



CITY PLANNING COMMISSION

March 10, 2008/Calendar No. 4

N 080100(A) ZRM

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 7 (Special 125th Street District), establishing a special district in the Borough of Manhattan, Community Districts 9, 10 and 11, and modifying related regulations.

The original application for an amendment of the Zoning Resolution was filed by the Department of City Planning on September 26, 2007. The requested action, in conjunction with the related zoning map amendment, would facilitate the establishment of the Special 125th Street District. On December 17, 2007, pursuant to Section 2-06(c) (1) of the ULURP rules, the Department filed a modified application (N 080100(A) ZRM), for public hearing and consideration by the City Planning Commission. The modified application, N 080100(A) ZRM, is the subject of this report.

RELATED ACTION

In addition to the proposed amendment to the Zoning Resolution, which is the subject of this report (N 080100(A) ZRM), implementation of the proposal also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

C 080099(A) ZMM: Amendment to the Zoning Map, Section Nos. 5c, 6a and 6b, to rezone C4-4, C4-4A, C4-5, M1-2, R7-2/C1-4 and R7-2 districts to C6-3, C4-4D, C4-4A, R7A, R7-2/C2-4 and R6A, within the proposed Special 125th Street District.

BACKGROUND

The Department of City Planning is proposing a comprehensive zoning strategy for the 125th Street corridor. The requested actions include zoning map and text amendments that would affect 24 blocks in East, Central and West Harlem, within an area generally bounded by 124th Street,

126th Street, Broadway and Second Avenue. The proposed changes are part of a city initiative to support the ongoing revitalization of 125th Street, Harlem's Main Street

Central to the proposal is establishing a new Special District - the Special 125th Street District. The Special District would allow a wide range of retail, arts, entertainment and cultural uses to further establish the 125th Street Corridor as a regional business district. Moreover, the proposed Special District would include fine-tuned building form controls to respond to the specific scale and character of the corridor, and would support future job creation and career opportunities.

Modified Zoning Text and Map Amendment Applications

On December 17, 2007, the Department filed land use applications to modify the proposed action. The modified applications (C 080099(A) ZMM, N 080100(A) ZRM) include the Arts Bonus Alternative and C4-4D Alternative, which were fully analyzed in the Draft Environmental Impact Statement (DEIS). The "Expanded Arts Bonus" analyzed in the Final Environmental Impact Statement (FEIS) addresses the combined impact of these two alternatives.

Guiding Principles

A key principle of the rezoning proposal for 125th Street is the creation of a balanced rezoning approach that includes opportunities to catalyze future development, while preserving those areas with a strong, definable built context. The proposal recognizes the built context of 124th and 126th streets, which are predominantly residential in character and clearly distinct from 125th Street and proposes compatible zoning districts accordingly.

The Department's rezoning strategy balances encouraging growth with promoting preservation within select areas of the corridor. Through zoning text and zoning map amendments the Department's proposal would:

Support and enhance the economic revitalization of 125th Street and neighboring blocks

125th Street, alternatively known as Dr. Martin Luther King Jr. Boulevard, is Harlem's Main Street. However, through the 1960- 80's period, 125th Street experienced an erosion of its function as a major retail corridor, resulting from population and housing decline, a lack of available public funding for new development, and general private disinvestment. In recent years, 125th Street has experienced renewed development and private investment, such as that typified by the Harlem USA retail complex, the Hotel Trades Association building, Harlem Center and Pathmark. Significant projects undergoing their planning stages include the proposed redevelopment of the Victoria Theater, Columbia University's proposed campus plan for Manhattanville, to the western end of 125th Street, and the East 125th Street Development Project (formerly Uptown New York), a new mixed-use project to be located on portions of three blocks generally bounded by 125th and 127th streets, Second and Third avenues, at the eastern end of 125th Street. Neighboring blocks have also seen new residential and commercial development, with residential primarily under various HPD programs.

The Department's rezoning proposal complements the city's ongoing capital investment and renewed private investment in the area. The proposal includes zoning changes that would positively bolster new development activity and reinforce 125th Street as a major mixed-use corridor and as a local and regional destination for arts, entertainment and retail.

Promote building forms that are compatible with existing neighborhood character

Along most of 125th Street, mid-blocks and intersecting avenue frontages, current zoning regulations allow tower-in-the park development that is inconsistent with the surrounding context of buildings at or near the street line. Portions of the corridor within the rezoning area are characterized by four to five-story row houses with street walls generally built to the street line; prominent examples of these areas include portions of 124th and 126th streets between Malcolm X Boulevard/Lenox Avenue and Park Avenue, and along portions of 125th Street between Fifth and Madison Avenues.

To address these issues, the Department is proposing zoning districts to catalyze development and to ensure that future building forms are compatible with the surrounding neighborhood's built character. The proposed changes to the existing zoning regulations include bulk controls that will require all new development to be built at the street line, then set back above a maximum base height to reduce their visual impact from the street level. Height limits would be introduced, to ensure that the massing and scale of new development responds to the particular characteristics of the different areas within the corridor.

Foster new opportunities for mixed-use development

Neighboring blocks, located north and south of 125th Street, comprise a growing neighborhood that is undergoing significant redevelopment. Residential development is critical and valuable to the long term vitality of a mixed-use district; however, no new housing has been built along 125th Street in recent years. New mixed-use development that includes housing in the 125th Street corridor would generally contribute to the vitality to the corridor by increasing the residential population. To encourage new mixed-use development, including commercial, arts and residential uses, the Department proposes increased densities in appropriate locations, with an inclusionary zoning bonus to expand and enhance the opportunities for income-targeted, affordable housing development, and an arts bonus to incentivize the development of new arts venues.

INTERAGENCY PARTICPATION AND PUBLIC OUTREACH

In response to recent and anticipated development in Harlem, and most specifically along 125th Street, the Department, in partnership with the Economic Development Corporation (EDC), the Department of Housing Preservation and Development (HPD), the Department of Cultural Affairs, the Department of Small Business Services, the Department of Transportation (DOT) and other City agencies, has undertaken a comprehensive study of the 125th Street corridor. The purpose of this study is to propose a strategic planning and development framework for 125th

Street to promote commercial and arts/entertainment development that would attract visitors to the corridor. The proposed plan also includes strategies to provide streetscape improvements and to develop affordable housing within the corridor. To achieve the overall planning objective, the Department has convened an interagency working group with the aforementioned agencies, and a community-based Advisory Committee comprising more than 100 Harlem business and local civic representatives, community board members and elected officials.

At the local level, community participation and consensus building has played a vital role in determining the strategy for 125th Street. The rezoning plan includes input received from 12 community-based public meetings held from 2003 to 2007. Local community organizations like the Upper Manhattan Empowerment Zone, the 125th Business Improvement District and Harlem Chamber of Commerce, as major stakeholders, have and continue to play a pivotal role in this process.

EXISTING LAND USE AND CONTEXT

125th Street connects three neighborhoods: East, Central and West Harlem. The corridor has a diverse mix of residential, commercial, and institutional uses. Portions of the corridor have occupied residential buildings. Examples of recent development include a Pathmark supermarket, Gotham Plaza and Gateway Plaza, located at Lexington Avenue and 125th Street; the Hotel Trades Association building and Harlem USA, located at Morningside Avenue and Frederick Douglass Boulevard, respectively.

The predominant land use is commercial, accounting for the largest number of lots and for close to 35 percent of the land area within the rezoning area. Residential use is the second largest land use accounting for almost 30 percent of the land area. Mixed-use buildings with both commercial and residential land uses are the third largest land use but account only for 10 percent of the land area within the rezoning area. The largest non-commercial or residential land use is comprised of public facility and institutions accounting for more than 12 percent of the land area. Vacant land

or buildings account for close to 6 percent of the land area followed by parking facilities, industrial and manufacturing buildings and open space.

The built character of the 125th Street corridor presents a wide variety of buildings with a wide range of heights. Within the corridor, the existing density is predominantly low and medium density. Approximately 36 percent of the lots within the rezoning area have a built FAR equal or lower than 2.0. Approximately 48 percent have a built FAR between 2.0 and 6.0; 2.7 percent of the lots in the rezoning area have a built FAR above 6.0.

125th Street

Although 125th Street changes as one walks along it, most buildings throughout the corridor are built to the street line providing a consistent street wall of varying height. Along 125th Street, between Broadway and St. Nicholas Avenue, the corridor has low-scale, mixed residential/commercial buildings, interspersed with community facility uses. The south side of 125th Street is anchored by the Grant Houses, a Housing Authority development with buildings that rise 21 stories. Between St. Nicholas and Fifth Avenues, 125th Street is anchored by prominent cultural venues such as the Apollo Theater and the Studio Museum in Harlem. 125th Street also is dotted with a series of tall structures including the Harlem State Office Building, at West 125th Street and Adam Clayton Powell Jr. Boulevard (20 stories), the landmarked Theresa Towers, at Adam Clayton Powell, Jr. Boulevard (13 stories) and 55 West 125th Street (15 stories). 125th Street also has the Harlem USA retail center, located at Frederick Douglass Boulevard, which has several national chain stores and businesses such as Old Navy, HMV Records, Commerce Bank and the Magic Johnson movie theater. There are also a large number of smaller buildings, the majority of which are between three and four stories in height. Moreover, one-story retail buildings are found on the south side of 125th Street between Malcolm X Boulevard/Lenox Avenue and Frederick Douglass Boulevard.

East of Fifth Avenue, 125th Street is predominantly low-scale. Five and six-story residential

buildings are found on 125th Street between Madison and Fifth Avenues. East of Madison Avenue, 125th Street has few residential buildings; the street is characterized by commercial buildings such as the Pathmark supermarket and Gotham Plaza, located at Lexington Avenue and community facility uses such as the Northern Manhattan Nursing Home and the Salvation Army Community Center, located at Third Avenue. The Metro-North commuter train station is located at Park Avenue.

East of Third Avenue, 125th Street is characterized by auto-related uses (i.e., gas station, muffler repair shop, open parking lots), interspersed with community facility and residential uses. Vacant property comprising the proposed East 125th Street Development Project is located within an area generally bounded by 125th and 127th Streets, and Second and Third Avenues, and also includes an approximately 10,000 square-foot vacant site located at the southeast corner of 125th Street and Third Avenue; however, this area is not within the proposed rezoning area.

124th and 126th Streets

Along 124th and 126th streets, the corridor is typified by low-scale residential buildings, interspersed with community facilities, parking lots and vacant lots. The New York School of Podiatric Medicine is located on West 124th Street between Madison and Park Avenues. Six-story loft buildings, which have been recently converted to residential use, are found along portions of 124th Street between Frederick Douglass and Adam Clayton Powell Jr. Boulevards. The Apollo Theater's "back of the house" and stage entrances are located on 126th Street, between Frederick Douglass and Adam Clayton Powell Jr Boulevards. One block east, the campus comprising the Harlem State Office Building and Harlem Center encompass the entire south side of West 126th Street between Adam Clayton Powell Jr. Boulevard and Malcolm X Boulevard/Lenox Avenue.

Clusters of brownstones are found along 124th and 126th Streets, between Malcolm X Boulevard/Lenox Avenue and Park Avenue. East of Park Avenue, 124th and 126th Streets have

parking lots and commercial uses interspersed with few residential uses, a community garden and vacant lots.

Intersecting Avenues

Along the corridor, the intersecting avenues are also typified by five and six-story residential buildings, commercial uses and community facilities. Fifth Avenue, between 124th and 126th Streets, is characterized by brownstones that provide a visual link to the Mount Morris Historic District, which abuts the corridor to the south. Community anchors found on key intersecting avenues in the corridor include: the Lenox Lounge (Malcolm X Boulevard/Lenox Avenue), Magic Johnson Theater and Hue-Man Bookstore (although located within Harlem USA, both businesses front on Frederick Douglass Boulevard); the Alhambra Ballroom and Theresa Towers (Adam Clayton Powell Jr. Boulevard) and National Black Theater (Fifth Avenue).

The MTA's Metro-North Railroad's Park Avenue viaduct crosses the corridor. The Metro-North station is located at 125th Street and Park Avenue and was reconstructed in 2001. In addition to commuter rail service, subway service is provided by the Lexington Avenue 4, 5 and 6 lines, at Lexington Avenue; the IND A, B, C and D lines at St. Nicholas Avenue; the IRT 2 and 3 lines at Lenox Avenue/Malcolm X Boulevard; and the IRT No. 1 line at Broadway. Cross town bus service is provided by several bus lines that traverse 125th Street, as well as other routes along the intersecting avenues. These routes provide connections to LaGuardia Airport, the Upper West Side, Central Harlem and the Bronx.

Surrounding Area

The surrounding area is predominantly residential in character, having a mix of three and four-story brownstones, high-rise public housing, community facilities and scattered vacant lots. Marcus Garvey Park, a 20-acre park, is located one block south of the rezoning area. The park is bounded by East 124th Street, East 120th Street, and Madison Avenue and Mount Morris Park West. Along West 124th Street, between Fifth Avenue and Mount Morris Park West, the

proposed rezoning area includes a portion of the Mount Morris Historic District, which is generally located between West 120th and 124th streets, directly west and south of the park. In addition to Theresa Towers, other designated landmarks include: the Apollo Theater, the Mount Morris Bank (also known as the Corn Exchange, located at Park Avenue and East 125th Street) and the Fire Station for Hook and Ladder Company 14/Engine Company 36, located on 125th Street between Park and Lexington Avenues.

Existing Zoning

The 125th Street corridor is primarily zoned for medium-density residential and commercial development, interspersed with low-density manufacturing and high-density commercial districts.

The rezoning area includes existing, C4-4, C4-4A, C4-5, and C4-7 districts. C4 districts are mapped in regional commercial corridors and permit large retail uses such as department stores that serve more than the local neighborhood.

C4-7 high-density districts are generally mapped on the north side of 125th Street between Frederick Douglass Boulevard and a point 380 feet east of Malcolm X. Boulevard/Lenox Avenue, and at the southwest corner of 125th Street and Park Avenue. C4-7 districts allow commercial, residential and community facility uses up to 10 FAR. The maximum FAR can be increased to 12 FAR through the inclusionary zoning bonus available for residential development and through the provision of an urban plaza or arcade.

Most of the rezoning area lies within a C4-4 district, which allows commercial development up to 3.4 FAR, residential development up to 3.44 FAR and community facility uses up to 6.5 FAR. On wide streets within the rezoning area, residential buildings developed pursuant to the Quality Housing Program can have FARs up to 4.0. One off-street parking space per 1,000 square feet of commercial floor area for most retail uses is generally required; however parking requirements

can be waived if less than 40 parking spaces are required.

A C4-5 commercial district is mapped on the block bounded by Frederick Douglass Boulevard, St. Nicholas Avenue, West 125th and West 124th streets. C4-5 districts allow residential uses up to 3.44 FAR and community facility uses up to 6.5 FAR. Commercial uses are permitted up to 3.4 FAR. For commercial uses, no accessory parking is required.

The west side of Lexington Avenue between 125th and 126th Street is zoned C4-4A, a commercial district that allows residential, commercial and community facility uses up to 4.0 FAR. The C4-4A district is a contextual district and requires buildings to be built at or near the street line with a street wall between 40 and 65 feet and a maximum building height of 80 feet.

The proposed rezoning area also has R7-2 districts located on both sides of 125th Street west of Amsterdam Avenue. R7-2 districts allow residential development up to 3.44 FAR (4.0 FAR with the Quality Housing option) and community facility uses up to 6.5 FAR. R7-2 districts can typically produce 14-16 story buildings with low lot coverage that are set back from the street.

The proposed rezoning area also has C1 and C2 commercial overlays mapped within the existing R7-2 district. C1 and C2 commercial overlays are mapped on streets within residential districts that serve the local retail needs of the surrounding residential neighborhood. Typical retail uses include grocery stores, restaurants and beauty parlors. C2 districts permit a slightly wider range of uses, such as funeral homes and repair services, than C1 districts.

Along the north side of 125th Street, C2-4 commercial overlays are mapped between Broadway and Old Broadway, and between Amsterdam and Morningside Avenues. A C2-2 commercial overlay is mapped between Old Broadway and Amsterdam Avenue. As local service districts, C2-2 and C2-4 districts allow commercial uses up to 2.0 FAR; however, in mixed residential/ and or community facility and commercial buildings, commercial uses are limited to the ground

floor. In C2-2 districts, one parking space per 200 square feet of commercial use is required; for C2-4 districts, one parking space per 1,000 square feet of commercial use is required. In C2-4 districts, parking may be waived if less than 40 spaces are required.

A C1-4 commercial overlay is mapped at the south east corner of Broadway and 125th Street. As local retail districts, C1-4 districts also allow commercial uses up to 2.0 FAR; however, in mixed residential/ and or community facility and commercial buildings, commercial uses are limited to the ground floor. In C1-4 districts, one parking space per 1,000 square feet of commercial use is required; however, parking may be waived if less than 40 spaces are required.

Low density M1-2 districts are mapped along portions of East 126th Street between Park and Third Avenues, and along Park Avenue north of East 125th Street. M1-2 districts allow light manufacturing and commercial uses up to 2.0 FAR and certain community facility uses up to 4.8 FAR.

The existing Special Transit Land Use (TA) District is mapped along portions of East 125th Street and Second Avenue. The Special TA District is mapped in the vicinity of the Second Avenue subway to assure that when required by New York City Transit and the City Planning Commission, easements are provided in new developments for public access to the subway or subway related uses.

PROPOSED ACTIONS

The Department is proposing the following actions

- **Zoning Text Amendment (N 080100(A) ZRM)** to establish the Special 125th Street District
- **Zoning Map Amendments (C 080099(A) ZMM)** to map the Special 125th Street District and rezone the corridor.

Special 125th Street District

The rezoning proposal includes a zoning text amendment that would create a new special district: the Special 125th Street District. The Special District boundaries coincide with the rezoning area boundaries, which is generally bounded by 124th and 126th streets, Broadway and Second Avenue.

The proposed Special District would contain the “Core Subdistrict.” The subdistrict would generally include both sides of 125th Street between Frederick Douglass Boulevard and 545 feet east of Malcolm X Boulevard/Lenox Avenue. Prominent arts institutions like the Apollo Theater and the Studio Museum in Harlem are located within this section of 125th Street. The subdistrict would, among other things, contain special regulations to encourage arts and entertainment uses.

The proposed Special District would include bulk controls to achieve the following land use and design objectives:

- Maintaining a consistent street wall that frames 125th Street through the base of new buildings at heights consistent with the existing context.
- Ensure ground floor retail continuity and transparency to improve the pedestrian experience along 125th Street, and
- Establish height limits for new developments within the corridor
- Provide incentives for affordable housing.

The regulations of the proposed Special District would supersede and/or modify bulk regulations of the underlying C4-4D, C6-3 and C4-7 districts that would be mapped within the proposed rezoning area.

The proposed Special District would modify use requirements to ensure that active uses such as retail, arts and entertainment have sufficient frontage on 125th Street at the ground floor level; it would also include building frontage and ground floor location restrictions for certain uses such as banks, offices and hotels. The proposed Special District would also modify signage and parking regulations.

Proposed Zoning Districts

•**C6-3**, proposed for three areas generally bounded by the south side of 125th Street, between Frederick Douglass Boulevard and a point 545 feet east of Malcolm X Boulevard/Lenox Avenue; the east side of Park Avenue between East 124th and East 126th Streets, and the west side of Park Avenue between East 125th and East 126th Streets. C6 districts permit a wide range of high-bulk commercial uses requiring a central location well-served by mass transit, such as corporate headquarters, hotels and entertainment facilities. C6 districts also allow residential and community facility uses. Within the proposed Special District, the proposed C6-3 district would allow commercial and community facility uses up to 6.0 FAR and permit residential uses up to 6.0 FAR (bonusable to 8.0 FAR through inclusionary housing). The regulations of the Special District require the building to be constructed at the street line with a street wall between 60 and 85 feet, then with a 15-foot setback. Above a height of 85 feet the horizontal dimension of the building (also referred to as the slab width) is limited to 150 feet in width. The maximum building height is limited to 160 feet.

•**C4-7**, an existing high-density zoning district, located on the north side of 125th Street, between Frederick Douglass Boulevard and a point 380 feet east of Malcolm X Boulevard/Lenox Avenue, and the southwest corner of 125th Street and Park Avenue. Within the proposed Core Subdistrict, the existing C4-7 district boundary would be extended from a point 380 feet east to a point 545 feet east of Malcolm X. Boulevard/Lenox Avenue. Within the Special District, the C4-7 district would have bulk regulations to limit the height of new buildings, while still providing sufficient flexibility for commercial and mixed-use build programs. The C4-7 district would permit

commercial and community facility uses up to 10.0 FAR and residential uses up to 9.0 FAR (bonusable to 12 FAR through inclusionary housing). The street wall could rise 60 to 85 feet, with a maximum building height of 290 feet. Portions of a building within 50 feet of 126th Street between Adam Clayton Powell Jr. Boulevard and Malcolm X Boulevard/Lenox Avenue would have a maximum height of 80 feet.

•**C4-4D**, proposed for three areas generally bounded by Park and Second Avenues, 124th and 126th streets; Frederick Douglass Boulevard and Morningside Avenue between 124th and 126th streets, and along portions of 124th Street between Frederick Douglass Boulevard and Malcolm X Boulevard/Lenox Avenue. Within the proposed Special District, the proposed C4-4D is a contextual district that would limit the height of new buildings and would create opportunities for new housing, including affordable housing. The existing zoning within these areas is C4-4, C4-5, C4-4A and M1-2. The proposed C4-4D district would permit commercial uses up to 5.4 FAR, community facility uses up to 6.0 FAR and residential uses up to 5.4 FAR (bonusable to 7.2 FAR through inclusionary housing). The street wall could rise 60 to 85 feet, with a maximum building height of 120 feet.

•**C4-4A**, to be mapped on portions of 125th Street generally between Fifth and Park Avenues, along portions of 126th Street between Frederick Douglass and Adam Clayton Powell Jr. boulevard, and between Malcolm X Boulevard/Lenox Avenue and Fifth Avenue, and along portions of 124th Street between Malcolm X Boulevard/Lenox Avenue and Madison Avenue. The existing zoning within these areas is C4-4 and R7-2. Within the proposed Special District, the proposed C4-4A district is a contextual zoning district and would permit residential, commercial and community facility uses up to 4.0 FAR. The street wall could rise 40 to 65 feet, with a maximum building height of 80 feet.

•**R7A**, to be mapped on the north side of 125th Street between Morningside Avenue and Broadway. The existing zoning within this area is R7-2. Within the proposed Special District, the

proposed R7A district is a contextual zoning district that would permit residential and community facility uses up to 4.0 FAR. The street wall could rise 40 to 65 feet, with a maximum building height of 80 feet.

•**C2-4**, a commercial overlay to be established within the proposed R7A district to be mapped on the north side of 125th Street between Amsterdam and Morningside Avenues. A C2-4 commercial overlay would also be established within an existing R7-2 district located on the south side of 125th Street between Broadway and a point 340 feet east of Broadway, to include non-conforming commercial uses located here. C2-4 districts allow local retail and service uses up to 2.0 FAR.

•**R6A**, for portions of 124th and 126th streets between Malcolm X Boulevard/Lenox Avenue and Park Avenue. The existing zoning within these areas is C4-4. Within the proposed Special District, the proposed R6A district is a contextual district that would allow residential and community facility uses up to 3.0 FAR. The street wall could rise 40 to 60 feet, with a maximum building height of 70 feet.

Split Lot Provisions

Some blocks within the Core Subdistrict of the Special District contain through-lots that front both on 126th and 124th streets. The proposed zoning would split these through-lots into two different zoning districts. In order to provide development flexibility on these split lots without compromising the urban design goals of the proposal, the proposed Special District includes a provision to allow developments on such lots to transfer floor area across zoning district boundaries. Such developments would still be required to comply with the bulk requirements applicable of each of the zoning districts.

Bulk Regulations for New Developments within the Special Transit Land Use (TA) District

The proposed Special 125th Street District would overlap with the Special TA District which is

mapped along portions of East 125th Street and Second Avenue. The proposed regulations would allow new developments within the Special 125th Street District, that are also located within the Special TA District, to modify the street wall requirements for those portions of the new development located directly above the proposed tunnel for the Second Avenue Subway. Such portions of the new development would be required to provide a minimum street wall with a height of at least 15 feet or one story, in lieu of the minimum street wall required by the Special 125th Street District.

Inclusionary Housing Program

As part of the City's ongoing effort to broaden and provide new housing opportunities in Harlem the proposed 125th Street Corridor Rezoning includes an inclusionary housing bonus. The inclusionary housing bonus, which can be applied in areas being rezoned to allow medium- and high-density residential development, combines a zoning floor area bonus with a variety of housing subsidy programs to create powerful incentives for the development and preservation of affordable housing.

The proposed zoning text would make the Inclusionary Housing Program (IHP) zoning regulations applicable in C6-3, C4-7 and C4-4D districts. In the areas where IHP would be applicable, new residential developments that provide on- or off- site housing that will remain permanently affordable for low- and moderate-income families would receive increased floor area. The additional floor area must be accommodated within the bulk regulations of the underlying zoning districts. Affordable units could be financed through city, state, and federal affordable housing subsidy programs.

The affordable housing requirement of the Inclusionary Housing zoning bonus could be met through the development of affordable units on-site, or off-site either through new construction or preservation of existing affordable units. Off-site affordable units must be located within the same community district, within a half-mile of the bonused development or anywhere within the

Special 125th Street District. The availability of on-site and off-site options provides maximum flexibility to ensure the broadest possible utilization of the program under various market conditions.

Special Use Regulations

The regulations of the proposed Special District would modify and/or supersede the use regulations of the underlying zoning by regulating uses located at the ground floor level in new developments or enlargements on 125th Street. The proposed Special District would allow those uses that promote a vibrant pedestrian environment to locate at ground floor level while limiting the ground floor location and frontage on 125th Street of uses that do not contribute to this goal.

Uses locating on the ground floor on 125th Street would be limited to “active” uses that include retail, and arts and entertainment-related uses. Such uses would be required to be located along the majority of the 125th Street frontage of any new development or enlargement.

Within the Core Subdistrict, banks, hotels, offices and residential uses would only be permitted entrances and lobbies on 125th Street. Such uses would be allowed to locate above the ground floor and would be allowed to have a limited ground floor frontage of 25 feet on 125th Street for the purpose of access through entrances and lobbies. For buildings with frontages of 200 feet or more, 40-foot wide lobbies would be allowed.

Arts and Entertainment Use Requirement

Within the Core Subdistrict, new developments with 60,000 square feet of floor area or more would be required to have five percent of their total floor area reserved for and developed with qualifying arts and entertainment uses as listed below. Such arts and entertainment uses could be located anywhere within the new development but would be required to be accessible from 125th Street. Such uses include:

- Art galleries
- Auditoriums
- Bookstores
- Bowling alleys
- Clubs, commercial
- Dance clubs, public
- Eating or drinking establishments, with table service only
- Historical exhibits
- Museums
- Performance spaces
- Rehearsal spaces
- Music or record stores
- Studios, art, music, dancing or theatrical
- Studios, radio, television or motion picture
- Theaters

Signage Regulations

In order to allow distinctive signage that would complement and support future arts and entertainment development in the corridor, the Special District includes sign regulations within the Core Subdistrict to allow marquees for museums, performance spaces and theaters. The marquees may be illuminated; however, flashing signs would not be permitted. Additionally, the marquee would be permitted only above the primary entrance to museums, performance spaces and theaters that front on 125th Street. The marquee would have to be between three and five feet in height and could project over the sidewalk no more than 15 feet from the lot line could not be less than two feet from the curb line.

Curb Cut and Parking Regulations

In order to achieve this goal of creating a vibrant pedestrian environment within the 125th Street corridor and providing adequate parking, the Special District includes special regulations for curb cuts and parking

Curb Cut Regulations

The Special District would not allow as-of-right curb cuts on 125th Street or on any other wide

street that intersects with 125th Street.

For access to an accessory residential parking facility or loading berth that is required but not allowed by the curb cut restrictions a curb cut may be allowed through a certification by the City Planning Commission that the curb cut location is the only possible location, the curb cut is not hazardous to traffic safety, the curb cut is located not less than 50 feet from the intersection of any two streets and that the curb cut is constructed and maintained so as to have the minimal effect on the streetscape.

For access to permitted parking facility or loading berth the City Planning Commission may authorize a curb cut not allowed as-of-right for access to a parking facility provided that such curb cut will not create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement, and that it will not interfere with the efficient functioning of public transit facilities. The City Planning Commission may authorize a curb cut not allowed as-of-right for access to a loading berth provided that such loading berth is adjacent to a fully enclosed maneuvering area on the zoning lot, such maneuvering area is at least equal in size to the area of the loading berth, and there is adequate space to allow head-in and head-out movements to and from the zoning lot. If granted such curb cuts would be limited to a maximum width of 20 feet.

Commercial Parking Requirements

The proposed Special District would eliminate the commercial parking requirement in C4-4D districts making it consistent with the other medium and high density commercial districts within the Special District where commercial parking is not required.

Residential Parking Requirements

The Special District would require accessory off-street parking spaces subject to the requirements of the underlying zoning districts. Such required accessory parking could be provided in an off-site parking facility located within 1,200 feet from the development requiring

the parking and within a commercial district.

Public Parking

To address future public parking needs, the proposed Special District includes provisions to allow public parking garages up to 150 spaces as-of-right within all commercial districts within the Special District. However, public parking garages would be subject to the Special District's curb cut regulations. In addition, public parking lots would not be permitted on zoning lots with frontage on 125th Street.

Access through R6A District

In order to maximize the opportunities to provide access for parking and/or loading from a side street and to protect the pedestrian character of 125th Street, the Special District would allow the use of lots that are vacant on the effective date of the text amendment, zoned R6A, and adjacent to a commercial district, to be used for access to parking or loading births for uses located in the adjacent commercial district.

Modified Zoning Text Amendment – N 080100(A) ZRM

The modified zoning text amendment includes an Arts Bonus as a provision of the Special District. The Arts Bonus provides zoning incentives for the creation of nonprofit visual or performing arts spaces within new development by making available a floor area bonus in exchange for the creation of such space. The bonus would be applicable in C4-7, C6-3 and C4-4D districts within the Special District.

The arts bonus mechanism would allow four square feet of bonused floor area for every one square foot of floor area provided for unfinished (i.e., “core and shell”) visual or performing arts space within the bonused development, up to the maximum permitted FAR in C4-7, C6-3 and C4-4D districts.

The space for visual and performing arts provided through the Arts Bonus would be required to be occupied by qualifying uses. These qualifying uses would be required to be not-for-profit uses and would be limited to:

- Art galleries
- Historical exhibits
- Museums
- Theaters
- Performance venues

A minimum of 60 percent of the total floor area of the visual or performing arts space would be required to be occupied by a qualifying primary use. Accessory educational, rehearsal or administrative office uses in such bonused space would be limited to a maximum of 25 percent of the total floor area of the visual or performing arts space. Other space such as dressing rooms, lobbies, ticket offices, rest rooms and circulation space would also be limited to a maximum of 25 percent of the total floor area of the visual or performing arts space.

Developments within the Core Subdistrict utilizing the Arts Bonus and providing a visual or performing arts space equivalent to at least five percent of the total floor area of the development would be exempt from complying with the arts and entertainment use requirement for 125th Street.

In order to ensure that the visual or performing arts space provided through the Arts Bonus would be accessible to the public, such space would be required to have a regularly scheduled programs open to the public and would be required to be accessible from 125th Street. Signage identifying the visual or performing arts space on 125th Street would also be required.

In order to ensure continued occupancy of such space for visual or performing arts, the Special District text includes requirements such as written commitments to the operation of the arts or

performance space, submission of plans for visual or performing arts spaces identifying adequate physical and fiscal resources, and for a joint certification by the Chair of the City Planning Commission and the Department of Cultural Affairs. Certification would require that:

:

- Drawings are supplied to the Department of City Planning that indicate the floor area for which the bonus is received, clearly identifying the proposed visual or performing arts space and how it will be used. Also, the drawings must show that the bonused floor area is accessible from 125th Street and that there is a sign at the 125th Street entrance that identifies the venue and its primary use.
- The Department of Cultural Affairs certifies that a signed lease has been provided from the prospective operator, for not less than five years; that the operator is non-profit; that the operator has the fiscal and managerial capacity to operate the space; that the preliminary design plans include sufficient detail to ensure that the space will operate for its intended use, and that there is a written commitment that there are financial resources to complete the scope of work.
- There is a legal commitment for inspection every five years; a legal commitment to continue use as an arts space, and if there is a change of operator, the owner will obtain a new letter certifying that the new operator will also meet these commitments. Such commitments shall be in the form of a restrictive declaration, binding on the owner and successors. The filing of the declaration is a precondition for any building permit. No Temporary Certificate of Occupancy will be allowed until the Commissioner of the Department of Cultural Affairs has certified that the space is substantially complete, and no final Certificate of Occupancy will be allowed until the space is fully completed.

Modified Zoning Map Amendment – C 080099(A) ZMM

The modified zoning map amendment includes a C4-4D zoning district that replaces a proposed

C4-4A zoning district in Community District 11, on 125th Street between Madison Avenue and a point 90 feet west of Park Avenue on the north side of 125th Street and a point 215 feet west of Park Avenue on the south side of 125th Street. The proposed C4-4D zoning district would expand opportunities for affordable housing and facilitate the creation of nonprofit visual and performing arts spaces through the Arts Bonus. Community Board 11 requested this increase in density, which was analyzed as an alternative (i.e., C4-4D Alternative) in the DEIS, and further analyzed in the Expanded Arts Bonus in the FEIS.

ENVIRONMENTAL REVIEW

The original applications (C 080099 ZMM, N 080100 ZRM), in conjunction with the modified applications (C 080099(A) ZMM, N 080100(A) ZRM), were 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 07DCP030M. The lead agency is the City Planning Commission (CPC).

It was determined that the proposed actions may have a significant effect on the environment. A Positive Declaration was issued on December 13, 2006, and distributed, published and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on December 13, 2006. A public scoping meeting was held on the DEIS on January 17, 2007. A Final Scope of Work, reflecting the comments made during the scoping, was issued on August 31, 2007.

The applicant prepared a DEIS and a Notice of Completion for the DEIS was issued on September 28, 2007. On January 30, 2008, 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 February 29, 2008. The FEIS identified significant adverse impacts and proposed mitigation measures that are summarized in the Executive Summary of the FEIS attached as Exhibit A hereto.

The FEIS included the Expanded Arts Bonus Alternative, which reflects the modified ULURP applications (C 080099(A) ZMM, N 080100(A) ZRM) that were submitted subsequent to the issuance of the DEIS. On March 10, 2008, subsequent to the issuance of the FEIS, a Technical Memorandum was completed which addresses the potential impacts of further modifications by the CPC to the modified applications (C 080099(A) ZMM, N 080100(A) ZRM), which are discussed later in this report.

PUBLIC REVIEW

On October 1, 2007, the original application (N 080100 ZRM) was duly referred to Community Boards 9, 10 and 11, the Borough Board and the Borough President for information and review in accordance with the procedures for non-ULURP matters. The related application (C 080099 ZMM) was certified as complete by the Department of City Planning on October 1, 2007, and was duly referred to Community Boards 9, 10 and 11, the Borough Board and the Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

On December 17, 2007, the modified applications (C 080099(A) ZMM, N 080100(A) ZRM) were referred to Community Boards 9, 10 and 11, the Borough Board and Borough President pursuant to Section 2-06(c)(1) of the Uniform Land Use Review Procedure.

Community Board Review

Community Board 9 held a public hearing on the original applications (C 080099 ZMM, N 080100 ZRM) on December 5, 2007, and on that date, by a vote of 19 in favor, 3 opposed and 5

abstaining, adopted a resolution recommending approval of this application with conditions. The Community Board's resolution stated:

WHEREAS the Community Board expects that the current proposed plan for a C4-4D, R7A and R7-2 (with C2-4 commercial overlays) districts along 125th Street from Broadway to Morningside Ave. will not allow for sufficient commercial space, and;

WHEREAS, the city's proposed R7-2 and R7-A zoning designations were meant to protect existing residents, but unduly restricted commercial development; and

WHEREAS Community Board 9 supports the development of affordable housing onsite that is targeted and periodically adjusted to the income levels of Community Board 9 under the following guidelines:

- 20% at 60% or less than AMI
- 40% at 60-100.10 AMI
- 40% at 100-120% AMI

WHEREAS Community Board 9 has sought to preserve light manufacturing in West Harlem in accordance with its 197-a plan and recommendations, and;

WHEREAS Community Board 9 voted unanimously to support a mix of businesses coupled with arts, culture and creative services as defined by the Standard Industrial Categories (SIC) in the New Amsterdam Special District and;

WHEREAS the benefits of the 125th Street Special District applies primarily to the Core Sub district that is contained in Community Board 10, therefore;

BE IT RESOLVED that the ULURP Committee recommends to the full board of Community Board 9 to vote to support the Department of City Planning's Land Use Review Application for the 125th Street Corridor Rezoning (Application #N080100 ZRM); if the following conditions are met: -

(1)The Department of City Planning expand its current rezoning plan and amend the Draft Environmental Impact Statement to include the "New Amsterdam Special District", which will cover the area from the south side of 126th Street to 130th Street between Amsterdam and Morningside/Convent Aves, and be zoned C6-3 (with a Base of 4 FAR and 4 FAR Bonus for Inclusionary Housing or Arts/Cultural uses, totaling a Max of 8 FAR), with height limitations of 160ft. and

(2) The rezoning plan for both sides of 125th Street from St. Nicholas to Broadway be

changed to a C6-2A designation (with a Base of 4 FAR, and 3.2 FAR Bonus for Inclusionary Housing or Arts/Cultural uses, totaling a Max of 7.2 FAR), with a height limitation of 120ft instead of the current C4-4D, R7A and R7-2 (with C2-4 commercial overlays) designations,

(3) The proposed Arts and Culture bonus be extended to cover the area of the rezoning west of Convent Ave./Morningside Ave, to Broadway in order that the entire 125th Street corridor serve as an arts and culture district;

(4) The Arts and Culture bonus give indigenous qualifying businesses and individuals an incentive to own property;

(5) Due to the increase in development potential brought on by the proposed C6-2A and C6-3 designations, anti-harassment and cure provisions be instituted within the Special 125th Street District that are modeled on Article IX: Special Purpose Districts, Chapter 6: Special Clinton District, Section 96-110 in order to ensure that while attracting new development to Community Board 9, safeguards will be in place to prevent displacement of long-time residents.

(6) All housing developed in the proposed 125th Street Special District as recommended by Community Board 9 be affordable housing onsite and only within the site of rezoning that is targeted to the income levels of CB9, as periodically adjusted, according to the following guidelines:

- 20% at 60% or less than AMI
- 40% at 60-100% AMI
- 40% at 100-120% AMI

(7) Consistent streetscape design for the entire 125th Street corridor (i.e., lighting, benches, trash receptacles) to visually unify the districts affected;

(8) Consistent with Community Board 9's 197-a plan and recommendations, the rezoning application includes building code requirements that meet or exceeds Leadership in Energy and Environmental Design (LEED) Silver standard as specified by the U.S. Green Buildings Council (USGBC) as per the goals of the Mayor's PlaNYC 2030; and

(9) The proposed Arts & Entertainment Requirement be changed to a Local Business Requirement. Qualifying local businesses are defined as businesses indigenous to Community Boards 9, 10, or 11, or those registered as minority, woman, disabled or disadvantaged-owned businesses, and not members in a national chain.

(10) That the CB9M considers the preservation and Landmarking of buildings

identified in CB9M's 197-a Plan to be of prime importance and desire and that the complete transportation infrastructure serving 125 Street be further studied and the traffic congestion mitigated to insure the smooth development of the *125th* Street corridor.

Community Board 10 held a public hearing on the original applications (C 080099 ZMM, N 080100 ZRM) on December 5, 2007, and on that date, by a vote of 31 in favor, 0 opposed and 0 abstaining, adopted a resolution recommending disapproval of this application with conditions.

The Community Board's resolution stated:

WHEREAS Community Board 10, in its outreach in Central Harlem to residents and local businesses, has consistently received feedback that along 125th Street commercial development should outweigh residential and community facilities development in order to generate the greatest number of jobs for local residents as well as preserve long standing local businesses; and

WHEREAS, Community Board 10 understands that a major upzoning would generate a windfall profit to current property owners and developers that is essentially granted by the public, through the actions of the City of New York, and that the economic benefits of additional zoning density allowed by the Proposed Action ought to be shared equitably among stakeholders, including fair compensation to the local residents for the anticipated environmental impacts of such Rezoning; and

WHEREAS, Community Board 10 prepared a detailed response to the Draft Scope of Work for the Environmental Impact Statement for the Rezoning, which was sent to City Planning on February 20, 2007, and those concerns have not been adequately addressed, particularly with respect to how the economic benefits of the Rezoning would be shared with the community;¹ and

WHEREAS, City Planning has failed to adequately respond to the request made in Community Board 10's Response to the Draft Scope of Work (Our Main Street) that the Rezoning preserve 125th Street as Harlem's main commercial corridor;² and

¹ **"OUR MAIN STREET"** Manhattan Community Board 10's Response to the 125th Street River to River Draft Environmental Impact Study, page 2

² **"OUR MAIN STREET"** Manhattan Community Board 10's Response to the 125th Street River to River Draft Environmental Impact Study, page 3. Similar positions of preserving 125th as a commercial corridor were shared in

WHEREAS any proposed action for the Rezoning of 125th Street from River to River must include appropriate mitigation of all significant adverse environmental impacts of such action and Community Board 10 in its analysis believes that this requirement has not been met; and

WHEREAS, the Proposed Action would change the residential and demographic character of 125th Street and thereby have a material impact on future electoral results as of the 2,600 units³ projected to be developed, 80% would be market rate and 20% would be affordable to families earning up to \$56K, versus the current average income in Central Harlem of less than \$25K; and

WHEREAS Community Board 10 believes the Environmental Impact Statement on the Rezoning underestimates the potential indirect residential displacement in its conclusion that only “500 residents in 190 units in five census tracts that could be vulnerable to secondary displacement if rents rise as a result of the proposed action”;⁴ and

WHEREAS, the Environmental Impact Statements dismisses the risk of indirect residential displacement resulting from the Rezoning in 2,077 currently occupied units, with an estimated 5,400 residents, on the grounds that “it is likely that many of these units have turned over the higher income households since 2000 and no longer contain a population vulnerable to displacement”;⁵ and

WHEREAS, Community Board 10 disagrees with the conclusion of the Environment Impact Statement that the 71 businesses to be displaced as a result of the Rezoning “would not cause a significant adverse direct business displacement impact because the displaced businesses are not found to have substantial economic value to the City or region... and do not, individually or collectively, contribute substantially to neighborhood character”;⁶ and

WHEREAS, the Environmental Impact Statement inadequately addresses the adverse impact of the Proposed Action would have open spaces and in addition,

hundreds of petitions and letters sent around the same time to City Planning.

³ This change in residential units would occur by 2017 based on a Reasonable Worst Case Development Scenario (RWCDS) as defined in the Environmental Impact Statement.

⁴ Draft Environmental Impact Statement, Chapter 1, page 11.

⁵ Environmental Impact Statement, Chapter 3.2, page 26.

⁶ Draft Environmental Impact Statement, Chapter 1, page 11.

the proposed plan does not account for its potential significant adverse impact on the plan to develop the open space on the plaza of Adam Clayton Powell State Office building;⁷ and

WHEREAS, the Department of City Planning has inadequately addressed the significant adverse impact that Proposed Action would trigger of shadows created on numerous resources , but not limited to, the finding that proposed action could potentially cast shadows on 57 historic resources and 24 open space resources”;⁸ and

WHEREAS, the Department of City Planning has not taken or indicated that the relevant City Agencies will take timely action to mitigate significant adverse impacts to historic resources that would be at risk due to demolition and/or construction-related activity resulting from the Rezoning;⁹ and

WHEREAS, the proposed action would generate a significant adverse traffic impact at 11 approaches at 10 intersections during weekday AM peak hour, 13 approaches at 9 intersections during the weekday midday peak hour, 21 approaches at 17 intersections during the weekday PM peak hour and 24 approaches at 14 intersections during the Saturday midday peak hour; and

WHEREAS, the Environmental Impact Statement has proposed mitigations of adverse traffic impacts that are not acceptable to the community, including making 125th Street a “thru street”; and

WHEREAS, Community Board 10 is concerned with the possible health impacts of the construction activity related to the Rezoning and question the conclusion of the Environmental Impact Statement that a “full assessment of the *proposed action’s potential impact on public health is not necessary and that no significant adverse impacts are expected as a result of the proposed action.*”¹⁰; and

WHEREAS, Harlem already has one of the highest asthma rates in the country and this health crisis would be exacerbated by increased vehicular traffic and heavy construction resulting from the Proposed Action, coupled with the extensive construction-related activity anticipated River to River resulting from the proposed Columbia Expansion Plan on the westside to the City’s current

⁷ Draft Environmental Impact Statement, Chapter 1, pages 13-14.

⁸ Draft Environmental Impact Statement, Chapter 1, page 15.

⁹ Draft Environmental Impact Statement, Chapter 1, page 15.

¹⁰ Draft Environmental Impact Statement, Chapter 1, page 24.

Request For Proposal for the six acre site in East Harlem, as well as other developments already underway or in planning¹¹; and

WHEREAS, the Environmental Impact Statement failed to analyze the deficiencies in the “*quality*” of local schools and how they may be adversely impacted even more so by an increase in residential units as a result of the Proposed Action¹²; and

WHEREAS, Community Board 10 supports the idea of creating a special zoning district for arts and culture uses, limiting the size of ground floor space for certain business uses, such as banks as well as creating a uniform appearance for businesses along the corridor, with parameters for awnings, signage and the requirements for the use of see-through, roll down gates

THEREFORE BE IT RESOLVED THAT, Manhattan Community Board 10, DISAPPROVES the Proposed Action as outlined in the ULURP application given that it fails to meet the following CONDITIONS:

- A. PRESERVE 125TH STREET AS ONE OF AMERICA’S TOP 10 STREETS¹³**
- 125th Street must be protected as Harlem’s Main Street. Consequently, within the **Core District** on 125th Street, which CB10 hereby defines as extending from St. Nicholas on the west to Fifth Avenue on the east, there should be no residential upzoning. **Residential upzoning in the Core Subdistrict must be limited to 124th and 126th Streets.**
 - The building heights in the Core Subdistrict from St. Nicholas on the West to Fifth Avenue on the east should be capped at the height of the Hotel Theresa (excluding the “crown”), thereby preserving light and air quality on 125th Street as well as the historical landscape.
 - Improve the quality of the public environment with community input by planting trees along the sidewalks of 125th Street as well as addition of sidewalk furniture.

¹¹ Cumulative construction activity River to River be comparable to the re-development of the World Trade Center site (up to 11 million square feet): Columbia Expansion Plan as proposed (5 to 6 million square feet), East Harlem RFP (up to 2 million square feet), and Proposed Rezoning under Reasonable Worse Case Development Scenario (up to 4 million square feet).

¹² See Environmental Impact Statement, Chapter 3, pages 23-29.

¹³ Designation by the American Planning Association as of October 2007

B. THERE MUST BE REAL COMMUNITY BENEFITS

- **INCOME TARGETED HOUSING:** Recommend that the Inclusionary Housing Guidelines be rewritten in the 125th Street Special District as an Income Targeted Housing Bonus which requires that affordable units be provided with the following guidelines: (20% of units geared to up to 60% of the Area Median Income (“AMI” = \$70K, currently); 40% of units geared to 60 - 100% AMI; 40% of units geared to 100 - 120% AMI)
 - Require **that 100% of the additional Floor Area Ratio (“FAR”) be allocated under the Income Targeted Housing Bonus to income targeted units.**
 - Require that the income targeted units be provided on-site.
- **LOCAL BUSINESS REQUIREMENT:** CB10 advocates the creation of a Local Small Business Requirement for new developments of 60,000 square feet or greater, whereby no less than five percent of the total space would be allocated for qualifying local businesses. Qualifying local business shall be defined as a business domiciled for at least three years prior to the determination of eligibility in CB9, CB10 or CB11 and not a national chain store or franchise. Also, the space must be provided as a condominium space or permanently affordable. This would encourage entrepreneurship along 125th Street.
- **ARTS BONUS:** CB10 recommends the adoption on an Arts Bonus from River to River.
 - The Arts Bonus should apply in the following ratio: each bonus square feet used should be allocated 25% of “core and shell” space to non-profit entities and 75% for private users. The “core and shell” space must be provided at zero cost as a condominium space (not rented) to the qualifying non-profit. The user would have to fit out the space and pay ongoing operating costs.
 - In order for the Bonus to apply the beneficiary must be a non-profit, which has been in operation in Community Boards 9, 10 or 11 for at least three years prior to the determination of eligibility. Furthermore, CB10 requires that there be local participation in the approval of which institutions would benefit from the Arts Bonus. CB10 proposes a creation of a Community Policy Board which would consist of Community Planning Board members, 125th Street property owners, and City officials

(including Commissioners from NYC City Planning Commission and the Department of Cultural Affairs), local elected officials, community arts groups and community residents to facilitate the flow of information and vetting process for the establishments attempting to utilize, access and capitalize on the Arts Bonus. The Community Policy Board should work to ensure that a high concentration of the venues will be relevant to the African Diaspora.

▪ **THE ARTS AND RELATED USE REQUIREMENT: Community Board 10 would modify the Arts and Entertainment Requirement in the Proposed Rezoning as follows:**

- New developments with 60,000 square feet of floor area or more would be required to have no less than ten percent of their total floor area reserved for and developed with qualifying non-profit and for-profit arts and culture-related uses.
- The list of approved arts and culture related uses: would be limited to Art Galleries, Auditoriums, Bookstores, Museums, Performance Spaces and Studios (art, music, theatrical)
- Similar to the Arts Bonus, eligibility of Arts and Related Use Requirement would be determined by the Community Policy Board.

D. SUPPORT FOR LOCAL SCHOOLS: Given the increase in residential units anticipated to result from the rezoning, Community Board 10 believes it is critical to address the deficiencies in the *quality* of local schools and libraries, are recommends the following actions:

- Increase in funding for a new library and if no funding for a new library, then more computers and research software at all branches;
- Increase staff/personnel at all of CB10's libraries - make all branches open permanently 6 days a week from 9 am to 9 pm;
- Libraries must have children's librarian, full time;
- Onsite after-school programs;
- Fund a pilot program that introduces healthy meals/nutrition into our schools;
- Increase funding for more dual language programs;
- Identify the schools with highest percentage of absenteeism due to chronic illness and implement onsite clinics (i.e. Thurgood Marshall);

- Create incentive programs to attract **motivated, creative and experienced** teachers to the inner cities schools; and
- Incentivize programs to attract **experienced teachers to mentor new teachers.**

C. PROPOSED ZONING AMENDMENTS

- To limit new buildings to the height of the Hotel Theresa, the C4-7 designation on the north side of 125th Street in the Core Subdistrict should be replaced with the C6-3 designation. The maximum height for the C63 designation should be limited to 130 feet, which is the height of the Hotel Theresa, excluding the “crown”.
- Amendments to the C6-3 designation are proposed as follows:
 - a) That the C6-3 designation be extended west to St. Nicholas Avenue and thereby extending the C6-3 designation on the north and south side for almost the entire Core Subdistrict from St. Nicholas Avenue to Fifth Avenue (i.e. excluding the C4-4A and R6A designation north of Marcus Garvey Park).
 - b) For commercial uses, C6-3 designation be changed to include a base FAR of 4.0 and a 4.0 FAR Arts Bonus.
 - c) For residential uses, C6-3 designation be changed to include a base FAR of 4.0. An Income Targeted Housing Bonus of 4.0 FAR would apply only on 124th and 126th Streets. This would imply no residential upzoning in the Core Subdistrict of 125th Street.
 - d) For community facility uses, C6-3 designation be changed to include a base FAR of 4.0.
- That the C4-4D designation proposed by the Department of City Planning between Malcolm X and Frederick Douglass Boulevards be changed as follows:
 - a) For commercial uses, C4-4D would have a base FAR of 4.0 and a 3.2 FAR Arts Bonus.
 - b) For residential uses, C4-4D would have a base FAR of 4.0 and a 3.2 FAR Income Targeted Housing Bonus.
 - c) For community facility uses, would have a base FAR of 4.0.
 - d) The C4-4D designation could be replaced with the C6-2A designation which would carry similar bulk but allow for greater art and culture uses.

D: REDUCTION IN ADVERSE ENVIRONMENTAL IMPACTS

Unacceptable mitigations from the Environmental Impact Statement include, but are not limited to the following:

- 1) No permanent changes to driving access (i.e. unacceptable to create a “thru street” on 125th Street) with no left turn from 2nd Avenue to Amsterdam, eastbound and westbound, from Monday to Saturday, from 7 am to 7pm.
- 2) No reduction in the timing at north/south traffic lights, which would increase congestion on local streets.

CB10 requires the following additional mitigation be implemented:

- 1) Additional open space required to compensate for higher residential density. We request that the City set aside new open spaces in its designation of currently City owned-sites within the Rezoning area.
- 2) Historic resources that stand to be adversely impacted by the Rezoning should be landmarked prior to the completion of any Rezoning; or the application or suitable plan to protect eligible or potentially eligible historic resources should be implemented prior to the completion of any Rezoning plan. Ensuing development from rezoning may not destroy resources eligible for historic or landmark designation. Those resources found eligible for designation must be sustained in ensuing development.
- 3) Creation of strong disincentives to private vehicular traffic on 125th Street, including, but not limited to, widening of the sidewalk (9 feet on each side), addition of a bicycle lane (4.5 feet), addition of formal taxi stands on the Avenues for all TLC-approved vehicles (including livery cars); and prohibition on parking between 8 am and 8pm.
- 4) Improve the efficiency of mass transit by introducing a dedicated bus lane with elevated bus stops, with payment made by passengers in advance of boarding.
- 5) Recommend that all development adhere to Green Development Standards – LEED Platinum.
- 6) Due to the increase in development potential brought on by the Rezoning Proposal, Community Board 10 requests that anti-harassment and cure

provisions be instituted within the Special 125th Street District that are modeled on Article IX: Special Purpose Districts, Chapter 6: Special Clinton District, Section 96-110. This will ensure that while attracting new development to Community Board 10, safeguards will be in place to prevent displacement of long-time residents.

- 7) CB10 recommends that City Planning conduct a health impact assessment of the Proposed Action. Such action can identify potential health gains, including health equality benefits, associated with a policy, strategy or project. It can also identify potential risks to health and help to identify alternatives or additional measures to reduce or avoid health risks. A need for such an evaluation is supported by historical evidence and current data of general and environmental health issues that plague Central Harlem, such as respiratory illnesses (i.e. asthma, bronchitis), cancer, heart disease, mental health issues and, yes, even some cases of substance addiction. And, too often, some of these conditions may result from or are often compounded by other persistent contributors not only to illnesses but overall poor life quality. A few of these are air pollution, asbestos, dust, lead, mold, rat and roach infestation, traffic fumes, etc. Although, of the listed contributors are only a few by products of construction, it is imperative that consideration be given to and precautions made to safeguard against the community.
- 8) In addition to an EIS review, Community Board 10 recommends that an independent transportation study of 125th Street be conducted by a firm familiar with the principles of air, noise, ozone and particulate matter pollution. It is also recommended that consideration be given to other air pollutants as toxic air contaminants (TACs) that may cause serious, long-term effects, such as cancer, even at low levels.
- 9) Community Board 10 recognizes that during construction each anticipated new development on 125th Street will be required to adhere to City, State and Federal requirements for environmental, noise, safety and general health/quality of life guidelines. However, the *cumulative* impact of the significant amount of development anticipated River to River creates community-wide concerns. To address the *cumulative* impact of construction activity, the Community Board 10 recommends the establishment of a mechanism to ensure reasonable community oversight – possibly Community representation on a River to River construction overview committee. City Planning and other City Agencies are requested to present and implement a comprehensive plan to address current adverse particle contamination in the Rezoning area, including cleaning the façade

of the Wagner Houses, and provide systemic mitigation of the air pollution anticipated from the construction activity triggered by the Proposed Action.

- 10) As part of the Environmental Impact Assessment, confirm that the Proposed Action and the anticipated development resulting from it will not trigger adverse seismic or other geological risks.

E: NO EMINENT DOMAIN

Community Board 10 proactively requires that there is no use of eminent domain to transfer property from one private owner to another private owner as a related action to any Rezoning.

Community Board 11 held a public hearing on the original applications (C 080099 ZMM, N 080100 ZRM) on December 5, 2007, and on that date, by a vote of 23 in favor, 0 opposed and 4 abstaining, adopted a resolution recommending approval of this application with conditions. The Community Board's resolution stated:

WHEREAS the Community Board expects that the current proposed plan for a C4-4D, district along 125th Street from east of Park Avenue to Second Avenue will not allow for sufficient affordable housing opportunities as proposed, and;

WHEREAS Community Board 11 is concerned with the results of the draft EIS in the areas of residential displacement, traffic conditions and the affects on city services (namely schools and sanitation); and

WHEREAS the city's proposed C4-4A zoning designation was meant to protect existing residents between Madison and Park Avenues, but unduly restricted affordable housing development; and

WHEREAS the Community Board supports the development of affordable housing on-site that is targeted to the income levels of CB11, and;

WHEREAS the Community Board voted unanimously to support a corridor with a mixed use character that would include residential development (with strong affordable housing requirements), businesses coupled with arts, culture and entertainment.

THEREFORE BE IT RESOLVED that Manhattan Community Board Eleven has approved the Department of City Planning’s 125th Street Corridor Rezoning Proposal with conditions, as described below; and

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven accepts the Department of City Planning recommendation that the height limit on a C4-7 district be capped at 290 ft; and

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven accepts the Department of City Planning recommendation that they limit the size of ground floor space for certain business uses, such as banks and the requirements for the use of see-through, roll down gates; and

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven accepts the Department of City Planning recommendation that the area between Fifth Avenue and Madison Avenue be designated C4-4A; and

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven accepts the Department of City Planning recommendation that the areas zoned R6A on 124th and 126th Street remain unchanged; and

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven recommends that the Inclusionary Housing Guidelines be rewritten in the 125th Street Special District to state that the affordable housing units shall be geared to CB11’s housing guidelines (40% of units geared to 100-130% AMI; 40% of units geared to 60-100% AMI; 20% of units geared to 0-60% AMI); and

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven recommends that 100% of the inclusionary housing bonus be affordable as per Community Board Eleven Housing guidelines (as stated above); and

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven recommends that the Inclusionary Housing Bonus be required on-site; and

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven recommends that the Department of City Planning revise the C4-4D zoning designation to:

- a. Recommend that the C4-4D (residential) district have a base FAR of 4.0; IH Bonus of 3.2.
- b. Recommend that the C4-4D (commercial) district have a base FAR of 4.0; Arts Bonus of 3.2.

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven recommends that the Department of City Planning revise the C6-3 zoning designation to:

- a. Recommend that the C6-3 (residential) district have a base of 4.0; IH Bonus of 4.0.
- b. Recommend that the C6-3 (commercial) district have a base of 4.0; Arts Bonus of 4.0.

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven recommends that the Arts & Entertainment Bonus include “creative sector” uses. In addition, in order for the bonus to apply the user must be a non-profit and the space must be provided as a no-cost condo space. The user would have to fit out the space and pay monthly operating costs. 50% of the Arts Bonus would have to be dedicated to the non-profit user, while the remaining bonus can be used for market purposes; and

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven recommends that the area between Madison and Park Avenues, which is currently zoned as a C4-4A be amended to a C4-4D designation (C4-4D alternative in the draft EIS);

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven recommends that the area currently proposed as a C4-4D (east of Park Avenue) be designated as a C6-3 area; and

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven recommends that the Arts & Entertainment requirement be changed to a local small business requirement to encourage entrepreneurship along 125th Street, with the following conditions:

- a. The space must be provided as a no cost condo;
- b. The user would have to fit out the space and pay monthly operating costs;
- c. For developments of 60,000 sq ft, 5% of the space is to be dedicated to qualifying users;
- d. Local CB11 based entrepreneurs and small businesses interested in expanding would qualify; and

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven recommends that all development adhere to Green Development Standards – LEED Silver; and

BE IT FURTHER RESOLVED that Manhattan Community Board Eleven recommends the addition of a Local Hiring FAR Bonus that would apply to both construction and

post-construction jobs, with the following conditions

- a. In a C4-4D district the bonus would be 0.8, making the total FAR 8.0;
- b. In a C6-3 district the bonus would be 1.0, making the total FAR 9.0;
- c. A sanction for non-compliance would be instituted
 - i. 50% of the income generated through the original bonus;
- e. *Local* is defined as people residing within the CB11 boundaries Hiring targets would be 35% for construction and 50% for post-construction jobs

Borough President Recommendation

The original applications (C 080099 ZMM, N 080100 ZRM) were considered by the Borough President, who issued a recommendation for conditional disapproval on January 9, 2008. The Borough President provided comments with the recommendations. The excerpts below highlight the chief comments which are fully described in the attached recommendation.

The intent and goals of the 125th Street rezoning are laudable. The zoning that currently governs Harlem's main corridor dates back to 1961 and is now obsolete. It lacks important protections for neighborhood context, such as height limits and street wall requirements, and lacks sufficient mechanisms to promote affordable housing and economic development goals.

DCP's 125th Street rezoning plan puts forth significant and innovative strategies to address shortfalls in the existing zoning by providing development bonuses for affordable housing and non-profit arts/cultural uses, limiting building heights, and enhancing the vitality of the streetscape. The rezoning also requires transparency and active ground floor uses, which will help maintain 125th Street as a successful commercial corridor and encourage a walk-able environment 24 hours a day. And, by using a particularly innovative mechanism, the Special District would limit the amount of ground-level frontage that could be occupied by banks and residential lobbies to help ensure that these large uses do not dominate the streetscape.

However, there remain important concerns, expressed in each of the Community Boards' recommendations, which have yet to be fully addressed in the current proposal. New development created by the rezoning would result in significant environmental impacts. In addition, the Harlem community remains firm on its priorities for the area: contextual development, income-targeted affordable housing that is accessible to current Harlem

residents, expanded opportunities for local businesses, minimization of displacement pressures, cultural preservation, and an emphasis on 125th Street's commercial character, among other priorities. Even a well-intentioned proposal can and should adopt community-based principles before being adopted. When rezoning a corridor as important to the City as Harlem's Main Street, extreme care must be taken to minimize negative impacts and promote community planning goals.

125th Street must be rezoned to ensure that future development along Harlem's main street meets City and community priorities. However, the community is right to demand that the current plan make greater strides to ensure that development in the area enhances and reinforces the existing Harlem community, rather than just narrowly focusing on 125th Street as a citywide asset. The current plan should not be approved until it is paired with a broader Harlem Development Strategy, and until the Harlem community has been made a full partner in the rezoning and had its planning goals met. There is still time in the public process to make ensure that this occurs.

Therefore, the Manhattan Borough President recommends conditional disapproval of ULURP Application Nos. C 080099 ZMM and N 080100 ZRY, unless:

1. DCP makes changes to the proposed zoning map and text changes to:
 - create more appropriate **height and bulk** controls
 - reevaluate the **bonus structures** to capture as much value as possible in bonuses for affordable housing and arts-related uses
 - modify the Inclusionary Housing Bonus to **target Harlem income levels**
 - modify the Arts Bonus and Arts/Entertainment Requirement to support local institutions by including a **local preference** process
 - reinforce **125th Street's commercial character** by further restricting residential frontage on 125th Street.

2. The City pairs the rezoning with a greater Harlem-wide Development Strategy, which would include:
 - **developing publicly owned properties** in Harlem in a manner that meets the community's income-targeted housing and economic development goals
 - A comprehensive, multi-agency strategy for **retaining and aiding local businesses**, so the area is not dominated by chain stores.
 - Long-range **planning for infrastructure**, especially the schools and libraries that will be necessary for a growing residential population.
 - Creating a **community-based strategic plan for transportation** along 125th Street that minimizes traffic on residential streets and improves the pedestrian

- Take advantage of programs focusing on **cultural retention in Harlem**, such as designating a State Heritage Area that would provide official recognition, and funding opportunities, for Harlem's history and culture.
- **Landmarking key historic sites** such as Harlem's historic library buildings.
- Providing **construction protections** for historically significant, non-landmarked, sites
- A 125th Street-wide **construction mitigation task force** that would involve the community in managing construction and traffic caused by new development.

Borough Board Recommendation

The Borough Board did not submit a recommendation for this application.

City Planning Commission Public Hearing

On January 9, 2008, (Calendar No. 5), the City Planning Commission scheduled January 30, 2008, for a public hearing on the original application (N 080100 ZRM) and the modified application (C 080100(A) ZRM) and related actions (C 080099 ZMM, C 080099(A) ZMM). The hearing was duly held on January 30, 2008 (Calendar No. 31), in conjunction with the applications for the related actions.

There were 20 speakers in favor of the application and related actions and 53 speakers in opposition.

Those who spoke in support included the Chair of the 125th Street Business Improvement District (BID), the President of the Apollo Theater Foundation, the President of the Partnership for New York City, the Executive Director of the Jazz Museum in Harlem, the Director of the Studio Museum in Harlem, the Chair of Community Board 11, and representatives from the Regional Plan Association, the New York Metro Chapter of the American Planning Association, the Municipal Arts Society; local developers, other institutions, businesses and community groups and residents of the area.

Additionally, City Council members from the 8th and 9th Districts spoke on various elements of the proposed 125th Street Plan.

Those who spoke in opposition included the State Senator from the 30th District, the Chair of Community Board 10, local residents, representatives from Local 32BJ, 100 Blacks in Law Enforcement, the Hotel Trades Council and Harlem Business Alliance, local business owners, and representatives of other local community groups including Voice of the People Everyday (VOTE) and WE ACT for Environmental Justice (WE ACT). Several members of Community Board 10, including the Board's Economic Development Committee Chair, also spoke in opposition to parts of the proposal.

The speakers in favor applauded the proposed changes, citing the benefits of the rezoning as facilitating much-needed new commercial development and business and employment opportunities in the 125th Street Corridor. Moreover, several speakers, including the Executive Director of the Jazz Museum in Harlem and the President of the Apollo Theater Foundation, described the benefits of the proposed Arts Bonus, which would encourage opportunities for visual and performing arts space in Harlem, specifically along 125th Street.

The Councilmember from the 9th District spoke in general support of the plan but had certain concerns. She noted that the proposed rezoning plan did not utilize eminent domain and its proposed height limits would better regulate building height than the current 1961 zoning. However, she stated that the proposed rezoning plan should not allow any new building to rise higher than Theresa Towers. She further stated that there should be a 5 percent set-aside for local businesses; that new housing should be affordable to low income families and that local businesses on 125th Street should remain and not be displaced by the proposed rezoning action. Additionally, the Councilmember stated that 125th Street should not be a "through highway" – that existing traffic volume should be better managed. She also stated that the City should provide resources to upgrade Marcus Garvey Park.

The Councilmember from the 8th District also spoke in favor and also had concerns. She stated that zoning is a powerful development tool and that community input in the public review process is very important. She also stated that local businesses and nonprofit organizations find it difficult to operate in her district and that the proposed Arts Bonus would provide new potential opportunities to help them. She also reiterated the concerns of Community Board 11 regarding housing affordability and stated that future jobs created through development fostered by the proposed rezoning plan should provide training and career opportunities, and pay prevailing wages. The Councilmember underscored the need to review the City's infrastructure capacity to sustain and support future development.

The President of the Partnership for New York City stated that the proposed rezoning plan could help 125th Street return as a center of arts, entertainment and culture, and that the proposed Arts Bonus would provide a tremendous incentive to achieve a critical mass of such venues on the street.

The Chair of the 125th Street BID, speaking in support of the proposed rezoning plan, also stated that the Arts Bonus would enable the street to achieve a critical mass of commercial and arts-related venues, which in turn would generate more tourism and local retail activity. He also stated that the proposed rezoning plan should encompass all of 125th Street, river to river, and that the BID supports residential development on 124th and 126th Streets, and not on 125th Street.

The Chair of Community Board 11 also spoke in support of the plan, but had recommendations improve to the proposal. He stated that the plan provides an unprecedented opportunity to address a wide range of issues. He further stated that the plan should be modified to include a local business requirement, similar to the Arts and Entertainment requirement applicable in the Core Subdistrict. Moreover, due to rising housing costs in Manhattan, he stated that the income criteria used by the City to determine housing affordability should be modified to reflect the

incomes of Harlem residents. He further recommended that all new buildings developed in the proposed rezoning area be subject to LEED sustainability standards.

The development team for Kingsgate House, which is undergoing concurrent review with the proposed 125th Street Rezoning and Special District, also spoke in support of the proposed rezoning plan and stated how the plan's inclusionary zoning provision would facilitate their project.

The owner of property located along East 125th Street between Madison and Park Avenues, spoke in support of the overall Plan but objected to the originally proposed zoning change from C4-4 to C4-4A. He advocated for the C4-4D Alternative, which would expand development opportunity for his property.

Three speakers from Vornado Realty Trust and Integrated Holdings spoke on the impacts of the proposal on a proposed commercial office project to be developed at the southwest corner of East 125th Street and Park Avenue. While generally supporting the rezoning plan they stated that the proposed height limit of 290 feet for their site would not allow their proposed building, with a height of approximately 330 feet, to be constructed.

The representative from the Municipal Arts Society (MAS) stated that MAS supported the overall goals of the 125th Street Plan. She further stated that the proposed C6-3 district should be mapped across the entire corridor; that the proposed C4-7 height limit (i.e., 290 feet) should be reduced, and that the Landmarks Preservation Commission should identify and designate historically significant buildings on the corridor.

Those speaking in opposition, including the State Senator from the 30th District and the Director of Land Use for the Borough President, had concerns about gentrification and affordable housing, the rezoning Plan's impacts on local businesses, the overall character of the street, and

the scale of development in certain portions of the corridor. The Director of Land Use for the Borough President also expressed concerns about whether the proposed rezoning plan would generate job opportunities for Harlem residents. He further stated that there should be a local preference for the Arts Bonus, that 125th Street be designated a New York State Heritage Area and recommended better coordination of city agency efforts to oversee capital projects and enhancements to support growth in the proposed rezoning area.

Many speakers spoke to the issue of affordable housing and expressed concerns of local residents about the Plan's goal of encouraging affordable housing for Harlem residents. While acknowledging that inclusionary zoning is a key component of the proposed rezoning plan, many speakers in opposition felt that the income criteria used to determine affordability under the program was too high and not consistent with the actual median income earned by Harlem residents. Some speakers requested modifications to the Inclusionary Housing Program to make units more affordable to local residents.

Concerns were also raised about the appropriateness of new residential development on 125th Street. Many speakers, including the Chair of Community Board 10 and the Board's Economic Development Chair, stated that 125th Street is Harlem's prime commercial street and stated that encouraging residential development on 125th Street would destabilize the corridor's existing retail character. Some speakers called for future residential development to be placed on 124th and 126th Streets, which they stated have a stronger residential character than 125th Street.

Several speakers described the need to provide economic opportunities to Harlem residents and anti-displacement safeguards for local businesses. A representative for a local economic development organization sought increased support for local businesses that would ensure minority participation. Many speakers, including representatives from Local 32BJ and the Hotel Trades Council, called on developers to hire from the local labor pool and strongly advocated that all workers be paid a living and fair wage.

Several speakers opposed to the application expressed concern about the potential destruction of the existing neighborhood fabric, and urged preserving architecturally and culturally significant buildings in the proposed rezoning area through landmarking or a similar preservation mechanism. A few speakers also expressed concerns that the height of proposed new buildings would be too tall and the scale of the development would be massive.

Some speakers who testified in opposition were concerned with the potential impacts that the rezoning would have on the area's infrastructure and services, including traffic, transportation, parking, school seats, health and safety.

Some speakers expressed concerns that the proposed rezoning plan would result in an ethnic shift in Harlem and compared the proposed plan to "redlining." Other speakers expressed concerns that the proposed plan may violate the Federal Voting Rights Act.

Some speakers raised concerns about eminent domain and opposed any rezoning plan that would use eminent domain as a method to advance future development within the proposed rezoning area.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the proposed zoning text amendment to establish the Special 125th Street District, as modified (N 080100(A) ZRM), in conjunction with the proposed zoning map amendment (C 080099(A) ZMM), is appropriate.

125th Street is Harlem's main street. The proposed Special 125th Street District, with the related

rezoning action, comprises a comprehensive zoning framework for the 125th Street corridor, a 24-block area generally bounded by Broadway, Second Avenue, 124th and 126th Streets.

The Commission is pleased to support this comprehensive rezoning for the 125th Street corridor. It notes that the proposed rezoning and special district, as modified, builds on the existing strengths of this unique corridor, and augurs the potential development of 2.1 million square feet of new commercial space, more than 90,000 square feet of arts space, as well as more than 2,500 dwelling units, with close to 450 of those income-targeted, and that it will result in more than 8,200 jobs in the special district. The proposed rezoning and special district would expand the range of uses along the corridor, catalyzing the production of office, retail, residential and arts and entertainment uses to enliven the street during the day and evening. It would also provide specific densities and urban design controls that are responsive to the distinct character along 125th Street and within the corridor.

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Zoning Text Amendment – N 080100(A) ZRM

The Commission believes that the proposed zoning text amendment, as modified, to establish the Special 125th Street District – in conjunction with the proposed zoning map amendment--would enhance 125th Street corridor role as a regional business district, as well as a vibrant arts and entertainment corridor. The Commission notes that the proposed special district utilizes innovative strategies to achieve the aforementioned goals for 125th Street, not only through its balanced bulk and density regulations, but also through its careful regulation of uses, including restrictions on bank, hotel, and residential entrances, its arts and entertainment requirement, and the density bonus for affordable income-targeted housing. Moreover, the plan includes an Arts Bonus, a groundbreaking tool to foster the development of visual and performance arts space on a street that is widely acknowledged as an iconic center of cultural innovation.

The Special 125th Street District would be the first Department sponsored special district in Harlem. Together with the zoning map changes, it would enhance the 125th Street corridor

through a balanced strategy which provides new opportunities to catalyze future mixed-use commercial and residential development, including income-targeted affordable housing, while protecting the scale and character of predominately residential portions of the corridor with a strong built context.

The Commission is pleased that the proposed Special District reflects the varied character of different parts of the corridor. It includes controls that shape the form of new buildings to respond to the specific conditions along the corridor in a more fine-tuned approach than possible with regular zoning districts. It also includes a number of unique provisions that would enhance the corridor as Harlem's main street. The proposed Core Subdistrict extends from Frederick Douglass Boulevard to east of Malcolm X Boulevard/Lenox Avenue and includes prominent arts institutions like the Apollo Theater and the Studio Museum in Harlem. The Commission notes that within this Subdistrict, new developments of 60,000 square feet or more would be required to dedicate a minimum of five percent of their floor space to arts and entertainment uses.

The Commission believes the proposed Special 125th Street District would help sustain the ongoing revitalization of the 125th Street corridor. The regulations would encourage the creation of new mixed-use development that would help create the critical mass of commercial and residential uses necessary to help sustain a vibrant street during the day and evening. Significantly, the proposed special district would require that new development would have active uses at the ground floor level. This, along with transparency requirements and key restrictions on less active uses including lobbies and entrances for bank, office, hotel, and residential uses would further contribute towards creating a vibrant pedestrian environment and would improve the streetscape of the corridor.

Arts Bonus

The Commission is pleased that the Department, in response to requests from the 125th Street Business Improvement District (BID), the Harlem Arts Alliance and other community

stakeholders, modified its original proposal to incorporate an Arts Bonus into the proposed special district now before the Commission. The Commission believes this bonus, which would be unique in the city, will help advance the goals of the proposed special district. The Arts Bonus provides zoning incentives for the creation of nonprofit visual or performing arts spaces within new development by making available a density bonus in exchange for the creation of such space. The arts bonus would allow four square feet of bonused floor area for every one square foot of floor area provided for visual or performing arts space within the bonused development, up to the maximum permitted FAR in C4-7, C6-3 and C4-4D districts. The space for visual and performing arts provided through the Arts Bonus would be required to be occupied by non-profit organizations and would be limited to art galleries, historical exhibits, museums, theaters and performance venues.

The Commission heard extensive testimony on certain aspects of the proposal from a wide array of local and other groups, elected officials, and it considered carefully the further work on the bonus presented by the Department to the Commission. Based on the input received during the public review process and the work of the Department, the Commission is making certain modifications to encourage specific arts uses and to better ensure effective implementation.

- Below-grade Performance Spaces

As proposed, the bonus would not allow arts uses located in the cellar to qualify for the bonus. The Commission notes, however, that many successful performing arts spaces are located below-grade where high ceilings and column-free spaces can be more easily accommodated. Accordingly, the Commission is modifying the special district text to allow for below-grade arts spaces to qualify for the arts bonus under the following conditions:

- The space would be limited to performing arts spaces designed and arranged for the presentation of live drama, music, dance, and interactive or multidisciplinary performances and with a primary program of regularly scheduled performance

presentations open to the public. Such spaces could have a secondary visual arts component.

- The arts space would have to be a minimum of 2,000 square feet, with a floor-to-ceiling height of no less than 16 feet, and the space must be free of columns. It must also be no less than 60 percent of the total space qualified for the arts bonus.
- Such use would have to be identified by a sign, with minimum dimensions, on 125th Street to better inform the public of its location and programming.

- Above grade “Primary” Rehearsal Spaces

The Commission heard testimony from the community and cultural organizations that the bonus should be available for spaces where art is produced, as well as where it is presented. The Commission believes that enhanced public enjoyment of the arts and use of space by artists for the creative process are both valid objectives and can be achieved under the bonus. In particular, the Commission notes that rehearsal space is often utilized more than performance space, and is often active during the day. Further, when such space is visible to the public it can contribute to a vibrant pedestrian corridor, as at the Alvin Ailey American Dance Theater at West 55th Street and Ninth Avenue. Accordingly, the Commission is modifying the proposed text to allow rehearsal space with appropriate frontage and transparency requirements to be located above grade and qualify for the arts bonus. It believes that encouraging rehearsal spaces through the arts bonus would help to advance the goals and objectives of the Plan and contribute to 125th Street’s vitality and identity as a center for arts and culture. The modifications would include the following elements:

- The Bonus would be available for “Primary Rehearsal Spaces” designed and arranged for the rehearsal of live drama, music, dance, and interactive or multidisciplinary

performance arts; which must be capable of being adapted for open rehearsals or performances.

- The “Primary Rehearsal Space” could be located on any floor above grade, but no higher than 60 feet above grade.
- The space would have to occupy at least 50 feet of the project’s 125th Street frontage, be a minimum of 2000 square feet, and have a minimum height of 9 feet six inches.
- At least 70 percent of the total surface area of the frontage would have to be transparent.
- The zoning would also require regularly scheduled open rehearsals or other performances that are open to the public, where the proposed operator is the principal user of the space. If the rehearsal space is instead available to multiple organizations or individuals on a daily, weekly or other rental basis, the proposed operator would be required to allow periodic open rehearsals or other performances by such organizations or individuals, upon request.
- A maximum of 25 percent of the total bonused floor space would be allowed to be occupied by uses accessory to the rehearsal space, such as ticketing, circulation, restrooms, and offices.

- Arts Bonus Enforcement

Concerns regarding enforcement of the Arts Bonus were brought up during the public process. Eligibility for the bonus would require a certification by the Chair of the City Planning that the drawings for the space are consistent with the requirements described above, and a letter from the Department of Cultural Affairs attesting to a number of items, including: that there is a signed, minimum five-year lease with a non-profit organization, that the proposed user has the requisite managerial and financial capacity to operate the space, and that financial resources are available for timely completion of the scope of work for improvement of the space. In addition, the owner must enter into a Restrictive Declaration including, among other things, a legal commitment for inspection and ongoing maintenance.

The Commission believes that additional measures are needed to ensure that the space continues to be occupied over the long term by bona-fide non-profit arts users. Accordingly, it is incorporating the following modifications which it believes will add significantly to the clarity and effectiveness of the enforcement procedures.

- Continued occupancy of the space is expressly made a condition of the Arts Bonus, thereby establishing an obligation to re-tenant should the initial operator vacate. This provision recognizes that there needs to be a six-month plus period during which a landlord/owner with a vacant space can locate a new tenant without being penalized.
- The modified text requires that the Certificate of Occupancy (C of O) for the bonused space include as a condition that the associated arts space be continuously occupied in accordance with the regulations of the Special District. This would allow the City to pursue an unauthorized vacancy as a C of O violation.
- The Restrictive Declaration that is required in connection with the Arts Bonus must include a provision requiring that, in the event of an adjudicated violation of the 'no vacancy' rule, the owner/developer is prohibited from re-tenanting any space in the building that is vacant on or after that date, up to the amount of the bonus FAR, until the arts space is re-tenanted.
- The Restrictive Declaration will contain a use covenant that will strictly limit the use of the arts space to Department of Cultural Affairs-qualified performing and visual arts uses. If an owner tenants the space with a non-qualifying use, the City will be able to seek appropriate remedies to force termination of the illegal tenancy.
- The Restrictive Declaration will require an annual report by the operator on its programmatic use of the space, such report to be provided to the Commissioner of Cultural Affairs, the Chairperson of the City Planning Commission, the Borough President, the local Council Member, and the applicable Community Board.

Local Institutions and Local Civic Involvement

During the public review process, the Commission heard testimony regarding the importance of the Arts Bonus being utilized by Harlem-based arts organizations as well as local participation regarding qualifying arts organizations. The Commission believes that the engagement of arts organizations with programmatic experience in Community Districts 9, 10, and 11 would add to the value of the Arts Bonus as it is implemented and contribute to the vitality of 125th Street. However, the Commission notes that the Arts Bonus is untested in New York City and it is concerned that without sufficient flexibility in its application, developers may choose not to use it, thus diminishing opportunities for the arts in the corridor. The Commission also believes that, consistent with its purpose, the Zoning Resolution should define eligibility for the bonus based on use categories. The Commission believes that the Arts Bonus provides a unique opportunity to expand Harlem's rich network of arts activities, and urges the City to continue its dialogue with elected officials, the Community Boards, and civic and other organizations to explore ways to engage arts organizations with local programmatic experience to address this challenge.

Residential Use in the 125th Street Core Subdistrict

The Commission heard concerns about the appropriateness of new residential development on the 125th Street frontage in the Central Harlem core of the 125th Street corridor. It notes that speakers from Community Boards 9 and 11, to the west and east of the core, support increased residential density on 125th Street, but that other speakers, including those from Community Board 10, expressed concern that residential development in the core, specifically on the 125th Street frontage, would undermine the commercial and retail character of the street.

The Commission believes that in many commercial cores, such as Downtown Manhattan, the introduction of residential development has helped to insure the vitality of the district by ensuring activity after business hours. The Commission believes that residential development within the 125th Street corridor would further the overall goals and objectives of the rezoning plan, while also recognizing that future residential use represents only a portion of the

anticipated development. It notes that the Plan anticipates major commercial development of 2.1 million square feet, yielding more than 8200 jobs. It also notes that the proposed special district regulations will help to sustain and increase 125th Street's identity as a vibrant pedestrian corridor typified by active retail frontages:

The Special District would mandate high levels of glazing and transparency, prohibit roll-down gates, and limit the presence of banks, hotels, and residential uses on the ground floor except for entrances and lobbies.

However, the Commission notes that the special district recognizes the special character of the Core Subdistrict within the overall corridor through such regulations as the arts and entertainment requirement. The Core Subdistrict is distinct from other parts of the district such as to the east, where the zoning is designed to preserve existing residential uses and scale. In reviewing testimony, including that of the Borough President, the Commission agrees that it would be appropriate to further reduce the potential residential presence on 125th Street within the Core Subdistrict. As proposed, the special district regulations limit ground floor residential entrances on 125th Street to 20 percent of the frontage or 25 feet, whichever is less (with exceptions for larger lots). The Commission believes that further restrictions are appropriate and is therefore modifying the special district text to prohibit residential entrances on 125th Street for two types of developments within the Core Subdistrict: First, for developments on corner sites, for which residential access would be allowed on the avenues or boulevards; second, for developments on through-block sites, for which residential access would be allowed on 124th Street or 126th Street. Residential entrances on 125th Street would thus be permitted only for developments that have no frontage on any street other than 125th Street.

The Commission believes that this modification would appropriately limit residential presence on 125th Street, and further ensure that the corridor's character remains predominantly commercial in the Core Subdistrict.

Income-Targeted, Affordable Housing

The Commission is pleased that the 125th Street proposal provides a zoning bonus through the Inclusionary Housing Program (IHP). The IHP builds upon the City's commitment to provide income-targeted housing in Harlem and throughout New York City. It is projected that close to 450 units could be produced in the proposed Special District through the proposed Inclusionary Housing Program (IHP) and related initiatives, including the Kingsgate House mixed-use development, which is undergoing concurrent public review. The IHP, as it has been successfully applied in other rezonings, couples a zoning bonus with housing subsidy programs to create powerful incentives for the creation and preservation of affordable housing in conjunction with new development. The income-targeted units produced would be permanently affordable.

The Commission heard a variety of concerns relating to the IHP and residential development. Concerns included that the program generates too little affordable housing, that it does not target household incomes that reflect the needs of Harlem, and that the affordable housing provided should be located within the development receiving the bonus.

The Commission believes that the Inclusionary Housing Program is an effective approach to promoting affordable income-targeted housing development on privately owned property under a variety of market conditions and for different types of development, complementing HPD's efforts to develop affordable housing on City-owned land in these Community Districts. The Commission believes that the proposed regulations will produce affordable housing at a variety of income levels, including low-income housing. The IHP requires that the affordable units be available to households making less than 80 percent of the Area Median Income (AMI), which ranges from \$39,700 for an individual to \$56,700 for a family of four. The Commission notes that the Commissioner of the Department of Housing Preservation and Development (HPD), in his presentation to the Commission at its public review session on February 25, 2008, stated that because the IHP is combined with other affordable housing subsidy sources, the affordable

housing created can and does reach much deeper affordability levels. In particular, the HPD Commissioner noted that since the revision of the IHP in 2005, about 65 percent of the units developed through the program have been for households earning less than 60 percent of AMI, which is \$29,760 for an individual and \$42,540 for a family of four. He also noted that 75 percent of the units have been provided on the site of new development. Moreover, with the recent proposed expansion of the 421-a program geographic exclusion area, there is additional incentive to locate the affordable housing units on a development site. Developments within this expanded exclusion area, which includes all of Manhattan, must provide affordable housing on-site in order to receive valuable property tax abatements. This is an extremely strong incentive to utilize the on-site Inclusionary Housing option.

The Commission notes that for affordable units generated by the IHP, there is a community preference for 50 percent of the units. The Commission further notes that the Inclusionary Housing bonus can also be achieved by preserving existing units as permanently affordable, and that use of this option would also address the housing needs of existing community residents.

Concerns were also expressed that the 20 percent affordable housing requirement in exchange for the 33 percent floor bonus is inadequate. The Commission believes that the 20 percent requirement has worked in other locations, and notes that the HPD Commissioner also highlighted that the relationship of bonus floor area to affordable floor area must produce an economically viable incentive, and that this bonus structure has worked in other areas within the City. The HPD Commissioner also noted that the best opportunities to achieve the greatest number of income-targeted units and greater levels and ranges of affordability are on sites that are either fully or partially owned and controlled by the City.

The Commission applauds the extensive efforts of the HPD in providing affordable housing within the Harlem community, and notes that in recent years, HPD has produced more affordable housing here than in any other neighborhood in the city. Since 2000, HPD has had a total of

47,449 housing starts in Harlem with 8,741 of them in CB11; 7,609 in CB 9 and 31,099 units in CB 10. Further, the Commission notes that for the period between fiscal year '04 and fiscal year '07, 67 percent of HPD's investment in Harlem was dedicated to low-income housing (below 80 percent of AMI), while 14 percent went to moderate-income housing (81 percent -100 percent of AMI), and 19 percent went to middle-income housing.

Among the projects in the pipeline for development in the immediate area, the HPD Commissioner noted Kingsgate House which will have 50 percent of its units income targeted, as well as the East 125th Street development project, which will have approximately 800 units, the majority of which will be affordable. In Community District 10, the West 127th Street project, a 229-unit development, will be a mixed-income project with 10 percent of the units serving people earning 80 percent of AMI and an additional 40 percent of the units for those earning below 60 percent of AMI. With these projects and the affordable housing projected through the IHP, more than 35 percent of the new housing units produced in the immediate area will be income targeted. The Commission encourages HPD to continue to explore creative alternatives in meeting the growing demand for income-targeted, affordable housing, and to leverage, when possible, the availability of City-owned sites to do so.

Height Limits—Core Subdistrict

The Commission heard concerns about building heights in the Core Subdistrict, focused on the 290-foot-high maximum height allowed in the C4-7 district on the north side of 125th Street. The City Councilmember for the area and others stated that in this area, no building should be higher than the former Hotel Theresa, which rises to a height of 160 feet. Community Board 10 also noted this concern and called for the permitted height on the south side of the street to be reduced from 160 feet, which is at the top of the former Hotel Theresa's pediment, to a height of 130 feet.

The Commission believes that the proposed maximum height of 290 feet is necessary to allow for mixed-use development, including arts and commercial uses, in the subject area. The

Commission believes that a lower maximum height could work counter to the goal of fostering commercial development, and diminish the opportunity and flexibility that this portion of the Subdistrict offers the corridor. The Commission also notes that the existing C4-7 district regulations have no height restrictions; accordingly, any further reduction in height in this area would not be within the scope of the action.

Similarly, the Commission also believes that the 160 foot height limit for the proposed C6-3 district (the height of the former Hotel Theresa building's crown) is also critical in achieving the types of developments that the community has identified as important to 125th Street. The C6-3 district, along the south side of 125th Street in the Core Subdistrict, is flexible enough both in density and height to allow for the types of programs and floor-to-floor heights that will allow for retail, arts, and commercial opportunities.

Park Avenue Development Site

For the site located at the west side of Park Avenue between 124th and 125th streets, the special district proposes a maximum height of 290 feet. In 2004, the Commission and the City Council approved a zoning change and special permits for this site that would have facilitated construction of a 458-foot-high mixed-use development containing hotel, office, and residential use at this site. That development was not built.

The current developers for the site testified at the Commission hearing on the 125th Street plan that they had filed plans and that they had received a permit from the Department of Buildings for a building with a maximum height of 330 feet. They further indicated that they were finalizing commitments from major tenants for a large portion of the building.

The developer of the site requested that the allowable height for this site be increased from 290 to 330 feet in order to accommodate their proposed development. The proposed 330-foot high development was designed fully in accordance with the existing underlying C4-7 zoning, which

allows for buildings well in excess of 400 feet in height. The 330-foot-height accommodated the base FAR of 10, while complying with existing C4-7 maximum tower coverage of 40 percent.

At the Commission Hearing and throughout the public review process, the Department has heard that the 125th Street Corridor should be a center for jobs and retail and that this rezoning should support this objective. This proposal is estimated to include more than 40,000 square feet of retail and to generate as many as 2000 jobs at this critical intersection well-served by public transit. Development at this site is a significant opportunity for commercial development on the corridor.

The Park Avenue site is unique among the proposed C4-7 districts in the proposed Special District, in that it is at the intersection of two wide streets (125th Street and Park Avenue) and adjacent to the Metro-North Rail viaduct and station. The plan already recognizes the uniqueness of the site by allowing a ten-foot setback at grade on the Park Avenue frontage, given the presence of the viaduct. The Commission believes that the site can accommodate greater height while preserving the overall urban design strategy of the rezoning proposal. It should be noted that the building would fully comply with all other aspects of the rezoning proposal, including the requirement for active uses at street level.

The Commission is therefore modifying the text to allow a maximum height of 330 feet at this site.

Zoning Map Amendment – C 080099(A) ZMM

The Commission believes that the proposed amendment to the Zoning Map, in conjunction with the related zoning text amendment, is appropriate.

The area to be rezoned includes the entire Special 125th Street District, a 24-block area generally bounded by Broadway, Second Avenue, 124th and 126th Streets. The proposed zoning map

amendment comprises a key element of a comprehensive planning and rezoning strategy to replace outdated zoning that does not adequately address the 125th Street Corridor's current and future development needs or protect the existing low-rise context along portions of the corridor.

The Commission notes that much of the current zoning in the 125th Street Corridor has been unchanged since 1961. Private investment on 125th Street has been limited by outmoded zoning that does not provide the flexibility or density to allow for commercial and mixed-use development.

Along most of 125th Street, current zoning regulations allow tower-in-the park development that is inconsistent with the built context of buildings constructed at or near the street line. Current zoning regulations also have no height limits, including lower-scale areas that include brownstones and rowhouses, as on portions of 124th and 126th streets between Malcolm X Boulevard/Lenox Avenue and Park Avenues.

The Commission believes that the shortcomings of the existing zoning pattern have become apparent throughout the public outreach and review process, and many residents and community stakeholders have called for change. The proposed changes in the 125th Street Corridor would utilize the most up-to-date zoning practices to provide for both orderly growth and the preservation of existing context that builds upon the strengths of the 125th Street Corridor and provides for its long-term needs.

The proposed rezoning would allow the highest densities at the transit hubs (i.e., subway stations and the Metro-North station). The proposed rezoning would facilitate the development of new commercial and mixed-residential buildings with heights that range up to 16 stories on the south side of 125th Street, and up to 29 stories on the north side within the transit rich Core Subdistrict and also at Park Avenue and East 125th Street, which enjoys direct Metro-North commuter rail access. Further away from the Core Subdistrict and along 124th and 126th streets, which have a

low- to mid-rise residential character, zoning densities would require new buildings to be similar in height and setbacks to the existing context.

The Commission received testimony from Community Board 9 recommending that the rezoning be expanded to include the area from the south side of 126th Street to 130th Street between Amsterdam and Morningside/Convent Avenues. The Commission notes that the recently adopted 197-a Plan for this area recommends a mix of uses, with a focus on arts-related uses, including arts production and performance spaces, and light manufacturing uses. The area is zoned M1-1 today and the recommended changes are outside the scope of the ULURP application. The Commission notes that the zoning for this area is being addressed in coordination with the rezoning study that is underway for West Harlem.

The Commission also heard concerns primarily from Community Board 9 requesting a C6-2A zoning district between St. Nicholas Avenue and Morningside Avenue along the 125th Street corridor because Community Board 9 does not believe that the proposed zoning district allows for sufficient commercial development. The Commission notes that the proposed zoning is consistent with the zoning district immediately to the south and as a commercial district, has sufficient opportunity for commercial development. From Morningside Avenue to Broadway, Community Board 9 requested a higher density district than the proposed rezoning, which they did not believe allows for sufficient commercial development. The Commission notes that the north side of the street is largely developed with occupied residential buildings with ground floor retail, and that the proposed contextual zoning district of R7A will preserve that successful urban character. In addition, the Commission notes that higher density in this area would be outside the scope of the ULURP application.

The Commission also heard concerns, primarily from Community Board 10, that there should be greater density and height in the area outside of the Core Subdistrict, including the area from Frederick Douglass Boulevard west to St. Nicholas Avenue, and from the midblock boundary of

the proposed C6-3 district east to Fifth Avenue. Regarding the area from Frederick Douglass Boulevard to St. Nicholas Avenue, the Commission notes that proposed C4-4D district is consistent with the Frederick Douglass Boulevard Rezoning (2003) immediately to the south, and as proposed will facilitate opportunities for new growth while maintaining a context that is consistent with the surrounding area. Regarding the area east to Fifth Avenue, the Commission notes that this is an area of lower-rise scale, with occupied residential buildings, and that the C4-4A zoning district will preserve that successful urban character. The Commission also notes that higher density in this area would be outside the scope of the ULURP application.

C4-4D

In response to Community Board 11 and local stakeholders, on December 17, 2007 the Department submitted the modified zoning map application (C 080099(A) ZMM) to replace a proposed C4-4A district on 125th Street generally between Madison Avenue and Park Avenue with a C4-4D district. The Commission supports this change, recognizing that it would encourage new opportunities for commercial use, and encourage arts and income-targeted affordable housing.

Other Issues

Business Displacement

The Commission notes that while the proposal is projected to result in the creation of over 8,200 jobs and more than 880,000 square feet of new retail uses, the Community Boards, Council Members, and local organizations including the 125th Street BID, have raised concerns regarding the possible displacement through redevelopment of sites of more than 70 businesses and approximately 1000 jobs, as identified in the Final Environmental Impact Statement (FEIS). In addition, the Commission notes testimony received in support of a 5% set aside for local businesses in new developments, attesting to a strong community concern regarding this issue. While such a set aside is outside the scope of this action and would raise a number of zoning

issues, the Commission recognizes the importance of local businesses and strongly encourages the City to work with entities such as the Upper Manhattan Empowerment Zone and the 125th Street Business Improvement District to develop initiatives to address this issue.

Traffic

The Commission notes that concerns about traffic congestion were expressed during the public review process. The FEIS discloses significant adverse traffic impacts at multiple intersections during the weekday PM peak hour. The Commission notes that mitigation measures, including signal timing, a prohibition on left turns, and facilitating right turns through “day-lighting” at intersections would significantly mitigate these impacts. The Commission notes that the FEIS concludes that proposed mitigation measures would mitigate all of these operational impacts, with the exception of five (5) intersections where unmitigated impacts would remain under the Action condition.

The Commission notes that the New York City Department of Transportation (DOT) reviews all mitigation measures prior to their implementation. In addition, the Commission understands that DOT has the capacity to develop a monitoring program to further review existing and potential conditions, and it strongly encourages the Department of City Planning to continue to work closely with DOT, elected officials and the community to respond effectively to these concerns.

Conclusion

In summary, the Commission is pleased to support this comprehensive, long range strategy to maintain and enhance 125th Street’s unique character as Harlem’s Main Street, supporting and increasing its stature as a commercial center that serves as a premier arts, culture, and entertainment destination. The Commission is pleased to note that with the “Expanded Arts Bonus,” incorporating the Arts Bonus modified zoning text and C4-4D modified zoning map, as analyzed in the FEIS completed February 29, 2008, the plan would result in more than 8,200 new jobs, more than 2.1 million square feet of new commercial development, an additional

90,000 square feet of art uses generated by the Arts Bonus, and more than 2500 residential units including close to 450 income-targeted units.

The Commission strongly believes in the benefits and importance of achieving the Plan's goals and objectives. The Commission notes that the extraordinary level of community participation which took place during the development of the Plan and throughout the public review process. The application, with the further modifications adopted herein, responds to this remarkable input, and the Commission believes that the 125th Street Rezoning and Special District Plan has been made stronger as a result.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on February 29, 2008, with respect to this application, together with the Technical Memorandum, dated March 10, 2008, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action under the Expanded Arts Bonus Alternative, 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 practicable by incorporating as conditions to the approval, those mitigative measures that were identified as practicable.

The report of the City Planning Commission, together with the FEIS and the Technical Memorandum, 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 be it further

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

Matter in underline is new, to be added
Matter in ~~strikeout~~ is old, to be deleted;
Matter within # # is defined in 12-10 or
* * * indicates where unchanged text appears in the Zoning Resolution

**ARTICLE I
GENERAL PROVISIONS**

* * *

**11-12
Establishment of Districts**

* * *

Establishment of the Special 125th Street District

In order to carry out the special purposes of this Resolution as set forth in Article IX, Chapter 7, the Special 125th Street District is hereby established.

Establishment of the Special Battery Park City District

* * *

**12-10
DEFINITIONS**

* * *

Special 125th Street District

The "Special 125th Street District" is a Special Purpose District designated by the number "125" in which special regulations set forth in Article IX, Chapter 7, apply. The #Special 125th Street District# appears on the #zoning maps# superimposed on other districts and its regulations supersede, supplement and modify those of the districts upon which it is superimposed.

Special Battery Park City District

* * *

**Chapter 3
Sidewalk Cafe Regulations**

* * *

**14-44
Special Zoning Districts Where Certain Sidewalk Cafes Are Permitted**

* * *

<u>Manhattan</u>	<u>#Enclosed Sidewalk Café#</u>	<u>#Unenclosed Sidewalk Café#</u>
<u>125th Street District</u>	<u>Yes</u>	<u>Yes</u>
Battery Park City District	Yes	Yes

* * *

**Article II
Residence District Regulations**

* * *

**Chapter 3
Bulk Regulations for Residential Buildings in Residence Districts**

* * *

**23-00
APPLICABILITY AND GENERAL PURPOSES**

* * *

**23-011
Quality Housing Program**

* * *

- (c) The Quality Housing Program shall not apply to:
- (1) Article VII, Chapter 8 (Large Scale Residential Developments);
 - (2) Special Purpose Districts, except the following:

* * *

- (viii) the #Special Downtown Brooklyn District#; ~~or~~
- (ix) the #Special 125th Street District#; or

* * *

**24-161
Maximum floor area ratio for zoning lots containing community facility and residential uses**

* * *

R1 R2 R3-1 R3A R3X R4-1 R4A R4B R5D R6A R6B R7-2 R7A R7B R7X R8 R9 R10

In the districts indicated, for #zoning lots# containing #community facility# and #residential uses#, the maximum #floor area ratio# permitted for a #community facility use# shall be as set forth in Section 24-11, inclusive, and the maximum #floor area ratio# permitted for a #residential use# shall be as set forth in Article II, Chapter 3, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#.

In the designated areas set forth in Section 23-922 (Inclusionary Housing designated areas), except within Waterfront Access Plan Bk-1, and in Community District 1, Brooklyn, in R6 Districts without a letter suffix, the #floor area ratios# of Section 23-942 shall apply where the #residential# portion of a #building# is #developed# or #enlarged# pursuant to the Quality Housing Program the maximum #floor area ratio# permitted for #zoning lots# containing #community facility# and #residential uses# shall be the base #floor area ratio# set forth in Section 23-942 for the applicable district. Such base #floor area ratio# may be increased to the maximum #floor area ratio# set forth in such Section only through the provision of #lower income housing# pursuant to Section 23-90 (INCLUSIONARY HOUSING).

* * *

35-31 Maximum Floor Area Ratio for Mixed Buildings

* * *

In all districts, except as set forth in Section 35-311, the provisions of this Section shall apply to any #zoning lot# containing a #mixed building#.

* * *

In the designated areas set forth in Section 23-922 (Inclusionary Housing designated areas), except within Waterfront Access Plan BK-1, and in Community District 1, Brooklyn, in R6 Districts without a letter suffix, the #floor area ratios# of Section 23-942 shall apply where the #residential# portion of a #building# is #developed# or #enlarged# pursuant to the Quality Housing Program. the maximum #floor area ratio# permitted for #zoning lots# containing #residential# and #commercial# or #community facility uses# shall be the base #floor area ratio# set forth in Section 23-942 for the applicable district. Such base #floor area ratio# may be increased to the maximum #floor area ratio# set forth in such Section only through the provision of #lower income housing# pursuant to Section 23-90.

* * *

ARTICLE IX, CHAPTER 7
(97-00) IS NEW TEXT; IT IS NOT UNDERLINED;

* * *

ARTICLE IX
SPECIAL PURPOSE DISTRICTS

* * *

Chapter 7
Special 125th Street District

97-00
GENERAL PURPOSES

The “Special 125th Street District” established in this Resolution is designed to promote and protect the public health, safety, general welfare and amenity. The general goals include, among others, the following specific purposes:

- (a) to preserve, protect and promote the special character of 125th Street as Harlem’s “Main Street” and the role of 125th Street as Upper Manhattan’s premier mixed use corridor;
- (b) to guide development on the 125th Street corridor;
- (c) to expand the retail and commercial character of 125th Street;
- (d) to provide incentives for the creation of visual and performing arts space and enhance the area’s role as a major arts, entertainment and cultural destination in the City;
- (e) to support mixed use development through out the 125th Street corridor, including residential uses, and to provide incentives for the production of affordable housing;
- (f) to ensure that the form of new buildings is compatible and relates to the built character of the 125th Street corridor;
- (g) to enhance the pedestrian environment through appropriate ground floor uses and regulations;
- (h) to promote the most desirable use of land and thus conserve and enhance the value of land and

buildings, and thereby protect the City's revenue.

97-01

Definitions

Special 125th Street District

The "Special 125th Street District" is a Special Purpose District designated by the number "125" in which special regulations set forth in Article IX, Chapter 7, apply. The #Special 125th Street District# appears on the #zoning maps# superimposed on other districts and its regulations supersede, supplement and modify those of the districts upon which it is superimposed.

97-02

General Provisions

In harmony with the general purposes of the #Special 125th Street District# and in accordance with the provisions of this Chapter, the express requirements of the #Special District# shall apply to all #developments#, #enlargements#, alterations and changes of #use# within the Special District. The regulations of the Special District shall supersede, supplement or modify the requirements of the underlying zoning districts on which the Special District is superimposed, except as described in Section 97-05 (Applicability of Special Transit Land Use District Regulations).

Except as modified by the particular provisions of the Special District, the regulations of the underlying zoning districts shall remain in effect. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

97-03

District Plan and Maps

The regulations of this Chapter are designed to implement the #Special 125th Street District# Plan. The District Plan, including the map of the #Special 125th Street District#, is set forth in Appendix A of this Chapter and is hereby incorporated as part of this Resolution for the purpose of specifying locations where the special regulations and requirements set forth in this Chapter apply.

97-04

Establishment of Core Subdistrict

In order to carry out the purposes and provisions of this Chapter, the Core Subdistrict is established within the #Special 125th Street District# and includes specific regulations designed to support an arts and entertainment environment along 125th Street. The boundaries of the Core Subdistrict are shown on the map of the #Special 125th Street District# in Appendix A of this Chapter.

97-05

Applicability of Special Transit Land Use District Regulations

Wherever the #Special 125th Street District# includes an area which also lies within the #Special Transit Land Use District#, the requirements of the #Special Transit Land Use District#, as set forth in Article IX, Chapter 5, shall apply, subject to the modifications described in paragraphs (e) and (f) of Section 97-433 (Street wall location).

The #Special Transit Land Use District# includes the area within the #Special 125th Street District# bounded by a line 50 feet west of Second Avenue from 124th Street midway to 125th Street where such area widens to a line 100 feet west of Second Avenue.

97-10

SPECIAL USE AND LOCATION REGULATIONS

97-11

Special Arts and Entertainment Uses

In order to sustain the arts and entertainment character of the 125th Street corridor, the provisions of this Section shall apply.

(a) The following #uses# shall be designated as entertainment #uses#:

- Auditoriums
- Bookstores
- Clubs, including music, dance or comedy clubs
- Eating or drinking establishments, with table service only
- Music stores
- Studios, art, music, dancing or theatrical
- Studios, radio, television or motion picture

(b) The following #uses# shall be designated as visual or performing arts #uses#:

- Art galleries
- Historical exhibits
- Museums
- Performance spaces
- Primary rehearsal spaces
- Theaters

97-12

Arts and Entertainment Use Requirement

Within the Core Subdistrict, as shown on the map in Appendix A of this Chapter, or for that portion of a #zoning lot# located within the Core Subdistrict, for new #developments# or #enlargements# that contain at least 60,000 square feet of #floor area# and are located on #zoning lots# with frontage on 125th Street, an amount of space equivalent to a minimum of five percent of the #floor area# of the #development# or #enlargement# shall be occupied by one or more of the #uses# designated in Section 97-11 (Special Arts and Entertainment Uses).

97-20

LOCATION AND ACCESS REGULATIONS

Within the #Special 125th Street District#, for any #zoning lot# that fronts upon 125th Street, the #use# regulations of the underlying districts shall be modified by the locational and access requirements of this Section, inclusive. On #through lots# or #corner lots# with frontage along 125th Street, such requirements shall apply within the first 100 feet of the 125th Street #street line#.

97-21

Location and Access of Arts and Entertainment Uses

Any arts and entertainment #uses# listed in Section 97-11 that are provided in order to comply with the requirements of Section 97-12 (Arts and Entertainment Use Requirement) or Section 97-422 (Floor area bonus for visual or performing arts uses) shall be subject to the following location and access requirements:

The designated #uses# listed in Section 97-11 may be located anywhere throughout a #building# that fronts on 125th Street, subject to the following conditions:

- (a) any such designated #uses# within the Core Subdistrict required pursuant to Section 97-12 shall be accessed from 125th Street; and
- (b) any #residential use# shall be located on a floor wholly above any non-#residential use#; or
- (c) any non-#residential use# shall may be permitted on the same #story# as a #residential use#, provided that:
 - (1) no access exists between non-#residential uses# and #residential uses# at any level; and
 - (2) non-#residential uses# are not located directly over any #residential uses#.

Such non-#residential use#, however, may be located over a #residential use# by authorization of the City Planning Commission upon a finding that sufficient separation of #residential uses# from non-#residential

uses# exists within the #building#.

97-22

Uses Not Permitted on the Ground Floor of Buildings

Within the #Special 125th Street District#, the following #uses# are not permitted at the ground floor level of #developments# and #enlargements# that front upon 125th Street, within 100 feet from 125th Street, or within five feet of the as-built level of the adjoining sidewalk. Entranceways and lobby space for access to such #uses# shall be permitted at the ground floor level, pursuant to the provisions of Section 97-221 (Access to non-ground floor uses).

From Use Group 2:
All #uses#.

From Use Groups 3A and 3B:
All #uses#, except for libraries, museums or non-commercial art galleries.

From Use Groups 4A and 4B:
All #uses#, except for houses of worship or playgrounds.

From Use Group 5A:
All #uses#.

From Use Groups 6A, 6B, 6C and 6E:
Banks (except for automated teller machines, provided the length of #street# frontage allocated for automated teller machines shall be no more than 25 feet or 40 percent of the frontage of the #zoning lot#, whichever is less, measured to a depth of 30 feet from 125th Street, except that such frontage need not be less than 20 feet), electrolysis studios, frozen food lockers, laundry establishments, loan offices, offices or veterinary medicine offices.

From Use Group 6D:
All #uses#.

From Use Group 7:
All #uses#, except for bicycle rental or repair shops.

From Use Groups 8A and 8B:
Automobile driving schools, ice vending machines, lumber stores or pawn shops.

From Use Groups 8C, 8D and 8E:
All #uses#.

From Use Groups 9A, 9B and 9C:
All #uses#, except for gymnasiums, public auction rooms, photographic developing or printing establishments for the consumer, or art, music, dancing or theatrical studios.

From Use Groups 10A, 10B and 10C:
Depositories for storage, and wholesale offices or showrooms.

Use Group 11:
All #uses#.

Use Groups 12A and 12B:
Trade expositions.

Use Groups 12C and 12D:
All #uses#.

Use Group 14A and 14B:
All #uses#, except for bicycle sales, rental or repair shops.

Within the Special District, for #developments# and #enlargements# that are no more than one #story#, a #use# permitted by the regulations of the underlying district shall be allowed.

97-221

Access to non-ground floor uses

Within the Special District, for non-ground floor #uses# listed in Section 97-22 with access from 125th Street, the following requirements shall apply:

- (a) Within the Core Subdistrict the #residential# portion of a #building# may be accessed from an entrance on 125th Street only if such #building# does not front upon a #street# other than 125th Street.
- (b) The length of the ground floor #street# frontage on 125th Street allocated to an entranceway or lobby space shall be no more than 25 linear feet or 40 percent of such #street# frontage, whichever is less, except that an entranceway or lobby space need not be less than 20 feet.
- (c) For a #development# or #enlargement# with more than one entranceway or lobby on 125th Street for non-ground floor #uses#, each entranceway or lobby for #uses# listed in Section 97-22 shall be no more than 25 linear feet and, in the aggregate, shall not exceed 40 percent of such ground floor frontage.
- (d) For #developments# or #enlargements# with at least 200 linear feet fronting on 125th Street, the length of #street# frontage on 125th Street allocated to entranceways or lobby space for such #uses# shall be no more than 40 linear feet.

97-23

Transparency Requirements

For all #uses#, other than houses of worship, libraries and primary rehearsal spaces, located on the ground floor of #developments# and #enlargements# that front upon that portion of 125th Street located within the #Special 125th Street District#, the ground floor #street wall# shall be glazed with materials which may include show windows, glazed transoms or glazed portions of doors. Such glazed area shall occupy at least 70 percent of the area of each such ground floor #street wall#, measured to a height of 12 feet above the level of the adjoining sidewalk or public access area. Not less than 50 percent of such area shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.

97-24

Security Gates

Within the #Special 125th Street District#, all security gates installed after (date of enactment), that are swung, drawn or lowered to secure commercial or community facility premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street#, except that this provision shall not apply to entrances or exits to parking garages.

97-30

SPECIAL SIGN REGULATIONS

#Signs# for all #uses# within the #Special 125th Street District# shall be subject to the applicable #sign# requirements in Section 32-60, inclusive, subject to the modifications of Sections 97-31 through 97-34, inclusive.

#Marquee signs# for an arts #use# may be combined, subject to the requirements of Section 32-641 (Total surface area of signs).

In the event of a conflict between the provisions of this Section, 97-30, inclusive, and other regulations of the Administrative Code, the provisions of this Chapter shall apply.

97-31

Definitions

Marquee

A “marquee” is a permanent structure or canopy located above the primary entrance to an arts #use# fronting on 125th Street, that projects over the sidewalk and is attached to, and entirely supported from, the #street wall# of the #building#. The location and dimensions of the #marquee# shall be determined by the requirements of Sections 97-32.

All marquees shall comply with the construction and maintenance requirements of Title 27, Subchapter 4, Article 9, of the New York City Building Code pertaining to projecting signs, or its successor.

Marquee sign

A “marquee sign” is a #sign#, other than an #advertising sign#, mounted on a #marquee# that identifies the arts #use# and provides informational displays about such #use#.

97-32

Location, Height and Width of Marquees and Marquee Signs

For the purposes of this Chapter, #marquees# shall be permitted only above the primary entrance to one of the following #uses# fronting upon 125th Street:

Museums
Performance spaces
Theaters.

Marquees shall project over the sidewalk no more than 15 feet from the #lot line# and shall be no nearer to the curb than two feet.

(a) Height of #marquees#

The minimum height of a #marquee# or a #marquee sign# shall be three feet; the maximum height for such structure and #sign# shall be five feet. No part of a #marquee# or a #marquee sign# shall be located at a height higher than three feet below any floor containing a #residential use#.

(b) Width of #marquees#

The width of a #marquee# or a #marquee sign# shall be no greater than 50 percent of the width of the #building# frontage to which it is attached or 40 feet, whichever is less.

97-33

Vertical Distance above Sidewalk of Marquees and Marquee Signs

The minimum vertical distance from the sidewalk for a #marquee# shall be 12 feet; the maximum vertical distance above the sidewalk for such #marquee# shall be 20 feet.

Notwithstanding the provisions of paragraph (b) of Section 32-653 (Additional regulations for projecting signs), additional #signs# may be displayed on a #marquee#, provided such #sign# is no more than two feet above the #marquee#.

No #marquee# or #marquee sign# shall be located at a height higher than three feet below any floor containing a #residential use#.

97-34

Accessory Signs for Visual or Performing Arts Uses

Notwithstanding the regulations of paragraph (b) of Section 32-653 (Additional regulations for projecting signs) and the relevant provisions of the Administrative Code, only the following visual or performing arts #uses# fronting on 125th Street within the #Special 125th Street District# shall be permitted to erect a #marquee sign# on or above a #marquee#:

- Museums
- Performance spaces
- Theaters.

Flashing #signs# shall not be permitted as #accessory signs# for arts #uses#.

97-40

SPECIAL BULK REGULATIONS

Within the #Special 125th Street District#, all #residential developments# or #enlargements# shall comply with the requirements of Article II, Chapter 8 (Quality Housing) and the applicable #bulk# regulations of the underlying districts, except as modified in this Section, inclusive.

97-41

Floor Area Regulations

The maximum #floor area ratio#, #open space ratio# and #lot coverage# requirements of the applicable underlying district shall apply within the #Special 125th Street District#, unless modified by the following regulations.

97-411

Maximum floor area ratio in C4-4D, C4-7 and C6-3 Districts

In C4-4D, C4-7 or C6-3 Districts within the Special District, the maximum permitted #floor area ratios# for new #developments# or #enlargements# shall be as listed in the following table for #residential#, #commercial# and #community facility uses#, and may only be increased pursuant to Section 97-42 (Floor Area Bonuses).

MAXIMUM PERMITTED FLOOR AREA RATIO (FAR) FOR RESIDENTIAL, COMMERCIAL AND COMMUNITY FACILITY USES			
District	#Residential Floor Area Ratio#	Commercial #Floor Area Ratio#	Community Facility #Floor Area Ratio#
C4-4D	5.4	4.0	6.0
C4-7	9.0	10.0	10.0
C6-3	6.0	6.0	6.0

97-42

Floor Area Bonuses

The maximum #floor area ratio# for a #development# or #enlargement# within the #Special 125th Street District# may be increased by a floor area bonus, pursuant to Sections 97-421 and 23-90 (Inclusionary Housing) or 97-422 (Floor area bonus for visual or performing arts uses), which may be used concurrently.

97-421

Inclusionary Housing

Within the #Special 125th Street District#, C4-4D, C4-7 and C6-3 Districts shall be #Inclusionary Housing designated areas#, pursuant to Section 12-10 (Definitions), for the purpose of making the Inclusionary Housing Program regulations of Section 23-90, inclusive, and this Section, applicable within the Special District. Within such #Inclusionary Housing designated areas#, the #residential floor area ratio# may be increased by an Inclusionary Housing bonus, pursuant to the provisions of Sections 23-90, inclusive.

97-422

Floor area bonus for visual or performing arts uses

In C4-4D, C4-7 or C6-3 Districts within the #Special 125th Street District#, for a new #development# or #enlargement# with frontage on 125th Street, the maximum #floor area ratio# otherwise permitted for #residential# or #commercial uses# listed in Section 97-411 may be increased up to the maximum #floor

area ratio# specified in the following table, provided that for every four square feet of bonused #floor area#, an amount of space equivalent to one square foot of such bonused #floor area# shall be used for those visual or performing arts #uses# designated in paragraph (b) of Section 97-11 (Special Arts and Entertainment Uses). Such bonused #floor area# shall be permitted only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the conditions set forth in Section 97-423 have been met.

MAXIMUM PERMITTED FLOOR AREA RATIO (FAR) FOR RESIDENTIAL AND COMMERCIAL USES WITH FLOOR AREA BONUS FOR VISUAL OR PERFORMING ARTS USES				
District	#Residential Floor Area Ratio#		Commercial #Floor Area Ratio#	
	Base	Maximum	Base	Maximum
C4-4D	5.4	7.2	4.0	5.4
C4-7	9.0	12.0	10.0	12.0
C6-3	6.0	8.0	6.0	8.0

97-423

Certification for floor area bonus for visual or performing arts uses

The #floor area# bonus provisions of Section 97-422 shall apply only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the following conditions have been met:

- (a) Drawings have been provided that clearly designate all #floor area# that will result from the permitted increase in #floor area ratio# pursuant to Section 97-422, including the location of such #floor area#.
- (b) Drawings also have been provided that clearly designate all #floor area# and/or below grade floor space for any new visual or performing arts #uses# for which a bonus is to be received pursuant to Section 97-422.

Such drawings shall be of sufficient detail to show that such designated space shall be designed, arranged and used for the new visual arts or performing arts #uses#, and shall also show that:

- (1) all such visual or performing arts #uses# are located at or above the ground floor level of the #building#, except that performance space meeting the requirements of paragraph (b)(4) may be located below grade, and #accessory uses# may be located below grade, subject to the requirements of paragraph (b)(5);
- (2) all bonused #floor area# or below grade space occupied by visual or performing arts #uses# is primarily accessed from 125th Street;
- (3) in the case of primary rehearsal space, where such space does not consist of #accessory uses# subject to the requirements of paragraph (b)(4) of this Section, such space:
 - (i) can be adapted for rehearsals or performances open to the public;
 - (ii) is located on the first #story# of the #development# or on any higher #story# with a ceiling height not greater than 60 feet above grade;
 - (iii) has a #streetwall# with at least 50 feet of frontage along 125th Street, and has a minimum area of 2,000 square feet, with a floor-to-ceiling height of not less than nine feet six inches; and
 - (iv) complies with the following glazing requirements: At least 70 percent of the total surface area of the #streetwall# abutting the primary rehearsal space, measured from finished floor to ceiling shall be glazed. Furthermore, at least 90 percent of such area shall be transparent from within one foot of the finished floor level to at least eight feet above such level. For primary rehearsal spaces located at the corner of 125th Street and an intersecting #street#, the glazing requirements of this Section shall be applied separately for each #streetwall#, and up to 100 feet along such intersecting #street#;
- (4) for performance space which is exclusively designed and arranged for the presentation of live drama, music, dance and interactive or multidisciplinary performances open to the public, such space may be below grade provided it has a minimum area of 2,000 square feet of column-free space with a floor-to-ceiling height of not less than 16 feet;
- (5) #Accessory# space
 - (i) For primary rehearsal spaces, no more than 25 percent of the bonused #floor area# or below grade floor space shall be occupied by #uses accessory# to such primary rehearsal spaces. #Accessory uses# shall include but are not limited to educational and classroom space, administrative offices, circulation space, restrooms and equipment space;
 - (ii) For visual or performing arts #uses# other than a primary rehearsal space, no more than 40 percent of such bonused #floor area or below grade floor space is

occupied by #uses accessory# to such visual or performing arts #uses#, provided no single #accessory use# occupies more than 25 percent of the total bonused #floor area# or below grade floor space. #Accessory uses# shall include but are not limited to educational and classroom space, non-primary rehearsal space, administrative offices, lobbies, circulation space, ticket offices, restrooms, dressing rooms, other backstage areas and equipment space; and

(6) Signage

- (i) signage that identifies the visual or performing arts facility is to be provided at the 125th Street entrance of the visual or performing arts facility, subject to the requirements of Section 97-30, inclusive; and
- (ii) for below grade performance space subject to the requirements of paragraph (b)(3) of this Section, such sign, not including any frame or surrounding element, shall be utilized for the additional purpose of informing the public regarding the program of scheduled performances in such facility, and shall be no less than two feet in width and four feet in height, and shall be installed a minimum of two feet, six inches above grade;

(c) A letter from the Department of Cultural Affairs has been submitted to the Chairperson of the City Planning Commission, certifying that:

- (1) a signed lease has been provided from the prospective operator of the visual or performing arts space, or a written commitment from the owner of such space in a form acceptable to the City, if such owner is also the operator, for occupancy of such space, and its operation as a visual or performing arts space for a period of not less than five years, pursuant to an operating plan and program therefor;
- (2) the proposed operator of the visual or performing arts space is a non-profit organization;
- (3) the proposed operator of the visual or performing arts space has the fiscal and managerial capacity to successfully operate such space;
- (4) the proposed operator of the visual or performing arts space will have a program of regularly scheduled presentations or performances that are open to the public, provided that, in the case of a visual or performing arts space that is a primary rehearsal space, a program of regularly scheduled rehearsals or performances open to the public shall be required only where the proposed operator is the principal user of the primary rehearsal space. In the event that the proposed operator is not the principal user of the primary rehearsal space and such space is made available to multiple organizations or individuals on an hourly, weekly, monthly or similar basis, the proposed operator shall allow open rehearsals or performances open to the public to be sponsored by such organizations or individuals, upon request;

- (5) preliminary design plans have been provided to the Department of Cultural Affairs for the visual or performing arts space, which shall include sufficient detail regarding core, shell, structural, mechanical, electrical, plumbing and HVAC systems necessary to ensure that such visual or performing arts space will operate efficiently for its intended use; and
 - (6) a written commitment has been provided ensuring that there are financial resources available for the timely completion of the identified scope of work;
- (d) A legal commitment by the owner has been provided:
- (1) for the operator of the visual or performing arts space to submit an annual program report, describing the use of the space during the previous year, to the Chairperson of the City Planning Commission, the Commissioner of the Department of Cultural Affairs, the Manhattan Borough President, the applicable Community Board and the local Council Member; and
 - (2) for inspection and ongoing maintenance of the visual or performing arts space to ensure its continued availability for #use# as a visual or performing arts space. Such inspection shall be conducted every five years by a licensed engineer or architect, and a report identifying the operator utilizing the space, describing the condition of the space and identifying any maintenance or repair work necessary to ensure the physical and operational soundness of such space, and establishing a plan and program for such work, including providing that adequate resources be made available to ensure timely completion of such maintenance or repair work, shall be submitted to the Chairperson of the City Planning Commission and the Commissioner of the Department of Cultural Affairs;
- (e) A legal commitment by the owner has been provided for continued occupancy of all #floor area# for which a bonus has been received, pursuant to this Section, as a visual or performing arts space only and providing that in the event of a change of operator, the owner or operator shall obtain a new certification pursuant to this Section. An #adult establishment# #use# shall be prohibited for the life of the #development#.
- (1) notwithstanding the provisions of this paragraph, (e), an owner shall not be in violation of such legal commitment during a grace period consisting of:
 - (i) six (6) months from the date the visual or performing arts space is vacated by the operator, provided owner timely notifies the Departments of City Planning and Cultural Affairs of such vacancy in accordance with the requirements of the legal commitment;
 - (ii) the period of review by the Chairperson of the City Planning Commission and the Commissioner of the Department of Cultural Affairs with respect to a new operator and any associated change of design or #use# requirements pursuant to this Section, provided that application for certification pursuant to this Section is

made no later than the expiration of the six month period set forth in paragraph (e)(1)(i) of this Section;

- (iii) any period set forth in such certification as necessary to allow for the modification of design to accommodate a new operator; and
 - (iv) any event of force majeure;
- (2) in the event that the Chairperson of the City Planning Commission determines that the requirements for certification pursuant to this Section with respect to a change of operator and associated change of design or #use# requirements are not satisfied, the grace period set forth in paragraph (e)(1) of this Section shall thereupon apply from the date of such determination;
- (f) A legal commitment by the owner has been provided that all visual arts exhibitions or presentations of live drama, music, dance, interactive or multidisciplinary performances shall be open to the public in accordance with the terms of the letter issued by the Commissioner of Cultural Affairs, pursuant to paragraph (c) of this Section;
- (g) A legal commitment by the owner has been provided that, in the event of an adjudicated violation of the provisions of paragraph (e) of this Section, requiring the continued occupancy of all #floor area# for which a bonus has been received, pursuant to Section 97-422, as a visual and performing arts space only, the owner shall not permit the occupancy of any #floor area# in the #development# or #enlargement# which is vacant as of the date of such adjudication or thereafter, up to the amount of the increased #floor area# permitted under Section 97-422, until such time as the Chairperson of the City Planning Commission has determined that the visual or performing arts space is occupied in accordance with the provisions of this Section.

Such legal commitments shall be in the form of a declaration of restrictions, filed and duly recorded in the Borough Office of the Register of the City of New York, binding upon the owner of the visual or performing arts space and their successors and assigns, a certified copy of which shall be submitted to the Chairperson of the City Planning Commission. The filing of such declaration and the posting of any bond or other security required by the Chairperson of the City Planning Commission under the terms of such declaration, and receipt of a certified copy of such declaration shall be preconditions to issuance of any building permit, including any foundation or alteration permit, for any #development# or #enlargement#.

The owner shall not apply for or accept a temporary certificate of occupancy for such portion of the #development# or #enlargement# identified under the terms of the declaration of restrictions as utilizing the increased #floor area# permitted pursuant to Section 97-422, and the Department of Buildings shall not issue a temporary certificate of occupancy for such portion of the #development# or #enlargement#, until the Commissioner of the Department of Cultural Affairs has certified that the visual or performing arts space is substantially complete. The owner shall not apply for or accept a permanent certificate of occupancy for such portion of the #development# or #enlargement#, nor shall the Department of Buildings issue a permanent

certificate of occupancy for such portion of the #development# or #enlargement#, until the visual or performing arts space has been finally completed in accordance with the approved plans and such final completion has been certified by the Commissioner of the Department of Cultural Affairs. The declaration of restrictions shall be noted on any temporary or final certificate of occupancy for the #building#. The temporary or final certificate of occupancy for any portion of the #development# or #enlargement# identified under the terms of the declaration of restrictions as utilizing the increased #floor area# permitted pursuant to Section 97-422 shall include the provisions of paragraph (e) of this Section, requiring the continued occupancy of all #floor area# for which a bonus has been received as a visual or performing arts space only, as a condition of occupancy of such portion of the #development# or #enlargement#.

In granting the original certification, the Chairperson of the City Planning Commission may specify such changes in design or #use# that would not warrant further certification pursuant to this Section.

97-43

Special Lot Coverage Regulations

The maximum #lot coverage# for #residential use# in C6-3 Districts within the #Special 125th Street District# shall be 70 percent for #interior# or #through lots# and 80 percent for #corner lots#.

Within the Special District, there shall be no maximum #lot coverage# applied to any #zoning lot# comprising a #corner lot# of 5,000 square feet or less.

97-44

Special Height and Setback Regulations

Within the #Special 125th Street District#, the underlying height and setback regulations shall be modified in accordance with the provisions of this Section, inclusive.

The provisions of paragraph (b) of Section 23-663 (Required rear setbacks for tall buildings in other districts) shall not be applicable within the Special District.

97-441

Permitted obstructions

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within the Special District, except that the provisions of paragraph (c) shall not apply. In lieu thereof, the following regulations shall apply:

Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures) may penetrate a maximum height limit or #sky exposure plane# provided that either:

- (a) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or
- (b) for #buildings# at least 120 feet in height, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.

In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c) of Section 23-621 (Permitted obstructions in certain districts).

**97-442
Height and setback regulations for C4-7 and C6-3 districts**

The following modifications of the underlying district regulations shall apply for C4-7 and C6-3 Districts within the Special District:

- (a) The minimum and maximum base height of the #street wall# and the maximum height of a #development# or #enlargement# shall be modified, as set forth in the following table:

MINIMUM BASE HEIGHT, MAXIMUM BASE HEIGHT AND MAXIMUM BUILDING HEIGHT			
District	Street Wall Height (in feet)		Maximum Building Height (in feet)
	Minimum Base Height	Maximum Base Height	
C4-7	60	85	290
C6-3	60	85	160

All portions of buildings that exceed a height of 85 feet in C4-7 and C6-3 Districts shall be set back at least 15 feet from the #street line#, except that such setback depth may include the depth of any permitted recess in the #street wall#, according to the provisions of 97-433 (Street wall location).

- (b) Special regulations for certain C4-7 Districts
 - (1) For the area located within 50 feet of the 126th Street frontage and between 200 feet east of Adam Clayton Powell Boulevard and 150 feet west of Lenox Avenue/Malcolm X Boulevard, the height of any portion of a #development# or #enlargement# shall be

limited to 80 feet.

- (2) For #zoning lots# bounded by 125th Street, Park Avenue and 124th Street, the maximum #building# height shall be 330 feet.
- (c) In C6-3 Districts, the maximum length of any #story# located above a height of 85 feet shall not exceed 150 feet. Such length shall be measured by inscribing within a rectangle the outermost walls at the level of each #story# entirely above a height of 85 feet. No side of such rectangle shall exceed a width of 150 feet.

97-443

Street wall location

In all #Commercial Districts# within the #Special 125th Street District#, the #street wall# of any #development# or #enlargement# shall be located on the #street line# of 125th Street and extend along the entire #street# frontage of the #zoning lot# up to at least the applicable minimum base height of the underlying district, or the height of the #building#, whichever is less.

The #street wall# location provisions shall be modified, as follows:

- (a) On Park Avenue, within 10 feet of its intersection with any #street#, the #street wall# may be located anywhere within 10 feet of the Park Avenue #street line#. However, to allow articulation of the #street walls# pursuant to the provisions of paragraph (b) of this Section, the #street walls# may be located anywhere within an area bounded by a #street line#, the #street wall# on Park Avenue and a line connecting these two lines 15 feet from their intersection;
- (b) To allow articulation of #street walls# at the intersection of any two #streets# within the Special District#, the #street wall# may be located anywhere within an area bounded by the two #street lines# and a line connecting such #street lines# at points 15 feet from their intersection;
- (c) Recesses, not to exceed three feet in depth from the #street line#, shall be permitted on the ground floor where required to provide access to the #building#. Above a height of the second #story# and up to the applicable maximum base height, recesses are permitted for #outer courts# or balconies, provided that the aggregate length of such recesses does not exceed 30 percent of the length of the #street wall# at any level, and the depth of such recesses does not exceed five feet. No recesses shall be permitted within 20 feet of an adjacent #building# or within 30 feet of the intersection of two #street lines#, except in compliance with corner articulation rules.
- (d) All #developments# or #enlargements# shall comply with the #street wall# location and minimum #street wall# height provisions of this Section, except that such requirements shall not apply to any existing #buildings# that are to remain on the #zoning lot#.
- (e) For any #development# or #enlargement# within the #Special 125th Street District# that is

partially within the #Special Transit Land Use District# and located directly over the planned Second Avenue subway line tunnel, the residential portion of such #development# or #enlargement# may be subject to the R8A #streetwall# requirements and the commercial portion of such #development# or #enlargement# may be subject to the C4-4D #street wall# requirements in lieu of the requirements of this Section.

- (f) The requirements of this Section shall apply within the #Special Transit Land Use District# except that, for the area of the #Special Transit Land Use District# that is also within the #Special 125th Street District#, a #street wall# of a #development# or #enlargement# located on the #street line# of a #zoning lot# need not exceed 15 feet if that portion of the #development# or #enlargement# is located directly over the planned Second Avenue subway line tunnel.

97-45

Special Provisions for Zoning Lots Divided by District Boundaries

The regulations of Article VII, Chapter 7 (Special Provisions for Zoning Lots Divided by District Boundaries) shall apply within the #Special 125th Street District#, except that for any #zoning lot# that is completely within the Core Subdistrict, #floor area# may be located anywhere on such #zoning lot# without regard to the requirements of Section 77-22 (Floor Area Ratio), subject to the applicable height and setback regulations.

97-50

SPECIAL OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS

The underlying provisions of Article II, Chapter 5, Article III, Chapter 6 and Article IV, Chapter 4 (Accessory Off-Street Parking and Off-Street Loading Regulations) shall apply within the #Special 125th Street District#, subject to modification by the regulations of this Section, inclusive.

Enclosed parking spaces, or parking spaces covered by a #building#, including such spaces #accessory# to #residences# shall be permitted to occupy the ground floor provided they are located beyond 30 feet of the #street wall# of the #building#.

The applicable district regulations for the location of #accessory# off-street parking spaces along 125th Street within the Special District may be modified, so that such facilities may be provided off-site, within a #Commercial District#, but at a distance no greater than 1,200 feet from the zoning lot#.

97-51

Required Accessory Off-Street Residential Parking

#Accessory# off-street parking spaces, open or enclosed, shall be provided for all #developments# or #enlargements# within the #Special 125th Street District# that contain #residences#, according to the provisions of the underlying district, as modified by the provisions of Section 97-50 (SPECIAL OFF-

STREET PARKING AND OFF-STREET LOADING REGULATIONS), inclusive.

97-52

Required Accessory Off-Street Commercial Parking

In Commercial Districts within the #Special 125th Street District#, #accessory# off-street parking spaces shall be provided if required by Section 36-21, as modified by the provisions of Section 97-50 (SPECIAL OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS) , inclusive, except that no #accessory# parking spaces shall be required for #commercial uses# in C4-4D Districts.

97-53

Location of Access to the Street

Curb cuts for entrances and exits to #accessory# off-street parking facilities or for loading berths shall not be located on 125th Street or any other #wide street# that intersects with 125th Street, other than under the specific conditions of Sections 97-55 (Certification for Access to Required Uses) and 97-56 (Authorization for Access to Permitted Uses)

Such certification or authorization shall not be required if parking and loading requirements can be met through the provisions of 97-54 (Parking Access Through Residential Zoning Lots).

97-54

Parking Access Through Residential Zoning Lots

When a #residential zoning lot# fronts upon either 124th or 126th Street within the #Special 125th Street District# and the #rear lot line# abuts a #zoning lot# that fronts only on 125th Street, and such #zoning lot# has been vacant since (date of enactment), access for parking and loading purposes may be made through such #zoning lot#.

97-55

Certification for Access to Required Uses

If access to a required #accessory residential# parking facility or loading berth is not possible because of the requirements of Section 97-53, a curb cut may be allowed if the City Planning Commission certifies to the Commissioner of Buildings that such location is:

- (a) the only possible location for the facility or loading berth;
- (b) not hazardous to traffic safety;
- (c) located not less than 50 feet from the intersection of any two #street lines#; and

(d) constructed and maintained so as to have a minimal effect on the streetscape.

Such curb cut, if granted, shall be no greater than 20 feet in width.

The Commissioner may refer such matter to the Department of Transportation, or its successor, for a report and may base the determination on such report.

97-56

Authorization for Access to Permitted Parking Facilities or Loading Berths

The City Planning Commission may authorize curb cuts for the following parking facility or loading berths:

- (a) If access to a permitted #accessory residential# or public parking facility is not possible due to the requirements of Section 97-53, the City Planning Commission may authorize curb cuts for such #uses#, provided such curb cuts:
 - (1) will not create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement; and
 - (2) will not interfere with the efficient functioning of public transit facilities.
- (b) If access to a permitted loading berth is not possible due to the requirements of Section 97-53, the City Planning Commission may authorize curb cuts for such #use#, provided:
 - (1) such loading berths are adjacent to a fully enclosed maneuvering area on the #zoning lot#;
 - (2) such maneuvering area is at least equal in size to the area of the loading berth; and
 - (3) there is adequate space to permit head-in and head-out truck movements to and from the #zoning lot#.

Such curb cut, if granted, shall be no greater than 20 feet in width.

The Commissioner may refer such matter to the Department of Transportation, or its successor, for a report and may base the determination on such report.

Applications for authorizations shall be referred to the affected Community Board for a period of at least 30 days for comment. The City Planning Commission shall grant in whole or in part or deny the application within 60 days of the completion of the Community Board review period.

97-57

Public Parking Facilities

Notwithstanding the special permit regulations of Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas), #public parking garages# with 150 spaces or less shall be permitted as-of-right in C4-7 and C6 Districts, subject to the requirements of Section 36-50, inclusive, pertaining to surfacing and screening, and Section 97-53 (Location of Access to the Street). #Public parking garages# with more than 150 spaces shall be subject to the requirements of Sections 74-512 and 74-52.

#Public parking lots# are not permitted on zoning lots with 125th Street frontage within the Special District.

* * *

The above resolution, duly adopted by the City Planning Commission on March 10, 2008 (Calendar No. 4), is filed with the Office of the Speaker, City Council and the Manhattan Borough President, pursuant to 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.,
ALFRED C. CERULLO, III, BETTY Y. CHEN,
MARIA M. DEL TORO, RICHARD W. EADDY,
NATHAN LEVENTHAL, SHIRLEY A. McRAE, JOHN MEROLO, Commissioners
ANGELA R. CAVALUZZI, R.A., KAREN A. PHILLIPS, Commissioners Voting No

Statement of Commissioner Karen A. Phillips is attached.

Dissenting vote by Commissioner
Karen A. Phillips

I commend the Chair for outlining the process for River to River that included the participation of the community and appreciate the hard work of DCP staff, especially Edwin Marshall, Ray Gastil, and Jaime Ortiz.

I support the goals of a balanced rezoning plan for 125th Street. It has elements that encourage development and growth, but strongly promotes preservation. As a resident of the community and a developer, I support improvement to the services, goods and character of this regional shopping strip. We in the village of Harlem, an important section of the island of Manhattan, cherish our “sky.” We can see the sky because the scale of structures, which was created by benign neglect and the dedication and hard work of pioneers (who worked to reduce negative forces like drugs and crime, and supported redevelopment) in preserving neighborhood character were present BEFORE market forces would even consider this area. I appreciate the staff’s compromise of the height of structures in accordance with recommendations of the community. There must be compromise, because increases in height are the only method for development on private land to accommodate cultural or affordable housing uses. Therefore, I concur with having Hotel Teresa as the benchmark for height on the south-

side of 125th Street and recommend a compromise that limits height on the north-side to the street to the height of the New York State office building.

Proposals that only give increases in FAR for commercial uses in Community Board 10, I feel, have great merit and contribute to the economic stability of the community. Commercial development creates job opportunities for neighborhood residents, supports more of a variety of business and helps build a market for restaurants by providing income from lunch business. One of the things that hindsight from 15 years of community development has taught me is that connecting residents to the mainstream economy through commercial and economic development projects must get equal attention as providing affordable housing. When subsidized housing is built, we as planners should not relegate those who reside there to a stagnant existence. We should plan to ensure that there are provisions for residents to gain economic empowerment through excellence in education, skills training for future businesses, and living wage jobs.

This plan would have been most effective as a portion of a comprehensive rezoning of the entire areas of East, Central and West Harlem -- then the neighborhood retail along the north/south avenues could address the needs of local small businesses, and encourage economic revitalization of Harlem, the cultural capital for people of African descent.

Recommendations for changes to encourage developers on 125th Street to provide below-market rentals for local business should be further investigated to promote culturally related and entertainment retail.

The Departments of City Planning and Housing Preservation & Development have been vigilant in ensuring that affordable housing is included through inclusionary zoning. However, this housing should be encouraged outside of the core business district (St. Nicholas to 5th Ave.). All F.A.R. increases for housing should be given only for inclusionary units. I think that slight density increases or expansion of higher zoning across all of 125th Street would ensure that more affordable housing would be provided. I appreciate that the plan has been modified so that lobbies for housing are located on 124th or 126th Street. Also, I would recommend that Fifth Avenue be the boundary for C6-3 district versus mid-block changes.

There are several recommendations made by the Community Boards and the community's elected officials that should have been given more consideration in the rezoning, especially since DCP established such an expansive participatory process.

Therefore I vote NO on the proposed rezoning.

Exhibit A

**Proposed 125th Street Rezoning
and
Special 125th Street District**

**Final Environmental Impact Statement (FEIS)
Executive Summary**

1.0 EXECUTIVE SUMMARY

INTRODUCTION

The New York City Department of City Planning (DCP) is proposing to rezone portions of 125th Street in Manhattan Community Districts 9, 10 and 11. The area proposed to be rezoned is generally bounded by 124th Street, 126th Street, Broadway and Second Avenue. The proposed changes are part of a comprehensive City initiative to support the ongoing revitalization of 125th Street, Harlem's Main Street. The proposed rezoning area is currently zoned R7-2, C4-4, C4-4A, C4-5, C4-7, and M1-2, and the rezoning proposal would create a new special district, the Special 125th Street District, within the rezoning area and change the area's underlying zoning to R6A, R7-2, R7A, C4-4A, C4-4D, C6-3, and C4-7, as modified by the proposed special district. The proposed text amendment is included in Appendix A of this Final EIS. In addition to the zoning map and text amendments, the proposed action includes the disposition of City-owned property, an Urban Renewal Plan amendment, a City Planning Commission (CPC) certification pursuant to the Special TA (transit land use) District, and Urban Development Action Area Project (UDAAP) designation and project approval (a non-ULURP action) in connection with a known development on a site within the rezoning area.

The Final EIS has been prepared in conformance with all applicable laws and regulations, including Executive Order No. 91, New York City Environmental Quality Review (CEQR) regulations, dated August 24, 1977, and follows the guidelines of the CEQR Technical Manual.

The Final EIS includes review and analysis of all impact categories identified in the CEQR Technical Manual. The Final EIS contains a description and analysis of the proposed action and its environmental setting; the environmental impacts of the proposed action, including its short and long term effects, and typical associated environmental effects; identification of any significant adverse environmental effects that can be avoided through incorporation of corrective measures into the proposed action; a discussion of alternatives to the proposed action; the identification of any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented; and a description of any necessary mitigation measures proposed to minimize significant adverse environmental impacts.

The Final EIS analyzes a range of alternatives to the proposed action, in addition to the proposed action itself. Among the alternatives considered, a new alternative, the "Expanded Arts Bonus Alternative," has been proposed by DCP since the issuance of the Draft EIS. The Expanded Arts Bonus Alternative was developed largely in response to public comments received during the land use review process, and is, therefore, under particularly active consideration by the lead agency, the CPC. The Expanded Arts Bonus Alternative, which is described more fully and

analyzed in Chapter 21, “Alternatives,” represents a combination of aspects of both the Arts Bonus and the C4-4D Alternatives, and is presented in addition to those Alternatives. Upon completion of the environmental review process, it is possible, in accordance with SEQRA and CEQR, that the CPC will select an alternative, rather than the proposed action. The modified ULURP application [C 080099(A) ZMM and N 080100(A) ZRM] for the zoning map and text amendments which are analyzed in the new Expanded Arts Bonus Alternative were filed by the DCP on December 17, 2007 and are contained in their entirety in Appendix A.

As the proposed action would rezone a large area encompassing 24 blocks, and a ten-year period is typically believed to be the length of time over which a projection can be made on changes due to the rezoning, the analysis considers an analysis year of 2017.

PURPOSE AND NEED FOR PROPOSED ACTION

In response to recent and anticipated development in Harlem, and most specifically along 125th Street, DCP, in partnership with New York City Economic Development Corporation (EDC), Housing Preservation and Development (HPD), New York City Department of Transportation (DOT) New York City Department of Cultural Affairs (DCA), and other City agencies, undertook in 2003 the 125th Street River-to-River Study. The purpose of this study was to propose a strategic planning and development framework for 125th Street from the Hudson River to the East River. The study focused on several key areas that include: zoning, transportation, the arts, identity enhancement to promote and support increased visits to the corridor by local residents as well as regional, national and international visitors, and public realm/streetscape improvements. The study also reviewed strategies to develop housing within the corridor, including affordable housing. To achieve the study’s overall objectives, DCP convened an interagency working group and community-based Advisory Committee comprising more than 100 Harlem business and local civic representatives, community board members and elected officials. The actions comprising the 125th Street Corridor Rezoning and Special District described in this document constitute a key product of the study.

The rezoning plan includes input received from public meetings held in 2004, 2005, 2006, and 2007. The plan includes strategies to encourage new mixed-use development and to expand and enhance the arts, culture and retail activities on 125th Street in order to enable Harlem’s Main Street to evolve as a vibrant corridor and a premier arts, entertainment and commercial destination in the City. The proposed rezoning seeks to:

Provide a balanced zoning strategy — encourage new development where appropriate while maintaining the scale and character of existing predominantly residential areas.

Encourage new mixed-use development — catalyze the production of residential,

commercial, retail, arts and entertainment uses to enliven the street during the day and evening.

Balance new development in response to existing neighborhood character and scale — establish urban design controls that reflect the special context of 125th Street.

Sustain and enhance the ongoing revitalization of 125th Street as a unique, diverse Manhattan main street — expand the extent and range of uses permitted along the street.

Create opportunities for new housing including affordable housing — couple increases in density with inclusionary housing bonuses.

DESCRIPTION OF THE ACTION

The 125th Street corridor is primarily zoned for relatively low to medium-density residential and commercial development, interspersed with low-density manufacturing and high-density commercial districts. The 125th Street corridor has a diverse mix of commercial, institutional and retail uses. Portions of the corridor have occupied residential buildings. Examples of recent development include a Pathmark supermarket, Gotham Plaza and Gateway Plaza, located at Lexington Avenue and 125th Street; the Hotel Trades Association building and Harlem USA, located at Morningside Avenue and Frederick Douglass Boulevard, respectively. Buildings within the 125th Street corridor have a wide range of heights. Taller buildings include the Adam Clayton Powell Jr. State Office Building (20 stories) and the landmarked Theresa Towers (13 stories) within the core of the corridor at 125th Street and Adam Clayton Powell Jr. Boulevard, along with 55 West 125th Street (15 stories). Predominantly residential portions of the corridor contain four- to five-story buildings and brownstones. There are also one- and two-story retail and commercial buildings lining portions of 125th Street.

The proposed action would serve to enhance the 125th Street corridor through a balanced strategy which provides new opportunities to catalyze future mixed-use commercial and residential development, including affordable housing, while protecting the scale and character of predominately residential portions of the corridor with a strong built context. The Special 125th Street District boundaries coincide with the rezoning area boundaries, which is generally bounded by 124th and 126th Streets, Broadway and Second Avenue. 125th Street comprises the spine within the proposed rezoning area.

The proposed Special District would contain the “Core Subdistrict”. The subdistrict would generally include both sides of 125th Street between Frederick Douglass Boulevard and 545 feet east of Lenox Avenue/Malcolm X Boulevard. Prominent arts institutions like the Apollo Theater and the Studio Museum are located within this section of 125th Street. The subdistrict would

contain additional regulations pertaining to the creation of arts and entertainment uses that would complement existing ones, these regulations are described in detail within the Use Regulations section below. The proposed Special District would promulgate controls that shape the form of new buildings to respond to the specific conditions along the corridor in a more fine-tuned approach than possible with regular zoning categories.

Central to the proposal is establishing a new special purpose district for the areas of the 125th Street corridor within the rezoning - the Special 125th Street District. The Special District would allow a wide range of retail, arts, entertainment and cultural uses to physically and economically activate the street, would allow fine-tuned building form controls to respond to the specific scale and character of the corridor, and would support future job creation and career opportunities.

The majority of the area within the proposed rezoning boundaries is currently zoned C4-4, C4-7 and R7-2, which comprise medium and high density zoning districts. Small portions within the rezoning boundaries also include areas currently zoned C4-5, C4-4A and M1-2. The majority of the existing zoning districts have been in effect since the last major revision of the New York City Zoning Resolution in 1961. The zoning proposal includes changes to the existing C4-7 and R7-2 districts within the rezoning area and mapping C6-3, C4-4D, C4-4A and R6A districts in the remaining areas.

A key principle of the rezoning proposal for 125th Street is the creation of a balanced rezoning approach that includes opportunities to catalyze future development, while preserving those areas with a strong, definable built context as well as predominately residential areas. The proposal recognizes the built context of 124th and 126th Streets, which are predominantly residential in character and clearly distinct from 125th Street and proposes compatible zoning districts accordingly.

DCP's rezoning strategy balances encouraging growth with promoting preservation within select areas of the corridor. Through zoning text and zoning map amendments DCP's proposal would:

Support and enhance the ongoing economic revitalization of 125th Street and neighboring areas.

125th Street is Harlem's Main Street. Through the 1960- 80's period, 125th Street experienced an erosion of its function as a major retail corridor, resulting from population and housing decline, a lack of available public funding for new development, and general private disinvestment. In recent years 125th Street has experienced renewed development and private investment, such as that typified by the Harlem USA retail complex, the Hotel Trades Association building, Harlem Center and Pathmark. Significant projects undergoing their planning stages include the proposed redevelopment of the Victoria Theater, Columbia University's proposed campus plan for Manhattanville, to the western end of 125th Street, and the East 125th Street Project (formerly known as Uptown New York), a new mixed-use project to be located on portions of three blocks bounded by

125th and 127th streets, Second and Third avenues, at the eastern end of 125th Street. Neighboring blocks have also seen new residential development, primarily under various New York City Housing Preservation and Development (HPD) programs.

DCP's rezoning proposal complements the city's ongoing capital investment and renewed private investment in the area. The proposal includes zoning changes that would positively bolster new development activity, and activate and reinforce 125th Street as a major mixed-use corridor and a local and regional destination for arts, entertainment and retail.

Promote building forms that are compatible with existing neighborhood character.

Along most of 125th Street, mid-blocks and intersecting avenue frontages, current zoning regulations allow tower-in-the park development that is inconsistent with the surrounding context of street wall buildings. Portions of the corridor within the rezoning area are characterized by four to five-story rowhouses with street walls built to the street line; prominent examples of these areas include portions of 124th and 126th streets between Malcolm X Boulevard and Park Avenues, and along portions of 125th Street between Fifth and Madison Avenues.

To address these issues, DCP is proposing zoning districts to catalyze development and to ensure that future building forms are compatible with the surrounding neighborhood's built character. The proposed changes to the existing zoning regulations include bulk controls that will require all new development to provide street walls and setbacks for the upper portion of the buildings above the street wall to reduce their visual impact from the street level. Maximum height limits would be introduced for all the proposed new mapped districts ensuring the overall massing and scale of new development responds to the particular characteristics of the different areas within the corridor.

Foster new opportunities for mixed-use development.

Neighboring blocks, located north and south of 125th Street, comprise a growing neighborhood that is undergoing significant redevelopment. Residential development is critical and valuable to the long term vitality of a mixed-use district; however, no new housing has been built along 125th Street in the past recent years. New mixed-use development that includes housing on 125th Street would add vitality to the street both at day and night times by increasing the residential population. To encourage new mixed-use development that includes housing, DCP proposes increased densities in appropriate locations, with an inclusionary zoning bonus to expand and enhance the opportunities for affordable housing development.

REASONABLE WORST CASE DEVELOPMENT SCENARIO

A Reasonable Worst Case Development Scenario (RWCDs) for both "future no-action" and

“future with-action” conditions will be analyzed for an analysis year, or Build year, of 2017.

The future with-action (or Build) scenario identifies the amount, type, and location of development that is expected to occur by 2017 as a result of the proposed action. The future without the action (or no-build) scenario identifies similar development projections for 2017 absent the proposed action. The incremental difference between the build and no-build scenarios serves as the basis for the impact analyses.

- To determine the scenarios, standard methodologies have been used following CEQR Technical Manual guidelines and employing reasonable, worst-case assumptions. These methodologies have been used to identify the amount and location of future residential, commercial, and community facility growth. In projecting the amount and location of new development, several factors have been considered, including known development proposals, current real estate market demands, and DCP’s standard “soft site” criteria for identifying likely development sites.

DCP has identified a total of 49 48 sites which meet these criteria. Of these 49 48 sites, 26 are projected development sites and 23 22 are potential development sites.

Future No-Action Conditions (No-Build Scenario)

In the future without the proposed action, the existing zoning controls would remain in place. It is expected that the rezoning area would experience some growth in commercial and residential uses. In the future without the proposed action (No-Build), as-of-right development would be expected to occur on 14 of the 26 projected development sites identified by DCP in the rezoning area. Development on the 26 projected development sites is expected to consist of 304 dwelling units (DUs); 635,337 sf of retail; 512,305 sf of office space; 8,512 sf of hotel space (together the retail, office, and hotel space would comprise a total of 1,156,154 sf of commercial space); 26,824 sf of storage/manufacturing uses; 112,404 sf of parking/auto related uses; 182,493 sf of community facility space; and 20,586 sf of institutional conversion space. The residential development projected in the No-Build Scenario would not be expected to include affordable housing.

In addition to the 49 48 projected and potential development sites in the proposed rezoning area described above, there are six known development sites in the rezoning area. The development expected on the six known development sites would occur independent of the proposed actions. The six known development sites would have a total of 28,986 square feet of retail floor area, 21,696 square feet of commercial office floor area, 127,500 square feet of hotel floor area, 129,992 square feet of community facility space and 147 total parking spaces. These developments are expected to occur in the No-Build Scenario.

Future With-Action Conditions (Build Scenario)

DCP has identified 26 projected development sites in the rezoning area on which development would result in a net (incremental) gain of 2,328 dwelling units (DUs), 436,015 commercial office square feet and 208,586 commercial retail square feet by the rezoning build year of 2017. In addition, DCP has identified ~~23~~ 22 potential development sites in the rezoning area. If development does not occur on the projected development sites, the same overall amount of development could occur instead on some or all of the potential development sites. Although considered possible sites for future development based on the soft site criteria described above, these sites are considered less likely to be developed over the ten year analysis period. Site conditions, location, and market demand are among the factors contributing to the more limited likelihood for redevelopment of potential development sites.

The 26 projected development sites currently have 2 DUs; 460,758 sf of commercial uses (336,641 sf of retail, 115,605 sf of office/commercial and 8,512 sf of hotel), 40,788 sf of storage/manufacturing uses; 126,908 sf of parking/auto related uses; 80,058 sf of community facility space; and 239,570 sf of vacant floor area.

As described above, in the future without the proposed action (No-Build), some as-of-right development is expected to occur on these sites. The No-Build development program is expected to consist of 304 DUs; 635,337 sf of retail; 512,305 sf of office space; 8,512 sf of hotel space (together the retail, office, and hotel space would comprise a total of 1,156,154 sf of commercial space); 26,824 sf of storage/manufacturing uses; 112,404 sf of parking/auto related uses; 182,493 sf of community facility space; and 20,586 sf of institutional conversion space.

The development expected to occur on the 26 projected development sites under Build conditions would consist of 2,632 DUs (498 of which would be affordable housing units); 843,923 sf of commercial retail space; 948,319 sf of commercial office space; 20,184 sf of hotel space (total retail, office and hotel commercial space is 1,812,426 sf); 71,508 of community facility space; 20,586 sf of institutional conversion space; and 1,998 sf of parking/auto related uses.

Incremental Difference between With-Action and No-Action

The projected incremental (net) change in development between the no-build and build scenarios that would result from the proposed action at these 26 projected development sites is 2,328 DUs, including 498 units of affordable housing; 208,586 square feet of retail commercial space; 436,015 square feet of office commercial space; 11,672 square feet of hotel space (total net increment of commercial space is 656,273 square feet); a decrease of 110,985 square feet of community facility space; a decrease of 26,824 square feet of storage and manufacturing space; and a decrease of 110,406 square feet of parking/auto related uses. A comparison of these development scenarios and the incremental change between them is shown in Table 1.0-1.

Table 1.0-1
Summary of Land Uses on Projected Development Sites
Under No Action, With Action and Action Increment

Land Use Type	2017 No Action	2017 With Action	Action Increment
Residential*	304 DU	2,632 DU	2,328 DU
Affordable DUs	-	498 DU	498 DU
Commercial Retail	635,337 sf	843,923 sf	208,586 sf
Commercial Office	512,305 sf	948,319 sf	436,015 sf
Commercial Hotel	8,512 sf	20,184 sf	11,672 sf
Total Commercial	1,156,154 sf	1,812,426 sf	656,273 sf
Storage / Manufacturing	26,824 sf	-	-26,824 sf
Parking / Auto	112,404 sf	1,998 sf	-110,406 sf
Community Facility	182,493 sf	71,508 sf	-110,985 sf
Institutional Conversion	20,586 sf	20,586 sf	-

*Includes affordable dwelling units

REQUIRED APPROVALS

The proposed action requires CPC and City Council approvals through the Uniform Land Use Review Procedure (ULURP), and includes the following actions:

- Zoning map amendments that would map the Special 125th Street District and new zoning districts in conjunction with the proposed zoning text amendments. Zoning text amendment to establish the Special 125th Street District
- Disposition of City-owned property, an Urban Renewal Plan amendment, a CPC certification pursuant to the Special TA (transit land use) District, and UDAAP designation and project approval (a non-ULURP action) to facilitate the development of a residential project with ground floor retail on a site within the proposed rezoning area.

The proposed rezoning is a discretionary public action which is subject to both the Uniform Land Use Review Procedure (ULURP), as well as City Environmental Quality Review (CEQR). ULURP is a process that allows public review of proposed actions at four levels: the Community Board; the Borough President; the City Planning Commission and, if applicable, the City Council. The procedure mandates time limits for each stage to ensure a maximum review period of seven months. Through CEQR, agencies review discretionary actions for the purpose of

identifying the effects those actions may have on the environment.

FUTURE WITH THE PROPOSED ACTION

Land Use, Zoning, and Public Policy

In the future with proposed action, there would be no significant adverse impacts anticipated for land use, zoning, or public policy in the primary or secondary study areas. The proposed action would be consistent with zoning and public policies in the rezoning area and adjacent areas.

Land Use

The proposed action would not result in significant adverse land use impacts in the rezoning area. By 2017, much of the rezoning area would be occupied by a diverse mix of commercial, institutional and residential buildings with retail generally located on the ground floor. The mapping of the proposed Special 125th Street District with its modifications to the existing C4-7, C4-4A and R7-2 districts within the rezoning area and the mapping of new C6-3, C4-4D, and R6A districts, would enable existing commercial, residential, institutional and mixed uses to remain, but would encourage new mixed-use development that would be consistent with the existing and the surrounding land uses.

With the proposed action, the same general land uses would be allowed. Zoning changes proposed as part of the Special 125th Street District would replace existing manufacturing districts on portions of 126th Street between Park and Third Avenues to encourage new mixed use and commercial uses; map new R6A zoning districts on portions of 126th and 124th Streets to protect the low-rise character of areas with existing brownstones; and map new C4-4A zoning districts on portions of 125th, 124th and 126th Streets generally between Lenox and Madison Avenues to promote building forms compatible with the existing medium and low-rise context. The change in the manufacturing and transportation uses at the eastern end of the corridor to new mixed use and commercial uses would be compatible with the rest of the 125th Street corridor. The proposed action would complement trends that have already been established in manufacturing districts at the eastern end of the rezoning area in the existing and no-action conditions, where blocks in manufacturing districts have been redeveloped with more commercially-oriented uses, and smaller parcels have been converted to residential use.

With the proposed zoning changes, increased densities for generally the same land uses would be allowed in the corridor. The C4-4D, C6-3 and C4-7 zoning districts, mapped throughout the corridor east of Morningside Avenue, would allow for increased density with established height limits. Within these districts, a density bonus in exchange for affordable housing would be available through the Inclusionary Housing program, further encouraging mixed-use

development and the creation of affordable housing in the corridor.

The proposed R6A zoning district, mapped on portions of 126th Street between Lenox and Park Avenues and on a portion of 124th Street between Lenox and Madison Avenues, would protect the existing residential and community facility uses in these areas and would allow for less density and no commercial uses. These new districts would preserve the existing residential character of 124th and 126th Streets.

The Special District proposed for the 125th Street corridor would contain a “Core Subdistrict” to encourage arts and entertainment uses that would complement existing cultural institutions in Harlem. It is expected that entertainment-related uses would be included in new development of 60,000sf or larger, within the Core Subdistrict, in accordance with the entertainment use requirement included in the special district.

Zoning

The proposed action would establish the Special 125th Street District through zoning map and text amendments (see Appendix A, “Proposed Zoning Text Amendment”). The proposed action would serve to enhance the 125th Street corridor through a balanced strategy which provides new opportunities to catalyze future mixed-use commercial and residential development, including affordable housing, while protecting the scale and character of predominately residential portions of the corridor with a strong built context.

The proposed Special 125th Street District boundaries coincide with the rezoning area boundaries, which is generally bounded by 124th and 126th Streets, Broadway and Second Avenue (see Figure 3.1-7). 125th Street comprises the spine within the proposed rezoning area. The proposed rezoning area is currently zoned R7-2, C4-4, C4-4A, C4-5, C4-7, and M1-2. The rezoning proposal would create a new special district, the Special 125th Street District, within the rezoning area and change the area’s underlying zoning to R6A, R7-2, R7A, C4-4A, C4-4D, C6-3, and C4-7, as modified by the proposed special district. The proposed zoning changes are part of a comprehensive City initiative to support the ongoing revitalization of 125th Street, Harlem’s Main Street.

Table 1.0-2: Summary of Proposed Allowed Density and Building Form within the Special District

PROPOSED ZONING							
Use:	Allowed Density within Special District (FAR):					Building Form:	
	RESIDENTIAL			COMMERCIAL	COMMUNITY FACILITY	Special District bulk controls	
Underlying Zoning District	Base FAR	Inclusionary Housing Bonus	Max. FAR	Max. FAR	Max. FAR	Building base (streetwall): min. max.	Building height: max.
R6A	-	-	3.0	-	3.0	40' 60'	70'
R7-2	-	-	3.44	-	6.5	not required	none
C2-4 overlay	-	-	-	2.0	-	-	-
R7A	-	-	4.0	-	4.0	40' 65'	80'
C2-4 overlay	-	-	-	2.0	-	-	-
C4-4A	-	-	4.0	4.0	4.0	40' 65'	80'
C4-4D	5.4	1.8	7.2	5.4	6.0	60' 85'	120'
C6-3	6.0	2.0	8.0	6.0	6.0	60' 85'	160'
C4-7	9.0	3.0	12.0	10.0	10.0	60' 85'	290'

Public Policy

The changes resulting in the future with the proposed action are not anticipated to create significant adverse impacts to public policy. The proposed action would be consistent with the public policy set forth to guide the development of the rezoning and the secondary study areas.

Socioeconomic Conditions

The proposed action is not expected to have a significant adverse impact on socioeconomic conditions related to direct or indirect residential displacement, to direct or indirect business and institutional displacement, or to specific industries.

Residential Displacement

The proposed action is not expected to result in significant adverse impacts as a result of direct displacement. As described in Chapter 1, "Project Description," it is anticipated that under the proposed action there would be 26 projected development sites under the RWCDS. Fourteen of these sites would be developed as-of-right under conditions without the proposed action. All but one of the projected development sites currently have no residential uses present. Projected development Site #18 contains two dwelling units, located at 69 East 125th Street. However, it is expected that these units would be displaced in the Future Without the Action. Therefore, no direct residential displacement is anticipated as a result of the proposed action.

Indirect Residential Displacement

It is estimated that there are approximately 500 residents in 190 units in five census tracts that could be vulnerable to secondary displacement if rents rise as a result of the proposed action. However, these units represent less than one percent of the study area population. This change would not affect neighborhood character in the study area as the vast majority of the study area population resides in protected units and would not be affected by rising rents. Nor would the relatively small amount of potential secondary displacement accelerate existing trends as the study area has experienced the widespread renovation of thousands of unprotected units since 2000.

Furthermore, new opportunities for affordable housing will be created as a result of the proposed action through an inclusionary housing bonus, which is expected to provide an additional 498 units of affordable housing in the study area. Therefore, the limited indirect displacement that might potentially occur as a result of the proposed action is not expected to result in significant adverse impacts from indirect residential displacement.

Direct Business Displacement

While all businesses contribute to neighborhood character and provide value to the city's economy, CEQR seeks to determine whether displacement of a single business or group of businesses would rise to a level of significance in terms of impact on the City's or the area's economy or the character of the affected neighborhood. The purpose of CEQR is to identify significant adverse impacts to the environment. Under CEQR, displacement of a business or group of businesses is not, in and of itself, an adverse environmental impact. Rather, the CEQR Technical Manual provides a framework to analyze the effects of displacement by asking whether the businesses in question have "substantial economic value to the City or region" or "contribute substantially to a defining element of neighborhood character".

Redevelopment of projected development sites identified in the environmental review for the 125th Street rezoning would potentially cause displacement. However, according to the analysis conducted according to the CEQR Technical Manual methodology discussed in greater detail below, the potential direct displacement would not constitute a significant adverse impact. The principal category of business that could be displaced is in the retail sector, in particular, restaurants and businesses providing clothing and accessory products. The proposed actions could potentially cause direct displacement of approximately 71 firms and 975 employees on 13 projected development sites. This is solely a projection based on an estimate of the amount of new development that could be reasonably expected to occur within a 10-year period under the rezoning; there is no certainty that any individual site would redevelop or that a particular business would be displaced.

While the DEIS analyzes long term development trends, it nevertheless identifies the firms subject to potential direct displacement based on existing conditions and the businesses located on development sites today. In fact, however, New York City's commercial streets are dynamic.

Businesses regularly open and close in response to changes in the economy, local demographics, and consumer trends. Therefore, it is likely that a number of the businesses identified as likely to face displacement pressure as sites redevelop would close or relocate prior to site development due to reasons independent of the rezoning.

The assessment of a business' economic value considers its products and services, its locational needs, particularly whether those needs can be satisfied at other locations, and potential effects on business or consumers of losing the displaced business as a product or service. An example of redevelopment that affected a special and identifiable sector of the City's economy was the redevelopment of the World Trade Center in the 1960s, which resulted in the displacement of the locus of the radio parts industry.

In the case of the 125th Street rezoning, the goods and services provided by the displaced businesses are commonly found on commercial streets in the area and in New York City. They consist primarily of clothing and food retailers, housewares, beauty supply stores, and services such as salons and social service providers. Although the potentially displaced firms each contribute to the City's economy and therefore have economic value, the products and services they provide are widely available in the area and the city; the locational needs of these firms could be accommodated in the area and in other commercial districts, which are widely mapped throughout the city; and the products and services provided by these companies would still be available to consumers as many other existing businesses would remain and firms providing similar products and services would still be available on 125th Street or in the surrounding area.

On the subject of neighborhood character, the manual advises that an impact could occur if the displaced businesses "define or contribute substantially to a defining element of neighborhood character," such as a marina or shipyard on the waterfront. The character of 125th Street is a regional destination retail street, with a mix of national and regional chains, franchises and independent businesses. The corridor is occupied with restaurants and stores that offer a variety of shopper goods and services, such as clothing and food retailers, housewares, beauty supply stores, and services such as salons and social service providers. The potentially displaced businesses sell mostly food and clothes, or provide social services - products and services that will continue to be widely available in the area after redevelopment. Although each business adds to the commercial fabric of 125th Street, none of the businesses that could be displaced on 125th Street individually define the character of the neighborhood. Nor would the collective displacement of the firms be expected to change neighborhood character, since the similar types of goods and services would continue to be available on 125th Street or in the surrounding area. Furthermore, it is expected that under the rezoning, most of the development sites would contain ground floor retail in the future, creating new retail opportunities to replace those businesses that may be displaced.

Indirect Business Displacement

The proposed actions are expected to facilitate new economic growth and housing through mixed-use development along 125th Street, thereby creating a vibrant center of office, retail, entertainment, and residential uses. While these changes in economic conditions could result in some limited indirect business displacement, the proposed actions would not result in significant adverse indirect business and institutional displacement impacts within the primary or secondary study areas.

Adverse Effects on Specific Industries

According to the guidelines of the CEQR Technical Manual, the proposed action would not have an adverse impact on a specific industry because it would not significantly affect the business conditions for any industry or category of businesses within or outside of the study area, nor would it indirectly reduce employment or impair the economic viability of a specific industrial sector or business category. It was determined that there were no specific industries that are unique to the area and thus detailed analysis was not required to be performed.

Community Facilities

Public Schools

The approximately 243 elementary school students that would be introduced into the half-mile study area as a result of the proposed action would cause total enrollment in elementary schools to rise to 10,767, leaving 4,587 seats still available (utilization rate of 71%). The rezoning area is located entirely within CSD 5. In the future with the proposed action, elementary school enrollment in CSD 5 would increase to 8,379, well below its 10,967 seat capacity (utilization rate of 75%). Therefore, there would be no significant adverse impact on elementary schools as a result of the proposed action.

Furthermore, in the future with the proposed action, intermediate school enrollment in CSD 5 would increase to 3,886, which is below capacity and translates to a projected future utilization rate of 69%. Therefore, there would be no significant adverse impact on intermediate schools as a result of the proposed action.

Publicly Funded Day Care

In 2017, without the proposed action, it is projected that there would be approximately 474 available day care slots within one mile of the rezoning area. Adding 60 children eligible for publicly funded day care generated by the proposed action would leave approximately 414 day care slots available within one mile of the rezoning area in 2017 with the proposed action. Therefore, it is anticipated there would be no significant adverse impact on publicly funded day care facilities as a result of the proposed action.

Libraries

Approximately 5,797 residents housed in 2,328 new dwelling units would be generated in the rezoning area as a result of the 125th Street Corridor Rezoning and Related Actions by 2017. These new residents would be spread across the catchment areas of the 125th Street, George Bruce and Harlem Libraries, which are located in the rezoning area, and would also be within three-quarters of a mile of five other libraries. According to the CEQR Technical Manual, if a proposed action would increase the catchment population by 5% or more over No-Action levels, a significant impact could occur if this increase would impair the delivery of library services. To conservatively project the increase in each library's catchment area, the percentage of the rezoning area covered by each catchment area was estimated. Those percentages were then applied to the total number of new residents estimated to be generated by the proposed action. The projected net population increase was then calculated as a percentage of the catchment area population. With this methodology, it is estimated the catchment populations of the 125th Street, George Bruce and Harlem Libraries would increase by four percent, two percent and four percent, respectively. Although it is reasonable to assume new residents in the rezoning area would use the library closest to them, they still have two other libraries within the rezoning area and five additional libraries within three-quarters of a mile. Therefore, it is not anticipated that there would be a significant impact on library services as a result of the proposed action.

Open Space

The proposed action would not result in significant adverse impacts on open space. While the amount of total and active open space resources in the study area are and would continue to be deficient in comparison to DCP guidelines, the quality of park and recreational space in the study area, as well as the availability of high quality regional open space resources located just outside of the residential study area, would help offset this. Plans and projects to connect the 125th Street Corridor to both rivers via the West Harlem Waterfront Park project and East River Esplanade expansion along the Harlem River will connect the 125th Street Corridor area to a vastly larger network of open space. These projects would help improve the pedestrian, visual and non-motorized vehicle connection between the proposed rezoning area and the Harlem River Waterfront and beyond. Smaller projects, such as the 12,500 sf of open space within the proposed East 125th Street Development mixed use project would also help to address the open space needs of the study area's residents by adding a new passive resource.

Similarly, the small square and grove proposed as part of the Manhattanville in West Harlem project would provide an attractive intervening open space between the 125th Street Corridor and the West Harlem River Park. The connection between the 125th Street Corridor and the Hudson River would be strengthened and enhanced by open space planned for Columbia's Manhattanville project and the West Harlem River Park project. The development of waterfront open space, open space related to Columbia University's plans for an expansion northward, along with other planned projects by the NYCDPR would help alleviate the effects of the action-

generated population on study area open resources.

As noted above, the proposed action would neither result in any direct displacement of existing open space resources in the study area, nor would the proposed action significantly exacerbate the deficiency in open space. Although the proposed action would not increase the amount of publicly accessible open space in the study, the proposed contextual zoning districts require that new residential developments provide on-site recreation space for building residents in accordance with the provisions of the Quality Housing program. This on-site recreation space would help to offset the increased residential population's additional demand on the study area's open space resources.

As described in the Shadows chapter, the proposed action would result in significant adverse shadow impacts to two open space resource, Dream Street Park and the public plaza at the Adam Clayton Powell Jr. State Office Building. However, these shadows impacts would affect only passive open space resources. As the study area is well served in terms of passive open, these shadow impacts are not considered to have a significant qualitative effect on open space within the study area.

It is recognized that the shortage of active open space within the residential study area results in an active open space ratio (0.52) that is below DCP's guideline of 2.0 acres of active space per 1,000 residents. As described above in the demographic profile of the residential study area, 24.2 percent of all people within the residential study area are age 17 or younger, and are more likely to be users of active recreation amenities. Projects such as the Harlem River Ballfields would help to ameliorate the effects of the decreased active open space ratio in both the residential study area in the Future Action Scenario. Given the span of the proposed rezoning area from 124th to 126th Street and from Second Avenue on the east to Broadway on the West, the rezoning area is in close proximity to the majority of the planned open space development that is expected to be implemented by the build year of 2017. This would minimize the effect of the proposed action on other parks and open spaces in the study area, particularly the identified shortage of active open space in the residential study area. Other attractive open spaces for both passive and active uses are likely to attract residents who would be expected to take advantage of a greater portion of the park than just the space that lies within the study area boundary. Further, several large regional open space resources lie partially or completely outside the study area and have active open space amenities are accessible to residents within the study area. The proximate location of these large regional open space resources would serve to moderate the shortfall of active open space resources identified in the residential study area. The large regional open space resources that are nearby with active open space resources available to residents of the residential study area include: Central Park, located to the south of the study area boundary; Morningside Park, located to the southwest of the study area; Randall's Island Park, located to the east of the study area; and Riverside Park, located to the west of the study area.

The combination of the availability of a variety of open spaces such as recreational areas, spaces

for walking and biking, gardens and school playgrounds, the addition of new open spaces, the improvement of existing facilities and large open space resources in the vicinity of the open space study area all add to the open space conditions under existing, no-build and build scenarios. The 125th Street Rezoning and Related Actions open space study area has a significant amount of existing open space in comparison to many other areas in Manhattan and should continue to have sufficient open space resources in the future. Significant adverse impacts to open space would not result from the proposed action.

Shadows

Preliminary assessment of the projected and potential development sites, and the shadows they would cast, found that several cast shadows long enough to reach open spaces and architectural resources. The proposed action could potentially cast shadows on 57 historic resources and 24 open space resources. However, 18 of the open space resources are sufficiently far enough from the projected and potential development sites or do not have net new shadows cast upon the resources that are caused by projected and potential development sites in the Future Action scenario. The proposed action would result in significant adverse shadow impacts on four sunlight-sensitive resources: The Church of St. Joseph of the Holy Family, the Metropolitan Community United Methodist Church, Dream Street Park, and the Adam Clayton Powell, Jr. State Office Building Plaza would receive incremental new shadows as a result of the proposed action that are considered to have a significant adverse impact on these resources.

Since the DEIS, the Department of City Planning consulted with the Department of Parks and Recreation (DPR) and concluded that certain improvements at Dream Street Park were feasible, specifically relocation of benches and relocating or replacing plant material, and would partially mitigate the significant adverse shadow impacts. Absent DPR funding to implement these improvements, the significant adverse shadows impacts would remain unmitigated. Additionally, the Department of City Planning has extended an offer to work closely with the State to ensure that the redesign of the Adam Clayton Powell, Jr. State Office Building Plaza takes into consideration the potential shadow impacts and minimizes their significant adverse nature. However, because the redesign plans for the plaza had not been finalized by the time of the FEIS, the significant adverse impact remains unmitigated. For the remaining two sunlight sensitive resources, the Department of City Planning in consultation with the appropriate City and State agencies has concluded that there are no feasible or practicable mitigation measures that can be implemented to mitigate these impacts, and the significant adverse shadow impacts on the two historic resources would remain unmitigated.

As discussed above, for all of the other public open space resources analyzed, each would continue to receive a minimum of four hours of sunlight during the growing season and the proposed action would not result in a substantial reduction in sunlight to any sun-sensitive uses or features. As such, the proposed action would not result in significant adverse shadow impacts on those open space resources. Aside from the Church of St. Joseph of the Holy and the

Metropolitan Community United Methodist Church, the proposed action would not result in incremental shadows being cast on any other historic resources with sunlight-sensitive features.

Historic Resources

The proposed action would not result in significant adverse impacts to archaeological resources; however, it has the potential to result in unmitigated significant adverse impacts to designated New York City landmarks and S/NR-listed and eligible architectural resources due to demolition and/or construction-related activity.

Archaeological Resources

As some of the projected and potential development sites would involve excavation or other types of in-ground disturbance on sites which may have not been previously excavated, the New York City Landmarks Preservation Commission (LPC) reviewed the sites to determine the potential for effects on archaeological resources. LPC determined that the impact area is not archaeologically sensitive for prehistoric and historic archaeological resources, therefore the proposed action does not have the potential to result in significant adverse archaeological impacts and no further analysis is necessary.

Architectural Resources

The proposed action would not result in direct significant adverse impacts to resources on projected development sites. The proposed action could result in significant adverse impacts due to potential demolition of four Register-eligible resources on potential development sites, including: the former Harlem Savings Bank (#2), the Marion Building (#3), the Bishop Building (#4) and the Amsterdam News Building (#5). Any significant adverse impacts would be unmitigated as none of these resources are designated New York City landmarks or have been calendared for designation. Mitigation could include calendaring these sites for consideration as New York City Landmarks by the New York City Landmarks Preservation Commission. If the resources were deemed to be landmarks, then protection for redevelopment of the sites would be afforded. If the resources were not found to meet the criteria to be designated as a New York City Landmark, then their demolition would not be a significant adverse impact.

Inadvertent construction-related damage could potentially occur to eight eligible and potentially eligible resources including: the Metro-North 125th Street Station (#7); the Park Avenue Viaduct (#8); the former Twelfth Ward Bank (#11); Blumstein's Department Store (#12); 221 East 124th Street (#19), the Apartment Building at 2075-2087 Lexington Avenue (# 20); the Lenox Avenue/West 125th Street Subway Station (#24) and the H.C.F. Koch Department Store (#25). For these eight non-designated resources, construction under the proposed action could potentially result in construction-related impacts to the resource, as the additional construction

protections of TPPN 10/88 would not apply. If these eligible resources are designated in the future prior to the initiation of construction, TPPN 10/88 would apply and indirect significant adverse impacts resulting from construction would be avoided.

Several projected and potential developments that are expected to result from the proposed action could potentially cast new incremental shadows on sunlight sensitive historic resources. As further discussed in Chapter 3.5, “Shadows,” the Church of St. Joseph of the Holy Family and the Metropolitan Community United Methodist Church contain light-sensitive features and are expected to receive incremental shadowing effects as a result of the proposed action. The incremental shadow cast upon these resources would result in a significant adverse shadow impact on the resources. After the issuance of the DEIS, the Department of City Planning, in consultation with the NYC Landmark Preservation Commission, concluded that the mitigation measures described in Chapter 3.5, “Shadows” are not feasible and that there are no other feasible or practicable measures that would eliminate or reduce the impacts. Therefore, the significant adverse shadow impacts on these two resources remain unmitigated.

Urban Design and Visual Resources

No significant adverse impacts on urban design would result from the proposed action. The proposed action is expected to result in positive changes and improvements to urban design conditions within the proposed rezoning area. Views to visual resources would be enhanced to the extent the surrounding setting is improved, and the opportunity to view and participate in the use of such resources as the Apollo Theater and other Harlem destinations through the creation of continuous retail and cultural environments would enhance Harlem’s Main Street as a 24-hour destination.

The most appreciable changes would be seen in the built form of new developments, especially pertaining to building bulk, use, and type, and streetscape elements. Open lots, substantially underutilized parcels and one- and two-story retail structures would be replaced with mixed-use buildings that are appropriate in massing, scale and uses to their subareas and to the larger 125th Street corridor.

The urban design strategy that has been developed as part of the proposed action would result in a series of carefully calibrated changes to the built environment of the 125th Street corridor. The urban design strategy would ensure that new development takes into account and responds to the varied built conditions that characterize each of the different subareas of the corridor. The proposed building form controls would guide new development to either, complement existing areas with a strong contextual built character, reinforce medium density areas, or, to ensure an appropriate scale and massing for higher-density development.

New development on areas of the corridor with a strong contextual build character, such as the Mid Corridor and the West Side subareas, would be guided by building form controls that would ensure an appropriate relationship to the existing built context of four and five-story tenement buildings and brownstones. The required streetwall heights and the limitations on the maximum building height would be consistent with the bulk and massing of the predominant existing buildings reinforcing the streetwall and low-scale character of these areas.

New development on areas of the corridor where medium density is proposed as part of the proposed action would reinforce the mixed-use character of the East Side and the St. Nicholas Intersection subareas where existing residential buildings coexist with other commercial, institutional and auto-related uses. Within these subareas single-story retail structures, vacant buildings and at-grade parking lots would be replaced by medium density mixed-use development with ground floor retail. The new development would improve the urban design of these subareas regularizing streetwalls and establishing an appropriate height limit of 120 feet or 10 to 12 stories.

Higher density new development is expected as a result of the proposed action within the Mixed-Use Core and the Transit Hub subareas. Within these subareas the proposed Special 125th Street District would include building form regulations to ensure that new higher density development is of appropriate scale and massing, with appropriate tower and slab controls to frame and enhance the street. The new development at the center of the corridor would replace one and two-story retail structures and vacant lots with new mixed-use buildings. Building form regulations would require the new buildings to frame 125th Street with streetwalls of consistent height on both sides of the street and would limit the height of new development, and establish a maximum building height that would be substantially lower than the height possible through the existing zoning and building form regulations on the north side of 125th Street. Required setbacks and slab limitations for those portions of the building above the streetwall would ensure that the bulk of the building does not unduly affect the street level below. The combined building form regulations would ensure that the new higher density mixed-use development is of appropriate scale and massing.

As a result of the proposed action, the retail and commercial character of the 125th Street corridor is expected to be improved. The use regulations included in the proposed special district would ensure that new development would locate active uses at the ground floor level coupled with transparency requirements. Additional regulations applicable to the Core Subdistrict would require arts and entertainment-related uses on new large developments, which are likely to be located at the second or third story of the new building. The use regulations would prevent non-active uses such as banks to locate the majority of their operations at the ground floor level effectively shifting these uses to either the second-story or below grade levels. The active use and transparency requirements associated with new development under the proposed action would further contribute towards creating a vibrant pedestrian environment and would improve the streetscape of the corridor.

It is expected that new development within the Core Subdistrict fulfilling the entertainment use requirement would incorporate some form of distinctive signage as allowed through the proposed district. Such distinctive signage opportunities in the new development would enhance the corridor's identity.

In addition, the proposed action would compliment the urban design of the secondary study area and would not result in significant adverse impacts on urban design. The new development within the rezoning area would be complimentary to the development expected independent of the proposed action to the east and west of the rezoning area.

The proposed action would not result in significant adverse impacts to visual resources. The context of the visual resources that define the 125th Street Corridor would not be significantly or substantially altered by the proposed action, given the bulk and massing of new construction which would be compatible with the study area's existing resources and built context. The proposed action would not result in the loss of significant public views to visual resources as the area's streets and sidewalks would be unaltered. Within each subarea, development on the projected and potential development sites would be confined to the existing blocks and lots and would not affect views to the visual resources from the streets or sidewalks.

Neighborhood Character

The proposed action would result in changes to the general neighborhood character of the rezoning area. The proposed action would result in an overall change in the character of the proposed rezoning area with respect to land use, socioeconomic conditions, historic resources, urban design and visual resources, traffic, and street-level pedestrian activity. The neighborhood character of the area would not be impacted by noise increases resulting from the proposed action. In addition, the proposed action would not affect historic resources in ways that would affect neighborhood character.

Overall, the proposed action would help sustain the ongoing revitalization of the 125th Street corridor. The proposed action would catalyze the creation of new mixed-use development that would help create the critical mass of commercial and residential uses necessary to help sustain a vibrant Street during the day and evening. In addition, the proposed action would help preserve portions of the corridor with a strong built character and existing residential uses, preserving the existing low-rise residential character of portions of 125th, 124th and 126th Streets.

The proposed action would support the creation of arts and entertainment uses that would complement existing cultural institutions within the corridor sustaining and enhancing the corridor's character and identity as an arts and culture destination.

As a result of the proposed action, the retail and commercial character of the 125th Street corridor is expected to be improved. The use regulations included in the proposed special district would ensure that new development would locate active uses at the ground floor level coupled with transparency requirements. The active use and transparency requirements associated with new development under the proposed action would further contribute towards creating a vibrant pedestrian environment and would improve the streetscape of the corridor.

While additional traffic generation is expected as a result of the proposed action, fluctuations in traffic patterns are not likely to have a significant adverse impact on neighborhood character. In addition, the proposed action would result in unmitigated significant adverse shadow impacts on four sunlight-sensitive resources: The Church of St. Joseph of the Holy Family, the Metropolitan Community United Methodist Church, Dream Street Park, and the Adam Clayton Powell, Jr. State Office Building Plaza would receive incremental new shadows as a result of the proposed action that are considered to have a significant adverse impact on these resources. However, these unmitigated shadow impacts would not result in significant adverse impacts to neighborhood character.

The proposed action is anticipated to result in changes to the neighborhood character of the 125th Street corridor. These changes are considered to be beneficial to the overall character of the corridor and would not constitute significant adverse impacts to neighborhood character.

Hazardous Materials

The proposed action would not result in significant impacts related to hazardous materials.

For all privately owned sites, as listed in Appendix D of the DEIS, (E) designations are recommended as part of the proposed zoning. Recommendations for (E) designations are based on whether the projected and potential development sites may have been adversely affected by current or historical uses at, adjacent to, or within 400 feet of these sites. By placing (E) designations on sites where there is a known or suspect environmental concern, the potential for an adverse impact to human health and the environment resulting from the proposed action is avoided. The (E) designation provides NYCDEP with a mechanism for addressing environmental conditions so that significant adverse impacts do not occur as a result of site development.

The (E) designation requires that pre-development activities at each site include a Phase 1 environmental site investigation, and, if necessary, a sampling protocol and remediation to the satisfaction of NYCDEP before the issuance of a building permit. Appendix D Table 1 in the DEIS presents the complete list of privately-owned projected and potential development sites for which (E) designations are proposed.

City-owned Sites

In addition to the sites receiving (E) designations, there are City owned properties that have been identified as having the potential for hazardous materials contamination. Because these sites are under the control of the City, which is the applicant for the 125th Street Corridor Rezoning, they are not subject to the regulations governing (E) designations. The agencies that own and control these sites will enter into Memoranda of Understanding or other agreements with NYCDEP to ensure that any testing and remediation activities, as deemed necessary by NYCDEP in accordance with NYCDEP requirements, are performed prior to and/or during development of or a change in use on these sites. (See Table 2 in Appendix D of the DEIS “City Owned Sites with Potential Hazardous Materials.”)

Natural Resources

The 125th Street Rezoning and Related Actions study area is urbanized and densely developed. The study area does not include any of the following ecological resources: surface water bodies, wetlands, beaches, dunes, bluffs, thickets, significant grasslands, meadows, woodlands, or forests. The CEQR Technical Manual lists a number of areas that contain natural resources designated by a governmental agency as significant, sensitive, or worthy of protection. The study area is not located within or immediately adjacent to any of those listed natural resource areas. The study area neither contains natural resources of significance, nor, with the exception of three parks located within or partly adjacent to the study area and the two rivers immediately adjacent to the study area, is located adjacent to natural resources of significance.

As no significant natural resources exist within the study area, the proposed action would not result in significant adverse impacts to natural resources. The projected and potential development sites are located in upland, urbanized areas already occupied by buildings, structures and paved areas. New developments and other changes in the future with the proposed action in the project study area are not expected to have any significant impacts on other natural resources, including ground water, floodplains, coastal resources, wildlife, wetlands, uplands, built resources, and significant, sensitive, or designated resources.

While there would continue to be a strike hazard for migratory birds, as allowable building heights would be substantially reduced and significantly more consistent within the 125th Street Corridor, it is likely that, with the proposed 125th Street Corridor Rezoning and related actions, the opportunity for strike hazard would be substantially reduced.

There are no known state or federally listed or proposed endangered or threatened species in the redevelopment project area, except for occasional transient individuals. In addition, no habitat within the study area, under provisions of the Endangered Species Act and under the jurisdiction of the USFWS, is designated or proposed as a critical habitat. Furthermore, no construction activity in the Hudson or Harlem Rivers is proposed as a result of the proposed action. Therefore

no significant impacts to surface water quality or impacts to threatened or endangered species within those rivers would result from the proposed action.

Waterfront Revitalization Program

Proposed actions subject to CEQR that are situated within the designated boundaries of the NYC Coastal Zone must be assessed for their consistency with the city's Local Waterfront Revitalization Program (LWRP). There are, however, no portions of the project area that are located within the City's designated Coastal Zone. As such, the proposed action is not subject to review for consistency with the City's LWRP. No further assessment of the proposed action's consistency with the City's LWRP is required.

Infrastructure

The proposed action would not adversely impact the City's infrastructure. Development on the 26 projected sites would produce an additional 1,144,664 gpd (1.14 mgd) demand on the City's water supply system, representing a 0.088 percent increase. As this is less than one-tenth of one percent of the City's water supply, the proposed action would not result in a significant adverse impact to the City's water supply or water pressure.

The proposed action would not adversely impact the City's wastewater treatment system. The North River WPCP and Wards Island WPCP would receive approximately 497,066 gpd and 281,524 gpd of additional wastewater as a result of the proposed action, equivalent to approximately 0.29 and 0.11 percent of their treatment capacities, respectively. As this represents a relatively small incremental demand that would not significantly augment the amount of wastewater treated by either WPCP, no adverse impact on the City's wastewater treatment system would result from the proposed action.

The proposed action would not adversely impact the City's stormwater management system as development under the proposed action would not reduce or eliminate permeable surfaces compared to the development anticipated in the no-action condition. Therefore, no additional stormwater would be diverted into the City's combined sewer system as a result of the proposed action.

It should be noted that the above analysis assumes the construction of conventional buildings, and does not account for the benefits of green building techniques, which generally decrease water demand and stormwater generation. Such buildings would draw less from the City's water supply, generate less stormwater than estimated and help to reduce the likelihood of a CSO event. Should the projected developments include green buildings, the proposed action would likely discharge less stormwater into the combined sewer system than the No Action condition

and consume less water than estimated in Table 3.12-6.

Solid Waste and Sanitation Services

The proposed action is not anticipated to result in significant adverse solid waste impacts. Development pursuant to the proposed action would occur in an area which is currently served by DSNY residential trash and recycling pick-ups. The proposed action would not affect the delivery of these services, or place a significant burden on the City's solid waste management system. The resulting net increase in solid waste to be picked up by DSNY is relatively small (less than seven tons per day) when compared to the estimated 12,000 tons of residential and institutional refuse and recyclables collected by DSNY per day. In addition, due to the proposed action, non-residential waste serviced by private carters would increase by less than 3 tons per day, an insignificant amount compared to the estimated 13,000 tons of commercial/industrial waste currently removed by private carters.

It is concluded that in the future with the proposed project in 2017, there would be no significant adverse impacts on residential or commercial solid waste collection and disposal services, nor would the proposed project conflict with, or require any amendments to, the City's solid waste management objectives as stated in the SWMP.

Energy

The proposed action is not anticipated to result in significant adverse energy impacts. Consumption of electrical energy on the projected development sites would experience a net increase of approximately 339.47 billion BTUs in annual energy use compared to No-Action conditions. This annual incremental demand on an hourly basis would represent a small fraction of the City's forecasted peak summer load of 13,360 MW in 2017, and an infinitesimal amount of the City's forecasted annual energy requirements for 2017. This relatively small incremental demand is not large enough to significantly impact the ability of the City's energy system to deliver electricity.

Traffic and Parking

The result of the traffic analysis shows that the additional traffic demand generated by the proposed action would generate significant adverse traffic impacts on 11 approaches at 8 intersections during the weekday AM peak hour, 10 approaches at 8 intersections during the weekday midday peak hour, 28 approaches at 16 intersections during the weekday PM peak hour, and 25 approaches at 15 intersections during the Saturday midday peak hour. The proposed mitigation measures described in this chapter would mitigate all of the operational

impacts associated with the proposed action, with the exception of the following six (6) intersections where unmitigated impacts would remain under the Action condition:

- West 135th Street/Adam Clayton Powell Jr. Boulevard (weekday PM peak hour)
- West 126th Street/Lenox Avenue (weekday AM, weekday PM, and Saturday midday peak hours)
- East 125th Street/Second Avenue (weekday PM peak hour)
- East 125th Street/Third Avenue (weekday PM peak hour)
- East 125th Street/Lexington Avenue (weekday midday, weekday PM, and Saturday midday peak hours)
- West 125th Street/St. Nicholas Avenue (weekday PM peak hour)

The proposed action would not substantially affect the number of on-street parking spaces within the study area, and there would be sufficient off-street public parking capacity to accommodate all project-generated parking demand not otherwise accommodated in accessory parking facilities. The proposed action would therefore not result in a significant adverse impact to on-street parking conditions. It should be noted, however, that utilization of on-street parking spaces (both metered and unmetered) would likely remain at or near capacity within the study area during the peak weekday midday period, as was the case for the No Action condition.

Transit and Pedestrians

The results of the transit and pedestrian analyses show that this new demand would not result in any significant adverse impacts to analyzed stairways or fare arrays at the 125th Street IND (A, B, C, D), 125th Street IRT (2, 3) and 125th Street IRT (4, 5, 6) subway stations. However, in the 2017 future with the proposed action, northbound M60, M100 and Bx15 bus services would be significantly adversely impacted in the PM peak hour. As standard practice, MTA New York City Transit monitors bus ridership and increases service where operationally warranted and fiscally feasible. As such, the capacity shortfall on the M60, M100 and Bx15 would be addressed by NYCT, and no action-initiated mitigation is required for the proposed action.

The results of the analysis of pedestrian conditions shows that there would be no significant adverse impacts to analyzed sidewalks or corner areas in the 2017 future with the proposed action, however, demand from the proposed action would significantly adversely impact a total of three crosswalks along East 125th Street in the midday peak hour based on CEQR Technical Manual criteria, including the south crosswalk at southbound Park Avenue, and the north and south crosswalks at Third Avenue. However, signal timing improvements proposed in the traffic mitigation plan would fully mitigate the significant adverse impact at the south crosswalk on Third Avenue and East 125th Street. Widening the south crosswalk on southbound Park Avenue to 13 feet in width (from 12 feet) and the north crosswalk on Third Avenue to 15 feet in width (from 14 feet), would fully mitigate the significant adverse impacts to these crosswalks resulting

from the proposed action and its traffic mitigation plan.

Air Quality

The proposed action would not cause or exacerbate an exceedance of an air quality standard nor cause the exceedance of a significant impact criterion. This conclusion assumes that an (E) designation for HVAC systems would be placed on privately-owned projected and potential development sites, which would preclude the potential for significant adverse air quality impacts. As such, the proposed action would not cause significant adverse air quality impacts.

Noise

The proposed action would not result in significant adverse impacts related to noise. The proposed action would generate new residential, commercial and community facility uses in an area that is already characterized by medium to high density residential and commercial development. As part of the proposed action, (E) designations would be placed on the zoning map for all of the projected and potential development sites to avoid the potential for significant adverse noise impacts. Residential, commercial and community facility development on lots mapped with an (E) designation would be required to provide sufficient noise attenuation to maintain interior noise levels of 45 dBA or lower, and the proposed action would not result in significant adverse noise impacts.

Construction

Construction-related activities resulting from the proposed action are not expected to have any significant adverse impacts on natural resources, traffic, air quality, noise, or hazardous materials conditions. Inadvertent construction-related damage could potentially occur to several eligible historic resources. These significant adverse impacts would be unmitigated because development activity on development sites nearby or adjacent to these eligible resources would occur as-of-right. With respect to construction-related impacts, these resources would be afforded limited protection under DOB regulations applicable to all buildings located adjacent to construction sites; however, since the resources are not S/NR-listed or NYLPC-designated, they would not be afforded special protections under DOB's TPPN 10/88. The resources would be provided a measure of protection from construction as Building Code section 27-166 (C26-112.4), which requires that all lots, buildings, and service facilities adjacent to foundation and earthwork areas be protected and supported in accordance with the requirements of Building Construction Subchapter 7 and Building Code Subchapters 11 and 19. Additional protective measures afforded under DOB 10/88, which apply to designated historic resources, would not be applicable in this case, unless the eligible resources are designated in the future prior to the

initiation of construction. If resources are not designated, however, it would not be subject to the above construction protection procedures, and may therefore be adversely impacted by adjacent development resulting from the proposed action.

The construction process in New York City is highly regulated to ensure that construction period impacts are eliminated or minimized. The construction process requires consultation and coordination with a number of City and/or State agencies, including NYCDOT, NYC Department of Buildings (DOB), NYCDEP, and NYCEDC (where applicable), among others.

Public Health

Based on a preliminary screening analysis in accordance with the CEQR Technical Manual guidelines, it was determined that a full assessment of the proposed action's potential impacts on public health is not necessary and that no significant adverse impacts are expected as a result of the proposed action.

ALTERNATIVES

This EIS considers five alternatives to the proposed action, to examine reasonable and practicable options that avoid or reduce action-related significant adverse impacts and may still allow for the achievement of the stated goals and objectives of the proposed action.

No-Action Alternative

Significant adverse action-generated impacts would not occur under the As-of-Right Alternative. However, the benefits expected from the proposed action on land use, socioeconomic conditions, urban design, and neighborhood character would not be realized under this alternative. In addition, the No-Action Alternative would fall far short of the objectives of the proposed action in encouraging and guiding the development of 125th Street, Harlem's "Main Street", as a dynamic, 24-hour mixed use neighborhood.

No-Impact Alternative

It is the City's practice to include, whenever feasible, a No Impact alternative that avoids, without the need for mitigation, all significant environmental impacts of the proposed action. As presented in Chapters 3.1 through 3.20, the proposed action is anticipated to result in significant adverse impacts in the following technical areas: traffic, pedestrians, historic resources and shadows. Impacts to eligible historic resources would remain unmitigated.

To avoid these potential significant adverse impacts, this alternative would require a substantial reduction in the total number of dwelling units within the proposed rezoning area. Incremental

development in these areas would be scaled back approximately 98%, which would result in a total of 351 total dwelling units on the projected development sites, as compared to the 2,632 units with the proposed action. This alternative would limit development to a net increase of approximately 47 units over No-Action conditions, 2,281 less units than the proposed action's 2,328 unit net increase in development.

Arts Bonus Alternative

The Arts Bonus Alternative is generally similar to the proposed action except that it also includes a floor area bonus in the proposed C4-7, C6-3, and C4-4D districts in exchange for the provision of arts and performance space. This alternative seeks to achieve the same goals and objectives as the proposed action while providing additional incentives for the creation of arts or performance spaces within the Special 125th Street District. The creation of such spaces would help sustain and enhance the district's identity as a premier arts destination.

Effects on neighborhood character under this alternative would be similar to those of the proposed action. Although the provision of a bonus mechanism for visual and performing arts spaces is projected to reduce the amount of housing that would be created compared to the proposed action, the Arts Bonus Alternative would substantially increase commercial space and arts uses. Additional benefits to neighborhood character are expected to result from the creation of visual and performing arts spaces within the Special 125th Street District and the uses and the signage created in connection to such spaces. The Arts Bonus would further expand the range of uses through out the rezoning area enhancing the mixed-use character of the corridor.

The impacts related to specific technical areas of assessment for the Arts Bonus Alternative would be similar to the proposed action. Direct effects and construction impacts to historic resources, under the Arts Bonus Alternative, would be similar the impacts expected to historic resources under the proposed action. Shadow impacts under the Arts Bonus Alternative would also be similar to the proposed action. The Arts Bonus Alternative would generate more vehicle trips in three of the four analysis time periods and would require a detailed mitigation plan to be implemented. Impacts are expected at three pedestrian crosswalk location and the crosswalks require widening in order to mitigate the potential impacts.

C6-3 Alternative

The C6-3 alternative is identical to the proposed action except that it would map a C6-3 zoning district instead of a C4-7 zoning district along the north side of 125th Street generally between Frederick Douglass Boulevard and 545 feet east of Lenox Avenue/Malcolm X Boulevard. While seeking to achieve the same overall goals and objectives of the proposed action, this alternative responds to concerns expressed by Manhattan Community Board 10, elected officials and members of the public regarding the potential effects of new development that would reach the maximum building height allowed under the proposed action. Under this alternative, within this

portion of the corridor, the building height for the C6-3 zoning district would be limited to a maximum of 160 feet, compared to the 290 feet maximum height allowed in the C4-7 district included in the proposed action. The lower building height for this portion of the corridor would reduce the duration and extent of some of the incremental shadows cast by new development resulting from this alternative, however, this reduction in the incremental shadows would not avoid the significant adverse impacts identified to open space resources in the proposed action, as described above.

In addition to building form, the C6-3 alternative differs from the proposed action with respect to density. The C6-3 zoning district included in this alternative would allow a lower FARs compared to those in the proposed action. The lower allowed densities in this alternative would generate less mixed-use development, including less commercial retail floor area, fewer residential dwelling units and fewer affordable units than development under the proposed action.

The Lesser Density Alternative would have effects similar to those of the proposed action. Unmitigable historic resources impacts expected to occur under the proposed action would also be expected to occur under this alternative. The shadows impacts expected to occur under the proposed action would also be expected under this alternative, and the same potential mitigation measures would be applicable. Traffic and Pedestrian impacts are also expected under the C6-3 alternative, but with mitigation measures implemented similar to the proposed action, the potential significant impacts would be fully mitigated.

C4-4D Alternative

This alternative seeks to achieve the same goals and objectives of the proposed action while incentivizing new mixed-use development that capitalizes on the proximity to mass transit, specifically on the proximity to the 125th Street station of the MTA Metro-North railroad line on Park Avenue and 125th Street. The primary difference is that the C4-4D district for this area would allow new mixed-use development at a higher density than what is allowed under the proposed action's C4-4A district. In addition, the C4-4D district would expand opportunities to create affordable housing through the inclusionary housing bonus proposed under the special district regulations, not available under the proposed action's C4-4A district.

The impacts related to specific technical areas of assessment would be the same or slightly exacerbated under the C4-4D alternative. Shadow impacts and impacts to historic resources resulting from direct effects and construction-related activities under the proposed action would also occur under the C4-4D alternative as under the proposed action. The C4-4D alternative would generate more vehicle trips in all four analysis time periods and would require a detailed traffic mitigation plan (see above Traffic and Parking section) to be implemented. Impacts are expected at four pedestrian crosswalk locations (as opposed to three under the proposed action) and the crosswalks would require widening to mitigate the impacts.

Expanded Arts Bonus Alternative

The Expanded Arts Bonus Alternative seeks to achieve the same goals and objectives as the proposed action while providing additional incentives for the creation of visual and performing arts spaces within the Special 125th Street District. The creation of spaces for visual and performing arts would help sustain and enhance the district's identity as a premier arts destination. The additional C4-4D zoning district included in this alternative would create further incentives, not available for this area in the proposed action, for mixed-use development near mass transit and would expand opportunities for affordable housing and the creation of visual and performing arts spaces through the arts bonus mechanism.

The impacts related to specific technical areas of assessment for the Expanded Arts Bonus Alternative would be similar to those in the proposed action. Direct effects and construction impacts to historic resources under the Expanded Arts Bonus Alternative would be the same as the impacts expected to historic resources under the proposed action. Shadow impacts under the Expanded Arts Bonus Alternative would also occur as under the proposed action. The Expanded Arts Bonus Alternative would generate more vehicle trips in all four analysis time periods and would require additional mitigation measure when compared to the proposed action. In addition, significant adverse impacts would remain unmitigated at seven traffic intersection. Impacts are expected at five pedestrian crosswalk locations and the crosswalks would require widening in order to mitigate the potential impacts.

Mitigation

Shadows

The proposed action would result in significant adverse shadow impacts on two historic resources: the Church of St. Joseph of the Holy Family and the Metropolitan Community United Methodist Church, and two open resources: Dream Street Park and the Adam Clayton Powell Jr. State Office Building Plaza.

Church of St. Joseph of the Holy Family and the Metropolitan Community United Methodist Church

As discussed above, the proposed action would result in significant adverse shadow impacts to two historic resources: the Church of St. Joseph of the Holy Family and the Metropolitan Community United Methodist Church. A potential mitigation measure for the identified impact on these two resources includes the use of artificial lighting to simulate the sunlit conditions. The provision of indirectly mounted lighting could simulate lost sunlight conditions at the affected

stained glass windows of each resource. After the issuance of the DEIS, the Department of City Planning, in consultation with the NYC Landmark Preservation Commission, concluded that the mitigations measures described above are not feasible and that there are no other feasible or practicable mitigation measures that would eliminate or reduce the impacts. Therefore, the significant adverse shadow impacts on these two resources remain unmitigated.

Dream Street Park and Adam Clayton Powell, Jr. State Office Building Plaza

As discussed above, the proposed action would result in significant adverse shadow impacts to two open space resources: Dream Street Park and the Adam Clayton Powell, Jr. State Office Building Plaza. Potential mitigation measures for these shadow impacts could include relocating facilities within an open space to avoid sunlight loss, or the provision of new passive facilities on other nearby open spaces to supplement those affected by the action generated shadows. Since the issuance of the DEIS, the Department of City Planning consulted with the NYC Department of Parks and Recreation (DPR) regarding the feasibility of implementing the potential mitigation measures identified for Dream Street Park. Based on these discussions, DPR concluded that relocating seating areas and replacing plant material was feasible and would allow for partial mitigation of the shadow impacts. If DPR funding becomes available to implement these improvements prior to the project's build year of 2017, the impacts could be partially mitigated. Absent available funding for the improvements, the significant adverse shadow impacts to Dream Street Park would remain unmitigated.

The proposed action would result in significant adverse shadow impacts to the Adam Clayton Powell, Jr. State Office Building Plaza. Mitigation measures for these shadow impacts include redesigning the plaza to relocate sun-light sensitive features to avoid sunlight loss, or the provision of new passive facilities on other nearby open spaces to supplement those affected by the action generated shadows. After the issuance of the DEIS, the Department of City Planning became aware of a proposal for redesigning and reconstructing the Adam Clayton Powell, Jr. State Office Building Plaza, given this opportunity, the Department of City Planning has extended an offer to work closely with the State to ensure that the redesign of the plaza takes into consideration these potential impacts and minimizes their significant adverse nature. However, because the redesign plans for the plaza had not been finalized by the time of the FEIS, the significant adverse impact remains unmitigated.

Traffic and Parking

As discussed in Chapter 3.15, "Traffic and Parking", the proposed action would result in significant adverse traffic impacts on 11 approaches at 8 intersections during the weekday AM peak hour, 10 approaches at 8 intersections during the weekday midday peak hour, 28

approaches at 16 intersections during the weekday PM peak hour, and 25 approaches at 15 intersections during the Saturday midday peak hour. The proposed mitigation measures described in Chapter 3.15, “traffic and Parking,” would mitigate all of the operational impacts associated with the proposed action, with the exception of the following six (6) intersections where unmitigated impacts would remain under the Action condition:

- West 135th Street/Adam Clayton Powell Jr. Boulevard (weekday PM peak hour)
- West 126th Street/Lenox Avenue (weekday AM, weekday PM, and Saturday midday peak hours)
- East 125th Street/Second Avenue (weekday PM peak hour)
- East 125th Street/Third Avenue (weekday PM peak hour)
- East 125th Street/Lexington Avenue (weekday midday, weekday PM, and Saturday midday peak hours)
- West 125th Street/St. Nicholas Avenue (weekday PM peak hour)

Transit and Pedestrians

The results of the analysis of pedestrian conditions shows that demand from the proposed action would significantly adversely impact a total of three crosswalks along East 125th Street in 2017 based on CEQR Technical Manual criteria. As shown in Chapter 3.16, “Transit and Pedestrians,” in the midday peak hour new demand would significantly impact the south crosswalk at southbound Park Avenue, and the north and south crosswalks at Third Avenue. Mitigation measures include the widening of crosswalks at the affected intersections.

Unavoidable Adverse Impacts

Unavoidable adverse impacts occur when a proposed action would result in significant adverse impacts for which there are no reasonably practicable mitigation measures, and for which there are no reasonable alternatives.

Historic Resources

The proposed action would result in significant adverse impacts resulting from direct effects on four eligible resources. It is expected that the former Harlem Savings Bank (Historic Resource #2), the Marion Building (Historic Resource #3), the Bishop Building (Historic Resource #4), and the Amsterdam News Building (#5) would be demolished as a result of development on Site 46, 16, 32, and 32, respectively. These significant adverse impacts would be unmitigated because development activity on these eligible resources would occur as-of-right.

Inadvertent construction-related damage could potentially occur to seven eligible and potentially

eligible resources including: the Park Avenue Viaduct (#8); the Metro-North 125th Street Station (#7), the former Twelfth Ward Bank (#11), Blumstein's Department Store (#12), 221 East 124th Street (#19), the Apartment Building at 2075-2087 Lexington Avenue (# 20), and the Lenox Avenue/West 125th Street Subway Station (#24).

The City has procedures for avoidance of damage to structures from adjacent construction with added protection for designated historic resources, which would be afforded to the historic resources. Building Code section 27-166 (C26-112.4) serves to protect buildings by requiring that all lots, buildings, and service facilities adjacent to foundation and earthwork areas be protected and supported in accordance with the requirements of Building Construction Subchapter 7 and Building Code subchapters 11 and 19. In addition, the New York City Department of Buildings' Technical Policy and Procedure Notice (PPN) #10/88, supplements these procedures by requiring a monitoring program to reduce the likelihood of construction damage to adjacent LPC-designated or NR-listed resources (within 90 feet) and to detect at an early stage the beginnings of damage so that construction procedures can be changed. In the case of the seven resources listed above, any significant adverse impacts would be unmitigated as none of these resources are designated New York City landmarks, have been calendared for designation or are NR-listed resources. Without the protective measures described above, significant adverse construction-related impacts would not be mitigated.

Shadows

As discussed above, the proposed action would result in significant adverse shadow impacts on two historic resources: the Church of St. Joseph of the Holy Family and the Metropolitan Community United Methodist Church, and two open resources: Dream Street Park and the Adam Clayton Powell Jr. State Office Building Plaza. After the issuance of the DEIS, the Department of City Planning, in consultation with the NYC Landmark Preservation Commission, concluded that the mitigations measures described in Chapter 3.5, "Shadows" are not feasible and that there are no other feasible or practicable mitigation measures that would eliminate or reduce the impacts to the Church of St. Joseph of the Holy Family or the Metropolitan Community United Methodist Church. Therefore, the significant adverse shadow impacts on these two resources remain unmitigated. However, relocating seating areas and replacing plant material was feasible and would allow for partial mitigation of the shadow impacts at Dream Street Park. If DPR funding becomes available to implement these improvements prior to the project's build year of 2017, the impacts could be partially mitigated. Absent available funding for the improvements, the significant adverse shadow impacts would remain unmitigated. Mitigation measures for the shadow impacts to the Adam Clayton Powell Jr. State Office Building Plaza include redesigning the plaza to relocate sun-light sensitive features to avoid sunlight loss, or the provision of new passive facilities on other nearby open spaces to supplement those affected by the action generated shadows. After the issuance of the DEIS, the Department of City Planning became aware of a proposal for redesigning and reconstructing the Adam Clayton Powell, Jr. State Office Building Plaza. Given this opportunity, the Department of City Planning has extended an offer

to work closely with the State to ensure that the redesign of the plaza takes into consideration these potential impacts and minimizes their significant adverse nature. However, because the redesign plans for the plaza had not been finalized by the time of the FEIS, the significant adverse impact remains unmitigated.

Traffic and Parking

Several mitigation measures are proposed to alleviate significantly impacted traffic conditions as part of the proposed action. However, the proposed mitigation measures described in Chapter 3.15, “Traffic and Parking,” would mitigate all of the operational impacts associated with the proposed action, with the exception of the following six (6) intersections where unmitigated impacts would remain under the Action condition:

- West 135th Street/Adam Clayton Powell Jr. Boulevard (weekday PM peak hour)
- West 126th Street/Lenox Avenue (weekday AM, weekday PM, and Saturday midday peak hours)
- East 125th Street/Second Avenue (weekday PM peak hour)
- East 125th Street/Third Avenue (weekday PM peak hour)
- East 125th Street/Lexington Avenue (weekday midday, weekday PM, and Saturday midday peak hours)
- West 125th Street/St. Nicholas Avenue (weekday PM peak hour)

Table 1.0-3 summarizes the quantifiable traffic impacts of the proposed action as compared to the analyzed alternatives. As shown in the table, the proposed action would result in 10 peak hour traffic impacts at six intersections. The C6-3 Alternative would also result in the same number of peak hour traffic impacts at six intersections. In comparison, the Arts Bonus Alternative would result in 14 peak hour impacts at eight intersections, while the C4-4D Alternative would result in 13 peak hour impacts at six intersections. The Expanded Arts Bonus Alternative would result in the most peak hour traffic impacts, with 15 peak hour traffic impacts at eight intersections.

Table 1.0-3
Summary of Unmitigatable Peak Hour Traffic Impacts

<u>Intersection</u>	<u>Proposed Action</u>	<u>Arts Bonus Alternative</u>	<u>C6-3 Alternative</u>	<u>C4-4D Alternative</u>	<u>Expanded Arts Bonus Alternative</u>
<u>135th Street / Adam Clayton Powel Blvd.</u>	<u>PM</u>	<u>PM</u>	<u>PM</u>	<u>PM</u>	<u>PM</u>
<u>126th Street / Lenox Ave.</u>	<u>AM, PM, SAT</u>				
<u>125th Street / 2nd Ave.</u>	<u>PM</u>	<u>PM, SAT</u>	<u>PM</u>	<u>PM, SAT</u>	<u>AM, PM, SAT</u>
<u>125th Street / 3rd Ave.</u>	<u>PM</u>	<u>PM, SAT</u>	<u>PM</u>	<u>PM, SAT</u>	<u>PM, SAT</u>
<u>125th Street / Lexington Ave</u>	<u>MD, PM, SAT</u>				
<u>125th Street / Lenox Ave.</u>	---	<u>PM</u>	---	---	<u>PM</u>
<u>125 Street / St. Nicolas Ave.</u>	<u>PM</u>	<u>PM</u>	<u>PM</u>	<u>PM</u>	<u>PM</u>
<u>125th Street / Broadway</u>	---	<u>PM</u>	---	---	<u>PM</u>
<u>Impact Summary</u>	<u>10 Impacts at 6 Intersections</u>	<u>14 Impacts at 8 intersections</u>	<u>10 Impacts at 6 Intersections</u>	<u>13 Impacts at 6 Intersections</u>	<u>15 Impacts at 8 Intersections</u>

Peak Hours: AM, MD, PM, SAT

Growth-Inducing Aspects of The Proposed Action

The proposed action would result in more intensive land uses (generating new residents, daily workers, and visitors). However, it is not anticipated that it would have significant spillover or secondary effects resulting in substantial new development in nearby areas, as the proposed rezoning has been developed to be responsive to observed and projected land use trends and would result in sufficient available density to meet all projected demands for projected

residential and commercial development in Harlem. Moreover, the recent and anticipated development in Harlem necessitates a strategic planning and development framework for the 125th Street corridor, and by providing a significant new supply of housing and local commercial space within this rezoning framework, the proposed action is expected to help stabilize or reduce the pressure for new development and changes in land use in areas adjoining the rezoning area.

Irreversible and Irretrievable Commitment of Resources

The proposed rezoning and related land use actions would require the irreversible and irretrievable commitment of energy, construction materials, human effort, and funds. It is estimated that the 26 projected development sites would generate a net increase in energy consumption of approximately 339.47 billion BTUs in annual energy use compared to Future No-Action conditions.

The land use changes associated with the rezoning action may also be considered a resource loss. Projected and potential development under the proposed action constitutes a long-term commitment of sites as land resources, thereby rendering land use for other purposes infeasible. Further, funds committed to the design, construction/renovation, and operation of projected or potential developments under the proposed action are not available for other projects.

The public services provided in connection with the projected and potential developments under the proposed action (e.g., police and fire protection and public school seats) also constitute resource commitments that might otherwise be used for other programs or projects, although the proposed action would also generate tax revenues to provide additional public funds for such activities.