



## CITY PLANNING COMMISSION

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December 19, 2007/Calendar No. 22

C 060224 ZMM

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**IN THE MATTER OF** an application submitted by Tuck-it-Away Associates, L.P. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 5c, changing from an M1-2 District to a C6-2 District property bounded by West 131<sup>st</sup> Street, a line 250 feet westerly of Broadway, a line midway between West 131<sup>st</sup> Street and West 130<sup>th</sup> Street, and a line 325 feet westerly of Broadway, Borough of Manhattan, Community District 9, as shown on a diagram (for illustrative purposes only) dated July 23, 2007, and subject to the conditions of CEQR Declaration E-192.

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The application for an amendment to the Zoning Map was filed by Tuck-it-Away Associates, L.P. on November 14, 2005, to rezone 614 West 131<sup>st</sup> Street, which is located on the south side of West 131<sup>st</sup> Street between Broadway and Twelfth Avenue, from an M1-2 to C6-2 District. The requested action would facilitate the development of a new residential/commercial building on the proposed rezoning site.

### **BACKGROUND**

The applicant, Tuck-it-Away Associates, L.P., seeks approval of a zoning map amendment from M1-2 to C6-2 to facilitate the enlargement of an existing storage/warehouse building to develop a mixed-use building. The proposed rezoning area is located on the south side of West 131<sup>st</sup> Street between Broadway and Twelfth Avenue in Manhattan Community District 9.

The applicant owns the entire rezoning area, which is developed with a five-story storage/warehouse building located at 614 West 131<sup>st</sup> Street (Block 1997, Lot 44). The area proposed for rezoning has an area of approximately 7,494 square feet and the existing building has approximately 35,595 square feet of floor area (approximately 4.75 FAR). The applicant's property is abutted commercial buildings ranging from one to four stories, with the remaining portion of the block developed with commercial and automotive-related uses.

The applicant's property, as well as the surrounding area, is primarily zoned M1-2. M1-2 districts allow retail, commercial and light manufacturing uses up to 2.0 FAR. Certain community facility uses are allowed up to 4.8 FAR. Residential uses are not permitted.

***Area Description***

Neighboring uses include surface parking lots, automotive-related uses including gas stations, light manufacturing, moving and storage businesses, as well as some restaurants and local retail uses. The area's automotive and parking uses include the MTA Manhattanville Bus Depot, built in 1991, on Twelfth Avenue between West 132nd and West 133rd Streets, a garage for Verizon service vehicles and a large City-owned wharf formerly used as a parking lot for Fairway, a large supermarket located on Twelfth Avenue. The wharf, located on the Hudson River between St. Clair's Place (West 129th Street) and West 133rd Street, is being redeveloped as a park

The surrounding neighborhood also has a mix of commercial, institutional and residential uses. Urban renewal efforts in the 1950s and 1960s resulted in the development of large scale residential projects north and east of the applicant's property, including the Manhattanville Houses, located on a super-block between West 129th and West 133rd Streets, east of Broadway. Riverside Park Community (a.k.a., 3333 Broadway), a large former Mitchell-Lama project completed in 1974, is located three blocks north of the applicant's property. Along and west of Twelfth Avenue, the area has automotive, surface parking and light manufacturing uses. On the south side of 125th Street west of Broadway, Columbia University constructed two post-World War II university housing buildings, and also occupies Prentis Hall (the former Sheffield Dairy building) located on the south side of West 125<sup>th</sup> Street between Broadway and Twelfth Avenue.

***Proposed Zoning Map Amendment***

The requested action would rezone the applicant's property from M1-2 to C6-2. C6-2 zones are medium-density commercial districts that allow commercial uses up to 6.0 FAR and community facility uses up to 6.5 FAR. Residential development, currently not allowed under the existing zoning, would be permitted up to 6.02 FAR. On wide streets outside the

Manhattan Core (i.e., Manhattan Community Districts 9, 10, 11 and 12) residential development up to 7.2 FAR is allowed under the Quality Housing option. The existing storage/warehouse facility (Use Group 16) would continue as a non-conforming use.

The applicant has stated that, if the rezoning is approved, it intends to enlarge the existing five-story storage/warehouse building into a mixed-use building with commercial and residential uses. The storage facility would continue to occupy the lower floors with approximately 20 residential units in the proposed enlargement. The project would also have some community facility space. The total floor area would be approximately 46,919 square feet (approximately 6.26 FAR); the proposed enlarged building would rise to a height of 105 feet. In the event the existing building were instead demolished for primarily residential use, the new building would be 45,113 square feet (6.02 FAR), with building height controlled by height factor building envelopes without height limits.

Concurrent with this application, the applicant has also filed three additional applications to rezone other sites in its ownership within the Manhattanville area of West Harlem to a C6-2 designation. They are:

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***651 West 125<sup>th</sup> Street (Block 1996, Lot 56):*** 651 West 125<sup>th</sup> Street is a three-story warehouse located on the north side of West 125<sup>th</sup> Street between Broadway and Twelfth Avenue.

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***3300 Broadway (Block 1987, Lot 1):*** 3300 Broadway is a two-story warehouse located on the east side of Broadway between West 133<sup>rd</sup> and West 134<sup>th</sup> streets.

***3320 Broadway (Block 1988, Lot 1):*** 3320 Broadway is also located on the east side of Broadway, between West 134<sup>th</sup> and West 135<sup>th</sup> streets.

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***3261 Broadway (Block 1998, Lot 29):*** 3261 Broadway is a four-story warehouse located on the west side of Broadway between West 131<sup>st</sup> and West 132<sup>nd</sup> streets.

### ***Special Manhattanville Mixed-Use District***

On November 26, 2007, the City Planning Commission approved Columbia University's applications to establish a Special Manhattanville Mixed-Use District (MMU) ( C 070495 ZMM, N 070496 ZRM). The MMU would facilitate a comprehensive plan for Columbia University to expand and modernize its facilities within an Academic Mixed-Use Area and the revitalization, improvement, and redevelopment of portions of Manhattanville by allowing greater density and a wider variety of land uses. The MMU and the Columbia University expansion plan are described in detail in the City Planning Commission report, N 070496 ZRM. The applications are currently pending before the City Council.

Under the MMU, the area bounded by Broadway, Old Broadway, Twelfth Avenue, West 125<sup>th</sup>, West 133<sup>rd</sup> and West 134<sup>th</sup> streets, would be rezoned to a C6-1 district. C6-1 districts are medium-density commercial districts that allow residential, commercial and community facility uses. Residential development is allowed up to 3.44 FAR, commercial uses are allowed up to 3.4 FAR and community facility uses are allowed up to 6.5 FAR. Under the MMU, Subdistrict A would have special provisions to limit community facility uses to 6.0 FAR, which is below the 6.5 FAR maximum for community facility use in C6-1 districts. The applicant's property located at 3261 Broadway would be located within Subdistrict A and rezoned to a C6-1 district. Special District regulations would establish a maximum building height limit of 120 feet and a street wall height of 60 to 85 feet. Under Columbia's proposal, the applicant's property would be incorporated into the Academic Mixed-Use Development for an Academic-Related Research use.

### **ENVIRONMENTAL REVIEW**

This application (C 060224 ZMM) 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 06DCP059M. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the subject application (C 060224 ZMM), a Conditional Negative Declaration was issued on July 23, 2007, stating the following:

The applicant, Tuck-it-Away Associates, L.P., has agreed via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol, and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan.

The restrictive declaration also restricts the manner in which the property may be developed or redeveloped, by requiring the sampling protocol and remediation measures to serve as a condition precedent to any change of use in any such development or redevelopment of the property.

The Conditional Negative Declaration included an (E) designation for noise. The placement of the (E) designation (E-192) on the zoning map would eliminate the potential for significant adverse noise impacts.

#### **UNIFORM LAND USE REVIEW**

This application (C 060224 ZMM), was certified as complete by the Department of City Planning on July 23, 2007, and was duly referred to Community Board 9 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

#### **Community Board Public Hearing**

Community Board 9 held a public hearing on this application on September 20, 2007, and on that date, by a vote of 16 to 12 with 2 abstentions, adopted a resolution recommending disapproval of the application “unless Tuck-it-Away agrees to:”

1. Further define “affordable housing” as targeted to 40% AMI, 60% AMI, 80% AMI, 100% AMI and 120% AMI of CB9M.
2. Allocate at least 50% of residential units as affordable housing in perpetuity by placing a deed restriction on the property. And of the 50%, 10% be specifically designated for seniors.
3. Provide a fair percentage of affordable units for units.
4. Provide affordable commercial units for local business people, with priority given to women and minority entrepreneurs from the community.
5. Engage in sustainable design and construction practices with the equivalent of a LEED standard of platinum prior to the commencement of construction.
6. Commit to conforming to the height restrictions for CB9M set forth in Manhattan Borough President Stringer’s proposed Special District Area Plan.
7. Commit to continue discussions with CB9M before the implementation of any planned uses of the property.
8. Conduct a financial feasibility study for the development project.
9. Commit to developing the landmark Claremont Theatre building or any other property or or part of a property included in the application into a facility with the purpose of cultivating local arts and culture.
10. Otherwise, meet the goals and objectives outlined in the 197-a Plan including, but not limited to, mitigating all direct and indirect adverse impacts with respect to job creation for local residents, economic development, socio-economic conditions, environmental protection and sustainable development, public transit, neighborhood character, public open space and other impact areas, as delineated by CB9M in the 197-a Plan

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation disapproving the application on October 31, 2007. The Borough President provided comments with the recommendation. The excerpts below highlight the chief comments which are fully described in the attached recommendation.

The applications show every characteristic of impermissible spot zoning. Each proposed action applies to discreet, individual properties, some as small as 75,000 sf, all of which are owned by Tuck-it-Away Associates. No other properties are included in any of these applications. The proposed rezonings, if adopted, would leave extremely small islands of

mixed-use zoning completely surrounded by a larger manufacturing zone - an irrational and unwise intermingling of uses.

No comprehensive plan for the City or for West Harlem has been adopted that contemplates such a piece-meal, spotty approach to planning for future growth and development.

Whatever its other merits, these applications cannot be approved because it is a nearly textbook case of impermissible spot zoning, which cannot be legally defended and is offensive to the principles of comprehensive planning.

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

On October 31, 2007 (Calendar No. 2), the City Planning Commission scheduled November 14, 2007 for a public hearing on this application (C 060224 ZMM). The hearing was duly held on November 14, 2007 (Calendar No. 29). Thirteen speakers spoke in favor of the application and one speaker in opposition.

Those speaking in favor included the applicant and the applicant's architect, environmental consultant and attorney. Others speaking in favor included an attorney representing property owners affected by Columbia's Manhattanville proposal, area residents, business owners and community advocates.

The applicant stated that the requested rezonings of this and other sites under its ownership , from M1-2 to C6-2, was appropriate because it would facilitate much needed residential development. The applicant also stated that his proposed development for this and other sites under his ownership would complement Columbia's campus expansion in Manhattanville. The applicant further stated that while he did not have extensive experience developing property at the proposed scale, he had made extensive efforts to identify resources to enable development of affordable housing on his sites.

Other speakers expressed support for the applicant's proposal and opposition to Columbia's expansion, particularly with regard to the potential use of eminent domain to assemble the applicant's sites for the Academic Mixed Use Development.

The Deputy Director of Land Use for the Manhattan Borough President spoke in opposition to the project and reiterated the Borough President's recommendation, stating that the applications to rezone parcels under the applicant's ownership within the Manhattanville area lacked a land use rationale and constituted a form of 'spot zoning'.

There were no other speakers and the hearing was closed.

### **Waterfront Revitalization Program Consistency Review**

This application was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), adopted by the Board of Estimate on September 30, 1982 (Calendar No. 17), pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 07-056.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

### **CONSIDERATION**

The Commission believes that this amendment of the Zoning Map is inappropriate.

The applicant seeks approval of a zoning map amendment from M1-2 to C6-2 to facilitate the development of a new residential/commercial project. The proposed rezoning area comprises one property, 614 West 131<sup>st</sup> Street, which is located on the south side of West 131<sup>st</sup> Street between Broadway and Twelfth Avenue.

The requested action would rezone 614 West 131<sup>st</sup> Street alone and not include any adjoining property. The proposed rezoning area is developed with a four-story warehouse that is owned by the applicant.



The proposed rezoning, from M1-2 to C6-2, would increase the maximum commercial FAR from 2.0 to 6.0, the maximum community facility FAR from 4.8 to 6.5, and allow residential development up to 6.02 FAR. On wide streets outside the Manhattan Core, residential development is allowed up to 7.2 FAR under the Quality Housing option.

On November 26, 2007, the Commission approved Columbia's proposal to establish a Special Manhattanville Mixed Use District, a comprehensive plan that would allow Columbia University to expand and modernize its facilities within an Academic Mixed-Use Area and facilitate the revitalization, improvement, and redevelopment of portions of Manhattanville by allowing greater density and a wider variety of land uses. The applicant's property is located within the proposed Manhattanville Mixed Use District.

The Commission has reviewed the requested action within the context of the existing M1-2 zoning and within the context of the recently approved Manhattanville Mixed Use District, which if approved by the City Council, will significantly modify the land use context of the area.

The applicant's original argument in favor of the requested rezoning was that selective rezonings of the subject site and other sites under its ownership within the surrounding M district for a C6-2 designation are appropriate because they would facilitate needed residential development. The Commission does not believe that creating scattered pockets of C6-2 zoning west of Broadway within an area zoned M1-2, based solely on common ownership, would be consistent with sound land use planning principles.

At the Commission's public hearing, the applicant argued that rezoning of its sites to a C6-2 designation would be compatible with the Columbia development facilitated under the Special Manhattanville Mixed Use District. Under the MMU, applicant's property would be located within Subdistrict A, an area zoned for a C6-1 district. C6-1 districts are medium-density commercial districts that allow residential, commercial and community facility uses. Residential development would be allowed up to 3.44 FAR; commercial and community facility uses up to 6.0 FAR. The C6-1 district is an R7-2 residential equivalent, and R7-2 is mapped today in

adjacent areas of Manhattanville. The C6-1 district within the Special Manhattanville Mixed-Use District provides an appropriate vehicle for mixed use development and a transition from the M1-2 zoning to the west to the R7-2 zoning to the east. The Special District regulations also ensure that building heights are in keeping with neighborhood context. Special considerations apply to the portion of Subdistrict A located east of Broadway, between West 133<sup>rd</sup> and West 134<sup>th</sup> Streets, and are discussed in the City Planning Commission report, N 070496 ZRM.

The Commission does not believe that the applicant has set forth a sound land use rationale for creating scattered pockets of C6-2 zoning west of Broadway surrounded by C6-1 zoning under the MMU. The C6-1 district is a medium density district appropriate to the area which permits residential and commercial development, in addition to community facility use, and would permit a mixed-use building combining warehouse similar uses with residential units at 6.0 FAR. Height limits under the MMU would respect neighborhood context, unlike height factor building envelopes without height limits under the C6-2 proposed by the applicant. The applicant's desire to develop its own sites under C6-2, rather than C6-1 regulations, does not itself constitute a sound basis for the application. Therefore, the Commission believes that the requested zoning map amendment, from an M1-2 District to C6-2 District, is inappropriate.

#### **RESOLUTION**

Based on the consideration described in this report, the Commission determines that this application does not warrant approval, and adopts the following resolution:

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that the application (C 060224 ZMM) by Tuck-it-Away Associates, LP, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 5c, changing from an M1-2 District to a C6-2 District property bounded by West 131<sup>st</sup> Street, a line 250 feet westerly of Broadway, a line midway between West 131<sup>st</sup> Street and West 130<sup>th</sup> Street, and a line 325 feet westerly of Broadway, Borough of Manhattan, Community District 9, as shown on a diagram (for illustrative purposes only) dated July 23, 2007, and subject to the conditions of CEQR Declaration E-192, is **DISAPPROVED**.

Pursuant to Section 200 of the New York City Charter, the action by the City Planning Commission in this matter is final. The report is forwarded to the Office of the Speaker, City Council, for information and filing.

**AMANDA M. BURDEN**, AICP, Chair  
**KENNETH J. KNUCKLES**, Esq., Vice Chairman  
**ANGELA M. BATTAGLIA, ANGELA R. CAVALUZZI, R.A.,**  
**ALFRED C. CERULLO, III, RICHARD W. EADDY,**  
**NATHAN LEVENTHAL, JOHN MEROLO,**  
**KAREN A. PHILLIPS, DOLLY WILLIAMS**, Commissioners  
**MARIA M. DEL TORO**, Commissioner, ABSTAINING