area ratio permitted pursuant to Section 23-142 of the Zoning Resolution without regard to height factor or open space ratio requirements. The maximum floor area permitted in C6-2 districts pursuant to Section 23-142 is 6.02 FAR for residential use. The applicant is proposing to utilize 6.02 FAR (408,042 square feet of residential development). In addition, the applicant is required to provide approximately 43,660 square feet of open space. Two at-grade open spaces totaling 23,086 square feet (53 percent of the required amount) are proposed on the project site. An interior landscaped courtyard of approximately 7,664 square feet would abut all three buildings on the western portion of the project site. This space would function as a passive recreation area. Open space would also be located adjacent to the streetline on West 61<sup>st</sup> Street, east of the 27-story tower, and would be visible from the sidewalk through an iron fence. This space would have approximately 161 linear feet of frontage along West 61<sup>st</sup> Street and would include a total of 15,422 square feet of landscaped open space, including a regulation size tennis court for active recreation. This space has been designed in part to provide a visual amenity for passer-by on West 61<sup>st</sup> Street. In addition, the fence structure lining West 61<sup>st</sup> Street would allow for public seating.

#### **Zoning Text Amendment (N 060103 ZRY)**

The applicant is requesting a zoning text amendment to Section 74-743 of the Zoning Resolution that would add to the list of bulk modifications allowable by special permit. Specifically, the applicant is requesting that the text allow the Commission to permit the maximum floor area ratio permitted pursuant to Section 23-142 of the Zoning Resolution without regard for height factor and open space ratio requirements.

The text amendment would allow the Commission to allow projects in general large scale developments located partially within C6-1, C6-2, and C6-3 districts that would otherwise not comply with height factor calculations. Height factor and open space ratio requirements apply to R6, R7, R8, and R9 districts (and their commercial equivalents) and determine applicable floor area ratio, open space, and lot coverage requirements. Often referred to as “height factor buildings” or developments, these regulations have historically produced tower-in-the-park style developments or individual towers set back from the streetline.

The proposed text amendment requires that specific findings relating to the quantity, quality and accessibility of open areas within the general large scale development be met. Specifically, the text requires that the Commission finds that open areas are provided within the general large scale development that are of sufficient size, accessible, and usable by the residents of new or enlarged buildings. In addition, the Commission must find that the open areas are programmed appropriately with seating, lighting, paving, and circulatory systems, and that superior landscaping is provided.

#### **Special Permit for a public parking garage (C 060106 ZSM)**

The applicant is requesting a special permit pursuant to Sections 13-562 and 74-52 of the Zoning Resolution to construct an attended public parking garage with a maximum of 200 spaces in association with the proposed development. Of the proposed 200 spaces, 121 would be accessory to the new development. The proposed garage would include 55 two-car stackers and ten reservoir spaces would be provided.

Vehicles would enter the proposed parking garage on West 60<sup>th</sup> Street, a one-way east-bound street via a new curb cut 15 feet 2 inches wide (including splays). Vehicles would exit the proposed garage on West 61<sup>st</sup> Street, a one-way east-bound street via new 12 foot-wide curb cut. An LED signal would warn pedestrians of vehicles exiting the proposed garage onto West 61<sup>st</sup> Street.

## **ENVIRONMENTAL REVIEW**

This application (C 060105 ZSM), in conjunction with the application for the related actions (C 060104 ZMM, N 060103 ZRY, and C 060106 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 designated CEQR number is 05DCP063Y. The lead is the City Planning Commission.

It was determined that the proposed actions may have a significant effect on the environment and that an environmental impact statement would be required for the following reasons:

1. The action, as proposed, may result in significant adverse impacts on socioeconomic conditions in the vicinity of the affected area.
2. The action, as proposed, may result in significant adverse impacts on community facilities and services in the vicinity of the affected area.
3. The action, as proposed, may result in significant adverse impacts on publicly accessible open space in the vicinity of the affected area.
4. The action, as proposed, may result in significant adverse shadow impacts in the vicinity of the affected area.
5. The action, as proposed, may result in significant adverse impacts on historic resources in the affected area.
6. The action, as proposed, may result in significant adverse impacts on urban design and visual resources in the vicinity of the affected area.
7. The action, as proposed, may result in significant adverse impacts on neighborhood character in the vicinity of the affected area.
8. The action, as proposed, may result in significant adverse hazardous materials impacts in the affected area.
9. The action, as proposed, may result in significant adverse impacts on infrastructure in the vicinity of the affected area.

10. The action, as proposed, may result in significant adverse impacts on solid waste and sanitation services in the vicinity of the proposed action.
11. The action, as proposed, may result in significant adverse impacts on energy consumption in the affected area.
12. The action, as proposed, may result in significant adverse impacts to traffic, parking, transit, and pedestrian conditions in the vicinity of the affected area.
13. The action, as proposed, may result in significant adverse impacts to air quality in the vicinity of the affected area.
14. The action, as proposed, may result in significant adverse noise impacts in the vicinity of the affected area.
15. The action, as proposed, may result in significant adverse construction-related impacts.
16. The action, as proposed, may result in significant adverse noise impacts in the vicinity of the affected area.
17. The action, as proposed, may result in significant adverse impacts related to other aspects of the environment.

A Positive Declaration was issued on November 16, 2005 and a revised Positive Declaration was issued on March 8, 2006. The Positive Declaration was distributed, published and filed, and the applicant was asked to prepare a Draft Environmental Impact Statement (DEIS). A public scoping meeting was held on the Draft Scope of Work on April 6, 2006 and Final Scope of Work was issued on August 4, 2006.

The lead agency issued a Notice of Completion on August 4, 2006. Pursuant to SEQRA regulations and CEQR procedures, a public hearing was held on the DEIS on December 6, 2006 in conjunction with the Uniform Land Use Review Procedure (ULURP) applications (C 060104 ZMM, N 060103 ZRY, and C 060106 ZSM). The Final Environmental Impact Statement (FEIS) was completed and a Notice of Completion of the FEIS was issued on December 29, 2006. The Notice of Completion for the FEIS identified the following significant impacts and the proposed following mitigation measures:

## HAZARDOUS MATERIALS

As discussed above, the applicant is participating in the Brownfield Cleanup Program (BCP). The project site will continue to be cleaned up pursuant to a negotiated agreement between the project applicant and NYSDEC under the BCP. The applicant also entered into a Restrictive Declaration on November 8, 2006, which ensures that no significant adverse impacts with respect to hazardous materials would result from the development of the project site, in the event that the BCP agreement is terminated (see Appendix A: “Hazardous Materials”). An Interim Remedial Measure Work Plan and a Remediation Work Plan were prepared and approved to address how the identified contamination is being handled. This is being done under a Soil Management Plan and a Community Air Monitoring Plan that have been approved by both the New York State Department of Health (NYSDOH) and the NYSDEC. As part of the site cleanup, all surficial and subsurface soil will be removed and/or covered to standards acceptable to the NYSDEC and NYSDOH. A NYSDEC/NYSDOH-approved Health and Safety Plan, which includes an Expanded Community Air Monitoring Odor/Vapor Control Plan to protect the on-site workers and the people attending school, working, or living near the site, is being implemented.

Under the reasonable worst-case development scenario, it is assumed that development would occur on Lots 58 and 61. The past uses of these lots, the history of on-site petroleum storage tanks, and an open polychlorinated biphenyls (PCB) spill close by, indicate that petroleum and PCBs could be in the underlying soil and/or groundwater. The proposed action includes the placement of an “(E) Designation” on Lots 58 and 61. Under the (E) Designation, the lot owner must prepare a Phase I Environmental Site Assessment (ESA) before any redevelopment and, if necessary, implement a testing and sampling protocol, and remediation where appropriate, to the satisfaction of the NYCDEP before issuance of a building permit by the New York City Department of Buildings (DOB) (pursuant to Section 11-15 of the Zoning Resolution—Environmental Requirements). The (E) Designation also requires mandatory Construction Health and Safety Plans (CHASPs), which must be approved by NYCDEP, as well. By following the requirements of the (E) Designation, there would be no significant adverse impacts to workers on the projected development sites, neighboring residents, or future occupants of the new buildings. Therefore, no significant adverse impacts are expected at the project site or in the rezoning area as a result of the proposed action.

## TRAFFIC AND PARKING

### *Traffic*

The proposed project and projected development sites would generate 1,211, 944, and 975 person trips, and 234, 75, and 133 vehicle trips during the AM, midday, and PM peak hours, respectively. During the AM peak hour, the proposed action would result in four significantly impacted lane groups at three intersections. In the midday, two lane groups at two intersections would experience significant impacts. During the PM peak hour, there would be five significantly impacted lane groups at four intersections (measures to mitigate these impacts are presented below under “Mitigation”):

### *AM Peak Hour*

- *Columbus Avenue and West 57th Street:* The westbound through movement would worsen within LOS F and increase in average delay from 116.8 to 137.4 (20.6) seconds per vehicle (spv), while the southbound through-right movement would worsen within level-of-service (LOS) E and increase in average delay from 71.5 to 78.2 (6.7) spv.
- *Amsterdam Avenue and West 57th Street:* The westbound approach would deteriorate from LOS D to LOS E and increase in average delay from 51.0 to 59.0 (8.0) spv.

- *West End Avenue and West 59th Street:* The westbound left-through movement would worsen within LOS F and increase in average delay from 98.2 to 103.2 (5.0) spv.

#### *Midday Peak Hour*

- *Columbus Avenue and West 60th Street:* The eastbound approach would worsen within LOS F and increase in average delay from 132.0 to 140.2 (8.2) spv.
- *Amsterdam Avenue and West 59th Street:* The eastbound approach would worsen within LOS F and increase in average delay from 86.9 to 90.3 (3.4) spv.

#### *PM Peak Hour*

- *Columbus Avenue and West 57th Street:* The westbound through movement would worsen within LOS F and increase in average delay from 110.0 to 120.1 (10.1) spv.
- *Amsterdam Avenue and West 57th Street:* The eastbound approach would worsen within LOS F and increase in average delay from 84.5 to 87.9 (3.4) spv.
- *West End Avenue and West 59th Street:* The eastbound left-through movement would worsen within LOS F and increase in average delay from 145.8 to 156.3 (10.5) spv. In the westbound direction, the left-through movement would worsen within LOS F and increase in average delay from 157.6 to 165.2 (7.6) spv.
- *West End Avenue and West 66th Street:* The westbound left-turn movement would worsen from LOS E to LOS F and increase in average delay from 78.8 to 82.9 (4.1) spv.

## **MITIGATION**

### **HAZARDOUS MATERIALS**

Independent of the proposed action, the applicant applied and was accepted into the Brownfield Cleanup Program administered by NYSDEC on April 19, 2005. An Interim Remedial Work Plan was approved on June 16, 2006, and a Remediation Work Plan was approved on July 5, 2006. The applicant also entered into a restrictive declaration, on November 8, 2006, that ensures that if the BCP agreement is terminated, any development of the project site would proceed under the oversight of the NYCDEP (see Appendix A: “Hazardous Materials”). The restrictive declaration for hazardous materials, in conjunction with the BCP agreement, would ensure that no significant adverse hazardous materials impacts would result from the development of the proposed project.

### **TRAFFIC**

As discussed in “Traffic and Parking,” the proposed action would result in significant adverse impacts at a number of study area analysis locations. To alleviate these project-related impacts, mitigation measures were studied. These measures, detailed below, would primarily involve retiming signal controls to increase green time for impacted movements and daylighting at intersection approaches to provide additional travel lanes or turn pockets.

*Columbus Avenue and West 57th Street*—Curbside activities are currently permitted along the west side of the southbound approach during all hours except for the PM peak period (4 to 7 PM), when southbound right-turn vehicles are accommodated on the west curb lane. To mitigate the impacts identified for the AM and midday peak hours, intersection daylighting (displacing two parking spaces at the intersection approach) is required to also provide a southbound exclusive right-turn lane during these periods. In addition, a shift of 2 seconds of green time from the southbound phase to the westbound phase is required for the AM peak hour. During the PM peak hour, a one-second shift from southbound to westbound would suffice.

*Columbus Avenue and West 60th Street*—The midday peak hour eastbound impact could be mitigated by shifting one second of green time from the southbound phase to the eastbound/westbound phase.

*Amsterdam Avenue and West 57th Street*—The eastbound and westbound impacts during the AM peak hour and the eastbound impact during the PM peak hour could be mitigated by shifting one and two seconds, respectively, of green time from the northbound phase to the eastbound/westbound phase.

*Amsterdam Avenue and West 59th Street*—The eastbound impact during the AM and PM peak hours could be mitigated by shifting one second of green time from the northbound phase to the eastbound/westbound phase.

*Amsterdam Avenue and West 65th Street*—The eastbound impact during the AM peak hour could be mitigated by shifting one second of green time from the northbound phase to the eastbound phase.

*West End Avenue and West 59th Street*—The eastbound left-through impact and the westbound left-through impact during the AM and PM peak hours could be mitigated by shifting one second of green time from the northbound/southbound phase to the eastbound/westbound phase.

*West End Avenue and West 66th Street*—The westbound impact during the midday peak hour could be mitigated by shifting one second of green time from the northbound/southbound phase to the eastbound/westbound phase.

The proposed traffic mitigation measures would reduce the maximum predicted 8-hour CO concentrations at the West 59th Street and West End Avenue intersection, back to No Build levels. Therefore, no significant adverse air quality impacts would result from the implementation of the proposed traffic mitigation measures.

## **UNIFORM LAND USE REVIEW PROCEDURE**

This application (C 060105 ZSM), in conjunction with the application for related actions (C 060104 ZMM, and C 060106 ZSM) was certified as complete by the Department of City Planning on August 7, 2006, and was duly referred to Manhattan Community Board 7 (CB7) and the Manhattan Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules. The application for the related non-ULURP text amendment (N 060103 ZRY), was also referred to Manhattan Community Boards 2, 3, 4, 5, 6, 7, 8, 12, Brooklyn Community Board 2, Queens Community Board 12, the Manhattan Borough Board, and the Manhattan, Brooklyn, and Queens Borough Presidents for information and comment.

### **Community Board Public Hearing**

Community Board 7 held a public hearing on this and the related applications (C 060104 ZMM, N 060103 ZRY, and C 060106 ZSM) on October 3, 2006, and on that date, adopted resolutions as follows:

C 060104 ZMM: A resolution recommending approval by a vote of 40 in favor, 0 opposed, and 1 abstaining.

C 060105 ZSM, N 060103 ZRY, and C 060106 ZSM: Resolutions recommending disapproval by votes of 37 in favor, 3 opposed and 0 abstaining; 35 in favor 0 opposed and 3 abstentions; and 35 in favor, 4 against, and 0 abstentions, respectively.

### **Borough President Recommendation**

This application (C 060105 ZSM), in conjunction with the application for related actions (C 060104 ZMM, N 060103 ZRY and C 060106 ZSM) was considered by the Borough President, who issued a separate recommendation on November 15, 2006 for each of the applications.

Regarding the application for the zoning map amendment (C 060104 ZMM), the Borough President recommended approval.

Regarding the application for this special permit (C 060105 ZSM), the Borough President recommended disapproval unless the application for the zoning text amendment (C 060103 ZRY) is modified.

Regarding the application for the zoning text amendment (N 060103 ZRY), the Borough President recommended disapproval with the condition that the application would be approved if the zoning text amendment is modified to:

1. Define language more clearly;
2. Provide a quantifiable minimum amount of open space;
3. Specify the minimum amount of C6-1, C6-2, or C6-3 zoning necessary for a site to qualify for a special permit; and
4. Localize its applicability until its impacts are better understood.

Regarding the application for the special permit (C 060106 ZSM), the Borough President recommended disapproval.



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

On November 15, 2006, (Calendar No. 3), the City Planning Commission scheduled December 6, 2006, for a public hearing on this application (C 060105 ZSM). The hearing was duly held on December 6, 2006 (Calendar No. 11), in conjunction with the hearings on the related applications (C 060104 ZMM, N 060103 ZRY and C 060106 ZSM). There were six speakers in favor of the applications and three speakers in opposition.

Those speaking in favor of the applications included four representatives of the applicant, and two representatives from the Heschel School.

Speakers representing the applicant included the applicant's attorneys and the project's urban designer and landscape architect. The project's urban designer discussed the proposed site plan and emphasized that the plan was conceived to relate better to the surrounding buildings and streets than as-of-right alternatives. The landscape architect described the overall landscaping plan for the two open spaces, described the fence and planting surrounding the tennis court, and noted that passerby would be able to see into the space and use the base of the fence along West 61<sup>st</sup> Street for seating.

One of the project's attorneys responded to concerns raised by those opposed to the applications and recommended modifications to the proposed text amendment, including modifications limiting the applicability of the proposed text amendment, limiting the reduction in open space to no more than 50 percent of the required amount, and requiring that the Quality Housing program's recreation space requirements be met as a condition for this special permit.

The second project attorney stated that the proposed public parking garage meets the findings as required by the zoning resolution and that the environmental review of the project did not reveal any impacts resulting from its development.

Representatives from the Heschel School discussed the school's future development goals within the proposed rezoning area. Both speakers stated that they were supportive of the applications, but noted that the proposed C6-2 zoning district would limit the school's future expansion plans.

Those speaking in opposition of the applications included the Director of Land Use for the Manhattan Borough President, a representative of Manhattan Community Board 7, and a representative of Manhattan Community Board 2.

The Director of Land Use for the Manhattan Borough President reiterated the Borough President's recommendations. He stated that the proposed text amendment needed a quantitative open space requirement although the project did have a better site plan than as-of-right alternatives. He also stated that the proposed garage should be required to provide the 121 accessory parking spaces that were evaluated as part of the project's environmental review.

The co-chair of the land use committee of Manhattan Community Board 7 also stated that the proposed project does have a better site plan than an as-of-right project, but also had concerns about the proposed text amendment. He stated that the proposed tennis court did not meet the superior standard in the proposed text amendment and recommended a requirement that the open space should consist of "softscape" that could be visible to the public. He believed that the proposed text amendment should be limited to Community Board 7.

The chair of the land use committee of Manhattan Community Board 2 reiterated the Board's concerns regarding the proposed text amendment.

## **CONSIDERATION**

The Commission believes that the special permit (C 060105 ZSM), in conjunction with the related application for zoning text amendment (N 010603 ZRY), as modified herein, the zoning map amendment (C 060104 ZMM), and the special permit (C 060106 ZSM) are appropriate.

### **Special Permit for bulk modifications (C 060105 ZSM)**

The Commission notes that the applicant's project site qualifies as a general large scale development (GLSD) and believes that the proposed site plan is better than an as-of-right development. The Commission notes that as-of-right development would produce a 35-story tower set back from the streetline that would cast shadows on Amsterdam Houses and its open spaces to the north. The Commission believes the applicant's proposed site plan would provide a streetwall presence, create a varied streetscape, including a private garden and recreation area visible from West 61<sup>st</sup> Street, and generally result in a site plan that relates better to its surroundings.

The Commission recognizes that the proposed site plan would bring ground floor uses out to the streetline, and also provide a large private open space, 161 feet in length and 100 feet deep, along West 61<sup>st</sup> Street. The Commission notes that the private open space would provide a visual amenity for passerby and that the fence would be designed to allow for public seating at its base. The Commission believes the pedestrian experience along West 61<sup>st</sup> Street will be enhanced as a result when compared to as-of-right alternatives. In addition, the Commission believes the location of the open space and the 27-story tower would relate well to the recently constructed 20-story building adjacent to the project site to the east.

The Commission notes that the location of the open spaces within the development would allow significant light and air to reach the residential units located in the portion of the 14-story building located within the rear yard equivalent. The Commission also notes that all buildings generally meet the setback requirements of contextual zoning districts reducing their impact on the surrounding streets.

The Commission recognizes that the open spaces within the development would provide approximately 53 percent of that required under open space ratio regulations. The Commission also notes that all residents within the GLSD, including residents of existing buildings, would have access to the open spaces. The Commission recognizes that significant effort has been made by a landscape architect to create open spaces and that they are exceptional in terms of functionality and superior in terms of landscaping. The Commission believes that the open

spaces are programmed with appropriate features and will provide an amenity for residents within the general GLSD.

The Commission notes that with the mitigation measures proposed in the EIS, the streets surrounding the proposed GLSD are adequate to handle the traffic generated from the project.

### **Zoning Text Amendment (N 060103 ZRY)**

The Commission recognizes that the intent of Section 74-74 of the Zoning Resolution is to allow greater flexibility for the purpose of securing better site planning in GLSDs. The Commission realizes that height factor and open space ratio requirements apply to R6, R7, R8, and R9 districts (and their commercial equivalents) and determine applicable floor area ratio, open space, and lot coverage requirements.

The Commission notes that that Section 74-743 of the Zoning Resolution permits modification of several bulk requirements, including height and setback, yards, courts, and minimum distance between buildings. The Commission notes that height factor and open space ratio requirements are also bulk requirements and also may hinder the achievement of the best possible site plan in GLSDs. The Commission believes that allowing modification of height factor and open space ratio requirements would be consistent with the intent of Section 74-74 and provides added flexibility by which to achieve better site plans. The Commission further notes that to grant the waivers in the proposed text, a special permit, necessitating a full ULURP review is required.

The Commission recognizes that the result of modifying height factor and open space regulations is to effectively reduce the amount of open space provided on a given site. The Commission believes that the quantity and quality of provided open space within the GLSD are important criterion when deciding whether or not to permit modifications to height factor and open space ratio regulations. However, the Commission believes that a minimum quantitative standard must be added to the proposed text in order to assure that a minimum amount of open space is provided. Therefore, the Commission is modifying the application so that as a condition for applying for a modification of height factor and open space ratio requirements, an applicant must provide at least 50 percent of the required open space pursuant to the applicable district.

In response to other concerns by Community Boards and the Borough President, the Commission notes that the applicability of the proposed text is consistent with the scope of existing GLSD special permits and that future use of the proposed text amendment would require a special permit and ULURP review.

The Commission believes that the proposed text amendment, as modified, together with the qualitative findings, is appropriate.

**Zoning Map Amendment (C 060104 ZMM)**

The Commission believes the proposed zoning map amendment is appropriate. The Commission notes that the proposed rezoning action represents a change to last portion of M1-6 district contemplated as part of the rezoning framework that extended from West 58<sup>th</sup> Street to West 61<sup>st</sup> Street between West End and Amsterdam avenues. The Commission notes the former and existing uses in the M1-6 district are no longer representative of the commercial, institutional, and residential land uses in the area and that future light manufacturing use within the existing M1-6 zoning district is not viable due to its isolation from larger manufacturing districts.

The Commission notes that the proposed C4-7 and C6-2 zoning districts match the recently rezoned blocks directly to the south and concentrates more density on the avenue and less density on the midblock. The Commission also notes that the proposed zoning districts would allow school uses either on West End Avenue or the midblock.

**Special Permit (C 060106 ZSM)**

The Commission believes that the proposed public parking garage with a maximum of 200 spaces is appropriate. The Commission notes that the proposed project would displace a former surface public parking garage with 100 spaces. The Commission also notes that recent and current development has – and future development will – displace a large number of public parking spaces.

The Commission notes that the proposed public parking garage is located in a high-density mixed-use neighborhood and access to and from the garage would primarily be via West 60<sup>th</sup> Street, West End Avenue, West 61<sup>st</sup> Street, and Amsterdam Avenue, which are not local residential streets. The Commission notes that the proposed mixed-use development will include 301 rental units and 41 condominium units, in addition to over 10,000 square feet of retail space that will likely create a high accessory demand for the public parking garage. The Commission notes the applicant's stated intention to reserve 121 of 200 spaces for residents of the development. The Commission believes that those additional vehicles would not unduly inhibit traffic and pedestrian flow. Ten reservoir spaces would be provided along the length of the ramp 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.

## **FINDINGS**

Based upon the above consideration, the City Planning Commission hereby makes the following finding required by Section 74-743 (Special Provisions for Bulk Modification);

1. The distribution of floor area, open space, dwelling units, rooming units and the location of buildings, primary business entrances, show windows and signs will result in a better site plan and a better relationship among buildings and open areas to adjacent streets, surrounding development, adjacent open areas and shorelines than would be possible without such distribution and will thus benefit both the occupants of the general large scale development, the neighborhood, and the City as a whole;
2. The distribution of floor area and location of buildings will not unduly increase the bulk of buildings in any one block or unduly obstruct access to light and air, to the detriment of the occupants or users of buildings in the block or nearby blocks or of people using the public streets
3. Not applicable
4. Considering the size of the proposed general large scale development the streets providing access to such general large scale development will be adequate to handle traffic resulting therefrom;
5. Not applicable

6. Where the Commission permits the maximum #floor area ratio# allowed pursuant to Section 23-142 for the applicable district without regard for #height factor# or #open space ratio# requirements, open areas are provided within the #general large scale development# that are of sufficient size to serve the residents of new or #enlarged buildings#. Such open areas shall be accessible to and usable by all residents of such new or #enlarged buildings#, and have appropriate access, circulation, seating, lighting and paving. Furthermore, the site plan of such #general large scale development# shall include superior landscaping for open areas serving the needs of residents of the new or enlarged #buildings#; and
7. A declaration with regard to ownership requirements in paragraph (b) of the general large scale development definition in Section 12-10 has been filed with the Commission.

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on December 29, 2006, with respect to this application (C 010605 ZSM), the City Planning Commission finds that the requirements of Part 617, New York State Environmental Quality Review, have been met and that, consistent with social, economic, and other considerations:

1. From among the reasonable alternatives thereto, the action to be approved is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable
2. The adverse environmental impacts revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigation measures that were identified as practicable

The report of the City Planning Commission, together with this FEIS, constitute the written statement of facts, and of social, economic, and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and it be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter and Section 5-430 et seq. of the New York City Administrative Code, the application submitted by the West 60th Street Associates, LLC and West End Properties, LLC (C 060105 ZSM) for the grant of a special permit pursuant to:

1. Section 74-743(a)(2) of the Zoning Resolution to modify the following Sections of the Zoning Resolution:
  - a. Section 23-47 to allow the modification of the rear yard depth regulations;
  - b. Section 23-533 to allow the modification of the rear yard equivalent depth regulations;
  - c. Section 23-841 to allow the modification of the narrow outer court width regulations;
  - d. Section 23-852 to allow the modification of the inner court recess width regulations;
  - e. Section 23-711 to allow the modification of the minimum distance between buildings regulations;
  - f. Section 23-632 to allow the modification of the height and setback regulations; and
  - g. Section 23-663 to allow the modification of the rear setback for tall building regulations; and
2. Section 74-743(a)(4) of the Zoning Resolution to allow the maximum floor area ratio permitted pursuant to Section 23-142 for the applicable district without regard for the height factor or open space ratio requirements;

in connection with a proposed mixed use development on property generally east of West End Avenue, between West 60th and West 61st Streets (Block 1152, Lots 5, 8, 10, 11, 12, 13, 43, 52, 53, 55, 56 and 57), in C6-2 and R8 Districts, within a general large scale



development, in Community District 7, Borough of Manhattan, is approved subject to the following conditions:

1. The application that is the subject of this application (C 060105 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following plans, prepared by H. Thomas O’Hara Architect, PLLC, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-01	Site Plan	August 2, 2006
Z-02	Height and Setback Diagrams Distance Between Buildings	August 2, 2006
Z-05	Garage – Ground Level	July 31, 2006
Z-06	Garage – Cellar Level	July 31, 2006
Z-07	Garage – Sub-Cellar Level	July 31, 2006
LZ-01	Landscape Courtyard Plans Materials and Plantings	July 27, 2006
LZ-02	Landscape Open Space Plans Materials and Plantings	July 27, 2006
LZ-03	Landscape Open Space Fence Details	July 27, 2006

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. The development shall include those mitigative measures listed in the Final Impact

Statement (CEQR No. 05DCP063Y) issued on December 29, 2006 (and identified as practicable) as follows:

### **HAZARDOUS MATERIALS**

Independent of the proposed action, the applicant applied and was accepted into the Brownfield Cleanup Program administered by NYSDEC on April 19, 2005. An Interim Remedial Work Plan was approved on June 16, 2006, and a Remediation Work Plan was approved on July 5, 2006. The applicant also entered into a restrictive declaration, on November 8, 2006, that ensures that if the BCP agreement is terminated, any development of the project site would proceed under the oversight of the NYCDEP (see Appendix A: “Hazardous Materials”). The restrictive declaration for hazardous materials, in conjunction with the BCP agreement, would ensure that no significant adverse hazardous materials impacts would result from the development of the proposed project.

### **TRAFFIC**

As discussed in “Traffic and Parking,” the proposed action would result in significant adverse impacts at a number of study area analysis locations. To alleviate these project-related impacts, mitigation measures were studied. These measures, detailed below, would primarily involve retiming signal controls to increase green time for impacted movements and daylighting at intersection approaches to provide additional travel lanes or turn pockets.

*Columbus Avenue and West 57th Street*—Curbside activities are currently permitted along the west side of the southbound approach during all hours except for the PM peak period (4 to 7 PM), when southbound right-turn vehicles are accommodated on the west curb lane. To mitigate the impacts identified for the AM and midday peak hours, intersection daylighting (displacing two parking spaces at the intersection approach) is required to also provide a southbound exclusive right-turn lane during these periods. In addition, a shift of 2 seconds of green time from the southbound phase to the westbound phase is required for the AM peak hour. During the PM peak hour, a one-second shift from southbound to westbound would suffice.

*Columbus Avenue and West 60th Street*—The midday peak hour eastbound impact could be mitigated by shifting one second of green time from the southbound phase to the eastbound/westbound phase.

*Amsterdam Avenue and West 57th Street*—The eastbound and westbound impacts during the AM peak hour and the eastbound impact during the PM peak hour could be mitigated by shifting one and two seconds, respectively, of green time from the northbound phase to the eastbound/westbound phase.

*Amsterdam Avenue and West 59th Street*—The eastbound impact during the AM and PM peak hours could be mitigated by shifting one second of green time from the northbound phase to the eastbound/westbound phase.

*Amsterdam Avenue and West 65th Street*—The eastbound impact during the AM peak hour could be mitigated by shifting one second of green time from the northbound phase to the eastbound phase.

*West End Avenue and West 59th Street*—The eastbound left-through impact and the westbound left-through impact during the AM and PM peak hours could be mitigated by shifting one second of green time from the northbound/southbound phase to the eastbound/westbound phase.

*West End Avenue and West 66th Street*—The westbound impact during the midday peak hour could be mitigated by shifting one second of green time from the northbound/southbound phase to the eastbound/westbound phase.

The proposed traffic mitigation measures would reduce the maximum predicted 8-hour CO concentrations at the West 59th Street and West End Avenue intersection, back to No Build levels. Therefore, no significant adverse air quality impacts would result from the implementation of the proposed traffic mitigation measures.

1. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this report and resolution and any subsequent modifications shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
2. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
3. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.
4. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution, duly adopted by the City Planning Commission of January 10, 2007 (Calendar No. 14), is filed with the Office of the Speaker, City Council, and Borough President

together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, AICP Chair**

**KENNETH J. KNUCKLES, Esq., Vice Chairman**

**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,**

**ALFRED C. CERULLO, III, RICHARD W. EADDY, LISA A. GOMEZ, CHRISTOPHER**

**KUI, JOHN MEROLO, KAREN A. PHILLIPS, DOLLY WILLIAMS,**

Commissioners