



CITY PLANNING COMMISSION

March 18, 2009 / Calendar No. 10

C 080008 ZMM

IN THE MATTER OF an application submitted by 536 W 54th LLC A, 536 W 54th LLC B and 536 W 54th Street LLC C pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8c changing from an M1-5 District to a C6-3X District property bounded by West 54th Street, a line 470 feet easterly of Eleventh Avenue, West 53rd Street and Eleventh Avenue, as shown on a diagram (for illustrative purposes only) dated October 27, 2008, Borough of Manhattan, Community District 4.

This application for a zoning map amendment was filed by the applicant on July 13, 2007. The zoning map amendment, along with its related actions, would facilitate the development of a proposed, mixed-use building with approximately 900 residential units, of which approximately 180 would be affordable, an automobile dealership with vehicle repair facilities, some retail space, a fitness center and accessory parking. It is anticipated that the site would also contain the New York City Police Mounted Unit Headquarters and facilities for the Police Department's Mounted Troop "B" including stables, pending future site selection and acquisition actions.

RELATED ACTIONS

In addition to the zoning map amendment (C 080008 ZMM) which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following which is being considered concurrently with this application:

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| N 080009 ZRM | Zoning Text Amendment relating to Article II, Chapter 3 (Bulk Regulations for Residential Buildings in Residence Districts) and relating to Article IX, Chapter 6 (Special Clinton District) |
| C 080010 ZSM | Special Permit pursuant to Section 74-743 to waive height and setback regulations |
| C 080011 ZSM | Special Permit pursuant to Section 74-744 to permit a commercial use and residential use to occupy the same floor and to waive signage regulations |

BACKGROUND

The project site fronts on the eastern side of Eleventh Avenue between West 53rd and West 54th Streets in the Clinton neighborhood. It is vacant, located within an M1-5 district within the Special Clinton District and was most recently used as a surface parking lot for Verizon vehicles.

The site is approximately 200 feet by 470 feet, and has a lot area of 94,463 square feet. The north easternmost corner of the site (approximately 3,750 square feet) is comprised of a deck over a below-grade easement for the Amtrak right-of-way.

The surrounding Clinton neighborhood land use is characterized by a mix of residential, commercial, transportation and light industrial uses. Land uses to the west of the site, between Eleventh and Twelfth Avenues, are predominantly commercial, warehouse, auto-related and vehicle-distribution based. The Eleventh Avenue corridor is predominantly developed with low-rise auto dealership and auto repair uses, with some commercial office space. The mid-blocks to the south and east of the site, between Eleventh and Tenth Avenues, are predominantly developed with six- to seven-story residential buildings.

Immediately to the west of the project site is the 5.83 acre DeWitt Clinton Park. The block to the north of DeWitt Clinton Park is developed with 110- to 120-foot tall, loft-style commercial buildings. The block immediately north of the site is developed with the thirty-nine story, Clinton Tower (a residential building) at Eleventh Avenue and a fourteen-story residential building which is part of the Harborview Terrace New York City Housing Authority development. Also on the block to the north is a four-story institutional use and a parking lot at midblock. Immediately to the east of the project site is the windowless, 457-foot tall AT&T switching tower. The block to the south of the project site is developed with two, seven-story residential buildings at Eleventh Avenue, and several low-rise (1- to 4-story) commercial buildings interspersed with open parking lots on the midblock. The Tenth Avenue frontage of this block is developed with a new, 25-story residential building with community facility uses.

The site is zoned M1-5, which permits a 5.0 FAR for commercial and manufacturing uses and a 6.50 FAR for community facility uses, and the height of buildings is regulated by the sky exposure plane. Residential use is not permitted. The block to the north is split between four zoning districts: M1-5, R8, R9 and C2-7. The R8 district has a maximum FAR of 6.02 for residential uses and 6.5 for community facility uses. The R9 district has a maximum FAR of 7.52 for residential uses and 10.0 for community facility uses. The C2-7 district is an R9 district

equivalent, and permits a maximum FAR of 2.0 for commercial uses. In all four districts the maximum height of buildings is determined by the sky exposure plane. The block immediately to the south of the site is split between three zoning districts: M1-5, R8A and C6-3. The R8A district has a maximum FAR of 6.02 for residential uses and 6.5 for community facility uses, and has a maximum height of 120 feet. The C6-3 district is an R9 district equivalent, and permits a maximum commercial FAR of 6.0. The maximum building height in a C6-3 district is determined by the sky exposure plane. To the west of the site, between Eleventh and Twelfth Avenues, the area is zoned M1-5 and M2-3. M2-3 districts have a maximum FAR of 2.0, and do not permit residential uses.

Proposed Project

The proposed development, as certified, would include approximately 729,000 square feet of residential floor area (900 dwelling units of which 180 would be affordable pursuant to the Inclusionary Housing Program); a food market with approximately 8,000 square feet and a second retail space of approximately 800 square feet; an automobile dealership, including showroom, preparation and repair facilities, with a gross area of 330,000 square feet; a fitness center (which requires a Board of Standard and Appeals (BSA) special permit) of 20,000 square feet; and accessory parking for up to 225 cars. It is anticipated that the site would also contain the New York City Police Mounted Unit Headquarters and facilities for the Police Department's Mounted Troop "B" including stables. This facility, which is not a subject of this application, would include a stable with 28 stalls occupying approximately 36,000 square feet of floor area. The site selection and acquisition application (C 080012 PCM) was certified on March 2, 2009, and is currently in the public review process.

The building consists of a two-story, 42-foot tall base that covers the entire project site and an "S"-shaped tower that increases in height as it moves east across the site from Eleventh Avenue. The building's frontage on Eleventh Avenue, across from DeWitt Clinton Park, would vary in height from seven to ten stories with the automobile showroom in a double height space on the ground floor with a parking level and residential uses above. The building then moves diagonally across the site going from thirteen stories on West 53rd Street to twenty-six stories

when it meets West 54th Street; it then rises from twenty-six to twenty nine floors. The eastern end of the building rises from twenty-nine stories on West 54th Street to thirty-two stories including two mechanical levels on West 53rd Street. On the roof of the building's base in the scooped out triangular areas of the "S" will be an acre of landscaped roof open space accessible to the residential occupants.

The proposed building, as certified, would be built to a maximum FAR of 9.0, achieved through the provision of affordable units pursuant to the Inclusionary Housing Bonus regulations of Section 23-90. In total, the building would be approximately 850,167 square feet in size.

Requested Actions

Zoning Map Amendment (C 080008 ZMM)

The area proposed for rezoning is bounded by Eleventh Avenue, West 53rd Street, West 54th Street and a line approximately 470 feet east of and parallel to Eleventh Avenue (Block 1082, Lot 1). The area is currently in an M1-5 district, in the Excluded Area of the Special Clinton District, and is proposed to change to a C6-3X district, and remain in the Excluded Area of the Special Clinton District. The applicant has requested the C6-3X designation to reflect the broad range of uses proposed to locate in the building and the need to reach the maximum FAR of 9.0. The M1-5 district permits a 5.0 FAR for commercial and manufacturing uses and a 6.50 FAR for community facility uses, and the height of buildings is regulated by the sky exposure plane. Residential use is not permitted. The C6-3X district, an R9X residential district equivalent, permits a maximum FAR of 6.0 for commercial uses and a maximum FAR of 9.0 for residential and community facility uses. The C6-3X district has a maximum building height of 170 feet within 100 feet of a wide street, and 160 feet on narrow streets, with a required base height that must be between 105 feet and 120 feet. Residential, commercial and community facility uses are permitted in the district (Use Groups 1 - 12).

Two uses within Use Group 16 would be permitted in C6-3X districts within the Excluded Area of the Special Clinton District pursuant to the related zoning text amendment (N 080009 ZRM): automobile sales with showrooms, vehicle preparation for delivery and repairs, and horse stables.

The FAR for the C6-3X district in the Excluded Area of the Special Clinton District would also be amended as part of the text amendment to a FAR range of 7.0 to 9.0 by designating the rezoned area for Inclusionary Housing and establish a density bonus.

Zoning Text Amendment

The applicant is proposing amendments to the Zoning Resolution governing the (a) provisions governing the Inclusionary Housing program, to establish an Inclusionary Housing designated area and add the R9X district to the list of zoning districts where Inclusionary Housing can apply, and (b) provisions governing the Excluded Area of the Special Clinton District to permit automobile repair and horse stable uses in C6-3X districts and permit an exemption of floor area for parking above a height of 23 feet.

(a) Inclusionary Housing: The text amendment as referred would establish an “Inclusionary Housing Designated Area” on the east side of Eleventh Avenue, between West 53rd and West 54th streets, to a depth of 470 feet. The as-of-right FAR would be 7.0, which would be bonusable to 9.0 FAR through the Inclusionary Housing regulations of Section 23-90.

The proposed text would also add R9X districts, the residential equivalent of the C6-3X district, to the list of districts where Inclusionary Housing regulations can apply. Under the existing Section 23-90, the bonus is equal to 1.25 square feet for every 1 square foot of affordable housing provided, with the maximum amount of affordable housing required not to exceed 20 percent of the total floor area, exclusive of ground-floor non-residential floor area. Developments may satisfy the affordable housing requirement by providing affordable units on or off-site, in new units or by preserving existing housing off-site at affordable rents. Off-site affordable units must be located within the same community district or within one-half mile of the bonused development in another community district.

(b) Uses in the Excluded Area of the Special Clinton District: The proposed building will include an automobile dealership with preparation of vehicles for delivery and service. Currently, automobile showrooms with automobile sales are allowed as-of-right in C6-3X districts (Use

Group 9), but the preparation of automobiles for delivery and automobile repairs (Use Group 16) are not permitted. The text amendment would permit the preparation of automobiles for delivery and automobile repairs in C6-3X districts in the Excluded Area of the Special Clinton District bounded by West 50th Street, Tenth Avenue, West 56th Street and Eleventh Avenue. The proposed building will also include police department stables for horses (Use Group 16), which is also not a permitted use in C6-3X districts. The text amendment would permit such use in C6-3X districts in the same area as described above. Finally, the text amendment would also permit floor area used for accessory automobile parking above a height of 23 feet, when located above a police stable, to be exempt from floor area in a C6-3X district within the boundaries described above.

Special Permit to modify bulk regulations (C 080010 ZSM)

The proposed building requires height and setback waivers pursuant to Section 74-743 of the Zoning Resolution.

The height regulations in C6-3X districts require a minimum base height of 105 feet and a maximum base height of 120 feet on wide streets, and a minimum base height of 60 feet and a maximum base height of 120 feet on narrow streets. After required 10-foot setbacks on wide streets and 15-foot setbacks on narrow streets, the building may rise to a maximum height of 170 feet within 100 feet of a wide street and 160 feet at the mid-block.

On Eleventh Avenue at 53rd Street the maximum base height is exceeded by approximately 8.5 feet encroaching into the required 10-foot setback (required on a wide street) for approximately 56.7 feet north of West 53rd Street.

On West 53rd Street between Eleventh Avenue and a line 135 feet east of Eleventh Avenue, the proposed street wall exceeds the maximum base height by between 8.5 and 39.5 feet and encroaches in the minimum 15 foot setback distance. Between a line 383.7 feet and a line 440 feet east of Eleventh Avenue, the proposed building exceeds the maximum base height by 230.5 feet and encroaches into the 15 foot setback distance.

On West 54th Street the proposed building's base height between Eleventh Avenue and a line 56.2 feet east of Eleventh Avenue is approximately 6.5 feet below the required minimum base height. Between a line 304.3 feet and a line 440 feet east of Eleventh Avenue, the proposed building exceeds the maximum base height by between 170.5 feet and 200.6 feet and encroaches into the 15-foot setback distance.

In addition to the setback encroachments previously mentioned, on West 53rd Street the proposed building encroaches on the 15 foot setback between Eleventh Avenue and a line 131.7 feet east of Eleventh Avenue and then along the façade of the building as it angles across the site for another 83.6 feet ending where it intersects the 50 foot limitation line.

On West 54th Street the proposed building encroaches on the 15 foot setback requirement starting at a line 304.3 feet east of Eleventh Avenue and proceeding west along the façade of the building as it angles across the site for 83.6 feet ending where it intersects the 50 foot limitation line.

The applicant requests the height and setback waivers to facilitate a site plan and building form that keeps a lower building height at Eleventh Avenue across from DeWitt Clinton Park; that pulls the building back from the narrow streets to provide open space on the roof of the third level, and move the density of the building to the center of the block and away from residential uses to the north and south; and that locates the maximum height of the building adjacent to the 457-foot tall, window-less telecommunications switching tower at the midblock.

Special Permit to modify location of commercial uses and sign regulations (C 080011 ZSM)

Location of commercial uses (Section 74-744(b))

The commercial fitness center (physical culture and health establishment), which would need a BSA special permit to operate, would be located on the third floor at the base of the diagonal and mid-block portions of the building which also includes residential uses. Commercial and residential uses may not be permitted on the same floor in a mixed-building. The requested special permit will allow these uses to be located on the same floor. The commercial use will have a separate access from the street and there will be no connection to the residential portion of

the building at any level.

Modifications of sign regulations (Section 74-744(c))

Because the site is located across the street from a public park one-half acre in size (DeWitt Clinton Park) and within 100 feet and opposite a residential district boundary located within a street the sign regulations of Section 32-67 make the sign regulations of a C1 district applicable to the proposed development. These regulations limit signs to a surface area of three times the street frontage up to 150 square feet for non-illuminated signs and a surface area of three times the street frontage up to 50 square feet for illuminated signs with a maximum height of 25 feet.

This application seeks approval to permit the standard C6-3X district sign regulations to apply to the Eleventh Avenue and West 54th Street frontages; illuminated and non-illuminated signs with surface area of five times the street frontage up to 500 square feet per establishment and at a height of no more than 30 feet above curb level. The requested modification to the sign regulations would apply to the entire 200 feet 10 ¼ inches frontage along Eleventh Avenue and along West 54th Street for the distances occupied by commercial uses; the first 275 feet measured from Eleventh Avenue and for the last 60 feet 11 inches of the frontage beginning at 409 feet 5 ¼ inches measured from Eleventh Avenue to the property line. The height of the proposed signs would be increased to no more than 30 feet above curb level.

ENVIRONMENTAL REVIEW

The application (C 080008 ZMM), in conjunction with the application for the related actions, 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 07DCP071M. The lead agency is the City Planning Commission.

It was determined that the proposed actions may have a significant effect on the environment. A Positive Declaration was issued on October 10, 2007, and distributed, published and filed.

Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was also issued on October 10, 2007. A public scoping meeting was held on the Draft Scope of Work on November 15, 2007. A Final Scope of Work, reflecting the comments made during the scoping, was issued on October 23, 2008.

The applicant prepared a DEIS, and a Notice of Completion for the DEIS was issued October 24, 2008. On February 4, 2009, a public hearing was held on the DEIS pursuant to SEQRA and other relevant statutes. A Final Environmental Impact Statement (FEIS) was completed and a Notice of Completion for the FEIS was issued on March 6, 2009. On March 17, 2009, a Technical Memorandum was issued which describes and analyzes the modifications to the proposed actions made by the City Planning Commission, adopted herein, and also identifies newly developed partial mitigation for the significant adverse elementary school impact identified in the FEIS and slightly modified language regarding the day care mitigation. The FEIS and subsequent Technical Memorandum identified significant adverse impacts and proposed the following mitigation measures:

Schools

A significant adverse impact on elementary schools was identified in the FEIS. As discussed in the FEIS, at the time of issuance of the FEIS, the applicant, lead agency and the School Construction Authority (SCA) were discussing the terms of a potential funding mechanism to provide SCA with funding that would partially mitigate this significant adverse impact. Since the FEIS, the applicant has reached an agreement with the lead agency and SCA on measures that would partially mitigate the significant adverse school impact. These measures will be part of the Restrictive Declaration for the proposed action with the proposed modifications.

The mitigation measure would consist of a payment per dwelling unit (DU) for each DU that the project would have above 675 DUs, which represents the impact threshold identified in the FEIS. The payment would be calculated as follows: [number of DUs greater than 675 DUs multiplied by 0.12 (the elementary school generation rate) multiplied by \$80,000.] The first half of this payment would be required prior to the issuance of a Building Permit for residential floor area and the second half of this payment would be required prior to the issuance of temporary certificate of occupancy for residential units. These payments would be made in the form of deposits into an escrow account. The number of DUs would be as shown on the building permit plans for the first payment and would be adjusted at the time of issuance of temporary certificate of occupancy to reflect the change, if any, in the number units in the development between the number permitted by the Department of Buildings (DOB) and the number actually constructed. In the event the funds deposited by the applicant are not used within seven years following the

second deposit to fund, in whole or in part, a capital expenditure that results in the creation of additional school seats in the half-mile radius study area, then the funds would be returned to the applicant with interest and there would be no further obligation for mitigation.

However, if at the time the applicant seeks to accept a new Building Permit for the project site for residential floor area, it believes that, as a result of changed conditions in the study area, there is no longer a need for the elementary school mitigation or that the need for the school mitigation has been reduced such that the 675 figure above should be adjusted upward, it may submit a CEQR Technical Memorandum to the lead agency demonstrating same. In the event that the lead agency, with the concurrence of SCA, accepts the conclusions of the CEQR Technical Memorandum, the calculation of the school mitigation would be adjusted to reflect such conclusions. Alternatively, if, at the time the applicant seeks to accept a building permit for the project site for residential floor area, it believes that its school mitigation obligation may be satisfied by means other than by money payment, it may propose an alternate form of mitigation for consideration by the lead agency and SCA. In the event that the lead agency, with the concurrence of SCA, determines that such alternate form of mitigation is acceptable, the provisions described above would not apply and the alternate mitigation commitment shall be reflected as necessary in a minor modification to the Restrictive Declaration.

Day Care

As discussed in the FEIS and Technical Memorandum, a measure that would mitigate the significant adverse impact on day care would be set forth in the Restrictive Declaration that will be filed and recorded in connection with the application.

As discussed in the FEIS, a measure that would mitigate the significant adverse impact would be set forth in the Restrictive Declaration that will be filed and recorded in connection with the application. This also would be applicable to the proposed action with the proposed modifications.

That mitigation, as initially identified in the FEIS and more fully defined in the Restrictive Declaration, would consist of the following: 1) The NYC Administration for Children's Services ("ACS") Division of Child Care and Head Start will be notified prior to issuance of a Building Permit for residential floor area associated with the affordable housing; 2) not later than 90 days prior to acceptance of a Temporary or Permanent Certificate of Occupancy for any residential units in the development, the applicant would offer ACS approximately 5,500 sf of ground floor space in the proposed development at a \$10.00 per square foot rent, for use as a day care facility; 3) The ACS shall thereafter notify the applicant whether such offer is accepted, subject to all City requirements governing the leasing of property; 4) The applicant would neither request nor accept, a Temporary Certificate of Occupancy for any residential portion of the development until the Chairperson of the CPC certifies to DOB that it has received notification from ACS that the requirements of this mitigation measure have been met, provided that if ACS does not accept or decline an offer within 90 days of the date of such offer, the Chairperson of the CPC shall thereupon certify that these mitigation requirements have been met.

Traffic

Measures to mitigate project-generated significant adverse traffic impacts would consist of minor

adjustments to signal timing in order to increase green time for impacted movements and daylighting of parking regulations at two intersections during certain peak periods.

1. Tenth Avenue and W. 52nd Street

This intersection is intersected by the one-way eastbound W. 52nd Street and the one-way northbound Tenth Avenue. The eastbound approach at this intersection would be impacted in the weekday midday and PM peak hours. The proposed mitigation at this intersection is transferring 2 seconds of green time from the northbound phase to the eastbound phase during the weekday midday and PM peak hours. With this signal timing adjustment, in the midday peak hour the eastbound approach would be reduced to 43.1 seconds of delay (LOS D) as compared to 46.2 (LOS D) seconds under No-Build conditions, and in the PM peak hour it would be reduced to 43.6 seconds of delay (LOS E) as compared to 45.5 seconds (LOS D) under No-Build conditions.

2. Tenth Avenue and W. 53rd Street

This intersection is intersected by the one-way westbound W. 53rd Street and the one-way northbound Tenth Avenue. It would be one of the principal intersections traversed by project-generated vehicles approaching the site, as the accessory garage entrance along with the NYPD Stable and an entry for the auto dealership would be located a half-block to the west. Without mitigation, the westbound approach would be impacted in the weekday AM and PM peak hour. The proposed mitigation at this intersection is transferring 1 seconds of green time from the northbound phase to the westbound phase during the weekday AM and PM peak hours. With this signal timing adjustment, in the AM peak hour the westbound approach would be reduced to 43.8 seconds of delay (LOS D), i.e., less than mid-level LOS D (45.0 seconds), and in the PM peak hour it would be reduced to 61.4 seconds of delay (LOS E) as compared to 62.4 (LOS E) under No-Build conditions.

3. Tenth Avenue and W. 54th Street

At this intersection, which would be traversed by vehicles exiting the project site via the one-way eastbound W. 54th Street, the eastbound approach in the weekday AM would be impacted.

The impact could be mitigated in the weekday AM peak hour by shifting 2 seconds of green time from the northbound phase to eastbound phase in the AM peak hour. With the proposed mitigation, delay would be reduced to 42.3 seconds of delay (LOS D) as compared to 44.1 (LOS D) seconds under No-Build conditions.

4. Eleventh Avenue and W. 52nd Street

This intersection would process project-generated vehicles both traveling to and from the project site, with vehicles traversing the eastbound, northbound, and southbound approaches. Without mitigation, the eastbound approach would be impacted in the weekday midday peak hour.

These impacts could be mitigated by shifting 1 second of green time from the

northbound/southbound phase to the eastbound phase in the weekday midday peak hour. With this proposed mitigation, in the midday peak hour delay would be reduced to 66.1 seconds (LOS E) as compared to 71.7 seconds (LOS E) under No-Build conditions.

5. Eleventh Avenue and W. 53rd Street

This T-intersection, located adjacent to the project site, would process the greatest number of project-generated vehicles. In particular, the westbound approach at this intersection would experience increased delays from project-generated vehicles, particularly vehicles exiting the accessory parking garage. Without mitigation, the westbound left-right movement would be impacted in all peak hours.

These impacts could be mitigated by shifting 1 second of green time from the northbound/southbound phase to the westbound phase in the AM peak hour and 3 seconds of green time from the northbound/southbound phase to the westbound phase in the weekday midday, and Saturday midday peak hours. The PM peak hour impact could be mitigated by implementing a No Standing regulation for 100 feet along the south side of the westbound approach during the PM peak hour. With the proposed mitigation, in the AM peak hour delay would be reduced to 42.1 seconds (LOS C) i.e. below 45 seconds mid-level LOS D, compared to 34.3 seconds (LOS C) under No-Build conditions. In the midday peak hour delay would be reduced to 97.0 (LOS F) as compared to 100.2 (LOS F) under No-Build. In the PM peak hour, overall approach delay would be reduced to 47.8 (LOS D) seconds compared to 78.1 second (LOS E) under No-Build conditions. In the Saturday midday peak hour, delay would be reduced to 130.3 seconds (LOS F) as compared to 138.3 seconds (LOS F) under No-Build conditions.

6. Eleventh Avenue and W. 55th Street

This intersection includes the two-way Eleventh Avenue and the one-way westbound W. 55th Street. The northbound left turn would be impacted in the AM peak hour.

This impact could be mitigated by a combination of transferring 1 second of green time from the westbound phase to the northbound/southbound phase during the AM peak hour and implementing a No Standing regulation for 100 feet along the south side of the westbound approach during the AM peak hour. With this proposed mitigation, in the AM peak hour delay would be reduced to 41.1 seconds (LOS D), i.e., less than mid-level LOS D (45.0 seconds). Twelfth Avenue and W. 52nd Street

This intersection consists of the median separated two-way Twelfth Avenue (Route 9A) and W. 52nd Street which is one-way eastbound extending from the intersection. Presently, the intersection provides a signal phase for pedestrians crossing east-west across the avenue to reach Piers 92-94, Hudson River Park, and other destinations along the waterfront. In the future with the Piers 92-94 Redevelopment Project, there will be eastbound vehicles exiting the Pier 92-94 area via a roadway that will function as a western extension of the one-way eastbound W. 52nd Street. The southbound left turn will be impacted in the weekday Saturday midday peak hour.

These impacts could be mitigated by transferring 1 second of green time from the eastbound phase to the southbound only phase in the Saturday midday peak hours and 1 second of green time from the eastbound phase to the southbound only phase in the PM peak hour. With this proposed mitigation the Saturday MD peak hour delay would be reduced to 79.1 seconds (LOS E) as compared to 86.6 seconds (LOS F) under No-Build conditions.

Unmitigated Impacts

As discussed in Chapter 19, “Mitigation,” and Chapter 22, “Unavoidable Significant Adverse Impacts,” there is no feasible mitigation that the proposed action could implement that would mitigate the shadow impact and fully mitigate the school impact. The No Unmitigated Impact Alternative explores modifications to the proposed action that would mitigate impacts in the areas of community facilities (elementary schools) and shadows.

The No Unmitigated Impact Alternative focuses on an alternative which avoids the unmitigated shadow impact and the school impact associated with the proposed project. This alternative building design would contain approximately 303 units and would be approximately 70 feet tall.

The alternative was developed based on the results of the community facilities and shadows analyses. For the elementary school impact to be avoided, the development on the project site would have to be limited to approximately 675 DUs; a development with a greater number of residential units would result in an unmitigated significant adverse impact on elementary school capacity in the half-mile radius. The shadow analysis found that any building with a streetwall taller than 70 feet along the site’s W. 54th Street frontage would result significant adverse shadow impacts. A building limited to a 70-foot streetwall could have a U-shaped configuration with 4 residential floors above a commercial base. Such a building would contain approximately 257,600 gsf of residential space. Based on an average unit size of 850 sf, this would result in approximately 303 DUs.

This alternative would result in no unmitigated impacts as compared to the proposed action. However, this alternative would not meet the goals and objectives of the proposed action and is therefore considered unfeasible. The proposed action is intended to provide opportunities for new residential and commercial development on a site which has become vacant and is located in an area that has been undergoing substantial commercial and residential redevelopment in the last several years, including both new market rate and affordable housing units. The proposed project, with its mix of market rate and affordable housing units, automobile dealership, and local retail uses, would help to address the need for these types of development in the local area and City as a whole. A development that avoided the unmitigated significant adverse impacts associated with the proposed project would not be able to provide the mix of uses and density compatible with this area of Manhattan.

UNIFORM LAND USE REVIEW

This application (C 080008 ZMM), in conjunction with the application for the related actions, (C

080010 ZSM, C 080011 ZSM) was certified as complete by the Department of City Planning on October 27, 2008, and was duly referred to Community Board 4 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related non-ULURP application (N 080009 ZRM), which was referred for review and comment.

Community Board Public Hearing

Community Board 4 held a public hearing on this application and the related actions on December 3, 2008, and on that date, voted unanimously to adopt a resolution recommending conditional disapproval of the application. The full recommendation is attached. The Community Board's Resolution of the recommendation stated:

NOW, THEREFORE, BE IT RESOLVED that Manhattan Community Board No. 4 recommends denial of ULURP Applications No. C 080008 ZMM, N 080009 ZRM, C 0800010 ZSM and C 080011 ZSM unless the following conditions are met:

1. The applications are amended to reflect the Consensus Proposal, with a total project FAR limited to 8.55 and a roof height limited to 327 feet (337 feet including enclosed mechanicals). Should development plans for the site change, this maximum height and density must continue to apply.
2. Zoning must be R8A within 100 feet of Eleventh Avenue and R9A on the balance of the site, with a commercial overlay and text amendments to accommodate the proposed uses reflected in the applications.
3. The text amendment proposed for ZR Section 96-80 must be further limited to apply only to sites larger than 90,000 square feet.
4. All bonus development rights generated under the Inclusionary Housing Program must be used on-site, or not used at all.
5. Affordable units must be evenly distributed on all residential floors, and provide the same fixtures and finishes as the market rate units.
6. State regulations permitting, at least 20% of the affordable units must be 2-bedroom units or larger.
7. The space now designated for the market must be used instead for a not-for-profit or community facility use by a user to be selected through a community-based process at a nominal annual rent.
8. Should the NYPD Mounted Unit not take the space designated for it, that space must be used for a community facility use by a user to be selected by Two Trees in consultation with CB4.
9. All of the above commitments and the main features of the parking plan must be made permanent through a restrictive declaration or comparable enforcement mechanism.

10. Two Trees must develop and implement a plan to fill as many of the development's permanent jobs as possible with residents of Community District 4.
11. Illuminated signage must comply with all applicable regulations, including ZR Section 42-53.
12. Mercedes must commit to work with us to address quality of life issues that may arise as the dealership becomes operational.
13. Curb cuts must be managed with signage and warning systems to avoid accidents with pedestrians.
14. Two Trees' offer to contribute annually to support DeWitt Clinton Park must be embodied in a restrictive declaration or comparable enforcement mechanism.
15. Street trees must be planted, in accordance with the Zoning Resolution.

AND FURTHER RESOLVED that CB4's acceptance of the Consensus Proposal arises out of the unique circumstances of this project and this site, and must not be interpreted as precedent-setting for, or a change in any of our stated positions concerning, the rezoning of other areas in the Special Clinton District including, in particular, the PS51 Affordable Housing Site and the Eleventh Avenue rezoning. If anything, these actions renew our determination to complete the rezoning of the PS51 Affordable Housing Site and the Eleventh Avenue corridor and implement our previously-articulated planning priorities.

Borough President Recommendation

This application (C 080008 ZMM), in conjunction with the related actions, was considered by the Borough President, who issued a recommending approval of the application on January 22, 2009, with the condition that "the applicant follows through on each of the commitments described in its letter to the Manhattan Borough President, dated January 15, 2009." The commitments, listed in the recommendation, are as follows:

- to amend the application to reduce the FAR and height;
- to restrict the garage capacity to 175 cars and its use to exclusively accessory, without any availability for transient parkers or customers of the auto dealership;
- to restrict an appropriate amount of space on the parking level to accommodate 600-700 bicycles;
- to require that all future modifications to the signage plan conform to the special permit to protect DeWitt Clinton Park and neighboring residential districts from any adverse impacts created by non-conforming signage;
- to distribute affordable housing units throughout the upper and lower floors of the building, with the same finishes and fixtures as the market-rate apartments, and to make them permanently affordable pursuant to a low-income housing plan filed with the Department of Housing, Preservation and Development;

- to advise CB4, the Manhattan Borough President, and the local city councilmember on the availability of the 5,500-sq. ft. retail space to allow a community-based process for finding a tenant;
- to use signage and warning systems to ensure that each of the four proposed curb cuts is designed to limit pedestrian/vehicular conflicts;
- to coordinate auto dealership deliveries so as not to disturb the quiet enjoyment of residential space, taking all reasonable measures to minimize impact of commercial deliveries on tenants and neighbors; and
- to advise CB4 in a timely manner in the event that the NYPD Mounted Unit facility is not located on this site, and to work with them to identify an appropriate tenant for the space.

City Planning Commission Public Hearing

On January 21, 2009 (Calendar No. 1), the City Planning Commission scheduled February 4, 2009, for a public hearing on this application (C 080010 ZSM). The hearing was duly held on February 4, 2009 (Calendar No. 21) in conjunction with the public hearing on the applications for related actions.

There were seven speakers, six in favor and one opposed.

A representative from the Manhattan Borough President's Office reiterated the Borough President's recommendation of a conditional approval of the application and explained the consensus proposal presented to the Borough President and included in the recommendation.

The applicant described his consensus proposal that was presented to the community board and the Borough President which consists of capping the maximum FAR of the proposed building at 8.55, reduced from 9.0 FAR, and capping the maximum height of the proposed building at 317 feet, reduced from 327 feet. The applicant also stated that he would respond to each of the community board's conditions listed in their recommendation in a written document to the Commission. In addition, the applicant stated that he is required to file a restrictive declaration for the General Large Scale Development special permit waivers he is seeking, which could also codify the consensus proposal. Finally, the applicant showed a rendering of what the signage might look like if the signage waiver was obtained.

The architect for the proposed development described the type of windows and building skin

materials that would be used in the building. He also stated that windows at the street level of the building would provide visual access into the various ground floor uses and create pedestrian interest along the street.

The applicant's land use attorney and a representative from the applicant's traffic consultant appeared in favor of the project.

A representative from a construction union stated he was pleased the developer would use union workers.

The Co-chair of the Clinton/Hell's Kitchen Land Use Committee of Community Board 4 appeared in opposition to the project, reiterating the community board's conditional disapproval of the application. She agreed that the consensus proposal that the applicant presented to the community board was more appropriate in size than the certified proposal because it reduced the height and bulk of the building, but the community board still believes the maximum FAR and height of the building are too high for the neighborhood.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a zoning map amendment (C 080008 ZMM), in conjunction with the related applications for a text amendment (N 080009 ZRM) and special permits (C 080010 ZSM) (C 080011 ZSM), is appropriate. The Commission has approved the text amendment application (N080009 ZRM) and special permit application (C080010 ZSM) with modifications. The Commission believes the actions will facilitate a development appropriate in density and form, will create new affordable housing units in the Clinton community, and offers the opportunity to site the NYPD horse stables in a new facility.

During the public review process, concerns were raised by the community board and the Borough President regarding various aspects of the new development. The applicant responded to these concerns in a "Consensus Proposal" that was included in the community board's and

Borough President's recommendations. The Commission is pleased to note, in a letter to the Commission dated February 12, 2009, the applicant indicated his willingness to comply with many of the conditions outlined in the recommendations. These include limiting the FAR to a maximum of 8.55, reduced from an FAR of 9.0, and reducing the maximum height of the development from 327 feet to 317 feet.

The Commission also notes that, as part of the approval, a restrictive declaration will be recorded against the property and, along with the project described herein, will reflect the modifications made to the application, as well as limit the number of accessory parking spaces to 175, and provide a mechanism for mitigating school seat impacts described in the project's FEIS. The Commission's modifications to the application are described below.

Zoning Map Amendment (C 080008 ZMM)

The Commission believes the rezoning of an area bounded by Eleventh Avenue, West 53rd Street, West 54th Street and a line approximately 470 feet east of and parallel to Eleventh Avenue from an M1-5 district to a C6-3X district is appropriate. The Commission believes that the C6-3X district will encourage development that is in keeping with the residential uses on the blocks to the north, south and west of the project site, and also encourage development that best reflects the existing built character found in the immediate surrounding area.

The Commission understands that the proposed C6-3X district, an R9X district equivalent, permits a maximum FAR of 6.0 for commercial uses and a maximum FAR of 9.0 for residential and community facility uses. The C6-3X district has a maximum building height of 170 feet within 100 feet of a wide street, and 160 feet on narrow streets, with a required base height that must fall between 105 feet and 120 feet. Residential, commercial and community facility uses are permitted in the district.

The Commission notes that R8, R8A, R9, C2-7 and C6-3 districts, all which permit residential development, are located on blocks immediately to the north, south and west of the site. The R9, C2-7 and C6-3 districts have comparable maximum densities to the C6-3X district maximum

FAR of 9.0 for residential and community facility uses.

The Commission also notes that the C6-3X district requires a street wall similar in height to the existing loft buildings on West 54th Street, on the north side of DeWitt Clinton Park, and the buildings immediately to the south of the project site on Eleventh Avenue. The Commission acknowledges that as-of-right development on this site would produce a mid-rise building no taller than 170 feet, which is similar in height to the Harborview Terrace buildings on the block to the north.

Zoning Text Amendment (N 080009 ZRM)

The Commission believes the text amendments, as modified herein, are appropriate.

The Inclusionary Housing provisions of the text amendment, as certified, would establish an “Inclusionary Housing Designated Area” on the east side of Eleventh Avenue, between West 53rd and West 54th streets, to a depth of 470 feet. The as-of-right FAR would be 7.0, which would be bonusable to 9.0 FAR through the inclusionary housing regulations of Section 23-90.

The proposed application of the Inclusionary Housing program to the project site is consistent with the application of this program in recent rezonings to encourage significant residential or mixed use development. However, the Commission is aware that the proposed R9X district with an as-of-right 7.0 FAR bonusable to 9.0 FAR is inconsistent with the regulations that apply in Inclusionary Housing designated areas, where a 33 percent floor area bonus is available, with 1.25 square feet of bonus floor area allowed for every 1 square foot of affordable housing provided, resulting in an incentive for 20 percent of floor area to be affordable. Therefore, the Commission is modifying the proposed zoning text amendment to permit an as-of-right FAR of 6.75, bonusable to a maximum FAR of 9.0 with the provision of affordable housing. The Commission is also modifying the proposed text to locate this provision within the Special Clinton District text, along with the other proposed changes that apply only in R9X districts or equivalent commercial districts (C6-3X) in the Excluded Area of the Special Clinton District bounded by West 50th Street, Tenth Avenue, West 56th Street and Eleventh Avenue.

However, the Commission believes a maximum FAR of 8.55 is appropriate on this site and, though the maximum FAR is reduced from 9.0 to 8.55, the site should continue to provide affordable units in a manner that closely follows the Inclusionary Housing Bonus regulations set forth in Section 23-90. Therefore, the Commission will require a base FAR of 6.75 for the development, bonusable to 8.55 FAR, reached through the standard Inclusionary Housing Bonus regulations of 1.25 square feet of bonus floor area allowed for every 1 square foot of affordable housing provided, given that the development contains a minimum 1.0 FAR of commercial floor area. If the minimum 1.0 FAR of commercial is not provided, the restrictive declaration sets forth a mechanism whereby the development's maximum base FAR will be reduced to 6.41, which can be bonused to a maximum FAR of 8.55, through the Inclusionary Housing Bonus program outlined in Section 23-90. The Commission encourages the applicant to provide a mix of commercial uses as outlined in the consensus proposal.

The Commission notes that Eleventh Avenue between West 58th Street and West 43rd Street is developed with numerous automobile dealerships and repair uses that serve Manhattan residents and the City as a whole. The Commission believes the text amendment to permit automobile showrooms and sales with preparation for delivery and repairs at this location reflects the existing uses in the area. The Commission does urge the applicant and any future dealership that may locate in the building to work with the Community Board to address quality of life issues as they may arise.

The Commission notes that the western Clinton neighborhood holds some existing horse stable uses as well. This, together with the need for the New York Police Department to vacate their current horse stable on Pier 76, the Commission believes this site provides a unique circumstance and an opportunity to provide police horse stable space in a new facility adjacent to Midtown, pending future site selection and acquisition actions that are not before the Commission at this time.

Special Permit Pursuant to Section 74-743 (C 080010 ZSM)

The Commission believes the height and setback waivers requested, as modified herein, are appropriate. The Commission acknowledges the building's design demonstrates a unique response to the surrounding neighborhood conditions. The proposed building keeps a lower height at Eleventh Avenue that responds to the approximately 120-foot tall buildings that surround DeWitt Clinton Park to the north and west. After providing an approximately 42-foot tall street wall on West 53rd and West 54th streets, the building pulls back from the narrow streets to provide open space on the roof of the third level, moving the density of the building to the center of the block and away from residential uses to the north and south. Finally, the building reaches its maximum height at the midblock, adjacent to the 457-foot tall, window-less telecommunications switching tower. This design brings light and air to all apartments within the building, as well as the 39-story Clinton Tower building one block to the north and the seven- and eleven-story buildings to the south.

The Commission believes the request to waive the height and setback encroachments result in better site plan and 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 occupant of the general large-scale development, the neighborhood and the City as a whole.

Special Permit Pursuant to Section 74-744 (C 080011 ZSM)

The Commission believes that the waiver to permit a commercial use and a residential use on the same floor and the waiver to modify signage regulations in a General Large Scale Development are appropriate.

The Commission notes that, because of its location, the sign regulations of a C1 district apply to the site. The Commission believes, however, that the proposed signs, which would normally be permitted in the C6-3X district, are appropriate at this location since they would be related to the proposed auto dealership in the building and would not have an adverse effect on the development and the surrounding area. The Commission notes that the area already includes

similar uses with similar signs. The Commission further notes that the restrictive declaration requires the applicant to comply with the C1 sign regulations if more than two storefronts would occupy the Eleventh Avenue and 54th Street frontages.

In conclusion, the Commission believes the requested actions, as modified herein, would facilitate the development of a building with a unique program and unique design that responds to the predominant uses and predominant building forms in the surrounding neighborhood.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on March 6, 2009, with respect to this application (CEQR No. 07DCP071M), together with the Technical Memorandum, dated March 17, 2009, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act & regulations, have been met and that:

1. Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action is approved is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent possible by incorporating as conditions to the approval, pursuant to a Restrictive Declaration, dated March 18, 2009.

The report of the City Planning Commission, together with the FEIS, constitutes 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 be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 201 of the New York City Charter and proposed for modification pursuant to Section 2-06(c)(1) of the Uniform Land Use Review Procedure, that based on the environmental determination, an application submitted by 536 W 54th LLC A, 536 W 54th LLC B and 536 W 54th Street LLC C pursuant to

Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8c changing from an M1-5 District to a C6-3X District property bounded by West 54th Street, a line 470 feet easterly of Eleventh Avenue, West 53rd Street and Eleventh Avenue, as shown on a diagram (for illustrative purposes only) dated October 27, 2008, Borough of Manhattan, Community District 4, is approved.

The above resolution (C 080008 ZMM), duly adopted by the City Planning Commission on March 18, 2009 (Calendar No. 10), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair
KENNETH J. KNUCKLES, Esq., Vice Chairman
ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E.,
ANGELA R. CAVALUZZI, AIA, ALFRED C. CERULLO, III, BETTY Y. CHEN,
RICHARD W. EADDY, NATHAN LEVENTHAL, SHIRLEY A. McRAE,
JOHN MEROLO, KAREN A. PHILLIPS, Commissioners