

# RESOLUTION

## 125<sup>th</sup> Corridor Rezoning

WHEREAS City Planning certified the ULURP action on the 125<sup>th</sup> Street Corridor Rezoning (“Rezoning”) as well as the related Environmental Impact Statement on October 1, 2007 and Community Board 10 is required to vote on such action by December 10, 2007 or waive its right to comment; and

WHEREAS, the Proposed Action is complex, represents the first major rezoning of 125<sup>th</sup> Street since 1961, and would have monumental impact on reshaping the face of Harlem forever; and

WHEREAS Community Board 10 has held numerous meetings and hearings on the proposed action, including general board meetings, committee meetings as well as specifically scheduled public hearings and town hall meetings; and

WHEREAS Community Board 10, in its outreach in Central Harlem to residents and local businesses, has consistently received feedback that along 125<sup>th</sup> 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;<sup>1</sup> 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 125<sup>th</sup> Street as Harlem’s main commercial corridor;<sup>2</sup> and

<sup>1</sup> “OUR MAIN STREET” Manhattan Community Board 10’s Response to the 125<sup>th</sup> Street River to River Draft Environmental Impact Study, page 2

<sup>2</sup> “OUR MAIN STREET” Manhattan Community Board 10’s Response to the 125<sup>th</sup> Street River to River Draft Environmental Impact Study, page 3. Similar positions of preserving 125<sup>th</sup> as a commercial corridor were shared in hundreds of petitions and letters sent around the same time to City Planning.

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WHEREAS any proposed action for the Rezoning of 125<sup>th</sup> 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 125<sup>th</sup> Street and thereby have a material impact on future electoral results as of the 2,600 units<sup>3</sup> 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”;<sup>4</sup> 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”;<sup>5</sup> 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*”;<sup>6</sup> and

WHEREAS, the Environmental Impact Statement inadequately addresses the adverse impact of the Proposed Action would have open spaces and in addition, 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;<sup>7</sup> 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”;<sup>8</sup> 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

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<sup>3</sup> 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.

<sup>4</sup> Draft Environmental Impact Statement, Chapter 1, page 11.

<sup>5</sup> Environmental Impact Statement, Chapter 3.2, page 26.

<sup>6</sup> Draft Environmental Impact Statement, Chapter 1, page 11.

<sup>7</sup> Draft Environmental Impact Statement, Chapter 1, pages 13-14.

<sup>8</sup> Draft Environmental Impact Statement, Chapter 1, page 15.

would be at risk due to demolition and/or construction-related activity resulting from the Rezoning;<sup>9</sup> 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 125<sup>th</sup> 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.*”<sup>10</sup>; 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 Request For Proposal for the six acre site in East Harlem, as well as other developments already underway or in planning<sup>11</sup>; 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 Action<sup>12</sup>; 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:**

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<sup>9</sup> Draft Environmental Impact Statement, Chapter 1, page 15.

<sup>10</sup> Draft Environmental Impact Statement, Chapter 1, page 24.

<sup>11</sup> 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 Worst Case Development Scenario (up to 4 million square feet).

<sup>12</sup> See Environmental Impact Statement, Chapter 3, pages 23-29.

**A. PRESERVE 125<sup>TH</sup> STREET AS ONE OF AMERICA’S TOP 10 STREETS<sup>13</sup>**

- 125<sup>th</sup> Street must be protected as Harlem’s Main Street. Consequently, within the **Core District** on 125<sup>th</sup> 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 124<sup>th</sup> and 126<sup>th</sup> 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 125<sup>th</sup> Street as well as the historical landscape.
- Improve the quality of the public environment with community input by planting trees along the sidewalks of 125<sup>th</sup> Street as well as addition of sidewalk furniture.

**B. THERE MUST BE REAL COMMUNITY BENEFITS**

- **INCOME TARGETED HOUSING:** Recommend that the Inclusionary Housing Guidelines be rewritten in the 125<sup>th</sup> 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 125<sup>th</sup> 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

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<sup>13</sup> Designation by the American Planning Association as of October 2007

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, 125<sup>th</sup> 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 125<sup>th</sup> 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 124<sup>th</sup> and 126<sup>th</sup> Streets. This would imply no residential upzoning in the Core Subdistrict of 125<sup>th</sup> 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 125<sup>th</sup> Street) with no left turn from 2<sup>nd</sup> 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 125<sup>th</sup> 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 125<sup>th</sup> 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 125<sup>th</sup> 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 125<sup>th</sup> 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.