CITY PLANNING COMMISSION

August 21, 2013 | Calendar No. 14 C 130216 ZSM

IN THE MATTER OF an application submitted by Memorial Hospital for Cancer and Allied Diseases (MSK) and City University of New York (CUNY) pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to the following sections of the Zoning Resolution to modify:

1. Section 74-743(a)(1) to allow the location of buildings without regard to the rear yard requirements of Section 33-283 (Required rear yard equivalents), the side yard requirements of Section 33-25 (Minimum Required Side Yards), and the height and setback requirements of Section 33-432 (In other Commercial Districts); and

2. Section 74-743(a)(11) to allow a floor area bonus not to exceed 20 percent of the maximum floor area ratio permitted by the underlying district regulations for improvement to a public park;

in connection with a proposed community facility development on property located at 524-540 East 74th Street a.k.a 525-545 East 73rd Street (Block 1485, Lot 15), within a Large-Scale General Development, in a C1-9 District, Borough of Manhattan, Community District 8.

The application was filed by Memorial Hospital for Cancer and Allied Diseases (MSK) and City University of New York (CUNY) on March 12, 2013, for a special permit pursuant to Section 74-743 of the Zoning Resolution to allow for the modification of height, setback, yard, and floor area regulations in a proposed general large-scale development on property generally bounded by East 74th Street, Franklin D. Roosevelt Drive, East 73rd Street, and a line approximately 320 feet west of Franklin D. Roosevelt Drive, within Manhattan Community District 8.

RELATED ACTIONS

In addition to the special permit which is the subject of this report (C 130216 ZSM),

implementation of the proposed development also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

> **C 130214 ZMM**: a zoning map amendment to rezone a M3-2 district to C1-9 and M1-4 districts;
>
> **N 130215 ZRM**: zoning text amendment to create a new provision in Section 74-743 to permit floor area increase of up to 20 percent in exchange for provision of a public park improvement, as modified;
>
> **C 130217 ZSM**: a special permit, pursuant to Section 74-744(c), to modify sign regulations;
>
> **C 130218 ZSM**: a special permit, pursuant to Section 13-561, for an accessory parking facility with 248 spaces;
>
> **C 130219 PPM**: Disposition of City-owned property, as modified.

BACKGROUND

The Memorial Hospital for Cancer and Allied Diseases (MSK) and City University of New York (CUNY) are seeking a number of actions to facilitate the construction of two buildings at 524-540 East 74th Street a.k.a 525-545 East 73rd Street (Block 1485, Lot 15): an outpatient, ambulatory cancer care center for Memorial Sloan Kettering; and a science and health professions facility for CUNY Hunter College.

The 66,111 square foot (sf) project site occupies the eastern half of the block bounded by East 74th Street, Franklin D. Roosevelt Drive, East 73rd Street, and York Avenue. The project site

contains the remnant walls, ramps, and floors of a New York City Department of Sanitation facility that was demolished in 2008 and a surface parking lot with a capacity of 128 cars. Small portions of the two lots adjacent to the project site (Lots 14 and 39), currently occupied with commercial uses, are included in the proposed zoning map amendment to ensure the zoning district boundary is rational and consistent with agency policy for zoning district measurements.

The entirety of the project site is located within an M3-2 district, which allows 2.0 FAR for heavy industrial uses. Lots 14 and 39 are currently split between an M1-4 district that occupies approximately 80% of the lots and extends west across the midblock of the subject block and the M3-2 district that occupies the remainder of the lots and extends onto the project site to the east.

In May 2011, the City of New York issued a Request for Proposals for the site of the former sanitation facility. The RFP sought respondents that would "utilize the site for the expansion or creation of a health care, education, or scientific research facility." Memorial Sloan Kettering and CUNY partnered in a response and were selected in August, 2012, to develop the site.

The project site is located in an area with highly varied land uses that is a transitional zone between the largely institutional corridor to the south that includes Memorial Sloan Kettering's other facilities, Rockefeller University, New York Presbyterian Hospital, Weill Cornell Medical College, and the Hospital for Special Surgery and the more residential area to the north of East

75th Street.

The subject block is composed of the project site and a mix of commercial and residential uses. Directly to the west of the project site on East 74th Street is a 3-story catering facility on Lot 39, a portion of which is subject to the proposed zoning map amendment, followed directly to the west by a 2-story auto repair shop that is part of a site granted a zoning variance by the Board of Standards and Appeals on December 12, 2012, to facilitate the development of a 164,000 sf surgical facility for the Hospital for Special Surgery. Continuing west on East 74th Street are a 3-story preschool, two 5-story residential buildings with ground floor retail, and a 2-story carriage house occupied by an art conservator. Directly to the west of the project site on East 73rd Street is the 3-story commercial building on Lot 14, a portion of which is subject to the proposed zoning map amendment, a one story auto repair business that is part of the above-mentioned BSA variance for the Hospital for Special Surgery, and four 6-story residential buildings. The York Avenue frontage of the subject block contains seven 5-story residential buildings, some of which contain ground floor retail uses.

East 74th Street between York Avenue and the FDR Drive is a two-way street that dead-ends as a cul-de-sac at the FDR Drive. East 73rd Street between York Avenue and the FDR Drive is a two-way street for nearly its entire length until it narrows to become a one-way eastbound lane leading onto the southbound FDR service drive.

The block to the north of the project site, across East 74th Street, is occupied almost entirely by a Con Edison steam plant with a 500-ft chimney, except for several residential buildings on the block's York Avenue frontage. The steam plant has three loading bays and one entrance to an employee parking area fronting East 74th Street.

To the south of the project site, across East 73rd Street, are two 5-story residential buildings closest to York Avenue, the rear elevations of several through block medical facilities that front on East 72nd Street, a 6-story parking structure, an open parking lot, and the rear elevation of a 50-story residential tower.

Directly across the FDR Drive from the project site are the East River and its attendant esplanade, which is a narrow walkway at this location, and a one-story dock building, used as part of Con Edison's steam plant operation.

The wider vicinity around the project site is highly varied and contains a significant number of residential towers along York Avenue, First Avenue, and on the blocks between York Avenue and the FDR Drive. The area to the south of the project site transitions from a mixed residential/commercial character to a more uniformly institutional nature, containing one of the City's major hospital and biomedical research cores including operating facilities of the Hospital for Special Surgery, Rockefeller University, New York Presbytarian and Weill Cornell Medical Center. To the north of the project site, beyond the ConEdison steam plant, the

character becomes more uniformly residential in nature.

The applicants propose to construct two buildings on the project site: a 749,357 gross square foot (gsf) outpatient, ambulatory cancer care center for Memorial Sloan Kettering and a 402,990 gsf science and health professions facility for CUNY Hunter College. While the two facilities would be independent buildings, they would be designed with similar massing strategies and façade treatments so as to appear part of a single composition.

The MSK building would occupy the eastern two-thirds of the site and would rise to a maximum height of 453-feet in 23 stories. It would contain diagnostic, treatment, and surgical facilities for outpatient care, offices, radiology services, and a pharmacy. The primary entrance would be located on East 74th Street, including a three-lane porte-cochère for patient drop-off adjacent to the lobby. The entrance to the proposed 248 space, below grade accessory parking facility would also be accessed via East 74th Street. The East 73rd Street frontage of the building would contain the primary staff entrance, an ambulance parking bay, and a entrance into the interior truck loading and maneuvering areas. There would be no connection between the project site and the FDR Drive.

The CUNY building would occupy the remaining one-third of the site directly to the west of the MSK facility and would rise to a height of 346 ft with 16 stories. It would contain classrooms, laboratories for teaching and research, faculty offices, a 350-seat lecture hall, and a facility for

housing research animals. As with the MSK building, the primary entrance to the CUNY facility would be on East 74th Street and the East 73rd Street frontage would contain an entrance to the interior truck loading and maneuvering area.

REQUIRED ACTIONS

Zoning map amendment (C 130214 ZMM)

The applicants propose to rezone the entirety of the project site from M3-2 to C1-9. The proposed project site would then be located entirely within a C1-9 district that would allow 2.0 FAR for commercial use, 10.0 FAR for residential use (12.0 FAR with inclusionary housing), and 10.0 FAR for community facility use. The applicant also proposes a zoning text amendment that would permit an increase in the allowable community facility FAR from 10.0 to 12.0 via a public park improvement. This proposed 12.0 FAR for community facilities would allow for sufficient density to accommodate the proposed development.

The applicants also propose to rezone an approximately 5-foot wide strip of Lots 14 and 39, separate from and located directly to the west of the project site, from M3-2 to M1-4 and an approximately 6-inch wide strip of Lots 14 and 39 from M3-2 to C1-9. These adjustments to the zoning districts on Lots 14 and 39 would rationalize the location of the zoning district boundaries on the subject block and prevent the creation of unintended zoning district remnants that would be inconsistent with City policy for measuring zoning district lines.

Zoning text amendment (N 130215 ZRM)

The applicants propose an amendment to Section 74-743 (Special provisions for bulk modifications) of the Large Scale General Development provisions. The amendment would provide a mechanism whereby a qualifying community facility development could achieve an increase in FAR from 10.0 to 12.0 via the 74-743 special permit.

The proposed text amendment would permit the increase in density for community facility developments within C1-9 zoning districts located entirely within the boundaries of Manhattan Community District 8. To qualify for the floor area increase, the Commissioner of Parks and Recreation would be required to determine that funding has been secured, including funds to be provided by the special permit applicant, to improve a public park within the same community district or within a one-mile radius of the proposed development that would otherwise be unlikely to be completed absent such funding. The Commissioner of Parks and Recreation would be required to furnish to the City Planning Commission supporting materials, including site plans and cost estimates, demonstrating the need for the funding to be provided by the applicant and the estimated cost of park improvement work. The proposed text would require that the City Planning Commission make findings specific to this new provision to ensure that the amount of bonus floor area granted is commensurate with the size and quality of the park improvement and that the resulting bulk would not unduly affect access to light and air for local residents.

Special permit for bulk and floor area modifications (C 130216 ZSM)

The applicants seek a special permit, pursuant to Section 74-743, to allow for modification of regulations pertaining to height and setback, yard, and floor area regulations.

Bulk modifications:

The application proposes several bulk modifications as part of their application. Height, setback, and sky exposure plane controls would be modified to allow the buildings to rise above the otherwise permitted front wall height without setbacks and penetrate the sky exposure planes on East 73rd Street, East 74th Street, and the FDR Drive. Rear yard regulations would be modified to allow for the proposed configuration of the buildings on the project site. Side yard regulations would be modified to permit an open area between the CUNY building and the adjacent properties for seismic separation at an adequate depth for maintenance and cleaning of the open area.

Floor area modifications:

The text amendment proposed as part of this application would permit modification of floor area regulations for certain qualifying community facility developments to allow for an increase in density from 10.0 FAR to 12.0 FAR. The applicants seek to utilize this new provision to increase their maximum allowable floor area to 12.0 FAR on the project site.

The special permit requires that the Commission find that the location of buildings results in a better site plan and a better relationship among buildings and open areas to adjacent streets, surrounding development, and adjacent open areas; the location of buildings does not unduly increase the bulk of buildings in any one block or unduly obstruct access of light and air; and that the streets providing access to the large scale general development will be adequate to handle traffic resulting therefrom. The provisions of the proposed text amendment relating to floor area modifications require that the Commission find that the amount of bonus floor area is appropriate in relation to the quality and size of the public park improvement and that the bonus floor area would not unduly increase the bulk of the buildings on the zoning lot or unduly restrict access to light and air to buildings on the block or nearby blocks or pedestrians.

Special permit for modification of sign regulations (C 130217 ZSM)

The applicants also seek to allow modification of sign regulations as specified in Section 32-60. Under the proposed C1-9 zoning, non-illuminated signs would be permitted as-of-right provided they did not exceed 150 square feet on a through lot or on each frontage of a corner lot. Illuminated signs would be permitted as-of-right provided they did not exceed 50 square feet on a through lot or on each frontage of a corner lot. Additionally, the C1-9 district regulations would prohibit signs that are located more than 25 feet above street level. The applicants propose 7 signs that would exceed the maximum allowable surface area and/or height regulations: two non-illuminated donor recognition signs adjacent to the entrances of the MSK and CUNY facilities, totaling 150 square feet; two indirectly-illuminated non-flashing

signs on the north and east facades of the MSK building, totaling 2,580 square feet and located up to 69 feet above curb level; one 500 square foot indirectly-illuminated non-flashing sign on the west façade of the CUNY building, located at a height of 116 feet above curb level; and two square foot freestanding illuminated non-flashing signs for wayfinding and building identification mounted to the ground and to a building wall, totaling 90 square feet.

Special permit for accessory parking (C 130218 ZSM)

The applicants seek a special permit, pursuant to Section 13-561, to allow for modification of regulations governing the maximum allowable number of accessory parking spaces. Zoning would permit 166 spaces of accessory parking as-of-right on the project site. The application proposes construction of a two-level, below-grade accessory parking facility within the MSK building with capacity for 248 cars accessed from a two-way garage entrance on East 74th Street.

Disposition of City-owned property (C 139219 PPM)

The project site, formerly used as a sanitation garage facility, is currently owned by the City of New York. To facilitate development of the MSK/CUNY project, the property would be conveyed to the New York City Land Development Corporation and New York City Economic Development Corporation for disposition to MSK and the City University Construction Fund.

ENVIRONMENTAL REVIEW

This application (C 130216 ZSM), in conjunction with related applications (C 130214 ZMM, N

130215 ZRM, C 130217 ZSM, C 130218 ZSM, C 130219 PPM), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the Office of the Deputy Mayor for Economic Development (ODMED). The designated CEQR number is 13DME003M.

It was determined that the proposed actions may have a significant effect on the environment. A Positive Declaration was issued on October 2, 2012, and distributed, published and filed, and the applicant was asked to prepare a Draft Environmental Impact Statement (DEIS). Together with the Positive Declaration, a Draft Scope of Work for an EIS was issued on October 2, 2012. A public scoping meeting was held on the Draft Scope of Work on November 1, 2012, and continued on December 4, 2012, and comments were accepted by the lead agency through December 14, 2012. A Final Scope of Work for an EIS, reflecting the comments made during the scoping, was issued on March 12, 2013.

The applicant prepared a DEIS, and the lead agency issued a Notice of Completion for the DEIS on March 14, 2013. Pursuant to SEQRA regulations and CEQR procedures, a joint public hearing was held on the DEIS on July 10, 2013, in conjunction with the Uniform Land Use Review Procedure (ULURP) applications. A Final Environmental Impact Statement (FEIS) was completed and a Notice of Completion for the FEIS was issued on August 8, 2013. The FEIS

identified significant adverse impacts with regard to open space, transportation, and construction. Details on these impacts and measures to minimize or eliminate these impacts, where feasible and practicable, are described in the Executive Summary to the FEIS, a copy of which is annexed hereto and incorporated herein as Exhibit B.

UNIFORM LAND USE REVIEW

This application (C 130216 ZSM), in conjunction with related applications (C 130214 ZMM, N 130215 ZRM, C 130217 ZSM, C 130218 ZSM, C 130219 PPM), was certified as complete by the Department of City Planning on March 18, 2013, and was duly referred to Community Board 8 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules, along with the application for the zoning text amendment (N 130215 ZRM) which was referred for review and comment in accordance with the procedure for non-ULURP matters.

Community Board Public Hearing

Community Board 8 held a public hearing on this application on May 8, 2013, and on that date, by a vote of 24 to 17 with 2 abstentions and 2 not voting for cause, adopted a resolution recommending approval of the applications (C 130214 ZMM, C 130216 ZSM, C 130217 ZSM, C 130218 ZSM, C 130219 PPM) subject to the following conditions:

1. That the proposed disposition of City-owned property (C 130219 PPM) limit use

of the property to hospital/medical and higher education purposes; and

2. That Andrew Haswell Green Park be the designated recipient of the public park improvement as described in the application for the special permit for bulk modifications (C 130216 ZSM).

Community Board 8, by a vote of 23 to 20 with 1 abstention and 2 not voting for cause, also adopted a resolution recommending approval of the related application for a text amendment (N 130215 ZRM) subject to the following conditions:

1. That the text amendment be modified to limit the applicability to the boundaries of Manhattan Community District 8; and
2. That the proposed park improvement bonus be available only through a special permit, requiring Community Board review, a full environmental review, and full ULURP public hearings.

Borough President Recommendation

This application was considered by the Manhattan Borough President, who issued a recommendation approving the application on June 27, 2013, subject to the following conditions:

1. That permitted uses on the development site be limited to health care, educational, and scientific research facilities; and

2. That the proposed text amendment be modified to specify that the park improvement site be located within 1 mile of the project site and within Community Board 8; and

3. That the Department of Parks and Recreation, in its required letter to the City Planning Commission, indicate that community input in the form of consultation or an existing plan has informed the selection of the park improvement location; and

4. That the required number of street trees be provided and located in consultation with Community Board 8; and

5. That a construction task force be convened to meet regularly during construction of the proposed facilities and ensure that no blasting occur before 8:00 a.m.; and

6. That any approval for new density along the York Avenue corridor be conditioned upon the execution of a comprehensive traffic by the Department of Transportation in consultation with Community Board 8, the Borough President, the Economic Development Corporation, and local elected officials.

City Planning Commission Public Hearing

On June 19, 2013, (Calendar No. 8), the City Planning Commission scheduled July 10, 2013, for a public hearing on this application (C 130216 ZSM), in conjunction with related applications (C 130214 ZMM, N 130215 ZRM, C 130217 ZSM, C 130218 ZSM, C 130219 PPM). The hearing was duly held on July 10, 2013, (Calendar No. 45) in conjunction with the public hearing on the applications for the related actions. There were twenty-five speakers in favor of the application and fifteen speakers in opposition.

A representative of EDC briefly described the history of the project and indicated that the existing lot would be subdivided into two tax lots with each institution receiving a separate

deed. The EDC representative also indicated, in response to the Community Board 8 and Borough President resolutions, that it had no objection to limiting the disposition of the property to specific uses consistent with the project.

The Vice Chancellor of the City University of New York and the President of Hunter College provided an overview of CUNY's involvement with the project, Hunter College's current operations, and how the new facility would be utilized. The Vice Chairman and the President and Chief Executive Officer of Memorial Sloan Kettering Cancer Center provided a brief history of MSK's involvement with the project and a description of the evolving nature of cancer treatment and patient care. The representatives from MSK also detailed the potential for collaborative efforts between MSK and CUNY in the proposed development. It was also clarified that the MSK facility would not be an emergency care hospital.

The project architects described the building design and program, as well as an overview of ground floor circulation. The architects indicated that the project site was minimally impacted by Hurricane Sandy and detailed efforts to ensure flood protection in the proposed facilities, including relocation of mechanical equipment, construction of a "bathtub" foundation, and installation of flood gates for ground floor openings in the structure. They also provided additional details on the floor-to-floor heights within the proposed facilities, indicating that code requirements and technological needs dictate the necessary heights.

A representative from the Department of Parks and Recreation provided a history of Andrew Haswell Green Park, including the development of the design for Phase 2B and the designation of the park as the site of the park improvement for this application. The representative indicated that it is anticipated that Phase 2B of Andrew Haswell Green Park would be open to the public approximately at the time of completion of the MSK/CUNY facilities.

The land use attorney representing the applicants provided a brief review of the actions proposed and provided a brief history of similar zoning actions completed in the medical institutional corridor near the project site. The attorney also explained that open space could not be provided on the project site in a fashion compatible with the design and program of the proposed facilities and described the benefit to the community of the improvement and opening of Andrew Haswell Green Park. The attorney described the need for the proposed floor-to-floor heights and that the facilities had been carefully designed to accommodate modern medical and research equipment.

Representatives from the environmental consulting firm retained by the applicants provided additional details on vehicle trips to and from the project site and confirmed that any changes in local bus service as of March 2013 would have been included in the DEIS analysis. They also provided additional details on traffic mitigation measures.

Several administrators, physicians, and nurses from Memorial Sloan Kettering and CUNY

described the current state of cancer research and treatment and the potential for collaboration amongst students and professionals and benefit of the possible integration of nursing programs between the two institutions.

Several community residents, including several representing local neighborhood associations and condominium and co-op boards, spoke in favor of the application, particularly emphasizing support for the text amendment that would facilitate the improvement of Andrew Haswell Green Park.

The representative of Community Board 8 read the official vote tallies on the community board resolutions and clarified that recommendations from the board's MSK/CUNY Task Force were entered into the minutes and were available to the full board prior to its vote. The representative indicated that the approved 197-a plan for the community calls for the improvement of Andrew Haswell Green Park.

The representative of the Manhattan Borough President described the importance of the health care and educational industries to the city and praised the linkage between the two sectors afforded by this project. The representative indicated support for the improvement of Andrew Haswell Green Park and the text amendment mechanism that would facilitate its improvement. The representative also detailed the Borough President's concerns regarding traffic along the York Avenue corridor and reiterated his call for a comprehensive traffic study as part of any

further approval of density in the corridor.

A representative from the Economic Development Corporation provided a detailed history of the project site and the RFP process that led to the selection of the MSK/CUNY proposal. The representative clarified that residential use was never considered for the site and that there was one open spill on the site that was the subject of a DEC consent order.

Speakers in opposition to the application included several representatives from Residents for Reasonable Development, Defenders of the Historic Upper East Side, and Carnegie Hill Neighbors, who raised concerned related to the size of the proposed development, traffic impacts, pedestrian safety, and the sale price of the property. Several speakers emphasized the residential character of the area around the project site and expressed concern that the proposed development would be in conflict with this character.

Several speakers in opposition expressed their desire for the city to locate a new sanitation garage on the project site, indicating that the former facility, demolished in 2008, caused few problems when it was in operation.

Several speakers who were members of Community Board 8 but not speaking on behalf of the board read the recommendation to disapprove the application adopted by the board's MSK/CUNY Task Force and expressed concern that the recommendations were not properly

recorded or considered by Community Board 8.

Speakers in opposition from the local community also noted their desire to have open space provided on the project site itself or in closer proximity to the project site. These speakers indicated that the proposed park improvement to Andrew Haswell Green Park was too distant to benefit residents living in the vicinity of the project site.

The Executive Director of CIVITAS detailed his organization's opposition to the project, focusing on the lack of specificity related to the value of the park improvement in the proposed text amendment, the need for the provision of open space closer to the project site, the need for long term maintenance provisions in the text, and the need for provisions to ensure timely completion of the park improvement.

There were no other speakers and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application (C 130216 ZSM), in conjunction with those for the related actions, was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999, and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981

(New York State Executive Law, Section 910 et seq.). The designated WRP number is 12-102.

Based on the information submitted, the Waterfront Open Space Division, on behalf of the New York City Coastal Commission, having reviewed the waterfront aspect of this action, finds that the actions will not substantially hinder the achievement of any Waterfront Revitalization Program (WRP) policy and hereby finds the project consistent with the WRP policies.

CONSIDERATION

The Commission believes that the applications for a zoning map amendment (C 130214 ZMM), a zoning text amendment (N 130215 ZRM) as modified, special permits (C 130216 ZSM, C 130217 ZSM, C 130218 ZSM), and disposition (C 130219 PPM) as modified, are appropriate.

The proposed actions would facilitate the development of two new facilities on a city-owned property to be disposed to the applicants: an approximately 403,000 gross square foot health professions college facility for CUNY Hunter College and an approximately 750,000 gross square foot outpatient, ambulatory cancer care center for Memorial Sloan Kettering Cancer Center. The Commission believes that the proposed actions would permit development that would significantly enhance the City's educational and medical capabilities through the provision of two state-of-the-art facilities for the provision of health care and the education and training of medical and health care professionals. The unique opportunities for integration and collaboration afforded by the adjacency of the two new facilities are further reason for the

Commission's support of the proposed actions. The Commission also acknowledges that the actions proposed would facilitate the improvement and opening to the public of Phase 2B of Andrew Haswell Green Park, thereby contributing a high-quality, new 1.1 acre open space along the East River Esplanade for the benefit and enjoyment of the community and the City at large that, absent funding by the applicant, is unlikely to be made in the foreseeable future.

Zoning map amendment (C 130214 ZMM)

The Commission believes that the proposal to rezone the M2-3 district to a C1-9 district is appropriate. The rezoning would permit the educational and medical uses in a C1-9 district across the entirety of the project site and would provide sufficient density, together with the proposed park improvement bonus, to enable the development as proposed. The Commission notes that the densities permitted under the proposed zoning district are equivalent to those already present in the surrounding context, thereby ensuring that the proposed development will conform to neighborhood conditions and minimize any adverse effects.

The Commission has determined that the proposed C1-9 district is appropriate for the project site. The base C1-9 district would permit 10.0 FAR for residential use (bonusable to 12.0 FAR via the inclusionary housing bonus), 2.0 FAR for commercial use, and 10.0 FAR for community facility use (bonusable to 12.0 FAR via the public plaza bonus). The Commission acknowledges that the proposed text amendment that is the subject of a related action would also permit, for community facility developments in C1-9 zoning districts within Manhattan Community

District 8, an additional bonus to a maximum of 12.0 FAR via the proposed park improvement bonus. The Commission determines that the resulting densities permitted would be generally consistent with prevailing conditions in the surrounding context.

In addition, the Commission believes the proposed rezoning of two small sections of Lots 14 and 39, directly adjoining the project site, is appropriate. Both lots are currently split between an M1-4 zoning district that extends along the midblock of the subject block and the existing M3-2 district that extends across the project site to the FDR Drive. The Commission acknowledges that an approximately five foot-wide strip of Lots 14 and 39 would be rezoned from M3-2 to M1-4 and that an approximately six inch-wide strip of the lots would be rezoned from M3-2 to C1-9. In the absence of the proposed rezoning of Lots 14 and 39, a remnant sliver of M3-2 district would remain on the subject block after the rezoning of the project site. This small segment would complicate implementation and interpretation of zoning on the block and would contravene agency policy in the placement and measurement of zoning district boundaries. The Commission determines that the proposed rezoning is the minimum necessary action to remedy this potential situation.

Zoning text amendment (N 130215 ZRM)

The Commission believes that the proposal to amend the Zoning Resolution to create a new provision within the regulations pertaining to the Large Scale General Development special permit is appropriate. The text amendment would provide a mechanism to allow community facility developments located within C1-9 zoning districts in Manhattan Community District 8

to achieve an increase in FAR of 20%, up to a maximum of 12.0, via the Large Scale General Development special permit in exchange for the contribution of funding to complete necessary improvements within a local public park. The proposed text requires the Commissioner of Parks and Recreation to furnish the City Planning Commission with site plans, cost estimates, and statements that the funding to be provided, taken together with other sources of available funding, is adequate to allow for the completion of the public park improvement. The proposed text also requires this Commission to make specific findings that the amount of bonus floor area granted is commensurate with the size and quality of the proposed park improvement and that the resulting bulk would not unduly affect access to light and air to nearby residents, occupants of buildings, or users of public streets.

The Commission recognizes that the proposed C1-9 zoning district would ordinarily permit use of the existing public plaza bonus for a community facility use on the project site. The public plaza bonus would allow for the development of up to 20% additional floor area in exchange for the provision of an at-grade public plaza on the project site. The Commission acknowledges the applicant's statement and testimony that the provision of such a standard public plaza would irretrievably compromise their ability to locate, design, and operate their facilities on the project site. The Commission recognizes that certain community facilities have unique requirements for layout and organization of internal program that necessitate minimization of vertical circulation and the consequent use of large, contiguous floorplate buildings. The Commission believes that the proposed text successfully allows for the creation of quality public open space that serves the local community while at the same time permitting

development at appropriate densities consistent with underlying zoning district norms.

The proposed text also addresses a unique circumstance for public parkland, namely a situation where a public park is fallow and closed to the public due to the need for critical improvements. The Commission notes that Community District 8, particularly in its easternmost section, suffers from a lack of public open spaces and believes that innovative solutions can be used to identify and improve public park land. The proposed text creates a new manner in which the community can obtain high-quality, significant public parks when funding is not otherwise be available for their design or construction.

The Commission believes the proposed text is appropriately targeted to address both of these unique situations and will allow for the creation of best-in-class health care, research, and educational facilities that will keep New York City in the forefront of the industry while at the same time addressing the paucity of public park land within Community District 8.

The Commission believes that a 20% density bonus is reasonable and consistent with city policy in other incentive zoning mechanisms such as the public plaza bonus and the inclusionary housing bonus, both of which are available within the C1-9 zoning district proposed as part of this application.

The Commission notes that the increase in FAR afforded by the proposed text amendment would only be available through a special permit process, requiring compliance with the

Uniform Land Use Review Procedure including review by the appropriate Community Board. The proposed text would also require this Commission to make specific findings that the amount of bonus floor area granted is appropriate given the size and quality of the proposed public park improvement and that this bonus floor area would not unduly increase the bulk of buildings on the project site or obstruct access to light and air to occupants of nearby buildings or streets.

The Commission acknowledges statements from Manhattan Community Board 8 and the Manhattan Borough President regarding the proposed text. The Commission is also aware that the applicants, in a letter to the Manhattan Borough President dated June 27, 2013, have indicated they pose no objection to modifications to the proposed text as described by the Community Board and the Borough President. Accordingly, the Commission believes it is appropriate to modify the proposed text to further limit the applicability of the proposed text by specifying that the public park that is the subject of the park improvement be located both within Community District 8 and within one mile of the proposed development. Similarly, the Commission believes it is appropriate to modify the proposed text that details the submission of materials by the Commissioner of Parks and Recreation to the City Planning Commission to include a statement that community input in the form of consultation with the Community Board or an existing plan has been considered in the selection of a public park for the park improvement.

Special permit for bulk and floor area modifications (C 130216 ZSM)

The Commission believes that the special permit to allow for the modification of height, setback, yard, and floor area regulations is appropriate. The Commission believes that the special permit would allow for new development that is consistent in bulk and character with existing buildings on adjacent blocks and would result in a better site plan than would otherwise be possible.

The Commission believes that the distribution of floor area and the locations of buildings will result in a better site plan. The Commission notes that the requested special permit would permit waivers of height and setback regulations that would ordinarily limit the base height to 85 feet and would require the portion of the building above the required setback to not penetrate a sky exposure plane. The Commission believes that these underlying regulations would unduly limit design flexibility, would inhibit the optimal massing of development on the project site, and would impair the ability of the applicants to design buildings that function optimally for their needs. The applicant proposes two buildings that generally occupy the entire lot, rise without setback, and penetrate the sky exposure planes on multiple frontages. The Commission acknowledges that the applicants have designed their buildings in such a way that the uniformity of the façade is relieved through the use of various setbacks, recesses, planar changes, and differences in materiality and texture of façade components. While these design features do not result in buildings that comply with setback or other bulk requirements, they serve to modulate the building form, lightening its presence and allowing for a perceived tapering of form as the tower ascends. The Commission further notes that the proposed 453-foot height of the MSK building and the proposed 346-foot height of the CUNY Hunter building are

generally in character with the surrounding context, which includes numerous towers exceeding 400 feet in height on the blocks immediately adjacent to the project site and in the wider vicinity.

The Commission recognizes that the yard regulations for the project site would ordinarily require the provision of rear yard equivalent on the through lot potion of the zoning lot above a height of 23 feet. Such requirements would unduly restrict the ability of the applicant to mass and develop facilities with large, contiguous floorplates that they have demonstrated are essential to the successful operation of modern medical and educational institutions. The Commission acknowledges that side yard regulations would, in situations where an open area is provided along a side lot line, require the provision of an open area generally 8 feet in width and that the applicant proposes a 3 foot open area as a seismic separation between the proposed development and adjacent buildings. These regulations would have the unintended consequence of creating an interruption in the streetwall and the creation of an unused area that would detract from the pedestrian condition on the subject block. The proposed waiver alleviates this condition while maintaining the needed seismic separation between buildings and providing sufficient space for access for cleaning and maintenance. The Commission believes that the waiver of the yard requirements is therefore appropriate.

The Commission believes that the streets providing access to the proposed development will be adequate to handle the traffic generated. The Commission notes that CUNY anticipates that the bulk of its population will arrive at the new college facility on foot or bicycle and that no

parking is envisioned for the CUNY Hunter building. Memorial Sloan Kettering expects the majority of their patient population to arrive for treatment via automobile and the Commission is aware that it proposes a three-lane passenger drop-off area within the property that will serve to remove vehicles from the public streets during loading and unloading of passengers. Moreover, both CUNY and MSK anticipate that traffic generated by their respective facilities would be distributed relatively evenly throughout the course of the day, thereby reducing the effects of peak or rush hour traffic. The Commission further acknowledges that the applicants intend to segregate traffic-generating activities so as to isolate all loading and facility service traffic to East 73rd Street and all facility user-related traffic to East 74th Street. Moreover, the proposed building design includes interior spaces for truck maneuvering and turning, allowing trucks and other vehicles to enter and depart the facilities without having to back into traffic and thereby minimizing adverse effects on East 73rd Street. The Commission understands that, even with these measures, significant adverse impacts are expected at the intersections closest to the project site on York Avenue. As described in the Final Environmental Impact Statement for this proposal, all impacts would be fully mitigated utilizing standard traffic engineering measures such as alterations to signal timing and adjustments in permitted standing and parking times.

The Commission believes the modification of floor area requirements to permit the development of an additional 2.0 FAR on the project site via the provisions of the park improvement bonus proposed as part of the text amendment that is the subject of a related action (N 130215 ZRM), is appropriate. The Commission acknowledges the receipt of letters

from the Commissioner of Parks and Recreation, as required by proposed zoning text amendment, regarding the modification of floor area provisions in association with the park improvement bonus. The letter dated March 13, 2013, states that the selection of Andrew Haswell Green Park as the subject of the proposed park improvement was informed by community input in the form of an existing 197-a Plan, that the proposed park improvement would provide an appropriate amenity for the surrounding area, and that, absent funding to be provided by the applicants, the proposed public park improvement is unlikely to be completed in the foreseeable future. The Commissioner of Parks and Recreation also furnished this Commission with a site plan for Phase 2B of Andrew Haswell Green Park that she indicated was sufficient in detail and scope to allow for the determination of the appropriate amount of bonus floor area to be granted to the applicants. The Commissioner of Parks and Recreation, in her letter dated August 8, 2013, states that the site plan for Phase 2B of Andrew Haswell Green Park, as submitted to this Commission in her March 13, 2013, letter, remains unchanged. Furthermore, the Commissioner states that the estimated cost for the Phase 2B park improvement is $25,600,000 and that the funding to be provided by the applicant is adequate for the completion of the necessary infrastructure, landscape and other work necessary to complete Phase 2B of Andrew Haswell Green Park.

The Commission has considered the statements and supplementary material provided by the Commissioner of Parks and Recreation and believes that the amount of bonus floor area sought by the applicants is appropriate in relation to the size and quality of the proposed Andrew Haswell Green Phase 2B improvement. The applicants will provide funding necessary for the

completion of Phase 2B of Andrew Haswell Green Park, a 1.1 acre space located adjacent to the East River and extending via a ramp across the FDR Drive to East 60th Street. The Commission acknowledges that Phase 1 of the park is complete and open to the public and that the Department of Parks and Recreation had intended for Phase 2B, together with the adjacent Phase 2A, to be completed and opened to the public in 2015. The Commission understands that a marine inspection revealed deteriorated conditions in the structural piles and platform that support portions of Phase 2B where it is located over the East River and that DPR did not have funding for the necessary work to remedy these conditions. The funding to be provided by Memorial Sloan Kettering and CUNY would be used to perform necessary improvements, including repairs to and rebuilding of the pilings and platform in the Phase 2B area. These funds would also be utilized to complete necessary topside improvements to the landscape, including paving, plantings, seating, lighting and other site amenities. The Commission notes that, under the zoning text amendment, the Commissioner of Buildings shall not issue a building permit for the project buildings unless the Commissioner of Parks and Recreation shall have certified that the funding has been made or secured in a manner acceptable to such Commissioner.

The Commission believes that the improvements to Phase 2B will allow for the completion and opening to the public of an extraordinarily significant public park. Andrew Haswell Green Park is nearly 2 acres in size and represents one of the largest and most coherent sections of public space available along the East River waterfront within this area. It benefits from the inland diversion of the FDR Drive, which is elsewhere located only feet from the river, as well as the

shielding from the highway provided by the access ramp structure that extends over and is located adjacent to the FDR Drive. Phase 2B, at 1.1 acres, constitutes the largest section of Andrew Haswell Green Park and would therefore greatly enhance the availability and quality of open space in the area when completed and opened to the public. The Commission acknowledges that the Department of Parks and Recreation has developed a high quality design for Phase 2B that has been approved both by Community Board 8 as well as by the Public Design Commission in a preliminary approval. The Phase 2B design calls for new planted areas, paving treatments, seating, a generous tiered stairway leading to the esplanade, and enhanced access via an improved ramp from East 60th Street. It would provide a tremendous amenity for residents of Community District 8 as well as the City at large and would significantly advance the progress of improvements to the East River Esplanade.

The Commission notes that existing public plaza provisions also provide an as-of-right means to achieve 12.0 FAR on the project site. However, the public plaza provisions would require the creation of 22,000 square feet of public plaza on the project site and would significantly affect the ability of Memorial Sloan Kettering and CUNY to locate, design, and operate their buildings in an optimal manner. The Commission considers the Andrew Haswell Green Phase 2B park improvement, at more than double the size of a complying public plaza on the project site, to be an amenity commensurate in size and quality with the proposed bonus floor area. The Commission has determined that funding to be provided by the applicants in association with this application and related actions represents a valuable opportunity to conduct necessary work to stabilize and improve the infrastructural systems in Phase 2B, implement the design

produced by the Department of Parks and Recreation, and open this valuable amenity to the public in a timely fashion.

The Commission believes that the granting of bonus floor area in association with the park improvement bonus would not unduly increase the bulk of buildings on the zoning lot. The receipt of equivalent amounts of additional floor area is permitted as-of-right in the proposed C1-9 zoning district through the use of the public plaza bonus. Similar floor area increases are also available via the inclusionary housing bonus. The proposed modification of floor area in this application is consistent with what is already permitted within the zoning district and would therefore not result in an out-of-scale density for the project site. Furthermore, the Commission notes that buildings of similar density and similar – or greater – heights are found throughout the vicinity of the project site and that the proposed development would be generally consistent with the highly varied built form in the surrounding area. The Commission also determines that the bonus floor area will not unduly obstruct access of light and air to the detriment of occupants or users of nearby buildings or of people using the public streets. The proposed development is located directly to the west of the FDR Drive and to the south of a nearly full-block ConEdison steam plant. Therefore, the proposed development would be unlikely to adversely affect access to light and air to residents or occupants in these two locations. The Commission further notes that the massing of the Memorial Sloan Kettering facility has been designed so as to pull away from the East 73rd Street frontage as it rises toward the tower top, thereby increasing access to light and air for residents of the large residential tower located at 525 East 72nd Street, directly to the south of the project site. The building

massing and design incorporates setbacks, open terraces, and a façade of "stacked" volumes that provide additional visual relief and openness for occupants of nearby buildings and users of the public streets. The Commission notes that the analysis contained within the Final Environmental Impact Statement demonstrates no adverse impacts related to shadows for the proposed development.

Special permit for modification of sign regulations (C 130217 ZSM)

The Commission believes that the special permit for modifications related to the surface area and height of signs on the subject property is appropriate. The Commission understands that the location of the proposed development poses unique challenges for facility identification and wayfinding, with the primary entrance to the two facilities located at the end of a little-trafficked dead end street. The applicants propose seven signs that would exceed the permitted dimensions on surface area or maximum height.

The Commission believes that the proposed modifications to sign regulations would result in a better site plan. The populations that would utilize the two facilities, particularly patients at Memorial Sloan Kettering that may not be familiar with New York City, will likely require additional cues to locate and identify the buildings as they approach on foot or in an automobile. The Commission recognizes that other medical institutions in the vicinity of the project site have erected prominent identification signs on their facilities over and adjacent to the FDR Drive and the Commission considers the signs sought by MSK and CUNY to be of a similar nature and fulfill a similar role. Furthermore, the Commission believes that the

restrictions imposed by the underlying zoning district regulations would unduly impair the ability to place and size signs so as to achieve the necessary level of prominence.

The Commission notes that the proposed signs would be located on the east, north, and west facades of the MSK and CUNY buildings and that care has been taken to ensure that the proposed signs would not face or shine into residences located directly to the south of the project site. The Commission also recognizes that four of the seven proposed signs would be located at street level and would serve identification and wayfinding purposes at the building entrances. The two larger MSK signs would be located in such a way as to adequately allow for identification of the facility when viewed from the FDR Drive. The larger CUNY sign would be located so as to permit wayfinding and identification of the facility when viewed from York Avenue and other points west. The Commission notes that building identification signs would be indirectly illuminated, with "halo" lighting located behind opaque letterforms and logos. The Commission has therefore determined that the proposed modifications to sign regulations are appropriate and will successfully compensate for the unusual circumstance of two major facilities located on a dead-end street at the edge of the island of Manhattan.

Special permit for accessory parking (C 130218 ZSM)

The Commission believes that the special permit for additional accessory parking spaces within the Memorial Sloan Kettering facility is appropriate. The Commission notes that parking for 166 vehicles would be permitted as-of-right on the subject property. The applicant has indicated that they expect many of those visiting the facility for treatment to arrive primarily by

automobile, thereby generating a greater need for parking spaces. The applicant has also demonstrated that there is a lack of parking spaces available within the immediate vicinity of the project site, thereby necessitating the creation of additional accessory parking spaces within the MSK facility. The Commission recognizes that many people visiting the MSK facility will be impaired in mobility due to their illness and therefore require ready access via automobile to the Memorial Sloan Kettering building. The Commission believes that the accessory garage would adequately provide for the patient and visitor communities and minimize the demand for parking and consequent traffic and circulation in the vicinity of the building.

The Commission acknowledges that the applicant proposes a rational system for the drop-off of patients and visitors to the facility via a covered, multi-lane area within the subject property. This area would connect directly to the garage ramp, allowing drop off of patients and visitors and efficient movement of vehicles into the subsurface garage without having to re-enter the public street. The Commission recognizes that the applicant has provided the sufficient number of reservoir spaces for queuing of vehicles prior to admission into the garage facility and has allowed for a generous lobby at the garage level where patients and visitors would wait in comfort while their vehicle is retrieved.

The Commission believes that the location of the garage entrance and exit at the end of the dead-end block will inherently minimize effects on vehicular and pedestrian movement. The pedestrian entrances to both the MSK and CUNY facilities would be located west of the garage entrance and there are no pedestrian connections to any streets or to the East River Esplanade at

the easternmost end of the block. Therefore, pedestrian traffic would likely be minimal in the proximity of the garage entrance and exit. Similarly, minimal vehicular traffic would be expected along the eastern end of East 74th Street as there is only one accessory garage entrance into the ConEdison steam plant and no other vehicular connection to any building or street.

The Commission notes that the garage would be located on a dead-end section of East 74th Street and that the character of the subject block is varied. While there is residential use closest to the intersection with York Avenue, the majority of the block is occupied with non-residential uses. The Commission therefore does not consider this block of East 74th Street to be a local residential street. Vehicles approaching the garage would be likely to reach East 74th Street from York Avenue, a major two-way street that would allow access from the north and the south. The Commission believes that this condition would minimize the need for vehicles to travel along local east-west streets and would therefore draw a minimum of traffic to and through local residential streets.

Disposition of city property (C 130219 PPM)

The Commission believes that the disposition of City-owned property is appropriate. The Commission recognizes that the subject property was formerly used for a City sanitation facility that was demolished in 2008. Since that time, the site has remained vacant with partial remnant walls of the former sanitation structure occupying much of the site and an interim parking use utilizing the westernmost section of the site. The Commission recognizes that these conditions deprive the community of active use of the site and foster an unsightly condition on the subject

block. The Commission acknowledges that the Economic Development Corporation issued an Request for Proposals for the site in May 2011, specifying that respondents be prepared to "utilize the site for the expansion or creation of a health care, education, or scientific research facility." The proposed development would satisfy this condition and furthermore greatly strengthen the City's capabilities in medical care as well as health care education and training.

The Commission is aware of the concerns voiced by Community Board 8 and the Borough President regarding the uses permitted on the project site. The Commission notes that the original RFP issued by EDC specified that the site was to be utilized by entities engaged in health care, education, and scientific research and that the proposal put forward by Memorial Sloan Kettering and CUNY Hunter is consistent with those guidelines. Moreover, the Commission recognizes that the applicant has, in a letter to the Manhattan Borough President dated June 27, 2013, indicated their acceptance of restrictions in the permitted uses as described by Community Board 8 and the Borough President. Accordingly, the Commission is modifying its resolution in the application for a disposition of City-owned property (C 130219 PPM) to provide that the site be utilized exclusively for health care, education, and scientific research.

Furthermore, the Commission acknowledges that the applicant, in their letter to the Manhattan Borough President dated June 27, 2013, addressed the various concerns of Community Board 8 and the Borough President and detailed their plans for complying with each of the listed conditions. The Commission notes that the applicants have agreed to provide the required number of street trees in the vicinity of the project site, to limit hours of blasting during construction, to utilize best practices to reduce adverse effects of construction activities, and to

establish a construction task force open to members of the community, elected officials, City officials, and other interested parties to manage communication and field complaints and questions related to construction activities.

FINDINGS

The City Planning Commission hereby makes the findings pursuant to Section 74-743 (General Large Scale Development) of the Zoning Resolution, as modified by the proposed text amendment that is the subject of a related action (N 130215 ZRM):

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

therefrom; and

5. Not applicable; and

6. Not applicable; and

7. Not applicable; and

8. Not applicable; and

9. the amount of bonus floor area is appropriate in relation to the size and quality of the proposed public park improvement; and

10. such bonus floor area will not unduly increase the bulk of buildings on the zoning lot or unduly obstruct access of light and air to the detriment of the occupants or users of buildings in the block or nearby blocks or of people using the public streets.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on August 8, 2013, with respect to this application (CEQR No. 13DME003M), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act & regulations, have been met and that:

1. Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action adopted herein 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, in accordance with the environmental commitment letter, dated August 13, 2013, from NYCEDC, those project components related to the environment and mitigation measures that were identified as practicable.

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

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by Memorial Hospital for Cancer and Allied Diseases (MSK) and City University of New York (CUNY) pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to:

1. Section 74-743(a)(1) to allow the location of buildings without regard to the rear yard requirements of Section 33-283 (Required rear yard equivalents), the side yard requirements of Section 33-25 (Minimum Required Side Yards), and the height and setback requirements of Section 33-432 (In other Commercial Districts); and

2. Section 74-743(a)(11) to allow a floor area bonus not to exceed 20 percent of the maximum floor area ratio permitted by the underlying district regulations for improvement to a public park;

in connection with a proposed community facility development on property located at 524-540 East 74th Street a.k.a 525-545 East 73rd Street (Block 1485, Lot 15), within a Large-Scale General Development, in a C1-9 District, Borough of Manhattan, Community District 8, is approved, subject to the following terms and conditions:

1) The property that is the subject of this application (C 130216 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Perkins Eastman and Ennead Architects, LLP filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
Z-02	Zoning Calculations	March 12, 2013
Z-03	Zoning Lot Context Site Plan	March 12, 2013
Z-04	Project Site Plan	March 12, 2013
Z-06	Plan Setbacks	March 12, 2013
Z-07	Section 1 East – West	March 12, 2013
Z-08	Section 2 East – West	March 12, 2013
Z-09	CUNY Sections North – South	March 12, 2013
Z-10	MSKCC Sections North – South	March 12, 2013

2) Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3) Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

4) Development pursuant to this resolution shall be allowed only after the Declaration of Large Scale Development, attached as Exhibit A hereto, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed and recorded in the Office of the Register, New York County.

5) All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.

6) Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements,

terms or conditions of this resolution and the attached restrictive declaration whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the attached restrictive declaration.

7) Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 130216 ZSM), duly adopted by the City Planning Commission on August 21, 2013, (Calendar No. 14), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, *FAICP*, Chair
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, BETTY Y. CHEN, MICHELLE R. DE LA UZ,
MARIA M. DEL TORO, JOSEPH I. DOUEK,
ANNA HAYES LEVIN, ORLANDO MARIN, Commissioners

RICHARD W. EADDY, recused

Nicholas Viest
Chair

Latha Thompson
District Manager

505 Park Avenue, Suite 620
New York, N.Y. 10022-1106
(212) 758-4340
(212) 758-4616 (Fax)
www.cb8m.com - Website
info@cb8m.com - E-Mail

The City of New York
Manhattan Community Board 8

May 14, 2013

Hon. Amanda M. Burden
Chair
The Department of City Planning
22 Reade Street
New York, New York 10007

Corrected Copy

Re: CUNY-MSK ULURP Application Nos. C130214ZMM; C130217ZSM; C130218 ZSM; C130219PPM; C130216ZSM

Dear Chair Burden:

At its Land Use meeting on Wednesday, May 8, 2013 Community Board 8M **approved** the following resolution by a vote of 24 in favor, 17 opposed, 2 abstentions and 2 not voting for cause.

ULURP Application with conditions

BE IT RESOLVED THAT Manhattan Community Board 8 approves the applications submitted by the Memorial Hospital for Cancer and Allied Diseases (MSK) and City University of New York (CUNY) for a zoning map change (C 130214 ZMM), a special permit to modify sign regulations (C 130217 ZSM), and a special permit for an accessory parking garage (C 130218 ZSM),; and be it further

BE IT RESOLVED THAT Manhattan Community Board 8 approves the application submitted by the Department of Citywide Administrative Services for disposition of city-owned property (C 130219 PPM) SUBJECT TO THE CONDITION that the application (C 130219 PPM) limit use of the subject property to hospital/medical and higher education purposes; and be it further

BE IT RESOLVED THAT Manhattan Community Board 8 approves the application submitted by Memorial Hospital for Cancer and Allied Diseases (MSK) and City University of New York (CUNY) for a special permit for bulk modifications (C 0130216 ZSM) is SUBJECT TO THE CONDITION that the designated recipient for improvement of a public park pursuant to the proposed Section 74-743(a)(11) of the Zoning Resolution shall be Andrew Haswell Green Park

Please advise this office of any decision made by City Planning concerning this matter.

Sincerely,

Nicholas Viest
Chair

cc: Honorable Michael Bloomberg, Mayor of the City of New York
Honorable Scott Stringer, Manhattan Borough President
Honorable Carolyn Maloney, 14th Congressional District Representative
Honorable Liz Krueger, NYS Senator, 26th Senatorial District
Honorable Micah Kellner, NYS Assembly Member, 65th Assembly District
Honorable Dan Quart, NYS Assembly Member, 73rd Assembly District
Honorable Jessica Lappin, NYC Council Member, 5th Council District
Honorable Daniel Garodnick, NYC Council Member, 4th Council District
Shelly Friedman, Esq., Friedman and Gotbaum, LLP

Nicholas Viest
Chair

Latha Thompson
District Manager

505 Park Avenue, Suite 620
New York, N.Y. 10022-1106
(212) 758-4340
(212) 758-4616 (Fax)
www.cb8m.com - Website
info@cb8m.com - E-Mail

The City of New York
Manhattan Community Board 8

May 14, 2013

Hon. Amanda M. Burden
Chair
The Department of City Planning
22 Reade Street
New York, New York 10007

Corrected Copy

Re: CUNY-MSK ULURP Application No. N130215ZRM-Zoning Text Amendment

Dear Chair Burden:

At its Land Use meeting on Wednesday, May 8, 2013 Community Board 8M **approved** the following resolution by a vote of 23 in favor, 20 opposed 1abstention and 2 not voting for cause.

WHEREAS, the ULURP application of CUNY-Hunter College and Memorial Sloan-Kettering Cancer Center for development of the former Department of Sanitation Garage at East 73rd/74th Street and the FDR Drive is currently before CB 8; and,

WHEREAS, one of the actions in the ULURP application is a proposed text amendment that will provide through special permit up to an additional FAR 2 (for a maximum site development of FAR 12) and will include Incentive Zoning providing for a substantial monetary contribution to a public park improvement; and,

WHEREAS, another of the actions in the ULURP application is to approve, as provided in the proposed zoning text amendment, a special permit for a monetary contribution as stipulated in writing by the DPR that a public park improvement will provide an appropriate amenity for the surrounding area; and

WHEREAS, CB 8 has actively advocated for the opening of Andrew Haswell Green Park, which is only partially completed due to the lack of available funding for the unforeseen repair of the pilings beneath the surface of the Park; and

WHEREAS, CB 8 has long sought to expand public parkland within its boundaries and notes that the proposed zoning text amendment will provide a new opportunity for adding significant acreage by completing parkland that is currently unimproved and inaccessible to the public; and,

WHEREAS, in the summer of 2006, CB 8 strongly recommended the opening of Andrew Haswell Green Park in its 197-a Plan; and,

WHEREAS, in response to CB 8's long advocacy for the creation and opening of Andrew Haswell Green Park, and DPR submitted a plan for its design and completion to the Public Design Commission in 2010; and

WHEREAS, the Public Design Commission approved the DPR plans for the creation of Andrew Haswell Green Park as supported by CB 8; and,

WHEREAS, CB 8's elected officials have contributed over $5 million of their own discretionary funds toward the opening of Andrew Haswell Green Park for the current Phase; and,

WHEREAS, work on Andrew Haswell Green Park Phase I was completed but the work on Phase 2B had to be indefinitely postponed once the extent of the poor conditions of the pilings beneath the Park were uncovered because there was no funding in the capital budget for their repair; and,

WHERAS, DPR has confirmed to the City Planning Commission by letter that the original funding for the opening of Andrew Haswell Green Park is available except for the funds necessary to repair the pilings beneath the Park platform and it has further advised CPC that there are no plans to provide such funds in the foreseeable future; and,

WHEREAS, at a recent CB 8 Parks Committee Public Forum, parks advocates released a study that this community is "impoverished" in comparison to other communities in all of NYC regarding the amount of available public park space; and,

WHEREAS, alternate proposals to utilize the funding that would be generated by this application to improve other parks within CD 8 are exemplary but will not result in the increase of available public parkland, and this proposal will bring the amount of additional available public parkland to a total of 2 acres and provide a major area of passive recreation along the East River Waterfront on parkland which is presently unimproved and unavailable to the public; and,

WHEREAS, while Andrew Haswell Green Park is located in the East 60's neighborhood in which both Hunter College and MSK have resided for decades, is proximate to the new MSK ambulatory surgery building at 1133 York, which CB 8 criticized for not providing public open space, and is proximate to the other institutions in the medical corridor on York Avenue which currently do not provide the public or their populations any publicly accessible open space; and,

WHEREAS, CUNY-Hunter and MSK have designed their buildings to provide for private open space for the use of their expected populations with upper level terraces and interior spaces so as to minimize the impact on the adjoining community's existing open spaces and public sidewalks; and,

WHEREAS, the CUNY-Hunter/MSK proposal represents the only currently foreseeable opportunity to reduce CD 8's "impoverishment" and actually add to the amount public parkland within this community; and,

WHEREAS, recommending disapproval of this proposal to complete and open Phase 2B of Andrew Haswell Green Park to the public with funding offered by this application rather than

through the City's capital budget may have significant adverse consequences to CB 8 in the future competitive pursuit of limited DPR funding for our parks,

THEREFORE BE IT RESOLVED THAT Manhattan Community Board 8 recommends approval of the proposed zoning text amendment, provided:
(1) it is modified to assure that the site of the proposed park improvement be limited to the boundaries of CD 8 and
(2) the bonus remains available only through a special permit, requiring Community Board review, a full environmental review and full ULURP public hearings; and,

BE IT FURTHER RESOLVED THAT Manhattan Community Board 8 recommends, consistent with its longstanding support for the creation of Andrew Haswell Green Park, approval of its selection as the location for a monetary contribution to a park improvement under the requested special permit, provided that CPC obtain prior to its vote a clear and unequivocal statement in writing from DPR that all necessary funding is in place for the repair of the pilings and completion of Phase 2B of Andrew Haswell Green Park and its opening to the public.

Please advise this office of any decision made by City Planning concerning this matter.

Sincerely,

Nicholas Viest
Chair

cc: Honorable Michael Bloomberg, Mayor of the City of New York
Honorable Scott Stringer, Manhattan Borough President
Honorable Carolyn Maloney, 14th Congressional District Representative
Honorable Liz Krueger, NYS Senator, 26th Senatorial District
Honorable Micah Kellner, NYS Assembly Member, 65th Assembly District
Honorable Dan Quart, NYS Assembly Member, 73rd Assembly District
Honorable Jessica Lappin, NYC Council Member, 5th Council District
Honorable Daniel Garodnick, NYC Council Member, 4th Council District
Shelly Friedman, Esq., Friedman and Gotbaum, LLP

Borough President Recommendation

City Planning Commission

22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application: C 130214 ZMM, N 130215 ZRM, C 130216 ZSM, C 130217 ZSM, C 130218 ZSM and C 130219 PPM

Docket Description:

IN THE MATTER OF an application submitted by Memorial Hospital for Cancer and Allied Diseases (MSK) and City University of New York (CUNY) pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 9a:

1. changing from an M3-2 District to a C1-9 District property bounded by East 74th Street, Franklin D. Roosevelt Drive, East 73rd Street, and a line perpendicular to the northerly street line of East 73rd Street distant 315 feet westerly (as measured along the street line) from the point of intersection of the northerly street line of East 73rd Street and the westerly street line of Franklin D. Roosevelt Drive; and

2. changing from an M3-2 District to an M1-4 District property bounded by East 74th Street, a line perpendicular to the northerly street line of East 73rd Street distant 315 feet westerly (as measured along the street line) from the point of intersection of the northerly street line of East 73rd Street and the westerly street line of Franklin D. Roosevelt Drive, East 73rd Street, and a line perpendicular to the northerly street line of East 73rd Street distant 320 feet westerly (as measured along the street line) from the point of intersection of the northerly street line of East 73rd Street and the westerly street line of Franklin D. Roosevelt Drive; as shown on a diagram (for illustrative purposes only) dated March 18, 2013.

(See Continued)

COMMUNITY BOARD NO: 8

BOROUGH: Manhattan

RECOMMENDATION

- [ ] APPROVE
- [x] APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- [ ] DISAPPROVE
- [ ] DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See Attached

BOROUGH PRESIDENT

6/27/2013
DATE

N 130215 ZRM
IN THE MATTER OF an application submitted by Memorial Hospital for Cancer and Allied Diseases (MSK) and City University of New York (CUNY) pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating 23 to Article VII, Chapter IV (General Large Scale Development) to permit floor area increase of up to 20 percent in exchange for provision of a public park improvement.

C 130216 ZSM
IN THE MATTER OF an application submitted by Memorial Hospital for Cancer and Allied Diseases (MSK) and City University of New York (CUNY) pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to the following sections of the Zoning Resolution to modify:

1. Section 74-743(a)(1) to allow the location of buildings without regard to the rear yard requirements of Section 33-283 (Required rear yard equivalents), the side yard requirements of Section 33-25 (Minimum Required Side Yards), and the height and setback requirements of Section 33-432 (In other Commercial Districts); and

2. Section 74-743(a)(11)* to allow a floor area bonus not to exceed 20 percent of the maximum floor area ratio permitted by the underlying district regulations for improvement to a public park; in connection with a proposed community facility development on property located at 524-540 East 74th Street a.k.a 525-545 East 73rd Street (Block 1485, Lot 15), within a Large-Scale General Development, in a C1-9 District**.

*Note: A zoning text amendment is proposed to modify Section 74-743 of the Zoning Resolution under a concurrent related application N 130215 ZRM.
**Note: The site is proposed to be rezoned by changing an M3-2 District to a C1-9 District under a concurrent related application C 130214 ZMM.

C 130217 ZSM
IN THE MATTER OF an application submitted by Memorial Hospital for Cancer and Allied Diseases (MSK) and City University of New York (CUNY) pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-744(c) of the Zoning Resolution to modify the surface area of signs requirements of Section 32-64 (Surface Area and Illumination Provisions), and the height of signs requirements of Section 32-65 (Permitted Projection or Height of Signs), in connection with a proposed community facility development on property located at 524-540 East 74th Street a.k.a. 525-545 East 73rd Street (Block 1485, Lot 15), within a Large-Scale General Development, in a C1-9 District*.

*Note: The site is proposed to be rezoned by changing an M3-2 District to a C1-9 District under a concurrent related application C 130214 ZMM.

C 130218 ZSM
IN THE MATTER OF an application submitted by Memorial Hospital for Cancer and Allied Diseases (MSK) and City University of New York (CUNY) pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 13-561 of the Zoning Resolution to allow an enclosed attended accessory parking garage with a maximum capacity of 248 spaces on portions of the ground floor, cellar and sub-cellar of a proposed community facility development on property located at 524-540 East 74th Street a.k.a. 525-545 East 73rd Street (Block 1485, Lot 15), in a C1-9 District*.

*Note: The site is proposed to be rezoned by changing an M3-2 District to a C1-9 District under a concurrent related application C 130214 ZMM.

C 130219 PPM
IN THE MATTER OF an application submitted by the NYC Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for the disposition of one (1) city-owned property located at 524-540 East 74th Street (Block 1485, Lot 15), pursuant to zoning.

THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

June 27, 2013

Recommendation on
Memorial Sloan-Kettering and City University of New York-Hunter College
ULURP Application Nos. C 130214 ZMM, N 130215 ZRM, C 130216 ZSM, C 130217 ZSM, C 130218 ZSM and C 130219 PPM
by Memorial Hospital for Cancer and Allied Diseases and
City University of New York

PROPOSED ACTIONS

Memorial Sloan-Kettering ("MSK") and Hunter College of the City University of New York ("CUNY," together, "the applicants") are partnering to acquire a development site from the City, located adjacent to the Franklin D. Roosevelt Drive ("FDR Drive") between 73rd and 74th streets (Block 1485, Lot 15) on the Upper East Side. The development site is located in Community District 8 ("CD 8"). The applicants propose the construction of a new ambulatory cancer treatment facility and nursing school. In order to realize the joint MSK/CUNY facility, the applicants seek: a rezoning of the project site to accommodate a high-density community facility use; approval of special permits associated with a large scale general development ("LSGD") to waive certain bulk, height and setback, floor area ratio ("FAR") restrictions for community facilities and signage regulations; a zoning text amendment to create a new provision for certain LSGD community facilities that would grant bonus FAR for off-site park improvements; approval of a special permit to increase the number of permitted accessory parking spaces; and approval of the disposition of the development site. Each of the five land use actions requested by the applicants is described in detail below.

Zoning Map Amendment
The applicants seek a **zoning map amendment (C 130214 ZMM)** applicable to the project area (consisting of the development site at Block 1485, Lot 15, as well as Lots 14 and 39). The proposed amendment rezones the development site (Lot 15) and a six-inch portion of Lots 14

and 39 from an M3-2[1] to a C1-9 zoning district. Generally, C1-9 districts permit community facility uses (Use Groups 3 and 4), a maximum density of 10.0 FAR and up to an additional 2.0 FAR through provision of a qualifying public plaza for commercial and residential developments. Additionally, the applicants propose the rezoning of the remaining portions of the adjacent parcels (Block 1485, Lots 14 and 39) by extending the existing M1-4 district located to the west of the project area five feet east. This boundary would eliminate the M3-2 district from Block 1485, and maintain the current split lot conditions for Lots 14 and 39.

Large Scale General Development Special Permits
The applicants seek approval of several **special permits available to large scale general developments ("LSGDs") pursuant to ZR § 74-74, including bulk and floor area waivers (C 130216 ZSM) and modification of sign surface area requirements (C 130217 ZSM).**

The applicants seek bulk waivers through special permits pursuant to ZR § 74-74(a)(2) in order to allow the location and design of buildings without regard to requirements of ZR § 33-283 (Required Rear Yard Equivalents), to side yard requirements of ZR § 33-25 (Minimum Required Side Yards) or to height and setback requirements of ZR § 33-432 (In Other Commercial Districts). The applicants propose variable streetwalls and façades that violate height and setback regulations and the sky exposure plane for a C1-9 district.

The applicants further seek an additional bulk increase pursuant to ZR § 74-74(a)(11), which would permit a floor area bonus of up to 20 percent of the maximum permitted FAR of the underlying zoning in exchange for improvement to a public park.[2]

The applicants seek approval of a special permit to waive size regulations in ZR § 32-642 (Non-Illuminated Signs) and ZR § 32-643 (Illuminated Non-Flashing Signs) in order to permit identity and wayfinding signage in excess of the allowable 150 square feet on each frontage of a corner lot. Additionally, ZR § 32-641 (Total Surface Area of Signs) would be waived, permitting a total surface area of all signs associated with the project to exceed the permitted total surface area of 1,200 square feet by 3,320 square feet. The applicants propose larger identity signage that would further require waiver of ZR § 32-655 (Height of Signs in Other Commercial Districts) in order to accommodate placement at a maximum height of 69 feet for the MSK building and of 116 feet for the CUNY facility.

Zoning Text Amendment
In addition to requesting approvals for existing special permits available to LSGDs, the applicants propose a **zoning text amendment to create a new provision in ZR § 74-743 that would allow the City Planning Commission ("CPC") to grant a floor area increase of up to 20 percent of the floor area permitted by the underlying district regulations for eligible community facility developments (N 130215 ZRM).** The new provision would allow the CPC to grant up to an additional 2.0 FAR to a community facility development on a site within a C1-9

---

[1] The existing M3-2 zoning district allows a maximum FAR of 2.0 and a maximum base height of 60 feet before setting back. It prohibits all community facilities, which include ambulatory medical diagnostic and treatment facilities as well as universities.
[2] ZR § 74-74(a)(11) proposal outlined in the discussion of the Zoning Text Amendment below.

zoning district located within CD 8, given the developer of such a site provides an improvement to a public park on a site within an appropriate distance from the development site and selected by the Department of Parks and Recreation ("DPR").

Accessory Off-Street Parking Special Permit
The applicants request approval of **a special permit pursuant to ZR § 13-561 to allow for an enclosed attended accessory parking garage with a maximum capacity of 248 spaces** on portions of the ground floor, cellar and sub-cellar of the proposed development, representing an additional 82 spaces beyond what is permissible under ZR § 13-133 and 134 **(C 130218 ZSM)**.

Disposition of City-Owned Property
Finally, the **City of New York would be required to convey the project site to the New York City Land Development Corporation ("NYCLDC"), which would then dispose of the project site to the New York City Economic Development Corporation ("NYCEDC") for subsequent disposition to both MSK and the City University Construction Fund ("CUCF")**, a public benefit corporation that provides facilities to CUNY **(C 130219 PPM)**.[3]

PROJECT DESCRIPTION

The proposed actions described above would facilitate the construction of a large-scale general development in the Lenox Hill neighborhood of Manhattan Community District 8. The proposed development will be comprised of new, programmatically integrated hospital and university facilities, constructed on a currently vacant, City-owned site.

In May 2012, the New York City Economic Development Corporation ("NYCEDC") acted on behalf of the City of New York Department of Sanitation ("DSNY") and issued a request for proposals ("RFP") for the subject development site that would co-locate DSNY facilities within a mixed-use facility that combined commercial and institutional uses, specifically emphasizing health care, scientific research and education uses.[4] MSK and CUNY jointly responded to the RFP, proposing instead full utilization of the development site through a land swap. The applicants proposed to relocate the university's health sciences and nursing programs from a facility located on East 25th Street and First Avenue, and transfer that site to City ownership for DSNY development.

Proposed Development Program

The applicants propose the construction of the new hospital and university facilities on a 66,111-square foot ("SF"), City-owned development site located at the easternmost end of Block 1485

---

[3] Mayoral and Borough Board approval: pursuant to Section 384(b)(4) of the City Charter (disposition to an LDC outside a bidding process). See: http://codes.lp.findlaw.com/nycode/NYC/15/384

[4] In 2008, the City demolished an existing New York City Department of Sanitation ("DSNY") garage located on the development site and used for DSNY vehicle maintenance from the 1960s to 2006, in order to make way for a reconstructed and enlarged sanitation facility that would serve Community Boards 6 and 8. However, construction of the garage was delayed due to budget restrictions. NYCEDC issued the RFP in order to raise capital funds that would permit the construction of a DSNY garage to again serve these local community boards.

with frontages on East 73rd and 74th streets (both narrow streets of 60 feet) and on the service road for the southbound FDR Drive (a wide street of 100 feet). As proposed, the adjacent facilities would be built to an FAR of 12.0, with full lot coverage.[5] The MSK and CUNY-Hunter facilities will contain 530,818 and 262,514 zoning square feet at 23 and 16 stories, respectively.[6] The MSK facility will provide a proposed 248-space accessory parking garage on the cellar and sub cellar floors. Although constructed as separate buildings, the two facilities are designed as a unified campus through interrelated massing and a consistent architectural vocabulary.

The proposed facilities include a 23-story ambulatory diagnostic and treatment center for MSK as well as a 16-story university building that will enable CUNY-Hunter to consolidate its Science and Health Professions programs in a state-of-the-art facility. The MSK building will house clinics for dermatological, breast and prostate cancers, as well as for surgery, interventional radiology and bone marrow transplant, academic offices and conference rooms, consultation and treatment rooms and a pharmacy. An estimated 1,335 patients would receive care and treatment at the facility each day. The CUNY facility will house teaching and research laboratories, classrooms, a learning center, a 350-seat lecture hall, faculty offices and a vivarium for research animals. The facility will serve an estimated faculty, staff and student population of 2,944.

The site plan provides separation between the MSK and CUNY buildings and their entrances, which will offer privacy for patients and accommodate a variety of different modes of transportation. East 74th Street will act as the gateway to the MSK-CUNY campus, with the main entrances to both buildings on this street; loading and ambulance bays are oriented toward the end of 73rd Street. At East 74th Street, the CUNY building will be set back to provide a gradually expanding sidewalk that leads to a transparent entryway and a large, interior atrium lobby.

Land Use and Development Context

The development site has been vacant since 2008, with remnants of interior and exterior walls of the demolished sanitation garage still present in some places. Reflective of its long history as a sanitation facility, the development site has been zoned M3-2 since 1961. M3-2 districts permit a maximum of 2.0 FAR and are designated for heavy industrial uses with low standards of performance. The westernmost portion of the site is presently in use as a surface parking lot with capacity for 128 vehicles. Immediately to the north of the development site, Con Edison maintains its East 74th Street steam plant, which is a large-scale, industrial presence on the block, including an approximately 500-foot smokestack. While some industrial uses and architecture remain visible at the development site, the surrounding area generally consists of a mix of institutional, residential and commercial uses.

High rise residential buildings of up to 50 stories can be found on East 72nd, 73rd, 75th and 76th streets, including a 40-story glass and brick tower on East 72nd Street and the FDR Drive to the

---

[5] The development site is considered a corner lot for its easternmost 100 feet from the FDR Drive service lane, and a through lot for the remainder of the site.
[6] For a total of 12.0 FAR at 793,332 square feet of zoning floor area, and with a gross floor area of 1,134,159 square feet.

immediate south of the development site. Additional residential uses in five- to seven-story tenement buildings, often with ground floor commercial uses, are also characteristic of the immediate neighborhood, and can be found on East 73rd Street and York Avenue.[7]

East 74th Street is the location of the main pedestrian and vehicle access to both the MSK and CUNY facilities. It is a two-way street terminating in a dead end at the FDR Drive, delineated by railings and jersey barriers. East 73rd Street is a two-way street that terminates in an entrance to the southbound exit lane for the FDR Drive. This exit lane is separated from the main portion of the road by low barriers for the four blocks from East 70th to 73rd streets.

Within Block 1485, several businesses and institutions contribute to the existing mixed-use character. On East 74th Street, these include a catering facility located immediately adjacent to the development site, several automotive services businesses,[8] a nursery school and a home furnishings store. East 73rd Street features similar automotive services, a medical supply store, parking facilities and rear service entrances for residential uses. More broadly within the York Avenue corridor, commercial uses include primarily offices and local retail, with the notable exception of Sothebys' headquarters, an institutional-scale building located between East 71st and 72nd streets.

Existing and Proposed Zoning[9]

The MSK-CUNY facilities require a rezoning for community facility uses and the requested density to accommodate the proposed programmatic needs. Absent any change to the current zoning, a 132,222 SF heavy industrial facility or certain commercial uses would be permitted on the development site. C1-9 districts are R-10 equivalent districts, and include residential or community facility uses but permit small-scale, local commercial uses.[10] In C1-9 and its equivalent districts, bonus floor area is permitted as of right for residential uses through the inclusionary housing bonus, and for all types of uses through the plaza bonus. Both bonuses would result in an additional 20% of 10.0 FAR (or 2.0 FAR) additional floor area.

Table 1: PERMITTED ZONING FLOOR AREA COMPARISON

REQUIREMENT	*EXISTING M3-2*	*PROPOSED C1-9*	*PROPOSED PROJECT*
Total Zoning Floor Area	132,222 SF	793,332 SF	`793,332 SF
Total FAR Maximum*	2.0	12.0	12.0
Residential	-	10.0	-
Community Facility	-	10.0	10.0
Commercial	2.0	2.0	-
Manufacturing	2.0	-	-
Allowable Bonus FAR	-	2.0**	2.0***

** Zoning floor area (ZFA) based on lot size of 66,111 SF*
*** 20% plaza or inclusionary housing bonus*
**** 20% off-site park improvement bonus(proposed)*

[7] The residential properties on 73rd and York are zoned R-10.
[8] The automotive businesses will be displaced by the Hospital for Special Surgery, approved for a through-block site between East 73rd and 74th streets east of York Avenue and west of the proposed development.
[9] No prior land actions have been proposed for the development site, which has remained under City ownership since prior to the institution of the 1961 Zoning Resolution.
[10] Universities are included in Use Group 3A; ambulatory health care is included in use Group 4A.

Large Scale General Development Special Permits and Zoning Waivers

In order to execute the development program, the applicants seek a number of zoning waivers that are available through the special permit associated with a large scale general development ("LSGD").[11] The waivers described below are requested via special permit pursuant to ZR §§ 74-743(a)(2) and 74-743(a)(11). For the purposes of review, the applicant present the maximum waivers based on an assumed CPC approval of the underlying C1-9 zoning district change.

Minimum Required Side Yards and Rear Yard Equivalents
While side yards are not required in C1-9 zoning districts, if a side yard is provided, as in this application, it must be a minimum 8 feet wide. The CUNY-Hunter building provides a maximum side yard of 3 feet at the western lot line, to accommodate a minimum seismic separation of 2.5 feet with an additional 0.5 feet for maintenance accessibility.

A rear yard equivalent[12] must be provided for any through lot with a depth of more than 110 feet, but is not required for any portion of the subject zoning lot within 100 feet of a wide street (the FDR Drive). Therefore, approximately two-thirds of the lot requires a rear yard pursuant to zoning. However, ZR § 33-23 permits a portion of a community facility to be located within the rear yard equivalent up to a height of 23 feet or 1 story. The proposed building includes 100% lot coverage with the exception of the side yard described above. Therefore, a waiver is required for the through-lot portion of the building above the first story.

Bulk Waivers
Nearly the entirety of the proposed buildings requires a setback waiver. The articulated façade provides for variable setbacks at different heights on each of the MSK and CUNY-Hunter buildings. With the exception of a ground-level setback on East 74th Street at the entrances of both buildings to permit better pedestrian movement and the non-complying side yard along the western lot line for seismic separation, the proposed facilities will be built to the lot lines on all three street frontages. At a height of 110 feet, the MSK facility sets back a maximum of 7'5" from the FDR Drive, an initial 10'7" on East 73rd Street and 18'3" on East 74th Street. The MSK facility sets back an initial 14'1" from East 74th Street at 32'5". The CUNY facility similarly provides variable setbacks at differing heights, notably a 62-foot setback from East 74th Street opening into the building's interior atrium from the 5th to 15th story. The proposed design pushes the building envelope on all street frontages, with the MSK and CUNY buildings rising to 460'6" and 368'6" respectively.

---

[11] Pursuant to ZR § 74-743 the area of an LSGD must be at minimum 1.5 acres; the development site is 1.52 acres or 66,111 SF and will remain a single zoning lot.
[12] A rear yard equivalent may be an open space with a minimum depth of 40 feet midway between the two street lines, or two open spaces of a minimum 20-foot depth extending the full length of each side lot line.

Table 2: PERMITTED HEIGHT AND SETBACK COMPARISON

HEIGHT AND SETBACKS	*EXISTING M3-2*	*PROPOSED C1-9*	*PROPOSED PROJECT*
Max Height Front Wall	60'/4 stories	85'/6 stories	110'
Max Building Height	Sky exposure plane	Sky exposure plane or tower regulations	460.5' MSK 368.5' CUNY Sky exposure plane encroached upon all street frontages
Setback Wide Street	15' at 60'	15' at 85'	Variable setbacks from 7'3" to 19'8" starting at 110'
Setback Narrow Street	20' at 60'	20' at 85'	Variable setbacks from 4' to 65'11" at variable heights

Signage
According to materials submitted by the applicants, the total permissible surface area for signage in the C1-9 zoning district on both the MSK and CUNY buildings is 1,200 SF; of this, 800 SF are permitted for non-illuminated signs, while 400 SF are permitted for illuminated non-flashing signs. With signage for identity and wayfinding distributed across the northern, southern and eastern frontages and identity signs measuring up to 1,290 SF each, the applicants are requesting signage that requires a waiver via special permit pursuant to ZR § 74-744(c) to permit an additional total 3,320 SF of signs.[13] The most significant portion of this requested waiver is for illuminated non-flashing identity signage (3,170 SF waiver required). Additionally, the signs will be located at heights up to 69 feet (exceeding the 25-foot height limit) to permit visibility over other structures and along the FDR Drive.

Parking Waiver
The applicants seek a waiver of zoning requirements pursuant to ZR §§ 13-133 and 13-134 in order to permit 248 parking spaces—82 more than allowable under zoning—in a 2-level, below-grade parking structure.[14]

Park Space Improvement FAR Bonus

Pursuant to ZR § 33-123 (Floor Area Regulations), the rezoned development site can be developed for community facility uses of up to 10.0 FAR without bonus and 12.0 FAR if a public plaza or affordable housing is provided on site. The applicants propose a new provision in the LSGD text that would create a special permit process to allow the CPC to grant up to a 20% floor area bonus for eligible community facility developments. The proposed text would limit eligible community facility developments to those on sites within C1-9 districts located within Manhattan Community Board 8. The amendment would allow the applicants to receive a 2.0 FAR bonus provided that they make an offsite improvement to a public park within one mile of the development site, or within CB 8.

[13] The applicants' signage waiver request includes an as-of-right calculation for signage area based on the assumption that the MSK facility is considered to occupy both a corner and a through lot, while CUNY-Hunter's facility occupies a through lot.
[14] The parking plan submitted by the applicants includes 59 2-car stackers.

The applicants will provide the funds to the New York City Department of Parks and Recreation ("DPR") for improvements to Andrew Haswell Green Park that will create 1.1 acres of new open space on the East River Esplanade.[15] Andrew Haswell Green Park is located on the East River at East 60th Street, with additional access via the esplanade and pedestrian bridges at 63rd and 71st streets. The park has a complete, phased design that was previously approved by the community. The design has been partly executed, and requires extensive funding to complete the restoration of pilings in order to continue with subsequent phases of construction.

Flood Resiliency
The proposed project is located within the proposed FEMA floodplain, and therefore is required to meet updated federal standards for flood resiliency. The applicants propose to locate all mechanical uses above the first floor, which in part, leads to necessary height waivers. Additionally, the applicants propose creating moveable flood barriers along East 74th Street to prevent flooding into the garage and main entrance of the building.

Anticipated Impacts

Traffic
The project's DEIS identifies significant adverse impacts on traffic conditions at 11 different intersections within the 400-yard radius study area. Among these, the intersection of East 79th Street and York Avenue was found to experience unmitigated impacts with the proposed project. Further, while no significant pedestrian impacts were identified within these intersections, the DEIS describes in its analysis of pedestrian and vehicular safety that 2 intersections are high-accident locations in a recent time period (2009-2011). These are: First Avenue and East 72nd Street and York Avenue and East 72nd Street. As both of these intersections will experience significant adverse impacts due to this project, mitigation measures are critical. At York Avenue and East 72nd Street, standard mitigations were found to be insufficient to reduce safety impacts.

Aside from the elimination of on-street parking, the menu of standard mitigations recommended in the DEIS primarily include signal timing adjustments and other operational measures to be implemented by the NYC Department of Transportation ("NYCDOT").

Construction
Traffic impacts over the long term are mirrored in the significant adverse impacts introduced during construction. However, during peak construction in 2016, project-generated trips will be less than those projected for the full build out of the project in 2019. Additionally, construction of the proposed project will result in likely parking shortfall during peak construction. However, no significant impacts on transit or pedestrians are anticipated associated with the construction phase of the project.

It is anticipated that streets and sidewalks surrounding the project will be open throughout the construction phase. The applicants will develop maintenance and protection of traffic plans,

---

[15] Phase 2 of the construction will add 1.1 acres; Andrew Haswell Green Park will have in total 1.98 acres after the completion of the second phase.

which will be reviewed by NYCDOT. The project will also implement an emissions reduction plan for all construction-related activities, ranging from dust to diesel.

In addition to information provided in the DEIS, the applicants describe the likelihood of utilizing blasting during construction.

Open space
The project as proposed would result in a significant adverse impact on open space resources based on the applicants' quantitative analysis of the existing and new non-residential population and accessible open space within a quarter mile radius of the development site.[16] The DEIS finds that the proposed project would decrease the total open space available to non-residents[17] by 31.7%, the amount of passive open space by 32% and the amount of active open space by 32.4%. The project would not remove any open space, but would introduce an estimated total daytime population of 4,516 workers and students to the area, thereby increasing daytime demand for open space, primarily for passive recreation. With the proposed project, on-site, private open space will be provided for patients, staff, faculty and students.

COMMUNITY BOARD RECOMMENDATION

At a Full Board Land Use meeting held May 8, 2013, Community Board 8 voted on two resolutions to approve this application with conditions. In approving the text amendment (**N 130215 ZRM**), the board voted 23 in favor, 20 opposed, with one abstention and two not voting for cause. The second resolution addressed the remaining land use actions as a group and passed with a vote of 24 in favor, 17 opposed, with two abstentions and two not voting for cause. In summary, the CB 8 resolutions condition approval on the following:

1. That the disposition require the use of the development site to be limited to hospital/medical and higher education uses;
2. the bulk special permits associated with the text amendment bonus be permitted only if the park recipient is designated as Andrew Haswell Green Park;
3. the text amendment must specify CD 8 as the boundary for the park improvement FAR bonus mechanism; and
4. the text should require as a part of the CPC review an assurance that sufficient funds are available to fully finance the proposed capital improvements.

BOROUGH PRESIDENT'S COMMENTS

The proposed development is a part of the applicants' respective long-term expansion plans in service of the institutions' health care and educational missions. Memorial Sloan-Kettering is the largest and oldest private cancer treatment center in the world. The institution has a history

[16] According to the CEQR Technical Manual, a decrease in the open space ratio of more than 5% may represent a significant adverse impact.
[17] The DEIS assesses the open space ratio for the population introduced by the project.

not only of providing patient care, but of leading research that has contributed to new and improved therapies for treating cancer. Additionally, MSK is a leading academic center for oncology training. If approved as proposed, MSK will partner in the development and programming of the new hospital and university facilities with CUNY.

CUNY, the largest urban public university in the United States, comprises 24 different institutions, including Hunter College, which houses CUNY's basic and health sciences programs. CUNY-Hunter is not only one of the oldest public colleges in the nation, but as the largest college in the CUNY system, it is a critical part of our city's excellent, affordable and diverse system of higher education. Providing CUNY with the opportunity to unite its health sciences programs under one roof and to build new programmatic synergies with MSK's leading research professionals is an important step for these institutions and for the city.

New York City's health care and education sectors are two of the fastest growing, adding over 35,000 jobs to the city last year.[18] Fostering these sectors is important for the city's overall economic competitiveness. The Borough President's Office supports the applicants' joint mission linking education, innovative research opportunities and cutting-edge patient care for New Yorkers. The partnership will create opportunities for emergent synergies linking these institutions with their hospital and medical school neighbors along York Avenue. Further, it will benefit thousands of patients who will be treated directly at the new facility and innumerable others who may benefit from new treatments that will be developed at the medical center.

But no significant institutional project in our City is without impact on the surrounding community. Advancing institutional growth in a mixed-use context is a delicate issue, even in an area like Lenox Hill that is to a large degree defined by the types of community facilities proposed in this application. The proposed project will create a new northern boundary for the York Avenue medical corridor at East 74th Street. With this proposed project—as with others like it—a balance between institutional and residential community needs must be found. This need for balance is particularly relevant when considering project proposals requiring the disposition of City-owned property. Unlike privately held parcels, with City-owned properties the public has direct responsibility and control of the outcomes.

Land Use Policy for Institutional Development

While much of the Upper East Side is defined by residential uses, community facilities predominately define the area between York Avenue and the FDR Drive from East 59th to 72nd streets. A long-term development trend has resulted in the concentration of medical institutions and related facilities along the corridor, commonly referred to as "Hospital Row." In addition to MSK's facilities, other health care facilities in the area include the campuses of New York Presbyterian/Weill Cornell, Hospital for Special Surgery and Rockefeller University.

This medical corridor is zoned primarily R9 and R10, including the area on both sides of York Avenue from 62nd to 73rd streets. Generally, zoning for this corridor does not delineate the mid-blocks from the avenue zoning districts between York Avenue and the FDR Drive. Both zoning

[18] New York State Department of Labor Report http://www.labor.ny.gov/pressreleases/2013/april-18-2013.shtm

districts permit up to 10.0 FAR for community facilities in Use Groups 3 and 4 and allow community facility buildings to receive a 20% density bonus (2.0 FAR) for a public plaza or inclusionary housing. In this context, the proposed C1-9 zoning district is generally appropriate as it is consistent with the zoning districts mapped between York Avenue and the FDR.

Yet existing zoning FAR bonus mechanisms do not easily apply to new hospital and research facilities. Community facilities in residential or equivalent districts seeking to develop to the full permitted capacity for community facility use cannot take advantage of the inclusionary housing bonus. Further, the floorplates required by contemporary hospital facilities necessitate use of the full site, effectively eliminating the opportunity to utilize the plaza bonus. To obtain a 2.0 FAR bonus (132,222 SF), the on-site plaza would have to be 22,037 SF—fully one third of the 66,111 SF project site.[19]

A number of institutions in this area have sought relief from zoning. Individual land use decisions at the Board of Standards and Appeals ("BSA") and before the CPC have granted health care institutions, including MSK, additional density on a case-by-case basis, a practice that has resulted in the existing concentration of institutional facilities built to their full lots. Table 3 summarizes several recent BSA variance applications. This trend recognizes that the evolving building typology of hospitals requires large, flexible floorplates to efficiently meet today's programmatic needs for patient care. As a result, however, many of the new facilities have limited opportunity for on-site open space or other public amenities. This trend also suggests that waivers of some sort are necessary in order to accommodate state-of-the art research and medical facilities.

Table3: RECENT BSA VARIANCES: MEDICAL FACILITIES IN CB 8

INSTITUTION	*MAX FAR*	*BUILT FAR*	*SF*	*BSA CALENDAR*
New York Presbyterian 1273-1285 York Ave.	10-12	13.33	568,801	325-12-BZ (pending)
Weill Cornell Medical College 411-431 East 69th St.	6.5	12.71	331,945	170-08-BZ (approved)
Memorial Sloan Kettering 1133 York Ave.	10-12	11.84	137,755	183-11-BZ (approved)
Hospital for Special Surgery 512-518 East 74th St.	6.5	8	163,472	137-12-BZ (approved)
Source: NYC BSA www.nyc.gov/bsa				

While the bulk waivers requested by the applicants are significant, they are not unusual when considering the institutional use of the proposed development. Unfortunately, whether through a BSA variance or a ULURP process, the continued health care and educational facility expansion and development has minimized opportunities to create public on-site open space for these institutions and the communities that they neighbor and serve.

[19] This assumes that all of the plaza provided would qualify as bonusable.

Through the proposed park improvement and text amendment, the applicants seek to address the development of institutions where on-site public open space amenities cannot be provided. The applicants and lead City agencies are presenting a unique solution to zoning constraints that have previously been addressed through the Board of Standards and Appeals.

Addressing Project Impacts and Community Concerns

Community Board 8 ("CB 8") convened a task force to hear presentations and public comment regarding this project. In addition to CB 8, a grassroots neighborhood group called Residents for Reasonable Development has organized around the issue to oppose the development. Other residential groups have organized a petition to voice support for the project as it will fund the completion of phase 2 of Andrew Haswell Green Park.

Many project opponents voiced opinions that the provision of an improvement to Andrew Haswell Green Park would not provide appropriate mitigation for residents most immediately impacted by the project's construction and traffic. Recognizing the tension between district-level improvements and the realities of highly localized impacts, this section summarizes and discusses community concerns in three primary impact areas: open space and the park improvement bonus mechanism, traffic impacts and construction impacts. Additionally, this section addresses several of the conditions included in CB 8's approval of the applicants' proposal.

Traffic
For the last several decades, New York City has established a policy of encouraging hospital and institutional expansion along York Avenue. While this policy has had an economic benefit for the city as a whole, many residents have expressed concern about the lack of comprehensive analysis of the cumulative impacts on the neighborhood. In no case is this impact more acute than for traffic.

The traffic patterns established around the access points to the FDR Drive and on the corresponding intersections on York Avenue place existing strain on the neighborhood's road network on a daily basis. Circulation and flow issues, together with the anticipated traffic and safety impacts identified in the DEIS on York Avenue, make addressing existing traffic problems in this area an imperative for the City. These issues are compounded by other institutional, residential and municipal developments occurring in the area either simultaneously or in the near future. York Avenue is not only traversed by the employees of the institutions, but it is also used by many residents including the elderly and parents with children going to local schools. Addressing traffic issues in this area is paramount.

There are unmitigated traffic impacts associated with the proposed project, and residents identified traffic impacts as a high-priority issue. The intersection of East 79th Street and York Avenue provides a good example of the need to develop local level compromises that can help address district-wide solutions. All the elected representatives of the area have reached out to New York City Department of Transportation ("NYCDOT") about solving traffic issues at this intersection primarily regarding confusing and dangerous pedestrian crossings. New unmitigated safety impacts at this intersection are unacceptable.

While the issue of traffic along York Avenue has long been community concern, to date the NYCDOT has failed to consider this corridor in a comprehensive manner or to address the specific concerns of the residents. Recently, CB 8 has called for a comprehensive analysis of York Avenue from East 59th to 91st streets. In order to fulfill a need for immediate mitigation of the cumulative traffic impacts generated by the numerous new community facilities under construction or proposed for the York Avenue corridor, the agency should conduct an immediate, and independent, comprehensive traffic study. The study must consider improvements to traffic flow, signaling, crossings and other basic operational functions.

The failure to address and plan for the traffic and pedestrian conflicts on York Avenue is a failure to perform long-term planning for a problem that has been known for decades. It is unacceptable and incomprehensible that NYCDOT has not addressing these concerns to date, while other agencies continue to advance economic goals for the area. As a condition of adding new density near York Avenue, a comprehensive traffic study must be undertaken.

Finally, in addition to the long-term approach of generating comprehensive traffic data, there is an opportunity to implement immediate streetscape improvements, focusing in particular on the street end of the East 74th Street cul-de-sac—an area outside everyone's jurisdiction but in everyone's interest. NYCDOT should provide repair to the existing jersey and railing barriers that are in poor condition, to provide a safe barrier that does not detract from the other intensive improvements to the streetscape and does not impede use of the end of street drives.

Disposition
Generally, the disposition of this City-owned site to a university and medical institution is appropriate. As a matter of zoning rationale, disposing of the property for residential uses would not be suitable due to the proximity of the Con Ed facility as a heavy industrial use. Absent the proposed disposition, the site will likely be used as originally planned, as a sanitation garage. Given that CD 8 is already selected as a site for a Marine Transfer Station, siting a sanitation garage at this location may raise fair share issues. As such, the proposed disposition is appropriate.

The applicants seek a disposition pursuant to zoning. While it is anticipated that the property will be disposed of to MSK and to CUNY-Hunter through the appropriate channels, if for any reason the applicants are unable or unwilling to assume control of the development site or the new administration is no longer supportive of the project, the authority to dispose of this property would remain. The community board has in part based its approval on the condition that the disposition should require the use of the development site to be limited to the proposed uses. Absent such a restriction, the property could be disposed of to unknown parties, and ultimately be developed for uses that could result in significant environmental impacts, such as the impacts of residential development on public schools.

Therefore it is both sound policy and in the interest of the community to restrict uses for this site to those specified in the initial RFP issued by NYCEDC. Specfically, the land disposition agreement should restrict primary uses for the subject site to health care, educational and scientific research facility uses.

Open Space, Zoning Mechanisms and Andrew Haswell Green Park
The proposed text amendment to permit a community facility applicant within CD 8 to create off-site parkland improvements presents a unique opportunity to link the district-wide impacts of hospital and educational institutions on the Upper East Side to the provision of district-wide amenities through public-private partnership. The proposed bonus FAR mechanism could be utilized only through an LSGD special permit process and would therefore be subject to ULURP review for any future applications.

While the western edge of CD 8 has the benefit of Central Park, the eastern edge of the district lacks accessible open space amenities. Recent studies have assessed open space in CD 8 as a whole, as well as the East River Esplanade in the area above the Queensboro/Ed Koch Bridge.[20] Overwhelmingly, these efforts have found a deficiency in parks and open space, particularly for residents and workers in the neighborhoods closest to the East River.

The project as proposed would result in significant, adverse impacts on the amount of open space by increasing the local daytime population. However, DEIS regulations do not account for the total open space being provided by this project. CEQR study area boundaries do not permit the applicant to include the new park as it is located one mile and not a quarter mile away from the project site. The improvements at Andrew Haswell Green Park will result in 1.1 acres (47,916 SF) of open space that will be available for public use simultaneously with the completion of the proposed project. The proposed improvements at Andrew Haswell Green Park will be twice the size of an otherwise required public plaza at the site. Further, the proposed project will provide private on-site open space of approximately 17,733 SF (consisting of the second and sixth level terraces and an 800 SF open space in front of CUNY-Hunter building entrance). The CUNY-Hunter building would have an additional 6,400 SF of interior lobby/lounge space. Combined, these open spaces will amount to 65,649 SF—almost three times the equivalent of a qualifying on-site plaza.[21] While the on-site open space will not be available to the public, it will serve the needs of the buildings' users and reduce the likely open space impact created by the project.

Other than the terrace-level open spaces provided for users of the proposed facilities, there are limited opportunities to provide open space access at the development site. The applicants have reasonably demonstrated that alternative open space plans are infeasible not only due to the floorplates desired in the structure, but as a result of neighboring uses, including an active driveway for the Con Ed facility at the end of East 74th Street.

Andrew Haswell Green Park is both a community and public policy priority. The park presents a shovel-ready opportunity to add new parkland to CD 8, based on a design that has already been approved by the local community. The selection of this park is responsive to CD 8 planning objectives as established in its current District Needs Statement as well as its 2006 197-a plan. This plan recommends the creation of a new waterfront park at the Andrew Haswell Green Park

---

[20] These include a structural study of the esplanade supported by City Council Member Jessica Lappin and Congresswoman Carolyn Maloney, a recent New Yorkers for Parks Community Board 8 report card and community forum as well as ongoing work by organizations like Civitas, among others.
[21] Including the interior lobby/lounge space available to the Hunter students, faculty and staff, the total interior and open space area provided is 72,049 SF.

location, the extension of the East River Esplanade through such a park, the provision of open space for a variety of active and passive uses, the rehabilitation of the DSNY building at East 60th Street, and the improvement of the vehicular access ramp at the park entrance.[22] Improvements to Andrew Haswell Green Park will come online simultaneously with the applicants' proposed facilities.[23]

Finally, where there is a lack of immediately accessible open space, the simple provision of green space, through the planting of street trees, plaza gardens, green walls or roofs is an amenity to both residents and daytime users of the neighborhood, and creates a sense of place. For a project of this density, zoning requires that approximately 25 street trees are planted by the applicants. Currently, nine trees are planned for the East 74th Street frontage and five trees are planned for the East 73rd Street frontage. The remaining 11 trees will be planted by DPR. In order to ensure the immediate community receives the benefit of these trees, the applicants, EDC and DPR should work with the local community to locate the trees on York Avenue, the immediate surrounding streets or adjacent the East River Esplanade. Many of these areas could benefit from the required plantings.

Text Amendment Park Selection
The Community Board conditions its approval of the proposed text amendment on the stipulation that the CPC grant the applicants the 2.0 FAR bonus only if the location of the public park improvement is designated as Andrew Haswell Green Park. The proposed zoning text will require that DPR, in a letter to the CPC, provide confirmation of the park selection, including cost estimates and a statement that the improvement is fully funded for implementation. Without this confirmation in writing, CPC cannot make a determination to grant the special permit. Therefore, by the time of CPC vote the condition should be met.

As part of the necessary due diligence to understand the reasoning behind Andrew Haswell Green Park's selection, the office consulted with DPR and NYCEDC to understand if any other shovel-ready park improvements were available. At this time, no other park improvements were identified by either DPR or the community, which could be achieved by this project.

Con Ed occupies a large shed-like structure opposite the East 74th Street cul-de-sac across the FDR Drive, which severely limits open space opportunities on the esplanade at this location. Independently of the MSK/CUNY-Hunter project, Con Ed will soon implement designs to expand and add greenery to the portions of the esplanade adjacent to this shed structure. While the community has long called for the removal of this structure; Con Ed is not considering this change. The proposed esplanade improvement is being funded by Con Ed and does not need additional capital.

Therefore, absent any new unknown park improvements, Andrew Haswell Green represents the only opportunity to increase the amount of open space in the area and is therefore an appropriate recipient of the funds.

---

[22] Queensboro Bridge Area 197-a Plan, 2006
[23] Information received from Department of Parks and Recreation at meeting on April 24, 2013

However, the residents' concerns regarding lack of consultation remain valid. While this is the only open space identified and meets a CB 8 priority, any future use of this special permit should include a provision for increased community consultation. The text should be modified to require the DPR to issue a statement to CPC not only of the cost estimates and confirmation of funding availability, but also of the appropriateness of the selection of the park as demonstrated by such community-based input. Such demonstration of community input may include but is not limited to consultation with the community board, holding of a public charette or reference to current District Needs Statement or an approved 197-a plan.

Text Amendment and Impact Nexus
The proposed text amendment seeks to address a specific need in CD 8: the inclusion of more open space when accommodating large intuitional buildings. However, the text is written to allow potential future projects in CD 8 to utilize this large scale special permit and locate the park improvement away from a directly impacted community. As an example, a development using this special permit on Roosevelt Island could in theory improve a public park in Queens. It is important to maintain, wherever possible, the nexus of impact and mitigation. The proposed text should be amended to ensure that a park improvement is located both within one mile of the proposed project site *and* within CD 8.

Construction
An important point of community concern focuses on the quality of life impacts associated with construction of the proposed project. Per the DEIS, significant adverse impacts to traffic will occur during the construction period. The exacerbated traffic issue, along with the most intense construction activities such as demolition, excavation and foundation work, form the basis for greatest concern for the neighboring community. While the proposed development site is relatively removed from the most sensitive, such as residential, uses, its proximity to several residential buildings as well as a number of schools and other uses merits close attention to safety, air quality and noise impacts, including blasting, for neighbors.

The significant adverse impacts on traffic associated with construction of the proposed project as analyzed in the DEIS are similar to, although less than, the impacts anticipated to be generated by the project at full-build; construction traffic could in theory be mitigated through measures implemented following the targeted DOT traffic study proposed above. With regard to noise impacts, the applicant has assured this office in writing that blasting will not take place prior to 8:00 am, reducing disturbances to sleep and morning commutes. Additionally, the applicant has provided materials highlighting construction techniques and an institutional safety plan.

In order to ensure these routine safety measures and specific construction mitigations proceed as planned and adapt to on-the-ground needs in the neighborhood by providing a forum for the community, the applicants and their construction management team have agreed to implement a construction task force. Further, the applicants will generate a website to track construction related activities and create a single point of contact who can address any community concerns throughout the construction process.

Conclusion

In consideration of many of the concerns outlined above, the applicants have responded with a letter dated June 27, 2013, which is attached in writing.

1. Disposition: The applicants agree to limit permitted uses on the development site to those specified by NYCEDC in its initial RFP for development of this City-owned property.

   These uses are: health care, educational and scientific research facilities.

2. Modification of Text Amendment: The applicants agree to the modification of the text amendment for clarity with regard to the geographic criteria, such that potential park sites should be located both within 1 mile of the project site and within Community Board 8.

   The applicants are also amenable to the inclusion of a provision requiring DPR to specify in its letter to CPC that community input in the form of consultation or existing plan has informed the park selection.

3. Open and Green Space: The applicants will provide the required number of street trees per zoning; trees will be sited either on the MSK/CUNY-Hunter campus or at locations throughout the York Avenue corridor or East River Esplanade, to be determined in consultation with the Community Board.

4. Construction: The applicants agree to convene a construction task force that will meet regularly throughout the build phase of the project. They will create a website and provide a single point of contact for construction related inquiries and complaints. Further, the applicants have agreed to mitigate construction impacts by implementing best practices for traffic, noise, pollution and rodent abatement. Finally, the applicants have also confirmed that no blasting will occur before 8:00 am.

BOROUGH PRESIDENT'S RECOMMENDATION

The Manhattan Borough President recommends conditional approval of ULURP application numbers C 130214 ZMM, N 130215 ZRM, C 130216 ZSM, C 130217 ZSM, C 130218 ZSM and C 130219 PPM, based on the commitments by the applicants to:

1. Limit permitted uses on the development site to those specified by NYCEDC in its initial RFP for development of this City-owned property to health care, educational and scientific research facilities;

2. Modify the text amendment to clarify that a park improvement site should be located both within 1 mile of the project site and within Community Board 8, and to require DPR to specify in its letter to CPC that community input in the form of consultation or existing plan has informed the park selection;

3. Provide the required number of street trees (25) per zoning and locate them in consultation with the Community Board;

4. Convene a construction task force that will meet regularly throughout the build phase of the project and ensure no blasting will occur before 8:00 am; and

Further, the Manhattan Borough President conditions any approval of new density along the York Avenue corridor on the NYCDOT executing a comprehensive traffic study of York Avenue in consultation with CB 8, the Borough President's Office, NYCEDC, and local elected representatives.

Scott M. Stringer
Manhattan Borough President

FRIEDMAN & GOTBAUM LLP

568 BROADWAY SUITE 505
NEW YORK NEW YORK 10012
TEL 212.925.4545
FAX 212.925.5199

June 27, 2013

Hon. Scott M. Stringer
President of the Borough of Manhattan
One Centre Street 19th Floor
New York, NY 10007

Re: MSKCC/CUNY-Hunter
524-540 East 74th Street (525-545 East 73rd Street)
Block 1485, Lot 15, Manhattan ("Development Site")

Dear Mr. President:

This Firm serves as land use counsel to the co-applicants Memorial Hospital for Cancer and Allied Diseases, a division of Memorial Sloan-Kettering Cancer Center ("MSKCC") and the City University of New York ("CUNY") with regard to the following certified land use actions currently undergoing review by the City Planning Commission pursuant to the Uniform Land Use Review Procedure:

C 130214 ZMM – Zoning Map Amendment
N 130215 ZRM – Zoning Text Amendment
C 130216 ZSM – Special Permit pursuant to ZR Sec. 74-743(a)(1) and (11)
C 130217 ZSM – Special Permit pursuant to ZR Sec. 74-744(c)
C 130218 ZSM – Special Permit pursuant to ZR Sec. 13-561
C 130219 PPM – Disposition of City-owned property

If approved, these land use actions (collectively, the "Subject Application") will permit CUNY to build the Hunter College Health Professions and Science Building and will permit MSKCC to build an ambulatory outpatient center on the Development Site. Among the land use actions is a disposition action to permit the conveyance of the Development Site, currently City-owned, to MSKCC and CUNY. We have met with your staff during the course of the past several weeks to discuss the Subject Application and related quality-of-life issues. By way of this letter, I am confirming on behalf of MSKCC and CUNY the following commitments made to your Office:

With regard to C 130219 PPM (Disposition of City-owned property): Subject to City Planning Commission review and approval, MSKCC and CUNY pose no objection to restrictions on the Development Site that will address your concern that the only permitted uses on the Development Site will be healthcare-related, medical, educational and scientific research uses.

With regard to N 130215 ZRM (Zoning Text Amendment): Subject to City Planning Commission review and approval, MSKCC and CUNY pose no objection to a modification to ZR Sec. 74-743(a)(11) of the proposed text amendment that will address your concern that an "improvement to a public park" as defined therein must be located both within one mile and within the same community district as the proposed development.

Additionally, subject to City Planning Commission review and approval, MSKCC and CUNY pose no objection to a modification to ZR Sec. 74-743(a)(11)(i)(b) of the proposed text amendment that will address your concern that the letter required pursuant to that provision from the Commissioner of Parks and Recreation to the City Planning Commission include a statement that the Commissioner's determinations regarding the "public park improvement" have been informed by community input in the form of either consultations or existing documentation, such as a 197-a, or district needs statement.

I am also confirming on behalf of MSKCC and CUNY the following commitments made to your Office regarding quality-of-life concerns raised during our discussions:

Open and Green Space: In the event that the number of new street trees provided on East 73rd and East 74th Streets adjacent to the Development Site is inadequate to meet the number of trees required by the Zoning Resolution, as now appears to be the case, MSKCC and CUNY will work closely with the Department of Parks and Recreation to plant the deficit number of trees in the immediate proximity of the Development Site or alternately at locations throughout the York Avenue corridor or East River Esplanade, as determined in consultation with the Community Board 8 and the Department of Parks and Recreation.

Blasting during Excavation: MSKCC and CUNY agree that no detonations will occur on the Development Site prior to 8:00 am, a curtailment of one hour from the DOB-permitted time.

Construction: MSKCC and CUNY agree to use best available practices to reduce adverse traffic, noise, rodent infestation and pollution impacts related to construction activities on the Development Site.

Public Input during Construction: MSKCC and CUNY agree to convene an ongoing construction task force that will meet regularly throughout the build phase of the project. In addition to MSKCC, CUNY and their construction advisors, the task force will be open to interested parties from nearby properties, members of the community board, representatives of those City agencies with jurisdiction over construction, transportation and public safety that choose to attend and representatives of locally elected officials. Among the duties of the MSKCC/CUNY members of the task force will be to maintain website information on construction activities of importance to the community and to provide a single point of contact for construction-related inquiries and complaints.

On behalf of MSKCC and CUNY I would like to express our appreciation for the time and attention that your staff provided us during your review. Please feel free to contact me if you have any questions.

Very truly yours,

Shelly S. Friedman

cc: Hon. Jessica S. Lappin
Hon. Nicholas D. Viest
John R. Gunn
Iris Weinshall
Jennifer J. Raab
Hardy Adasko
Erik Botsford

EXHIBIT A

DECLARATION OF LARGE-SCALE GENERAL DEVELOPMENT

THIS DECLARATION, made as of this _____ of_____, 201_, by The City University Construction Fund, a New York public benefit corporation created pursuant to the City University Construction Fund Act, Article 125-B of the Education Law of the State of New York, having an office at 555 West 57th Street, 16th Floor, New York, New York 10019 (hereinafter referred to as "CUCF"), and Memorial Hospital for Cancer and Allied Diseases, a New York not-for-profit corporation having its principal address at 1275 York Avenue, New York, NY 10065 (hereinafter referred to as "Memorial" and, together with CUCF, "Declarants").

W I T N E S S E T H:

WHEREAS, CUCF is the fee owner of certain real property located in the Borough of Manhattan, County , City and State of New York, designated for real property tax purposes as Block 1485, Lot115 [tentative], located at 524 East 74th Street, which real property is more particularly described in Exhibit A-1 annexed hereto and made a part hereof (the "CUCF Property"); and

WHEREAS, Memorial is the fee owner of certain real property located in the Borough of Manhattan, County, City and State of New York, designated for real property tax purposes as Block 1485, Lot 15 [tentative], located at 530 East 74th Street, which real property is more particularly described in Exhibit A-2 annexed hereto and made a part hereof (the "Memorial Property", and collectively with CUCF Property, the "Subject Property"): and

WHEREAS, Declarants desire to improve the Subject Property as a "large-scale general development" meeting the requirements of Section 12-10 (Definition) of the Zoning Resolution of the City of New York (the "Zoning Resolution" or "ZR") definition of “large-scale general development” (such proposed improvement of the Subject Property the "Large-Scale Development Project"); and

WHEREAS, in connection with the Large-Scale Development Project, City University of New York ("CUNY"), Memorial, NYC Economic Development Corporation and Department of Citywide Administrative Services and filed an application with the New York City Department of City Planning (hereinafter "City Planning") for approval by the New York City Planning Commission (the "CPC") of (1) the disposition of City-Owned property (C 130219 PPM); (2) the rezoning of an area that includes the Subject Property and adjacent properties from M3-2 district to a C1-9 district and to extend the M1-4 zoning district that exists west of the Subject Property 5 ft east (C 130214 ZMM); (3) a zoning text amendment to create a new provision in the ZR Sec. 74-743 (Large-Scale General Development) special permit (N 130215 ZRM); (4) a Special Permit pursuant to ZR Sec. 74-743(a)(2) and 74-743(a)(11) to modify the requirements of ZR Sec. 33-25 (Minimum Required Side Yards), ZR Sec. 33-283(b) (Required Rear Yard Equivalents), ZR Sec. 33-432 (Maximum Height of Walls and Required Setbacks) and ZR Sec. 33-123 (Floor Area Regulations) (C 130216 ZSM, the "Large-Scale Special Permit"); (5) a Special Permit pursuant to ZR Sec. 74-744(c) to waive the sign regulations of ZR Sec. 32-642 (Non Illuminated Signs), ZR Sec. 32-643 (Illuminated Non-Flashing Signs), ZR Sec. 32-641 (Total Surface Area of Signs) and ZR Sec. 32-655 (Height of Signs in Other Commercial Districts) (C 130217 ZSM); and (6) a Special Permit pursuant to ZR Sec. 13-561 to permit a 248-spaces accessory parking facility on Memorial Property (C 130218 ZSM); (items 1 through 6 collectively, the "Land Use Applications"); and

WHEREAS the Land Use Applications were approved by the CPC on August 21, 2013 (CPC Reports 130214 ZMM, N 130215 ZRM, C 130216 ZSM, C 130217 ZSM, C 130218 ZSM and C 130219 PPM, Cal. Nos. 12, 13, 14, 15, 16 and 17, respectively) and approved by the New York City Council on _____, 201_;

WHEREAS, Section 74-743(b)(10) of the Zoning Resolution requires that a declaration with regard to ownership requirements in paragraph (b) of the large-scale general development definition in Section 12-10 be filed with the CPC; and

WHEREAS, _____ (the "Title Company") has certified in the certification (the "Certification") attached hereto as Exhibit B and made a part hereof, that,

as of _____, Declarants [and _____] are the parties in interest (the "Parties in Interest") in the Subject Property, as such term is defined in the definition of “zoning lot” in Section 12-10 of the Zoning Resolution; and

WHEREAS, all Parties in Interest to the Subject Property have executed this Declaration; and

WHEREAS, Declarants desire to restrict the manner in which the Subject Property is developed in the future, and intend these restrictions to benefit all the land, including land owned by the City of New York (the "City"), lying within a one-half-mile radius of the Subject Property.

NOW THEREFORE: Declarants hereby declare covenants and agree as follows:

1. Designation of Large-Scale General Development. Declarants hereby declare and agree that, following the Effective Date (as defined in Section 6 hereof), the Subject Property, if developed pursuant to the Large-Scale Special Permit, shall be treated as a large-scale general development site and shall be developed and enlarged as a single unit.

2. Development of Large-Scale Development Site. If the Subject Property is developed in whole or part in accordance with the Large-Scale Special Permit, Declarants covenant that the Subject Property shall be developed in substantial conformity with the following plans prepared jointly by Perkins Eastman & Ennead Architects, approved as part of the Large-Scale Special Permit and annexed hereto in Exhibit C and made a part hereof:

Drawing No.	**Title**	**Date**
Z-01	COVER SHEET	3/12/2013
Z-02	ZONING CALCULATIONS	3/12/2013
Z-03	SITE PLAN CONTEXT	3/12/2013
Z-04	SITE PLAN PROJECT	3/12/2013

Drawing No.	Title	Date
Z-05	GROUND FLOOR PLAN	3/12/2013
Z-06	PLANS SHOWING REQUIRED SETBACKS	3/12/2013
Z-07	SECTION EAST - WEST	3/12/2013
Z-08	SECTION EAST - WEST	3/12/2013
Z-09	SECTIONS NORTH SOUTH - CUNY	3/12/2013
Z-10	SECTIONS NORTH SOUTH -MSK	3/15/2013
Z-11	SIGNAGE EAST 74TH STREET AND (WEST SIDE)	3/12/2013
Z-12	SIGNAGE FDR	3/12/2013
Z-13	SIGNAGE 73RD STREET	3/12/2013
Z-14	NORTH ELEVATION - E. 74TH STREET	3/12/2013
Z-15	EAST ELEVATION - FDR DRIVE	3/12/2013
Z-16	WEST ELEVATION	3/12/2013
Z-17	SOUTH ELEVATION - E. 73RD STREET	3/12/2013
Z-18	NEIGHBORHOOD CHARACTER DIAGRAM E. 74TH STREET	3/12/2013
Z-19	NEIGHBORHOOD CHARACTER DIAGRAM E. 73RD STREET	3/12/2013
Z-20	NEIGHBORHOOD CHARACTER DIAGRAM EAST RIVER	3/12/2013
Z-21	NEIGHBORHOOD CHARACTER DIAGRAM FROM YORK AVE.	3/12/2013
Z-22	PEDESTRIAN ELEVATIONS E. 73RD AND E. 74TH STREETS	3/12/2013
Z-23	PEDESTRIAN ELEVATIONS FDR DRIVE	3/12/2013

3. Representation. Declarants hereby represent and warrant that (x) there is no restriction of record on the development, enlargement, or use of the Subject Property, nor, (y) to their actual knowledge, information and belief (i) any unrecorded present or presently existing estate or interest in the Subject Property, nor (ii) any unrecorded existing lien, obligation, covenant, easement, limitation or encumbrance of any kind, in each case, that shall preclude the restriction and obligation to develop and enlarge the Subject Property as a large-scale general development as set forth herein.

4. Binding Effect. The restrictions, covenants, rights and agreements set forth in this Declaration shall be binding upon Declarants and any successor or assign of Declarants; provided that the Declaration shall be binding on any Declarant only for the period during which such Declarant, or any successor or assign thereof, is the holder of an interest in the Subject Property and only to the extent of such Declarant's interest in the Subject Property. At such time as a Declarant or any successor to a Declarant no longer holds an interest in the Subject Property, such Declarant's or such Declarant's successor's obligations and liability under this Declaration shall wholly cease and terminate and the party succeeding such Declarant or such Declarant's successor shall assume the obligations and liability of Declarant pursuant to this Declaration with respect to actions or matters occurring subsequent to the date such party assumes an interest in the Subject Property to the extent of such party's interest in the Subject Property. For purposes of this Declaration, any successor to a Declarant shall be deemed a Declarant for such time as such successor holds all or any portion of any interest in the Subject Property.

5. Recordation. Declarants shall file and record this Declaration in the Office of the City Register of the City of New York (the "Register's Office"), indexing it against the Subject Property on or after the date of the disposition of the Subject Property pursuant to ULURP Application No. C 130219 PPM (such date, the "Recording Date"). Declarants shall promptly provide to the Chairperson of the CPC (the "Chair") a copy of the Declaration as recorded, so certified by the City Register. If Declarants fail to so record this Declaration by the Recording Date, CPC may record a duplicate original of this Declaration, but all costs of recording, whether undertaken by Declarants or by CPC, shall be borne by Declarants.

6. Effective Date. This Declaration and the provisions and covenants hereof shall become effective as of the date of recordation of this Declaration in accordance with Section 5 above (the "Effective Date").

7. Notice. All notices, demands, requests. consents, approvals, and other communications (each, a "Notice") which may be or are permitted, desirable, or required to be given under this Declaration shall be in writing and shall be sent or delivered as follows:

(i) if to Declarant CUCF:
to the address at the commencement of this Declaration
Attention: CUNY Vice Chancellor for Facilities Planning, Construction and Management

with a copy to:
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019-6064
Attn: Meredith J. Kane, Esq.

and also a copy to:
Friedman & Gotbaum, LLP
568 Broadway Suite 505
New York, NY, 10012
Attn: Shelly S. Friedman, Esq.

(ii) if to Declarant Memorial:

to the address at the commencement of this Declaration
Attention:

with a copy to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019-6064
Attn: Allen M. Wieder, Esq.

and also a copy to:
Friedman & Gotbaum, LLP
568 Broadway Suite 505
New York, NY, 10012
Attn: Shelly S. Friedman, Esq.

(iii) if to CPC:

New York City Planning Commission
22 Reade Street
New York, New York 10007
Attention: Chairperson
with a copy to:

the general counsel of CPC at the same address

(iv) if to a Party in Interest other than Declarants:

at the address provided in writing to CPC in accordance with this Section 7

(v) if to any mortgagee of all or any portion of the Subject Property (a "Mortgagee"):

at the address provided in writing to CPC in accordance with this Section 7.

Declarants, CPC, any Party in Interest, and any Mortgagee may, by notice provided in accordance with this Section 7, change any name or address for purposes of this Declaration. In order to be deemed effective any Notice shall be sent or delivered in at least one of the following manners: (A) sent by registered or certified mail, postage pre-paid, return receipt requested, in which case the Notice shall he deemed delivered for all purposes hereunder five days after being actually mailed; (B) sent by overnight courier service, in which case the Notice shall be deemed delivered for all purposes hereunder on the date the Notice was actually received or was refused; or (C) delivered by hand, in which case the Notice will be deemed delivered for all purposes hereunder on the date the Notice was actually received. All Notices from CPC to Declarants shall also be sent to every Mortgagee of whom CPC has notice, and no Notice shall be deemed properly given to Declarants without such notice to such Mortgagee(s). In the event that there is more than one Declarant at any time, any Notice from the City or the CPC shall he provided to all Declarants of whom CPC has notice.

8. Defaults and Remedies.

(a) Declarants acknowledge that the restrictions, covenants, and obligations of this Declaration will protect the value and desirability of the Subject Property, as well as benefit the City. If Declarants, or either of them, fail to perform any of Declarants' obligations under this Declaration, the City shall have the right to enforce this Declaration against a breaching Declarant(s) and exercise any administrative legal or equitable remedy available to the City,

and Declarants hereby consent to same; provided that this Declaration shall not be deemed to diminish Declarants' or any other Party in Interest's right to exercise any and all administrative, legal, or equitable remedies otherwise available to it, and provided further, that the City's rights of enforcement shall be subject to the cure provisions and periods set forth in Section 8(c) hereof. Declarants also acknowledge that the remedies set forth in this Declaration are not exclusive and that the City and any agency thereof may pursue other remedies not specifically set forth herein including, but not limited to, a mandatory injunction compelling a breaching Declarant to comply with the terms of this Declaration and a revocation by the City of any certificate of occupancy, temporary or permanent, for any portion of the Large-Scale Development Project on the Subject Property, which is not in compliance, subject to the Large-Scale Special Permits; provided, however, that such right of revocation shall not permit or be construed to permit the revocation of any certificate of occupancy for any use or improvement that exists on the Subject Property as of the date of this Declaration, or is otherwise in compliance with this Declaration;

(b) Notwithstanding any provision of this Declaration, only Declarants, and Declarants' successors and assigns and the City, acting through CPC, shall be entitled to enforce or assert any claim arising out of or in connection with this Declaration. Nothing contained herein should he construed or deemed to allow any other person or entity to have any interest in or right of enforcement of any provision of this Declaration or any document or instrument executed or delivered in connection with the Land Use Applications.

(c) Prior to City instituting any proceeding to enforce the terms or conditions of this Declaration due to any alleged violation hereof, City shall give the Declarant, or Declarants, as the case may be, alleged to have so violated the Declaration, including every Mortgagee of all or any portion of the Subject Property, and any other Party in Interest, from whom DCP has received notice in accordance with Section 7 hereof, thirty (30) business days written notice of such alleged violation, during which period Declarant, or Declarants, as the case may be, and their respective Mortgagees and other Parties in Interest in the Subject Property, if applicable, shall have the opportunity to effect a cure of such alleged violation or to demonstrate to City

why the alleged violation has not occurred. If any Mortgagee or other Party in Interest performs any obligation or effects any cure that such Declarant, or Declarants, as the case may be, is required to perform or cure pursuant to this Declaration, such performance or cure shall be deemed performance on behalf of such Declarant(s) and shall be accepted by any person or entity benefited hereunder, including CPC and City, as if performed by such Declarant(s). If that Declarant, or Declarants, as the case may be, or any Mortgagee or other Party in Interest commences to effect such cure within such thirty (30) day period (or if cure is not capable of being commenced within such thirty (30) day period, that Declarant, or Declarants, as the case may be, or any Mortgagee or other Party in Interest commences to effect such cure when such commencement is reasonably possible) and thereafter proceeds diligently toward the effectuation of such cure, the aforesaid thirty (30) day period (as such may be extended in accordance with the preceding clause) shall be extended for so long as such Declarant(s), or any Mortgagee or other Party in Interest continues to proceed diligently with the effectuation of such cure. Notice shall be provided to all Declarants and Mortgagees and other Parties in Interest from whom City has received notice in accordance with Section 7 hereof; and Declarants that are not subject to the violation will have all the rights to cure provided in this Section 8.

(d) If, after due notice and opportunity to cure as set forth in this Declaration, Declarants, Mortgagees or any Party in Interest in the Subject Property shall fail to cure the alleged violation, the City may exercise any and all of its rights, including without limitation those delineated in this Section 8 and may disapprove any amendment, modification or cancellation of this Declaration on the sole ground that Declarant(s) is in default of a material obligation under this Declaration.

9. Applications.

(a) Declarants shall include a copy of this Declaration with any application made to the New York City Department of Buildings ("Buildings") for a foundation, new building, alteration, or other permit (a "Permit") for any portion of the Large-Scale Development Project subject to the Large-Scale Special Permits. Nothing in this Declaration including but not

limited to the declaration and covenant made in Section 1 hereof to develop and enlarge the Subject Property as a single unit, shall be construed to prohibit or preclude Declarants from filing for, or Buildings from issuing, any permit for all or any portion of the Large-Scale Development Project, in such phase or order as each Declarant sees fit in its sole discretion.

(b) Nothing in this Declaration shall be construed to prevent Declarants or any of Declarants' successors or assigns from making any application of any sort to any governmental agency or department (each an "Agency") in connection with the development of the Subject Property; provided, that Declarants shall include a copy of this Declaration in connection with any application for any such discretionary approval, and provided that nothing in this Section 9(b) shall be construed as superseding the requirements, restrictions, or approvals that may be required under agreements with any other Agency or the City.

10. Amendment, Modification and Cancellation.

(a) This Declaration may be amended, cancelled, or modified only upon application by Declarants with the express written consent of CPC or an agency succeeding to CPC's jurisdiction and no other approval shall be required from any other public body, private person, or legal entity of any kind.

(b) Notwithstanding anything to the contrary contained in Section 10 (a) hereof, the Chair may by its express written consent administratively approve modifications or amendments to this Declaration that, in the sole judgment of the Chair, are determined by the Chair to be a minor amendment or modification of this Declaration, and such minor modifications and amendments shall not require the approval of CPC.

11. Liability. The Declarants shall be liable in the performance of any term, provision or covenant in this Declaration, subject to the following provisions:

The City and any other party relying on this Declaration will look solely to the interest of a Declarant in its portion of the Subject Property for the collection of any money judgment recovered against such Declarant, and no other property of a Declarant shall be

subject to levy, execution, or other enforcement procedure for the satisfaction of the remedies of the City or any other person or entity with respect to this Declaration. No Declarant, including its officers, manager and members, shall have any personal liability under this Declaration. Notwithstanding the foregoing, nothing herein shall be deemed to preclude, qualify, limit or prevent the City's exercise of any of its governmental rights, powers or remedies, including, without limitation, with respect to the satisfaction of the remedies of the City, under any laws, statutes, codes or ordinances.

12. Severability. In the event that any of the provisions of the Declaration shall be deemed, decreed, adjudged, or determined to be invalid or unlawful by a court of competent jurisdiction, such provision shall be severable and the remainder of this Declaration shall continue to be in full force and effect.

13. Applicable Law. This Declaration shall be governed and construed by the laws of the State of New York, without regard to principles of conflicts of law.

[Signature page to follow]

IN WITNESS WHEREOF, the undersigned has executed this Declaration this _____ day of _____, 201__.

CITY UNIVERSITY CONSTRUCTION FUND

By: _____
Name:
Title:

MEMORIAL HOSPITAL FOR CANCER
AND ALLIED DISEASES

By: _____
Name:
Title:

ACKNOWLEDGMENTS

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the ____ day of _____ in the year 201___ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the ____ day of _____ in the year 201___ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

EXHIBIT A-1

Legal Description of CUCF Property

EXHIBIT A-2

Legal Description of Memorial Property

<u>EXHIBIT B</u>

CERTIFICATION OF PARTIES IN INTEREST

(SEPARATE ATTACHMENT)

<u>EXHIBIT C</u>

PLANS

(SEPARATE ATTACHMENT)

EXHIBIT B

A. PROJECT DESCRIPTION

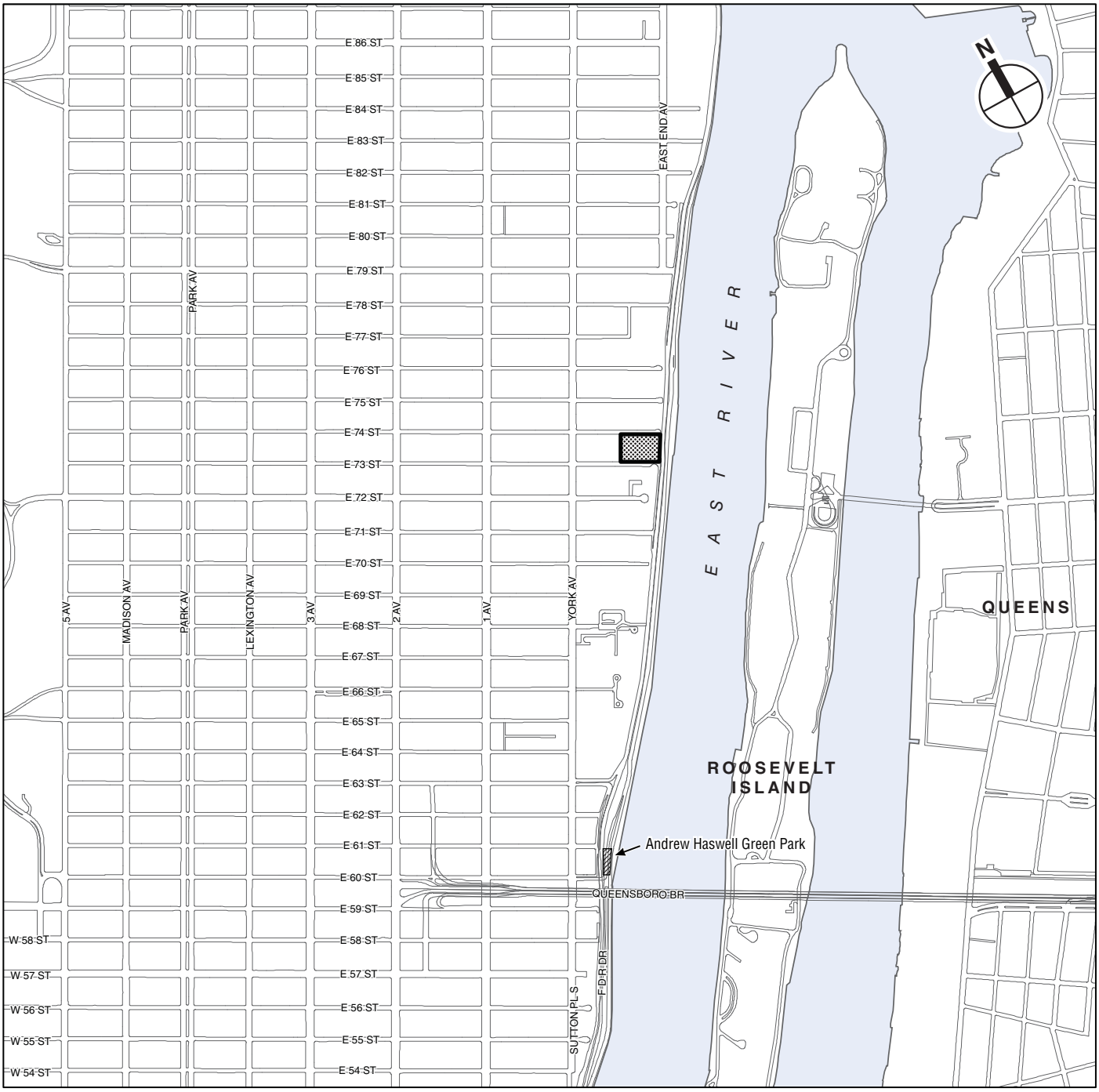
PROJECT IDENTIFICATION

Memorial Sloan-Kettering Cancer Center (MSK) and The City University of New York (CUNY) are partnering to acquire an approximately 66,111-square-foot (sf), New York City-owned site on the east end of a block bounded by York Avenue, Franklin Delano Roosevelt (FDR) Drive, and East 73rd and 74th Streets (Block 1485, Lot 15) on the Upper East Side of Manhattan (see **Figure S-1**). MSK proposes to build a new ambulatory care center (MSK ACC), while CUNY proposes to build the Hunter College Science and Health Professions Building (CUNY-Hunter Building).

As described in greater detail below, the land use actions necessary for the proposed project include a disposition of City-owned property; a rezoning of the project site from an M3-2 district (Heavy Manufacturing-low performance) to a C1-9 district (Local Retail); a zoning text amendment; approval to develop the site as a Large Scale General Development (LSGD) that would include special permits to waive bulk, side yard, rear yard equivalent, height and setback regulations, ~~and~~ sign regulations, and to provide for a 2.0 FAR bonus; and a special permit for accessory parking beyond the number of spaces allowed as-of-right. These actions are subject to the Uniform Land Use Review Procedure (ULURP) and require City Environmental Quality Review (CEQR) and Mayoral and Borough Board approval pursuant to New York City Charter Section 384(b)(4). The Board of The City University Construction Fund (CUCF) must approve acquisition of real property. In addition, CUNY has already requested funding from the Dormitory Authority of the State of New York (DASNY) and it is possible that MSK will also request funding from DASNY. For purposes of State Environmental Quality Review (SEQR), DASNY's proposed actions are Authorization of the Issuance of Bonds and/or Authorization of the Expenditure of Bond Proceeds. The lead agency for the environmental review is the Office of the Deputy Mayor for Economic Development (ODMED). DASNY, CUNY, and CUCF are involved agencies. A coordinated review is being conducted for this Type I action.

As lead agency, on October 2, 2012, ODMED issued a Positive Declaration that the proposed project could have the potential to result in significant adverse impacts, and directed that an Environmental Impact Statement (EIS) be prepared. The Environmental Assessment Statement and Draft Scope of Work (DSOW) were made available for public comment. The DSOW described the proposed actions, the proposed development plan and its purpose and need, and the environmental review process. It also identified the analysis framework to be used in the EIS and presented the analyses and work items to be undertaken for the EIS. A public meeting to receive comments on the DSOW was held on November 1, 2012 at 6:30 PM at the Kaye Playhouse at Hunter College on East 68th Street between Park and Lexington Avenues, New York, New York. The scoping meeting was continued on December 4, 2012 at 6:30 PM at the Mortimer B. Zuckerman Research Center Auditorium of the Memorial Sloan-Kettering Cancer

1.18.13



Project Site

Andrew Haswell Green Park

0 1000 FEET

SCALE

Project Location

MSK ACC | CUNY-HUNTER

Figure S-1

Center, 415 East 68th Street, New York, New York. The period for the submission of written comments was extended to December 14, 2012. After considering comments received during the public comment period, a Final Scope of Work (FSOW) was prepared to direct the content and preparation of the Draft EIS (DEIS).

A Notice of Completion for the DEIS was issued on March 14, 2013 and the document was circulated for review. A joint public hearing on the DEIS and the Uniform Land Use Review Procedure (ULURP) application was held on July 10, 2013 at Spector Hall, 22 Reade Street, New York, New York, 10007. The public comment period remained open until 5:00 PM, July 22, 2013. Relevant comments on the DEIS were considered in the preparation of the FEIS.

BACKGROUND

In May 2011, the New York City Economic Development Corporation (EDC), at the request of and on behalf of the New York City Department of Sanitation (DSNY), issued a Request for Proposals (RFP) to redevelop a former DSNY garage site with the creation or expansion of a health care, educational or scientific research facility. MSK and CUNY partnered to respond.

PROJECT PURPOSE AND NEED

In addition to the purposes and needs for each institution, which are described below, both institutions believe that there would be significant operational synergies with neighboring healthcare and research institutions; these synergies would benefit the population of New York City as well as enhance the City's position as a center of medical and academic excellence.

MSK

MSK is the world's oldest and largest private cancer treatment center, having devoted more than a century to patient care as well as to innovative research, including the training of future generations of oncologists. It has made significant contributions to new and better therapies for the treatment of cancer.

In recent years, MSK has expanded with new construction and renovations designed to meet the growing needs of its patients and research programs. Aside from its main campus and satellite facilities on Manhattan's Upper East Side, MSK has developed a network of state-of-the-art outpatient cancer treatment facilities that bring expert care closer to patients living throughout the greater New York area.

The MSK ACC would contain state-of-the-art ambulatory care facilities, including office practice space for head and neck, endocrinology, thoracic, hematologic oncology, dental, speech, and consultative services; infusion rooms; interventional and diagnostic radiology; radiation oncology; cardiology and pulmonary testing; pharmacy and clinical laboratories to support the on-site activities; academic offices; conference rooms; and up to 250 parking spaces on the lower levels of the site for patients and visitors.

This proposed building would support two of the institution's strategic objectives. By providing additional space it would accommodate the anticipated growth in the number of outpatients, allowing MSK to maintain its leadership role in the treatment and cure of cancer. It would also allow MSK to transfer care from an inpatient venue to a more efficient ambulatory care setting. Keeping the site close to the main campus ~~will~~ allows for the appropriate coordination between outpatient clinical services and inpatient treatment. Among the most important changes MSK

anticipates in health care delivery is the transition to performing bone marrow transplants on an outpatient basis and the increased use of interventional radiology.

In addition to enhancing access to clinical care, opening the MSK ACC would enable innovation, recruit talent, and offer financial sustainability for MSK.

HUNTER

CUNY is the nation's largest urban public university, serving more than 271,000 degree-credit students and nearly 270,000 continuing and professional education students. CUNY confers 35,000 degrees each year—more than 1.1 million associate, baccalaureate, masters, and doctoral degrees since 1967. CUNY plays a crucial role in the life and economy of the City and New York State and employs more than 39,000 faculty and staff.

CUNY's history dates to the formation of the Free Academy in 1847 by Townsend Harris. The Free Academy later became the City College of New York, the oldest institution among the CUNY colleges. From this grew a system of senior colleges, community colleges, as well as graduate schools and professional programs. CUNY was established in 1961 as the umbrella institution for the system which provides first-rate academic opportunities for students of all backgrounds.

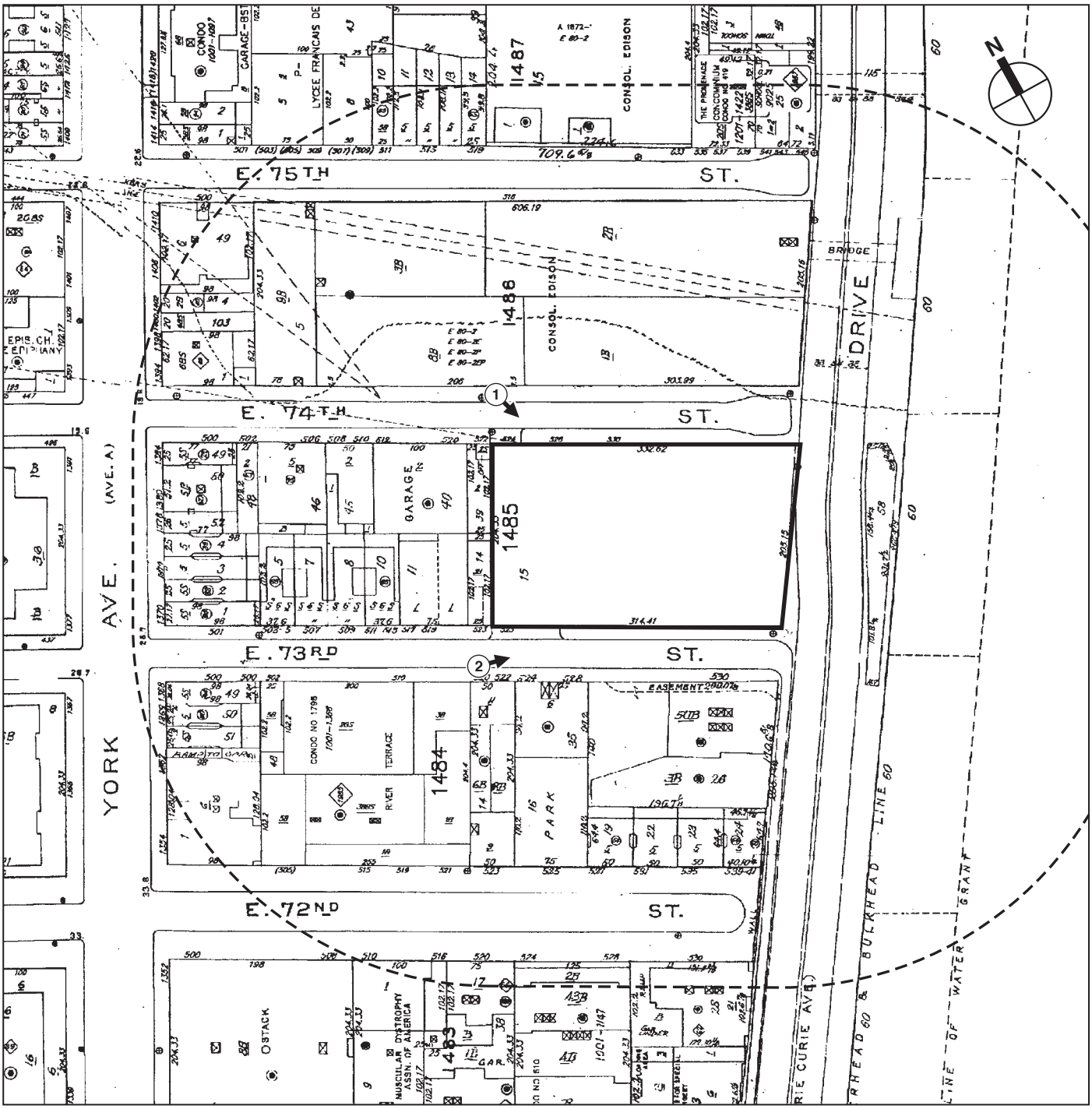
Founded in 1870, Hunter is also one of the oldest public colleges in the country and the largest college in the CUNY system. Currently, over 22,000 undergraduate and graduate students attend Hunter, pursuing degrees in more than 170 different programs. Famous for the diversity of its student body, Hunter has provided educational opportunities for women, minorities, and people from every walk of life.

Hunter is a proud leader in the sciences and medicine with research grants in record amounts—more than $31 million in 2010 alone. To maintain and build on its excellence in science, advanced research, and the health professions, Hunter proposes to build a new Science and Health Professions Building near its main campus that would bring together basic sciences and advanced research that occupy aging facilities on its main campus and health sciences and nursing located in a physical plant inherited from Bellevue Hospital in 1967. The proposed CUNY-Hunter Building would consolidate the related Science and Health Professions programs in a state-of-the-art facility providing modern classrooms, laboratories and cutting-edge equipment. The facility would also allow Hunter scientists and health professionals to maintain close ties with the Upper East Side’s world-renowned medical and research institutions.

PROJECT SITE

The approximately 66,111-sf project site is largely vacant with standing remnants of the walls of the former garage structure (see **Figures S-2 and S-3**). The western portion of the project site is occupied by a surface public parking lot with a capacity of 128 cars.

East 74th Street, the northern border of the site, dead ends at a wall that divides it from the FDR Drive. Given the presence of the Con Edison East 74th Street Steam Plant (Con Edison Steam Plant) across much of the north side of the street, the lack of active use on the project site~~,~~ and the lack of linkage to a street network on the east, East 74th Street carries relatively little traffic. East 73rd Street, the southern border of the site, ends in an access lane to the southbound FDR Drive service road. In addition to parking facilities, there are residential buildings on this street and much more traffic than is found on East 74th Street.



0 100 200 FEET

SCALE

Project Site Boundary

Photograph View Direction and Reference Number

Project Site and Surrounding Blocks

MSK ACC | CUNY-HUNTER

Figure S-2

1.28.13

View south of project site from East 74th Street **1**

View northeast of project site from East 73rd Street **2**

Project Site Photographs

Figure S-3

Currently zoned M3-2, the site was part of a manufacturing district that included uses similar to the now demolished DSNY garage, the Con Edison Steam Plant to the north and several auto repair businesses ~~closer to the east end of~~ located midblock on the project block.

PROJECT DESIGN

The proposed buildings would be built to an overall floor area ratio (FAR) of 12.0, which would be 793,332 sf of zoning floor area (zfa), with full lot coverage over the project site. The~~ir~~ gross floor area would total ~~1,092,788~~ 1,152,347 sf.

SITE PLAN AND CIRCULATION

The MSK ACC would be located through-block on the eastern portion of the site, and the CUNY-Hunter Building would be located through block on the western portion of the site (see **Figure S-4**). The main entrances for both buildings would be on East 74th Street. MSK would have a lay-by lane where patients could be dropped off; it would also provide valet parking for the on-site accessory garage. CUNY would provide access to bike storage off East 74th Street for its students, faculty, and staff.

The service entrances for both buildings would be on East 73rd Street, and both buildings are designed to allow trucks to maneuver and be docked inside the buildings. In addition, the MSK ACC would have a pedestrian entrance for staff on East 73rd Street as well as a bay for an ambulance should the need arise to transfer a patient to the main hospital on York Avenue and East 68th Street. There would also be access to bike parking for MSK staff off East 73rd Street.

MSK ACC

The MSK ACC would be 23 stories[1] (~~453~~ 447 feet, or approximately 450 feet) tall on a footprint of approximately 39,667 sf. In a gross floor area of 749,357 gsf, it would contain state-of-the-art ambulatory care facilities, including office practice space for head and neck, endocrinology, thoracic, hematologic oncology, dental, speech, and consultative services; infusion rooms; interventional and diagnostic radiology; radiation oncology; cardiology and pulmonary testing; pharmacy and clinical laboratories to support the on-site activities; academic offices; conference rooms; and up to 250 accessory parking spaces for patients.

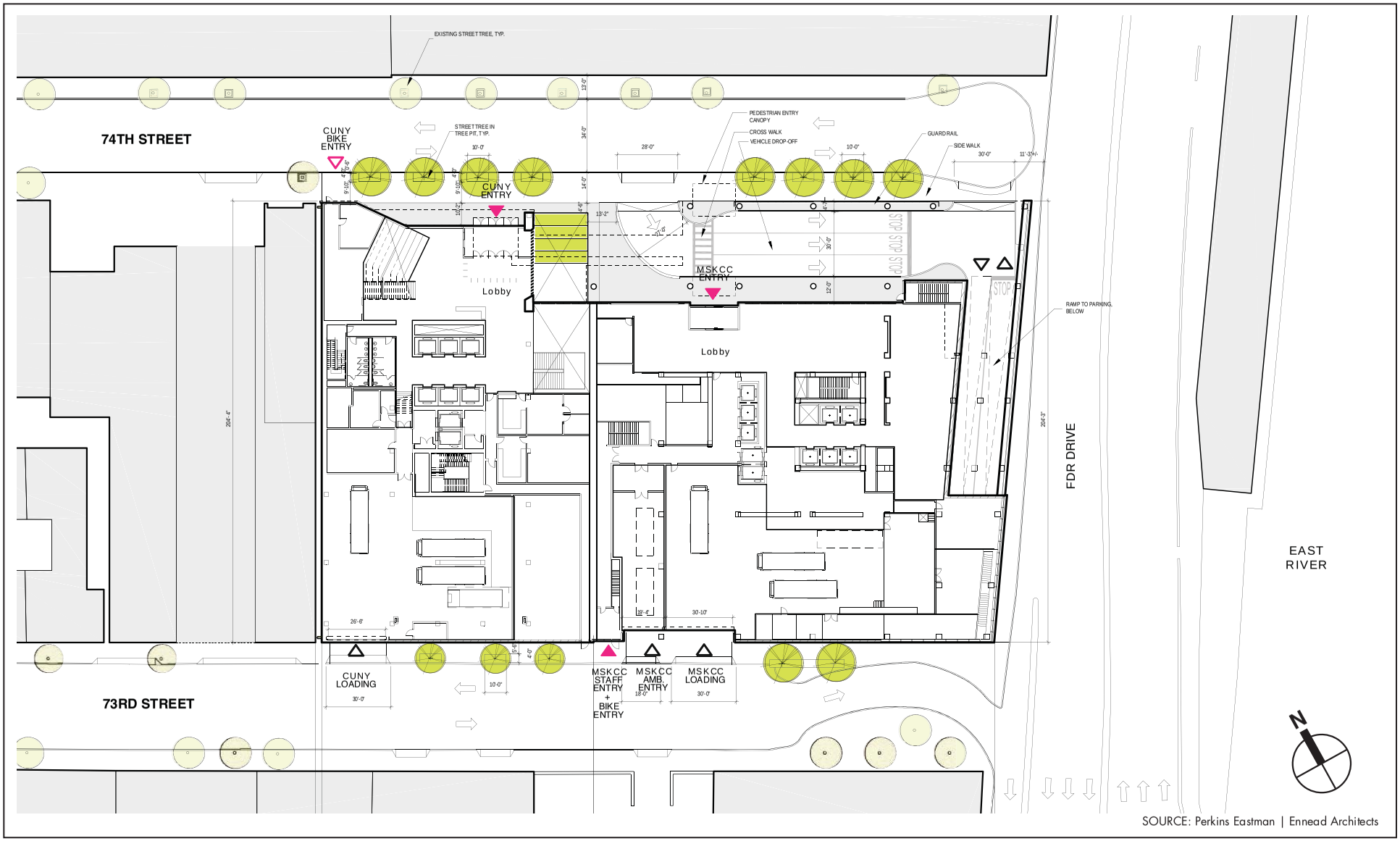
CUNY-HUNTER BUILDING

The CUNY-Hunter Building would stand approximately 16 stories (~~347~~ 343 feet, or approximately 350 feet) tall on a footprint of 26,444 sf. In its gross floor area of 402,990 gsf, it would house teaching and research laboratories, classrooms, a learning center, a single 350-seat lecture hall, faculty offices, and a vivarium to house research animals.

OVERALL DESIGN APPROACH

The proposed design contemplates the buildings being constructed immediately adjacent to each other. With the same exterior façade materials applied to both, they would read as a single composition (see **Figure S-5**). The roof heights would step up as they approach the river with

[1] Includes rooftop bulkhead.



SOURCE: Perkins Eastman | Ennead Architects

For Illustrative Purposes Only

0 100 FEET

SCALE

Ground Floor Plan

Figure S-4

MSK ACC | CUNY-HUNTER

Source: Perkins Eastman | Ennead Architects

For Illustrative Purposes Only

Perspective View

Figure S-5

the taller MSK ACC (450 feet) located overlooking the FDR Drive and the CUNY-Hunter Building (350 feet) stepping down to the neighborhood on the west.

In order to reduce the visual appearance of bulk, the north, east, and south façades would be broken down into varying zones with set-backs and overhangs as well as changes in the façade materials. There would be recesses for open terraces at the second floor and sixth floor on the CUNY-Hunter Building and on the MSK ACC. The second floor terrace would wrap around the north and east façades to include space overlooking the FDR Drive and the East River. It would provide planters and seating. The sixth level of the MSK ACC would set back on its north, east, and south sides for a terrace intended to provide a calming outdoor respite for patients and their families. At the 7th and 8th levels, it would have a setback to open up views to the north and east. These setbacks would also reduce the bulk of the buildings. Setbacks may have planted roof areas but would not be accessible.

The predominant cladding would be large masonry and glass panels with irregular vertical divisions. On floors where ventilation is required for mechanical systems, louvers would be set back from the façade plane. Portions of the buildings would also be clad in a glass curtain wall.

At ground level, the CUNY-Hunter Building would be set back to provide a wide and welcoming entrance for the students, faculty, and staff (see **Figures S-4**). The MSK entrance would provide a covered drop-off area for patients arriving by automobile.

A number of energy options for various components of the proposed project are being evaluated, with the objective of reducing energy consumption and the ensuing emissions and costs.

PROPOSED ACTIONS

CITY ACTIONS

The discretionary approvals being requested for the proposed project include a disposition of City property, a zoning map amendment and zoning text amendment as well as special permits, all of which are subject to City Planning Commission (CPC) and City Council approval.

- Disposition—The City of New York would dispose of the project site to the New York City Land Development Corporation that would then dispose to the EDC for subsequent disposal to MSK and CUCF. CUCF is a public benefit corporation established by New York State to provide facilities and support the educational purposes of CUNY.
- The disposition requires Mayoral and Manhattan Borough Board approval pursuant to New York City Charter Section 384(b)(4).
- Rezoning—The project site is currently zoned M3-2 (see **Figure S-6**), which allows a maximum ~~floor area ratio (~~FAR~~)~~ of 2.0 (132,222 sf of ~~zoning floor area~~ zfa) and a maximum base height of 60 feet before setting back. It prohibits all community facilities including ambulatory diagnosis and treatment centers and schools. The project site and an approximately 6 inch wide portion of Block 1485, Lots 14 and 39 immediately west of the project site would be rezoned from M3-2 to C1-9 (see **Figure S-7**) to permit Use Group 3 and 4 developed to FAR 10 (661,110 sf of zfa) with up to an additional FAR 2 (132,222 sf of zfa) through provision of a qualifying park improvement. Ambulatory diagnostic and treatment centers and schools are permitted as-of-right in C1-9 districts. The existing M1-4 zoning district west of the project site on Block 1485, Lots 14 and 39 would be extended approximately 5 feet east to the proposed C1-9 boundary, ~~which is~~ located approximately

3.8.12

Project Site

Zoning District Boundary

C1-5 Overlay

0 100 200 FEET

SCALE

Existing Zoning

MSK ACC | CUNY-HUNTER

Figure S-6

3.12.13

Project Site

Zoning District Boundary

C1-5 Overlay

Proposed C1-9 Zoning Boundary

Proposed M1-4 Zoning Boundary

0 100 200 FEET

SCALE

Proposed Zoning

Figure S-7

0.5 feet west of the MSK/CUNY lot line, at the request of the Department of City Planning (DCP).

- Zoning Text Amendment—A text amendment would establish a new provision in the ~~Large Scale General Development (~~LSGD~~)~~ special permit to allow a predominantly community facility development wholly within a C1-9 district within Community District 8 in Manhattan to obtain a floor area bonus not to exceed 20 percent of the maximum FAR allowed by the underlying district regulations, where in connection with such development an improvement is provided to a public park located within the same community district or within a 1-mile radius of the proposed development.
- LSGD—Approval to develop the project site as a LSGD pursuant to Zoning Resolution (ZR) Section 74-74 et seq., which would include ZR Section 74-743 special permits to waive bulk, side yard, rear yard equivalent, height and setback regulations; and to provide for a 2.0 FAR bonus, and a ZR Section 74-744 special permit to waive sign~~age~~ regulations as follows:

  ZR 33-25: Minimum Required Side Yards

  Side yards are not required in C1-9 districts. However, if an open area extending along a side lot line is provided at any level, it shall be either (a) at least eight feet wide at every point; or (b) at least five feet wide at every point, with an average width of eight feet in accordance with the remaining provisions of ZR 33-25. The proposed project would provide a side yard along the western side lot line of the zoning lot with a width of 3 feet. The width represents that necessary for a seismic separation from the building to the west, which is approximately 2.5 feet, plus an additional 0.5 feet of open space to permit the resulting gap to be suitably maintained and cleaned.

  ZR 33-283(b): Required Rear Yard Equivalents

  On any through lot with a depth in excess of 110 feet, a rear yard equivalent must be provided that either (a) is an open area with a minimum depth of 40 feet midway between the two street lines upon which such through lot fronts, or (b) is two open areas, each adjoining and extending along the full length of the street line, each with a minimum depth of 20 feet, or (c) is an open area adjoining and extending along the full length of each side lot line, each with a minimum width of 20 feet. As set forth in ZR 33-302, no rear yard equivalent is required for any portion of the zoning lot within 100 feet of the street line along the short dimension of a block where the front lot line of the zoning lot coincides with all of the street line measuring less than 230 feet between two intersecting streets, which in this case is the eastern portion of the zoning lot from the FDR Drive to 100 feet westerly from the FDR Drive.

  In addition, ZR 33-23 permits the location of a portion of a nonresidential building to be located within a rear yard equivalent provided that that the height of such building does not exceed one story or 23 feet above curb level, whichever is less. The proposed buildings exceed 23 feet in height within the rear yard equivalent type (b) on the through lot along the street line of East 73rd Street and East 74th Street.

  The proposed project would be built full to its street frontages including the FDR Drive. A 3 foot noncomplying side yard is provided along the western lot line. No open space that could qualify as a rear yard equivalent is provided midway between East 73rd or East 74th Streets, along those streets for that portion of the zoning lot deemed a through lot (beyond 100 feet from the FDR) or along the western side lot line. The portions of the buildings located within any part of the zoning lot that might have qualified as a location for a rear yard

equivalents exceed the 23 feet height allowed for permitted obstructions for community facility buildings.

ZR 33-432: Maximum Height of Walls and Required Setbacks

In C1-9 districts, if the front wall or other portion of a building is located at the street line of a narrow street or within the initial setback distance of 15 feet from a wide street line, or 20 feet from a narrow street line, the height of such front wall or portion of a building within the initial setback distance shall not exceed 85 feet above curb level. Above 85 feet and beyond the 15 feet initial setback on a wide street, or the initial 20 feet setback on a narrow street, the building cannot penetrate the sky exposure plane set forth in ZR 33-432. The proposed buildings have front walls that exceed the maximum front wall height, do not provide qualifying initial setbacks and penetrate the sky exposure planes on East 73rd Street (a narrow street) and East 74th Street (a narrow street) and the FDR Drive (a wide street).

ZR 33-123: Floor Area Regulations

In C1-9 districts, community facility buildings are permitted to be developed to an FAR of 10.0. The proposed buildings would be developed to an FAR of 12.0.

ZR 32-641 (Total Surface Area of Signs)

In C1-9 districts, the total surface area of all permitted signs, including non-illuminated or illuminated signs, are not permitted to exceed 150 sf of total surface area for a through lot ~~of~~ or 150 sf on each frontage of a corner lot. Total surface area of all signs proposed in connection with the proposed project amounts to 4,520 sf, which exceeds the permitted total surface area of 1,200 sf by 3,320 sf.

ZR 32-642: Non-Illuminated Signs

In C1-9 districts, non-illuminated signs are not permitted to exceed 150 sf of total surface area for a through lot or 150 sf on each frontage of a corner lot. A non-illuminated sign of 125 sf is proposed at the north façade, near the entry of the MSK ACC and a non-illuminated sign of 25 sf is proposed on the north façade, over the entry canopy of the CUNY-Hunter Building (see **Figure S-8**). These signs are in addition to the allowable 150 sf of total surface area for a through lot and the allowable 150 sf on each frontage of a corner lot.

ZR 32-643: Illuminated Non-Flashing Signs

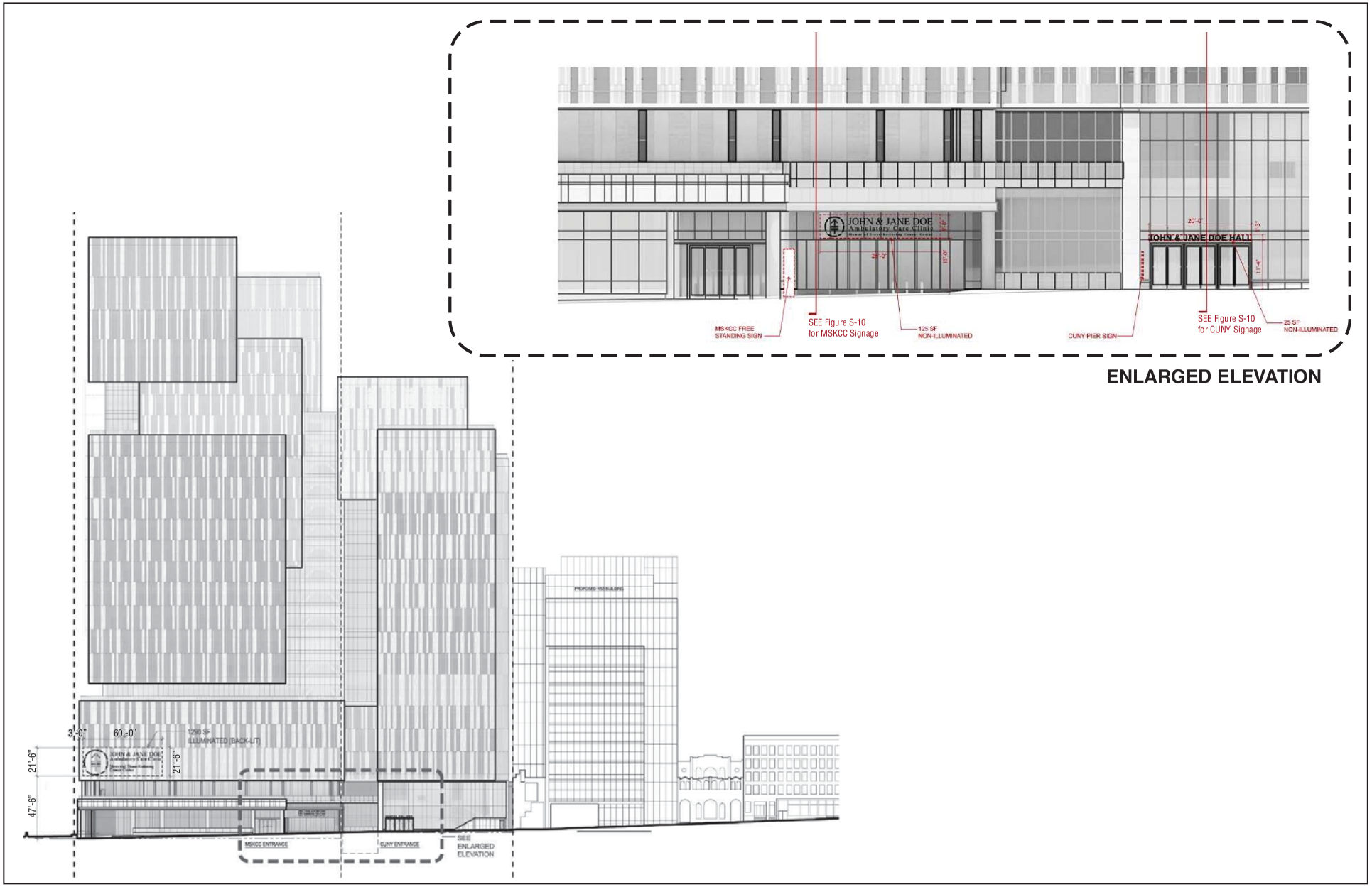
In C1-9 districts, illuminated non-flashing signs are not permitted to exceed 50 sf of total surface area for a through lot ~~on~~ or 50 sf on each frontage of a corner lot. Two indirectly illuminated non-flashing signs of 1,290 sf each are proposed on the north and east façades of the MSK ACC and one indirectly illuminated non-flashing sign of 500 sf is proposed on the west façade of the CUNY-Hunter Building (see **Figure S-9**).

A freestanding illuminated non-flashing sign of 65 sf is also proposed to aid in directional wayfinding at the vehicular drop-off of the MSK ACC. A façade-mounted illuminated non-flashing sign of 25 sf is proposed at the entry to the CUNY-Hunter Building (see **Figure S-10**).

The above noted illuminated non-flashing signs are in addition to the permitted 50 sf of total surface area for a through lot and the permitted 50 sf on each frontage of a corner lot.

ZR 32-655: Height of Signs in Other Commercial Districts

In C1-9 districts, all permitted signs are not permitted to extend more than 25 feet above the curb level. Two signs are proposed at maximum height of 69 feet on the MSK ACC. One



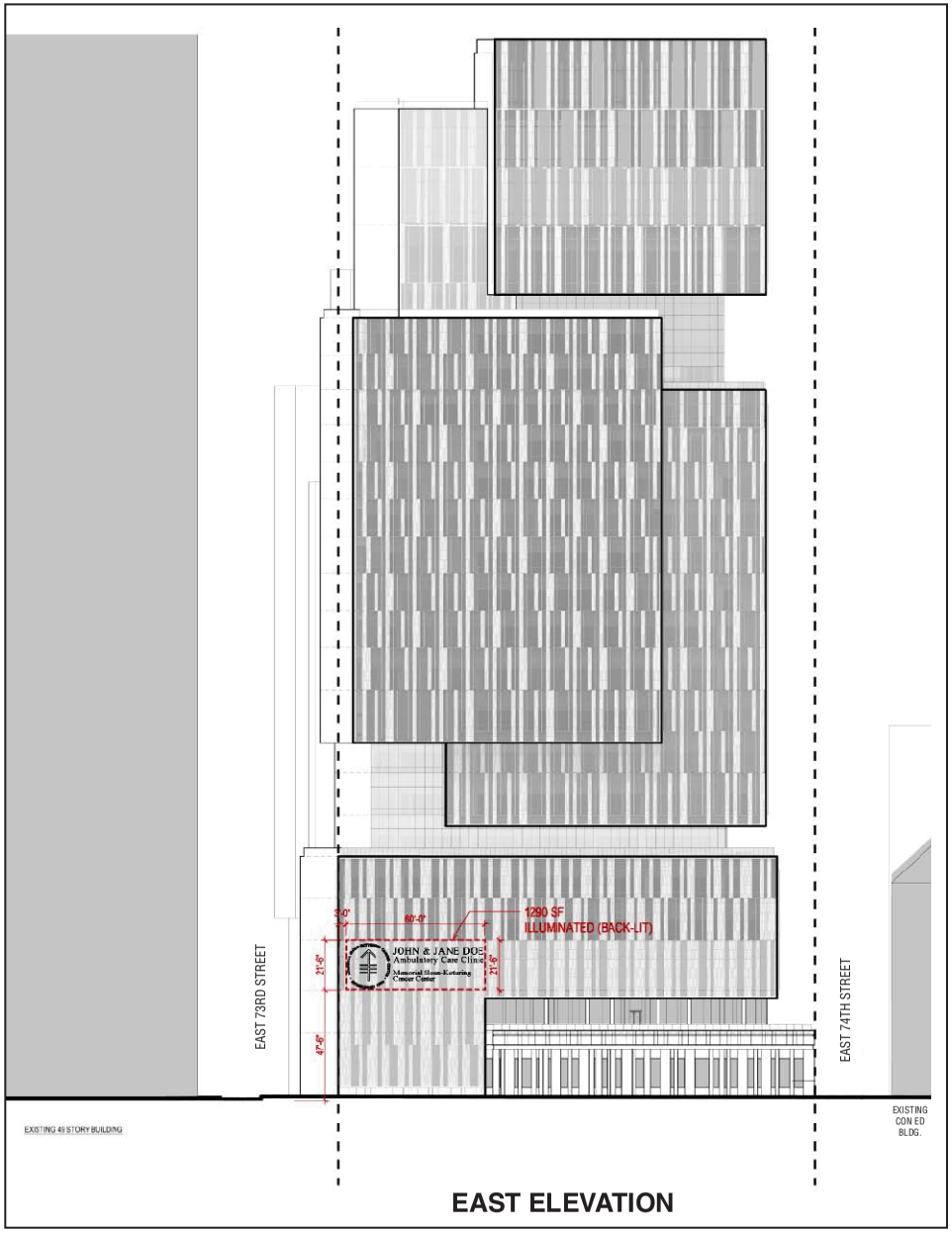
Source: Perkins Eastman | Ennead Architects

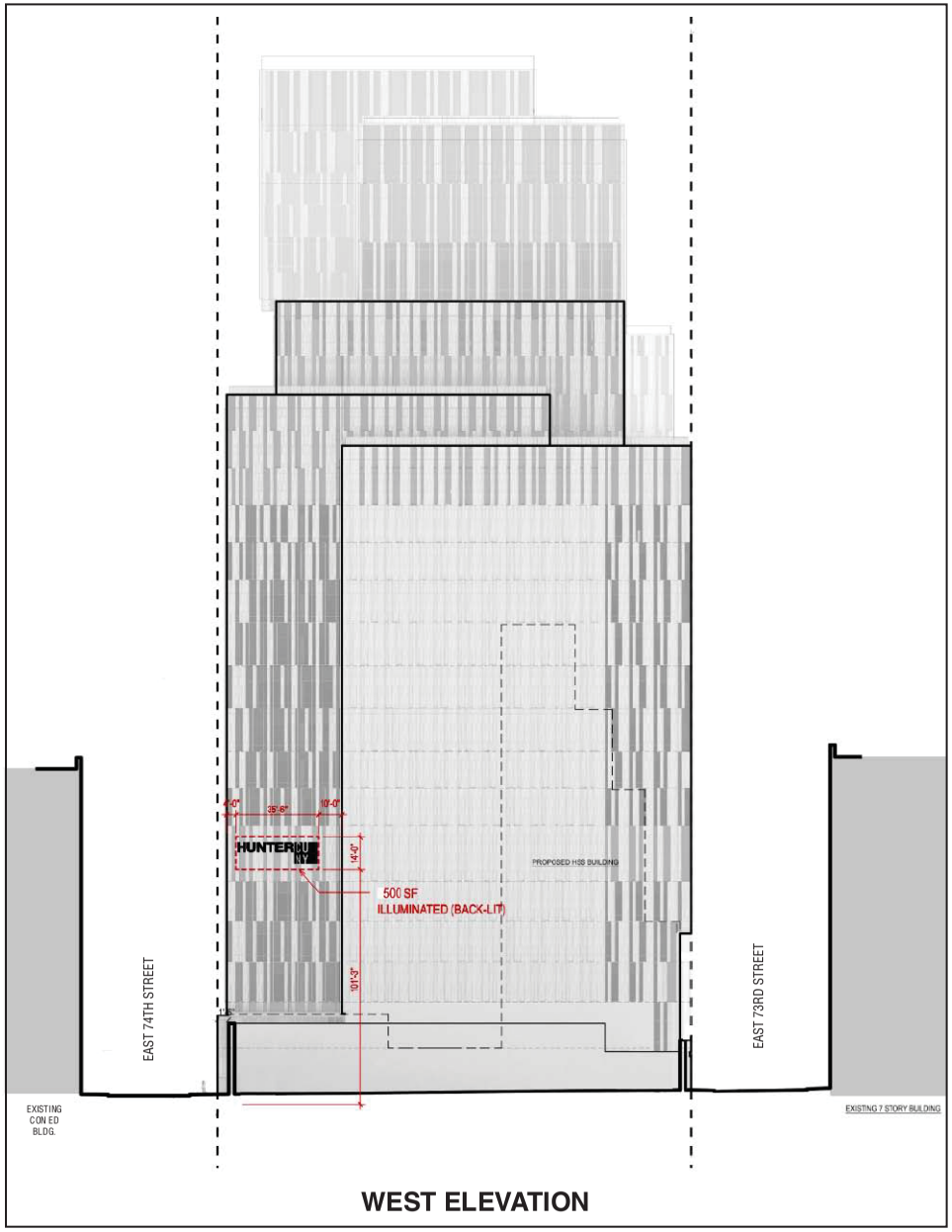
For Illustrative Purposes Only

Signage - North Elevation

MSK ACC | CUNY-HUNTER

Figure S-8





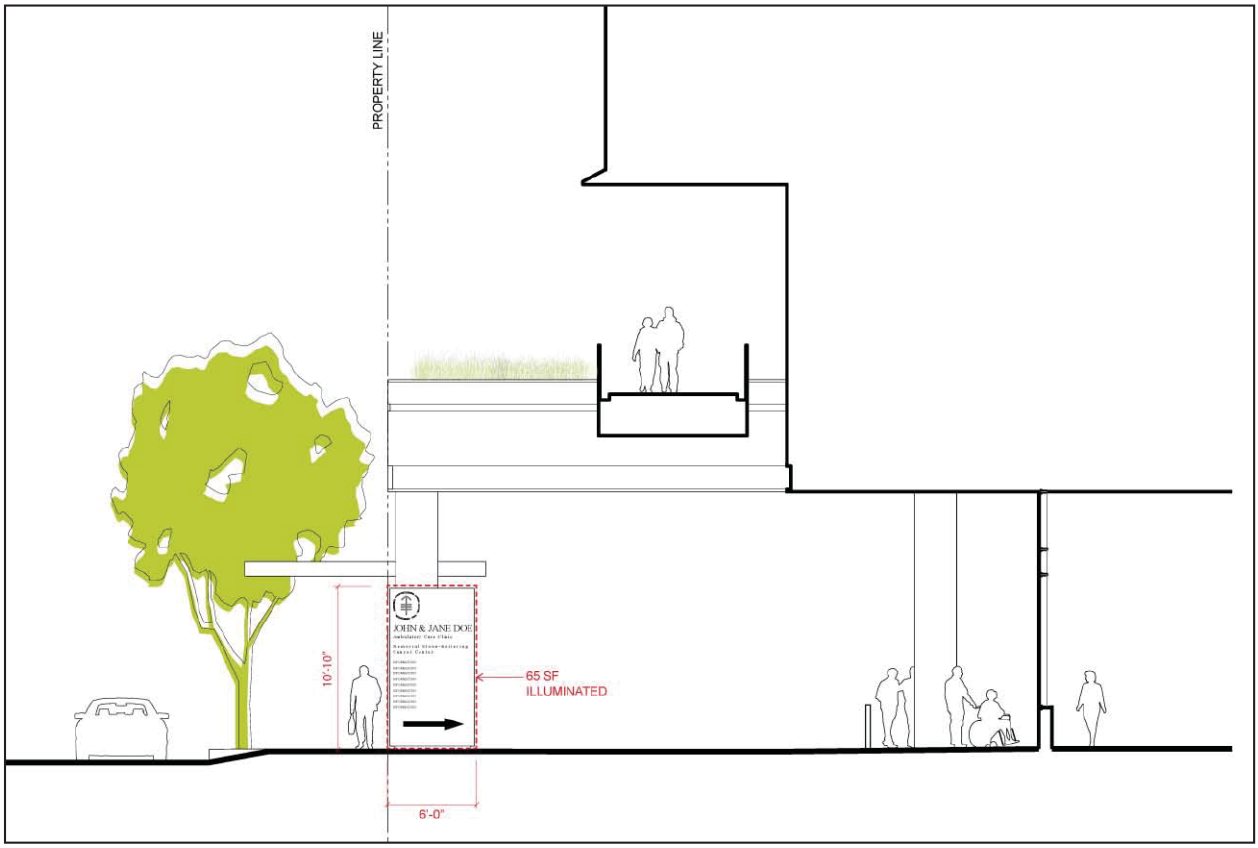
Source: Perkins Eastman | Ennead Architects

For Illustrative Purposes Only

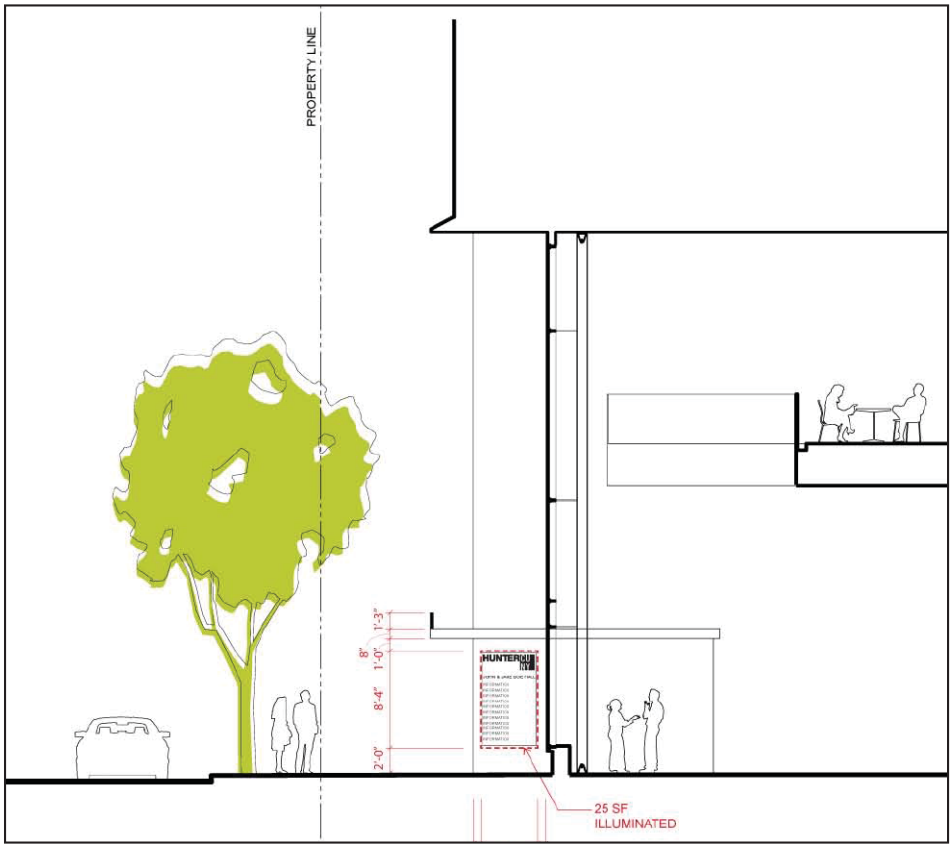
Signage - East and West Elevations

MSK ACC | CUNY-HUNTER

Figure S-9



MSKCC Signage



Source: Perkins Eastman | Ennead Architects

CUNY Signage

For Illustrative Purposes Only

Signage - Wayfinding Signage

Figure S-10

sign is proposed at a maximum height of 116 feet on the CUNY-Hunter Building (at the mechanical floor level). These heights are measured from average curb elevation.

- Special Permit for Parking—Approval of a special permit pursuant to ZR Section 13-562 to increase the number of accessory parking spaces up to 250, which is approximately 84 more than permitted ~~as a matter~~ as-of-right.

OTHER AGENCY APPROVALS

A certification by the Commissioner of Buildings to permit an entrance and exit to an accessory parking facility to be located within 50 feet of an intersection will be required.

A Certificate of Need is required from the New York State Department of Health for the proposed MSK ACC.

Both CUNY and MSK anticipate using DASNY funding. For purposes of SEQR, DASNY's proposed actions are Authorization of the Issuance of Bonds and/or Authorization of the Expenditure of Bond Proceeds. Therefore, DASNY would be an involved agency.

The CUNY Board must approve, undertake, and fund the CUNY-Hunter Building. For purposes of SEQR/CEQR, CUNY's proposed action is the Final Approval of the undertaking and funding of the proposed project. Therefore, CUNY would be an involved agency.

CUCF must also approve acquisition of the real property. For purposes of SEQR/CEQR, CUCF's proposed action is the Final Approval of the acquisition of real property. Therefore, CUCF would be an involved agency.

PROJECT POPULATION

With the proposed project it is anticipated that approximately 1,620 staff would work at the MSK ACC, with an estimated 1,335 patients and 2,670 visitors per day.

MSK Building	Population (persons)
Staff	1,620
Patients	1,335
Visitors and Family	2,670
Total	5,625

MSK estimates that 95 percent of the staff would be in the building daily. With 1,539 staff coming to the building each day, the total population over the course of the day would reach 5,544. However, since patients would arrive based on the time of their appointments and depart based on the length of their tests, treatments, or procedures, the entire daily population would not be on the site at once. In addition, staff schedules would be staggered throughout the day to meet patient demand.

In addition to the 2,944 students, faculty, and visitors that would come to the CUNY-Hunter Building each day, Hunter College expects that the single, 350-seat auditorium in the building would be used by students from the main Hunter College campus at Lexington Avenue and East 68th Street. When the auditorium is in use, the population of the building could reach 3,294. However, it is unlikely that all the students and staff would be on the campus at the same time given differing class and work schedules.

CUNY-Hunter Building	Population (persons)
Undergraduate Students	1,130
Graduate Students	1,219
Faculty	267
Staff	280
Visitors	48
Total	2,944

ANALYTICAL FRAMEWORK

ENVIRONMENTAL REVIEW PROCESS

Most state, county, and local government agencies in New York State, except the State Legislature and the courts, must comply with the State Environmental Quality Review Act (SEQRA; Article 8 of the New York State Environmental Conservation Law) when undertaking or approving discretionary actions that could affect the environment. New York City has promulgated CEQR procedures to implement SEQRA for such actions involving City agencies.

To understand the environmental consequences of their decision-making, and to afford the public an opportunity to participate in identifying such consequences, all discretionary decisions of an agency to approve, fund, or directly undertake an action are subject to review under CEQR, unless explicitly excluded or exempted under the regulations. Discretionary decisions involve choices to be made by the decision-makers that determine whether and how an action is to be taken. Non-discretionary or ministerial decisions for which the only determination of an action's approval is verification of compliance with specific and pre-determined criteria (e.g., issuance of a building permit) are not subject to CEQR.

LEGISLATIVE APPLICABILITY

This document has been prepared pursuant to the SEQRA, Article 8 of the New York State Environmental Conservation Law, and its implementing regulations (6 NYCRR Part 617) and CEQR requirements as established in Executive Order No. 91 of 1977, as amended, and in Title 62 of the Rules of the City of New York, Chapter 5.

PROCESS OVERVIEW

The following section provides a summary of the procedural framework utilized to comply with environmental review regulations.

Establishing a Lead Agency

Under SEQR and CEQR, the "lead agency" is the public entity responsible for conducting the environmental review of a proposed action. Other agencies can also participate in the review process as involved or interested agencies. Involved agencies are those with discretionary decisions to make regarding some aspect of the proposed project. Interested agencies are agencies without jurisdiction to fund, approve, or undertake an action, but that wish to comment during the review process. ODMED in the Office of the Mayor is the lead agency for the preparation of this ~~DEIS~~ Final EIS (FEIS).

Determination of Significance

The lead agency's first decision is to determine whether a proposed action may have a significant adverse impact on the environment. This is based on an EAS, which includes information about the existing environmental setting of the proposed action, as well as a screening analysis to determine its potential to have significant adverse impacts. On reviewing the EAS prepared for the proposed project, ODMED determined that it could have a significant adverse effect on the environment, requiring that an EIS be prepared. ODMED issued a Positive Declaration for the proposed project on October 2, 2012.

Scoping

Once a lead agency issues a Positive Declaration, the scope of the environmental studies to be undertaken as part of the EIS is established and shared with interested and involved agencies and the public. "Scoping" is the process of focusing the environmental impact analyses on the key issues that are to be studied and creating an opportunity for the public to comment on the intended effort. The lead agency provides a DSOW to all involved agencies~~, makes it publicly available,~~ and to anyone who has expressed interest in the project and makes it publicly available. Although SEQR does not mandate public scoping, CEQR does require a public scoping meeting. Under CEQR, governmental agencies and the public are given the opportunity to provide comments on the DSOW. After considering such comments, the lead agency prepares and issues an FSOW.

For the proposed project, the DSOW was issued by ODMED on October 2, 2012. A public scoping meeting was held on November 1, 2011 in the Kaye Theater at Hunter College, on East 68th Street between Park and Lexington Avenues, New York, New York. The scoping meeting was continued on December 4, 2012, at the Mortimer B. Zuckerman Research Center Auditorium of the Memorial Sloan-Kettering Cancer Center, 415 East 68th Street, New York, New York, and the period for the submission of written comments was extended to 5 PM on December 14, 2012. After considering comments received during the public comment period, an FSOW was prepared to direct the content and preparation of the DEIS.

The FSOW was issued on March 12, 2013.

Preparation of the DEIS

The DEIS is a comprehensive document used to consider systematically the probable environmental effects of a proposed action, evaluate reasonable alternatives, and identify feasible mitigation measures that, to the maximum extent practicable, can address any potentially significant adverse environmental impacts of a proposed action. The lead agency reviews all aspects of the document to determine its adequacy and adherence to the work effort outlined in the FSOW. Once the lead agency is satisfied that the DEIS is complete for purposes of public review, it issues a Notice of Completion and circulates the DEIS for public review. The Notice of Completion for the DEIS was issued on March 14, 2013, and the DEIS was made available for public review on the same day.

Public Review

Publication of the DEIS and issuance of the Notice of Completion starts public review, which must include a public hearing and a public comment period that must extend for at least 30 days and must remain open for at least 10 days after the close of the hearing. The lead agency must publish a notice of the hearing at least 14 days before it takes place. All substantive comments

become part of the CEQR record and must be summarized and responded to in the ~~Final EIS (~~FEIS~~)~~. A public hearing was held on July 10, 2013, in Spector Hall, 22 Reade Street. New York, New York, and written comments were accepted until 5 PM on July 22, 2013. This FEIS includes a new Chapter 21, "Response to Comments."

Preparation and Completion of the FEIS

After the close of the public comment period, the lead agency prepares the FEIS. The FEIS must include a summary of the substantive comments received and the lead agency's responses to the comments. When the lead agency has reviewed the FEIS and determines it is a complete and adequate document, a Notice of Completion ~~of~~ for the FEIS is issued. The completed FEIS is available to agencies and the public for a minimum of 10 days before the lead agency and the involved agencies can make their respective findings as to the expected environmental impacts of the proposed project, after which such agencies are in a position to make their respective decisions on the proposed project.

Statement of Findings

The lead agency and each involved agency must adopt a formal set of written findings based on the FEIS, reflecting its conclusions about the potential significant adverse environmental impacts of the proposed project, potential alternatives, and potential mitigation measures. The Statement of Findings may not be adopted until 10 days after the Notice of Completion for the FEIS has been issued.

In accordance with 6 NYCRR Part 617.11(d), a SEQR Findings Statement issued in connection with a project approval must (i) consider the relevant environmental impacts, facts, and conclusions disclosed in the FEIS; (ii) weigh and balance environmental impacts with relevant social, economic, and other considerations; (iii) provide the rationale for the agency's decision; (iv) certify that the requirements of 6 NYCRR Part 617.11(d) were met; and (v) certify that, consistent with social, economic, and other essential considerations, and considering the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable while still accomplishing the goals and objectives of the project, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures identified as practicable.

Once the findings are adopted, the SEQR/CEQR process is completed, and the lead agency and involved agencies may approve and implement the proposed action.

COORDINATION WITH WATERFRONT REVITALIZATION PROCESS

The City has adopted the Local Waterfront Revitalization Program (LWRP) pursuant to the New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Discretionary actions subject to CEQR and occurring within the program's boundaries are to be reviewed by the lead agency for consistency with the program's policies. Since the project is located within the designated Coastal Zone of New York City, the LWRP consistency assessment is incorporated into this EIS. In accordance with 6 NYCRR Part 617.11(e), for actions located in coastal areas, written findings must first be issued ~~that~~ stating that the action is consistent to the maximum extent practicable with the local waterfront revitalization program before any agency can make a final decision.

B. PROBABLE IMPACTS OF THE PROPOSED PROJECT

LAND USE, ZONING, AND PUBLIC POLICY

As described in detail in this chapter, the proposed project would not result in any significant adverse impacts on land use, zoning, or public policy. The proposed project would not directly displace any land uses so as to adversely affect surrounding land uses, nor would the proposed project generate land uses that would be incompatible with land uses, zoning, or public policy in the study area. The proposed project would not create land uses or structures that would be incompatible with the underlying zoning, nor would the proposed project cause any existing structures to become non-conforming. The proposed project would not result in land uses that conflict with public policies applicable to the study area.

The proposed project would result in the construction of a new ambulatory care center and a new science and health professions building, which would complement the existing and planned health- and education-related institutional uses in the study area. The proposed project would be compatible with the residential and commercial uses in the study area, many of which cater to the faculty, staff, and student populations of the institutions. While the development of the two buildings on the project site would represent a change from the No Build condition in which the site would remain largely vacant, this change would add active ground floor uses and the proposed buildings would be consistent with (or shorter than) other existing structures in the study area. The setbacks and overhangs of the proposed buildings would contribute to creating a visually dynamic waterfront and become part of the dense surrounding development. In addition, the proposed rezoning from M3-2 to C1-9 would result in a zoning district that would be more consistent with existing zoning in the study area and immediately beyond, and, therefore, would reflect the trend to less heavy manufacturing uses in this area.

The discretionary approvals being requested for the proposed project include a disposition of City property; a zoning map amendment to rezone the project site and an approximately 6 inch wide portion of Block 1485, Lots 14 and 39 immediately west of the project site from M3-2 to C1-9 and to extend the existing M1-4 zoning district (on Block 1485, Lots 14 and 39, to the west) east to the boundary of the proposed C1-9 district; a zoning text amendment to establish a new provision in the LSGD special permit to allow a predominantly community facility development wholly in a C1-9 district in Community District 8 in Manhattan to ~~qualify~~ ~~for~~ obtain a floor area bonus of up to 20 percent by providing a public park improvement within the same community district or within a 1-mile radius of the proposed project; special permits to waive bulk, side yard, rear yard equivalent, height and setback regulations~~, and sign regulations,~~ and to provide for a 2.0 FAR bonus, (2) sign regulations; and (3) a special permit for an accessory parking facility ~~beyond the number of~~ with more spaces than allowed as-of-right. The proposed project would also require certification by the Commissioner of Buildings to permit an entrance/exit to an accessory parking facility to be located within 50 feet of an intersection.

The proposed special permits would be specific to the project site and would not apply to any other areas. The proposed text amendment would allow an FAR bonus since MSK would make a substantial contribution to the New York City Department of Parks and Recreation (DPR) for Phase 2B of the park improvement plan for Andrew Haswell Green Park, a 1.98-acre parcel owned by the City, under the jurisdiction of DPR and located roughly between East 59th Street and East 63rd Street along the East River Esplanade, as described below in “Open Space.” Improvement to this public park would allow 1.1 acres of the open space to be opened to the public, and would

amount to a substantial contribution to the East River Esplanade in this section of the waterfront and to all the people who use the esplanade for outdoor recreation such as walking and jogging.

The proposed project would be consistent with and supportive of PlaNYC's policies and goals, the ten criteria of the New York State Smart Growth Public Infrastructure Policy Act, and the Coastal Zone policies and the City's Waterfront Revitalization Program (WRP).

OPEN SPACE

Since publication of the DEIS, it was announced that two parcels along the waterfront and located north and south of the Con Edison oil receiving facility will be improved by Con Edison and opened for public access. These improvements will expand the paved walkway along the FDR Drive, introduce a new walkway along the East River, install a new handrail along the sea wall, and add lawn areas, trees, and benches, totaling approximately 9,392 sf (0.22 acres) of new publicly accessible passive open space in the study area. This improvement is expected to be complete by 2019, the analysis year for the proposed project. While it will not be under the jurisdiction or control of DPR, DPR will be responsible for its maintenance and operation. These improvements were considered in the future without the proposed project.

DIRECT EFFECTS

The proposed project would not remove any open space, but would cast shadow on a portion of the East River Esplanade in the afternoon in all seasons of the year and on John Jay Park in December, as described below under "Shadows."

While MSK would provide funding to DPR for improvements to Andrew Haswell Green Park, this 1.98 acre open space is located outside the study area ~~near East 61st Street~~ approximately between East 59th Street and East 63rd Street. Therefore, it is not counted in the quantitative assessment of impacts. Further, both MSK and CUNY would provide open space on the project site. While those open spaces would serve users of the proposed project, they would not be open to the public, and they are not counted in the quantitative analysis.

INDIRECT EFFECTS

The project site is located in an area that, according to the 2012 *CEQR Technical Manual*, is underserved in terms of open space. Underserved areas are defined as areas having a high population density and being located far from parkland such that the amount of open space per 1,000 residents is less than 2.5 acres.

According to the *CEQR Technical Manual*, a worker population of over 125 may noticeably diminish the ability of open spaces in the area to serve the total future population. As the proposed project would generate well over the 125-worker threshold for analysis a detailed analysis was undertaken. The quantitative assessment of open space is based on ratios of usable open space acreage to the study area populations (the "open space ratios").

The proposed project would decrease the total, active, and passive open space ratios in the study area by ~~31.7~~ between 31 and 34 percent. The passive open space ratio would decrease by ~~32~~ 34 percent, but would remain above the City's passive open space guidelines with the proposed project. Therefore, the proposed project would result in a significant adverse impact on passive open space.

The proposed project would partially reduce the additional demand for open space presented by its worker and student population in the study area by providing interior and outdoor passive spaces that would be attractive and much closer to the employee and student populations generated by the proposed project. These facilities, while not open to the public, would likely serve the needs of MSK and CUNY's workers, students, and faculty members seeking places to take short breaks, and would decrease the number of non-residents who would seek out public open space resources in the area.

In addition, pursuant to the proposed Zoning Text Amendment that would allow an additional 20 percent of the allowable floor area (2.0 FAR in this case) in connection with an improvement to a public park, MSK would make a substantial contribution to DPR for Phase 2B of DPR's improvement plan for Andrew Haswell Green Park. Because the improvements to Andrew Haswell Green Park are part of the proposed project and would result in a floor area bonus, they are not open space mitigation. While the improvement to 1.1 acres of this park would be a part of the East River Esplanade which runs by the project site, this improvement is outside the study area.

SHADOWS

The analysis concluded that the proposed project would cast new shadows on portions of the adjacent East River Esplanade in the spring, summer, and fall afternoons for durations between two hours and 20 minutes and up to three hours and 40 minutes depending on the season, but that most of the new shadow would fall on a section of the esplanade containing only a narrow bikeway/walkway connector extending between the FDR Drive and a two-story structure related to the Con Edison Steam Plant. Therefore, the proposed project would not cause a significant adverse impact to the esplanade. New project-generated shadow would also fall on John Jay Park, a few blocks north of the project site, on the winter analysis day only. The new shadow would last for a total of two hours and 38 minutes and would fall on different areas as it moves across the space, but would never eliminate all the remaining sun and would not significantly impact the use of the space. A few other resources, including the East River, would also receive project-generated shadow but would not experience significant adverse shadow impacts.

HISTORIC AND CULTURAL RESOURCES

The proposed project would not have any significant adverse impacts on historic and cultural resources on the project site and study area. There are no historic resources and cultural resources on the project site. The New York State Office of Parks, Recreation, and Historic Preservation found two structures in the study area eligible for listing on the State and National Registers of Historic Places: the Con Edison East 74th Street Steam Plant and the garage at 524 East 73rd Street. Both are located within 90 feet of the project site. A Construction Protection Plan (CPP) ~~would be~~ has been prepared ~~and~~ that would be implemented to avoid inadvertent construction-related impacts on these architectural resources. The proposed project also would not obstruct significant public views of these architectural resources. Although views of the Con Edison Steam Plant would be eliminated from East 73rd Street, unobstructed views of the plant from the immediately surrounding streets and from Roosevelt Island, the East River, and the East River Esplanade would remain. Similarly, although views of the garage at 524 East 73rd Street would be obstructed from East 74th Street by the proposed project, views of the garage from East 73rd Street would remain. Therefore, the proposed project would not have any significant adverse contextual or visual impacts on architectural resources in the study area.

URBAN DESIGN AND VISUAL RESOURCES

While a detailed analysis was undertaken due to the scale of the proposed buildings, the proposed project would not have significant adverse impacts related to urban design and visual resources on the project site and in the study area based on a number of considerations. The proposed project would not alter the arrangement, appearance, or functionality of the project site such that the alteration would negatively affect a pedestrian's experience of the area. Rather, instead of a largely vacant and underutilized lot, the pedestrian would experience new buildings with active ground floors. East 74th Street with the main entrances to both structures would be improved with new street trees and landscaping. While East 73rd Street would be the location of both service entries, the facilities are designed such that trucks maneuver inside the buildings and the docks and storage areas are inside the buildings and out of pedestrian views.

Signs proposed for the north, east, and west façades and the buildings' entrances on East 74th Street would be indirectly illuminated and non-flashing or not illuminated. The larger signs would be visible from a distance and not obtrusive to pedestrians. The smaller signs at the entrances would be wayfinding aids.

In addition, there are no visual resources on the project site and the proposed project would not block significant public views of the East River or the two known architectural resources and one potential architectural resource located in the study area. There would be no adverse impacts on view corridors or visual resources as a result of the proposed project.

HAZARDOUS MATERIALS

The Phase I Environmental Site Assessment (ESA) identified a variety of historical uses of the project site including a Sanitation Department incinerator and garage (with vehicle fueling and maintenance). Although removal of a number of petroleum tanks and petroleum contaminated soil was conducted, contamination of groundwater remained and remediation (and monitoring) continues. The ~~Phase I~~ ESA also noted that partially demolished on-site structures and/or project site fill materials may contain asbestos, lead-based paint (LBP) and/or polychlorinated biphenyls (PCB)-containing elements.

The ~~Subsurface (~~Phase II~~)~~ Environmental Site Investigation (ESI) identified field evidence (e.g., odors) of petroleum contamination in some of the collected soil and groundwater samples. A 1.5-inch layer of petroleum product was measured floating on the water table in one of the geotechnical borings, Laboratory analysis identified /petroleum-related compounds in soil and groundwater samples. Other sampling results were typical of those found at other sites with historic~~al~~ urban fill materials in New York City.

The potential for significant adverse impacts associated with the identified contamination would be avoided by placing an (E) designation for hazardous materials on Block 1485, Lot 15 to ensure that appropriate procedures for any necessary subsurface disturbance are followed prior to, during, and following construction as delineated in the Hazardous Materials chapter of the ~~DEIS~~ FEIS.

In addition, the laboratories in the proposed CUNY-Hunter Building would be operated under the same state and local regulations and controls as the existing Hunter College laboratories to manage the use of chemical, biological, and radiological materials. With these measures, there would be no potential for the proposed project to have significant adverse impacts related to the use of hazardous materials.

WATER AND SEWER INFRASTRUCTURE

The aforementioned new uses, and associated project-generated clinic visitors, students, employees, and other users, would increase the project site's water consumption, sewage generation, and storm water runoff as compared to ~~conditions in~~ the No Build condition. However, the following analysis finds that the proposed project would not result in any significant adverse impacts on the City's water supply, wastewater or storm water conveyance, and treatment infrastructure.

WATER SUPPLY

By the 2019 analysis year, the proposed project would generate an incremental water demand of 293,090 gallons per day (gpd) as compared to the future without the proposed project. This represents an increase in demand on the New York City water supply system, since the site is currently largely vacant and does not currently generate any water demand. Nevertheless, it is expected that there would be adequate water service to meet the proposed project's incremental water demand, and there would be no significant adverse impacts on the City's water supply.

SANITARY SEWAGE

By the 2019 analysis year, the proposed project would generate an incremental 239,540 gpd of sewage over the future without the proposed project. This incremental volume in sanitary flow to the combined sewer system would represent approximately 0.09 percent of the average daily flow to the Wards Island Wastewater Treatment Plant (Wards Island WWTP). This volume would not result in an exceedance of the Wards Island WWTP's design capacity, as per the plant's State Pollutant Discharge Elimination System (SPDES) permit, ~~and therefore~~ nor would it ~~not~~ create a significant adverse impact on the City's sewage conveyance ~~or treatment~~ systems.

STORM WATER

The overall volume of storm water runoff and the peak storm water runoff rate from the project site is anticipated to increase slightly, due to the replacement of the existing paved parking area with more impervious building rooftop. With the incorporation of selected best management practices (BMPs), the peak storm water runoff rates would be reduced from the future without the proposed project and would not have a significant impact on the City's sewage conveyance or treatment systems.

TRANSPORTATION

TRAFFIC

Traffic conditions were evaluated at 19 intersections for the weekday AM, midday, and PM peak hours. Under the future with the proposed project, there would be the potential for significant adverse impacts at 11 different intersections, 8 intersections each during the weekday AM, midday, and PM peak hours, as follows:

Weekday AM Peak Hour

- York Avenue and East 79th Street – eastbound and northbound approaches;
- York Avenue and East 74th Street – eastbound approach;

- York Avenue and East 73rd Street – northbound approach, southbound *de facto* left-turn, and southbound through/right-turn;
- York Avenue and East 72nd Street – eastbound *de facto* left-turn and northbound approach;
- York Avenue and East 71st Street – northbound approach;
- York Avenue and East 65th Street – eastbound approach;
- York Avenue and East 61st Street – westbound right-turn; and
- First Avenue and East 65th Street – eastbound approach.

Weekday Midday Peak Hour

- York Avenue and East 79th Street – eastbound and northbound approaches;
- York Avenue and East 75th Street – northbound approach;
- York Avenue and East 74th Street – eastbound and westbound approaches;
- York Avenue and East 73rd Street – northbound and southbound approaches;
- York Avenue and East 72nd Street – eastbound *de facto* left-turn and northbound approach;
- York Avenue and East 66th Street – northbound approach;
- York Avenue and East 65th Street – eastbound approach; and
- First Avenue and East 65th Street – eastbound approach.

Weekday PM Peak Hour

- York Avenue and East 79th Street – eastbound approach and northbound through/right-turn;
- York Avenue and East 74th Street – eastbound and westbound approaches;
- York Avenue and East 73rd Street – westbound approach, northbound approach, southbound *de facto* left-turn, and southbound through/right-turn;
- York Avenue and East 72nd Street – eastbound *de facto* left-turn and northbound approach;
- York Avenue and East 66th Street – southbound approach;
- York Avenue and East 65th Street – eastbound approach;
- First Avenue and 72nd Street – eastbound *de facto* left-turn; and
- First Avenue and East 65th Street – eastbound approach.

Table S-1 provides a summary of the above impacted locations by analysis time periods. Traffic capacity improvements that would be needed to mitigate these significant adverse impacts are addressed in Chapter 17, "Mitigation." With the proposed mitigation measures in place, all the significant adverse traffic impacts could be fully mitigated during all three analysis peak hours, with the exception of those at the York Avenue and East 79th Street intersection.

Table S-1
Summary of Significant Adverse Traffic Impacts

Intersection		AM Peak Hour	Midday Peak Hour	PM Peak Hour
EB/WB Street	NB/SB Street			
East 79th Street	York Avenue	EB-LTR NB-LTR	EB-LTR NB-LTR	EB-LTR NB-TR
East 75th Street	York Avenue		NB-LTR	
East 74th Street	York Avenue	EB-LTR	EB-LTR WB-LR	EB-LTR WB-LR
East 73rd Street	York Avenue	NB-LTR SB-DefL SB-TR	NB-LTR SB-LTR	WB-LTR NB-LTR SB-DefL SB-TR
East 72nd Street	York Avenue	EB-DefL NB-LTR	EB-DefL NB-LTR	EB-DefL NB-LTR
East 71st Street	York Avenue	NB-LTR		
East 66th Street	York Avenue		NB-LTR	SB-LTR
East 65th Street	York Avenue	EB-LR	EB-LR	EB-LR
East 61st Street	York Avenue	WB-R		
East 72nd Street	First Avenue			EB-DefL
East 65th Street	First Avenue	EB-LT	EB-LT	EB-LT

Notes: EB = Eastbound; WB = Westbound; NB = Northbound; SB = Southbound; L = Left Turn; T = Through; R = Right Turn; DefL = *de facto* Left Turn

TRANSIT

The preliminary screening assessment summarized below concluded that a bus line-haul analysis of the M66 and M72 bus routes, a line-haul analysis of the future Second Avenue Q subway line, and a detailed analysis of station elements at the 72nd Street/Second Avenue subway station (future Second Avenue Q line), which is currently under Phase 1 construction and planned to open in 2016, were warranted. Based on the results of the transit analyses, the proposed project would not result in any significant adverse impacts on subway line-haul or circulation and control area elements at the future Second Avenue Subway station. In addition, a detailed allocation of incremental bus riders onto specific segments of the M66 and M72 bus routes was performed. This analysis concluded that the proposed project would not have the potential to incur a significant adverse line-haul impact on either of these bus routes.

PEDESTRIANS

Weekday peak period pedestrian conditions were evaluated at key sidewalk, corner reservoir, and crosswalk elements at seven area intersections. It was concluded that the proposed project would not result in any significant adverse pedestrian impacts at any of the analysis locations.

VEHICULAR AND PEDESTRIAN SAFETY

Accident data for the study area intersections were obtained from the New York State Department of Transportation (NYSDOT) for the time period between January 1, 2009 and December 31, 2011. During this period, a total of 280 reportable and non-reportable accidents, zero fatalities, 209 injuries, and 68 pedestrian/bicyclist-related accidents occurred at the study area intersections. A rolling total of accident data identifies two study area intersections as high accident locations in the 2009 to 2011 period. These locations are First Avenue at East 72nd Street and York Avenue at East 72nd Street.

With the proposed project, the intersection of First Avenue and East 72nd Street would experience moderate increases in vehicular and pedestrian traffic. The incremental vehicular and pedestrian levels at this intersection would be above the *CEQR* analysis threshold of 50 peak hour vehicle trips while the incremental pedestrian levels would be below the *CEQR* analysis threshold of 200 peak hour pedestrian trips. The intersection of First Avenue and East 72nd Street would be impacted during the weekday PM peak hour. However, as described in Chapter 17, "Mitigation," the predicted impact at this intersection could be fully mitigated with standard traffic engineering measures. Therefore, the proposed project is not anticipated to exacerbate any of the current causes of pedestrian-related accidents. Nonetheless, additional safety measures, such as the installation of countdown timers on all pedestrian crosswalks, the installation of pedestrian safety signs warning turning vehicles to yield to pedestrians in the crosswalk, and restriping both the faded north and south crosswalks, can be implemented to improve pedestrian safety at this intersection.

With the proposed project, the intersection of York Avenue and East 72nd Street would experience noticeable increases in vehicular and pedestrian traffic. The incremental vehicular and pedestrian levels at this intersection would be above the *CEQR* analysis threshold of 50 peak hour vehicle trips and 200 peak hour pedestrian trips. The intersection of York Avenue and East 72nd Street would be impacted during all three analysis peak hours. However, as described in Chapter 17, "Mitigation," the predicted impacts at this intersection could be fully mitigated with standard traffic engineering measures. Therefore, the proposed project is not anticipated to exacerbate any of the current causes of pedestrian-related accidents. Nonetheless, additional safety measures, such as the installation of countdown timers on all pedestrian crosswalks and the installation of pedestrian safety signs warning turning vehicles to yield to pedestrians in the crosswalk, can be implemented to improve pedestrian safety at this intersection.

PARKING

The proposed project would displace existing public parking spaces and include new off-street accessory parking spaces. In the Build condition, anticipated future development projects (including No Build projects and the proposed project) are expected to displace the surface public parking lot on the western portion of the project site, for a total displacement of 128 parking spaces. The proposed project would include a total of up to 250 off-street accessory parking spaces. Accounting for the displacement of the public parking spaces, the addition of the accessory parking spaces, and the parking demand generated from background growth, No Build projects, and the proposed project, the Build public parking supply and utilization analysis shows that there would be a parking shortfall during the weekday midday period within the ¼-mile off-street parking study area. It is anticipated that the excess demand could be accommodated with a slightly longer walking distance beyond the ¼-mile radius. Furthermore, as stated in the *CEQR Technical Manual*, a parking shortfall resulting from a project located in Manhattan does not constitute a significant adverse parking impact, due to the magnitude of available alternative modes of transportation.

SUMMARY OF MITIGATION ANALYSIS

Out of the 11 impacted different traffic intersections summarized above, all projected significant adverse impacts, except for those at one study area intersection, could be fully mitigated with readily implementable measures, such as signal retiming, changes to parking regulations, lane restriping, and prohibition of left-turns. The specific measures that would be feasible to mitigate the significant adverse impacts summarized above are further discussed in Chapter 17,

"Mitigation." These measures would be subject to the review and approval by the New York City Department of Transportation (NYCDOT).

AIR QUALITY

The maximum predicted pollutant concentrations and concentration increments from mobile sources with the proposed project would be below the corresponding guidance thresholds and ambient air quality standards. In addition, an analysis of the project's accessory parking garage determined there would not be any significant adverse air quality impacts. Therefore, the proposed project would not have significant adverse impacts from mobile source emissions.

Based on the stationary source analyses, there would be no potential significant adverse stationary source air quality impacts from pollutant emissions from fossil fuel-fired boiler and cogeneration systems.

An analysis of the proposed CUNY-Hunter Building's laboratory exhaust system determined there would be no significant impacts in the proposed building or on the surrounding community in the event of a chemical spill in a laboratory.

Based on the analysis of the existing and future large emission sources on the proposed project, there would be no significant impacts. In addition, nearby existing sources from manufacturing or processing facilities were surveyed for their potential impacts on the proposed project. There are no existing permitted sources of manufacturing use emissions within the study area that could affect the proposed project. Therefore, there would be no potential for significant adverse impacts on air quality.

GREENHOUSE GAS EMISSIONS

The building energy use and vehicle use associated with the proposed project would result in up to approximately ~~27,000~~ 21,000-22,000 metric tons of carbon dioxide equivalent (CO_2e) emissions per year. Of that amount, up to ~~20,000~~ 16,000 metric tons of CO_2e would be generated by MSK ACC uses, while up to 7,000 metric tons of CO_2e would be generated by CUNY-Hunter Building uses. ~~While the above result includes the incorporation of substantial building energy reduction measures, the proposed project is investigating additional options for reducing energy consumption and the ensuing GHG emissions, which could result lower GHG emissions by up to approximately 5,800 metric tons of CO_2e.~~ Additional GHG emissions associated with the production of materials to be used by the proposed project (not included in the above estimate) would be reduced by the selection of lower-carbon alternatives where practicable.

The proximity of the proposed project to public transportation and efficient design are all factors that contribute to energy efficiency. At this time, the proposed project is intending to meet or exceed the requirements for the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED) Silver certification. As such, specific measures would need to be incorporated into the design of the proposed project to qualify for the LEED rating, which would decrease the potential GHG emissions from the proposed project as described above. Based on these project components and efficiency measures, the proposed project would be consistent with the City's emissions reduction goal, as defined in the *CEQR Technical Manual*.

NOISE

The analysis finds that the proposed project would not result in any significant adverse noise impacts due to operations of the project.

The detailed mobile source noise analysis concludes that there would be no significant adverse noise impact with respect to mobile source noise.

The CEQR building-attenuation analysis concludes that in order to meet CEQR interior noise level requirements, up to 38 dBA of building attenuation for the project building would be required by placement of an (E) designation for noise on the project site. Because the project building would be designed to satisfy these specifications, there would be no significant adverse noise impact with respect to building attenuation.

Noise levels in the newly created open spaces would be greater than the 55 dBA $L_{10(1)}$ CEQR guideline, but would be comparable to other parks around New York City. Therefore, there would be no significant adverse noise impacts with respect to the newly created open spaces.

PUBLIC HEALTH

As described in the preceding sections, the proposed project would not result in significant adverse impacts in the following technical areas: air quality, water quality, hazardous materials, or noise.

As a result of traffic noise from the adjacent FDR Drive, noise levels within the proposed project's second and sixth floor terrace open spaces are predicted to exceed the 55-dBA $L_{10(1)}$ threshold contained in the *CEQR Technical Manual* noise exposure guidelines for outdoor areas requiring serenity and quiet, but would be comparable to ~~other~~ parks around New York City. Therefore, there would be no significant adverse noise impacts with respect to the newly created open spaces. Furthermore, the CEQR noise thresholds are based on quality of life considerations and not on public health considerations. Therefore, the proposed project would not result in significant adverse public health impacts.

NEIGHBORHOOD CHARACTER

Based on the methodology of the *CEQR Technical Manual*, a preliminary analysis of the proposed projects' effects on neighborhood character was conducted to determine the need for a detailed analysis. The preliminary analysis concluded that the proposed project would not result in significant adverse impacts to neighborhood character and that a detailed analysis was not necessary.

~~As described in the relevant chapters of this EIS,~~ While the proposed project could have significant adverse impacts ~~on certain technical areas, including~~ to open space~~,~~ and transportation, ~~these technical areas are not defining features of the neighborhood. In addition, the proposed project~~ it would include uses that are already common in the area~~, including~~: institutional and medical facility uses. Although the new buildings would represent a significant change to the project site, the types of uses would not be new to the area and the proposed changes would result in buildings that would be consistent with the existing mix of bulk, uses, and types of buildings in the neighborhood. The entrance to the proposed below-grade parking garage for the MSK ACC would located at the east end of the MSK ACC along East 74th Street, and would be in keeping with other accessory parking garages that are found in the immediate area, such as the garage in the residential buildings at 1 East River Place on East 73rd Street. The proposed project would also be an improvement over the largely vacant and underutilized lot by adding new buildings with active ground floors. In addition, open space within the proposed MSK ACC and CUNY-Hunter Building would serve the user population generated by the project, which would help diminish impacts on nearby open spaces in the study area. Further,

MSK would make a substantial contribution to DPR for Phase 2B of DPR's improvement plan for Andrew Haswell Green Park, a 1.98-acre ~~open-space~~ public park along the East River Esplanade that is outside the study area. Improvement to this park would allow 1.1 acres of the open space to be opened to the public, and would amount to a substantial contribution to the East River Esplanade in this section of the waterfront and to all the people who use the esplanade for outdoor recreation such as walking and jogging. Overall, the proposed project would revitalize the project site—replacing a largely vacant lot with active uses, and enlivening the neighborhood with street-level activity. Therefore, the proposed project would not have a significant adverse impact on neighborhood character.

CONSTRUCTION

An analysis of potential impacts with regard to transportation, air quality, noise and vibration, land use and neighborhood character, socioeconomic conditions, community facilities, open space, historic and cultural resources, and hazardous materials was prepared. Since it is possible that construction of the proposed project could overlap with that of the adjacent Hospital for Special Surgery (HSS) building, the construction analyses also considered the effects of simultaneous construction activities from the HSS building and the proposed project.

~~The analysis concludes that the proposed project would result in significant adverse construction impacts with respect to vehicular traffic.~~ The results of the construction analyses for each technical area are discussed in more detail below.

TRANSPORTATION

Peak construction conditions in the ~~4th quarter of 2016~~ 2nd quarter of 2017 were considered for the analysis of potential transportation impacts during construction. Based on the construction trip projections and comparison with operational analysis results, construction of the proposed project (the "Build" condition) ~~is expected to~~ would result in significant adverse traffic impacts and the potential for a parking shortfall during peak construction, as summarized below. However, no significant adverse impacts to transit or pedestrian conditions are anticipated due to construction. As stated above, it can be expected that construction activities associated with HSS would be substantially lower than those for the proposed project. As a result, cumulative effects of simultaneous construction of the two projects from construction worker and truck trip-making ~~would not be expected to be materially different from the peak construction condition depicted for the proposed project~~ were analyzed.

Traffic

During peak construction in ~~2016~~ 2017, the project-generated trips would be less than what would be realized upon the full build-out of the proposed project in 2019. Therefore, the potential traffic impacts during peak construction would be within the envelope of significant adverse traffic impacts identified for the Build condition in Chapter 9, "Transportation." As detailed in Chapter 17, "Mitigation," measures to mitigate the operational traffic impacts were recommended for implementation at 11 different intersections during weekday peak hours. These measures would entail primarily signal timing adjustments and other operational measures, all of which could be implemented early at the discretion of NYCDOT to address actual conditions experienced at that time. However, similar to the operational analysis, traffic impacts during construction at the York Avenue and East 79th Street intersection ~~would~~ are likewise ~~be~~ unmitigated. ~~Between the Draft and Final EIS, in coordination with NYCDOT, additional analysis of construction traffic will be prepared.~~

Maintenance and Protection of Traffic (MPT) plans would be developed, reviewed, and approved by NYCDOT's Office of Construction Mitigation and Coordination (OCMC) for curb-lane and sidewalk closures as well as equipment staging activities. It is expected that traffic and pedestrian flow along all surrounding streets would be maintained throughout the entire construction period.

Parking

The anticipated construction activities are projected to generate a maximum parking demand of ~~277~~ 319 spaces during the ~~4th quarter of 2016~~ 2nd quarter of 2017. Based on the parking analysis results presented in Chapter 9, "Transportation," with the proposed project, there would be a parking shortfall of 298 spaces within ¼-mile of the project site. ~~Although the parking demand associated with construction workers commuting via auto would contribute minimally to the overall parking demand in the area, it can be expected that a parking shortfall may still occur during construction.~~ Similarly during construction, there would be a parking shortfall of up to approximately 247 parking spaces within ¼-mile of the project site. However, as with the analysis results for the operational project presented in Chapter 9, it is anticipated that the excess demand could be accommodated with a slightly longer walking distance beyond the ¼-mile radius. Furthermore, as stated in the 2012 *CEQR Technical Manual*, a parking shortfall resulting from a project located in Manhattan does not constitute a significant adverse parking impact, due to the magnitude of available alternative modes of transportation.

Transit

The estimated number of total peak hour transit trips would be ~~282~~ 323 during peak construction in ~~2016~~ 2017. These construction worker trips would occur outside of peak periods of transit ridership and would be distributed and dispersed to nearby transit facilities and would not result in any significant adverse transit impacts during construction.

Pedestrians

The estimated number of total peak hour pedestrian trips traversing the area's sidewalks, corners, and crosswalks would be up to ~~552~~ 634 during peak construction in ~~2016~~ 2017. These trips are expected to have minimal effects on pedestrian operations during the construction peak hours. As discussed in Chapter 9, "Transportation," the proposed project would not result in any significant adverse pedestrian impacts at any of the analysis locations. Therefore, like the Build condition, travel by construction workers would not result in any significant adverse pedestrian impacts.

AIR QUALITY

No significant adverse air quality impacts would be expected at any sensitive receptor locations due to the on-site and off-site construction activities of the proposed project. To ensure that the construction of the proposed project would result in the lowest practicable diesel particulate matter (DPM) emissions, the project would implement an emissions reduction program for all construction activities, including: diesel equipment reduction; clean fuel; best available tailpipe reduction technologies; utilization of newer equipment; source location; dust control; and idle restriction.

Overall, the most intense construction activities (demolition/excavation/foundation work) in terms of air pollutant emissions would be less than two years. Based on the sizes of the proposed project buildings and the nature of the construction work involved, construction activities for the

proposed project would not be considered out of the ordinary in terms of intensity and, in fact, emissions would be lower due to the emission control measures that would be implemented during construction of the proposed project. In addition, the project site is generally located at some distance away from sensitive uses, with the Con Edison Steam Plant to the north of the project site, the FDR Drive to the east of the project site, and no sensitive uses immediately to the west of the project site during the demolition, excavation, and foundation work of the proposed project. The nearest existing residential building is located 55 feet south of the project site across East 73rd Street. Its lower levels consist of garage and service uses with residential uses beginning several floors above East 73rd Street. Such distance between the emissions sources and these sensitive locations would result in enhanced dispersion of pollutants and therefore potential concentration increments from on-site sources at such locations would be reduced. Furthermore, the construction would not result in increases in vehicle volumes higher than those identified in the operational condition and, therefore, an off-site construction mobile source analysis is not warranted.

While construction of the HSS building on the adjacent site to the west may occur at the same time as construction of the MSK ACC and the CUNY-Hunter Building, potential concentration increments due to the proposed project on residential locations along East 73rd Street and the Epiphany Community Nursery School on East 74th Street would be considerably diminished by dispersion due to the increased distance between the construction emission sources at the project site and these sensitive receptors. This would occur regardless of construction on the intervening site. Therefore, no significant adverse air quality impacts would occur due to the combined construction impacts of the HSS building and the proposed project.

Based on analysis of all of the factors affecting construction emissions, on-site and off-site construction activities due to construction of the project would not result in any significant adverse impact on air quality.

NOISE AND VIBRATION

Noise

Noise associated with the proposed project's construction activities would not result in any significant adverse impacts. This conclusion is based on a conservative analysis of the construction procedures, including peak quarterly (i.e., three month) levels assumed to represent each year of construction (with the exception of 2015, in which two quarters were analyzed), a maximum amount of construction equipment assumed to be operational on the project site and at locations closest to nearby receptors, and peak hour construction equipment and truck delivery operations occurring simultaneously. Construction on the project site would include noise control measures as required by the New York City Noise Control Code, including both path and source controls. ~~The nearest sensitive locations are residential and school receptors west and south of the project site on East 73rd and 74th Streets.~~ Even with these measures, the results of detailed construction analyses indicate that elevated noise levels are predicted to occur for two or more consecutive years at eight (8) of the sixty-one (61) receptor sites analyzed. Affected locations include residential, institutional and commercial areas adjacent to the proposed development sites and along routes expected to be traveled by construction-related vehicles to and from the project site. However, all affected buildings have double-glazed windows and air-conditioning, and would consequently be expected to experience interior $L_{10(1)}$ values less than 45 dBA, which would be considered acceptable according to CEQR criteria, throughout most of the construction period.

~~The construction of the proposed project would be expected to last a total of approximately five years but the most noise-intensive construction activities (demolition/excavation/foundation work) would last for only a portion of this duration, taking approximately 19 months. The construction of the HSS building to the west, being much smaller than the proposed project, would be expected to have a much shorter construction duration than the proposed project, such that even if both projects' construction durations were to overlap, the overall construction period would be less than 24 months. Consequently, exceedances of the *CEQR Technical Manual* noise impact criteria that would occur at the residential and school receptors west and south of the project site on East 73rd and 74th Streets during the noisiest work would not be expected to occur continuously for 24 months. Therefore, while the noise level increases may be perceptible and intrusive, they would not be considered "long-term" or significant according to CEQR criteria. During the portions of this period that might coincide with construction of the HSS on the adjacent site, noise level increases due to the construction of the proposed project would be below the *CEQR Technical Manual* noise impact criteria due to the distance of the proposed project from the nearby receptors and the noise levels generated by the construction activities on the adjacent site. Further, to the extent that the independent construction on the adjacent site is delayed or proceeds in advance of the proposed project, there may be a structure on the adjacent site that would provide noise shielding similar to a noise barrier. The East River Esplanade is located approximately 70 feet east of the construction site and is separated from the site by the FDR Drive. Noise levels at the esplanade from the construction of the proposed project would be imperceptible in comparison to the existing noise levels resulting from traffic on the FDR Drive. Noise levels resulting from the FDR Drive at this location are currently in the high 70s dBA and would be expected to remain as such in the future conditions without the proposed project (the "No Build" condition). Consequently, only minimal exceedances of 2012 *CEQR Technical Manual* impact criteria would be expected to occur and no significant adverse noise impacts would be expected at this location. Therefore, based on these factors, no significant adverse noise impacts would be expected at any sensitive receptor locations from the proposed construction activities.~~

If the peak construction activity on the HSS building occurs during the construction of the proposed project, the analyzed receptor locations may experience higher overall noise levels than those with construction of the proposed project by itself, even though the noise level increments resulting from the proposed project would be smaller. At some locations immediately adjacent to the HSS project site, during simultaneous construction of both the HSS building and the proposed project, noise levels may be in the low 80s dBA during peak construction activities. However, these noise levels are not perceptibly higher than those with construction of the HSS building, and occur primarily at receptors that would experience a large amount of construction noise resulting from the HSS building's construction and relatively little construction noise from the proposed project. At receptors predicted to experience noticeable changes in noise level resulting from construction of the proposed project, the additional noise level increment from the HSS building's construction would be considerably smaller.

Vibration

The proposed project is not expected to result in significant adverse construction impacts with respect to vibration. Use of construction equipment that would have the most potential to exceed the 65 vibration decibels (VdB) criterion at sensitive receptor locations (e.g., equipment used during pile driving and rock blasting) would be perceptible and annoying. Therefore, for limited time periods, perceptible vibration levels may be experienced by occupants and visitors to all of the buildings and locations on and immediately adjacent to the construction sites. However, the operations that would result in these perceptible vibration levels would only occur for finite

periods of time at any particular location and, therefore, the resulting vibration levels, while perceptible, would not considered to be significant adverse impacts.

OTHER TECHNICAL AREAS

Land Use and Neighborhood Character

Construction activities would affect land use on the project site but would not alter surrounding land uses. As is typical with construction projects, during periods of peak construction activity there would be some disruption, predominantly noise, to the nearby area. There would be construction trucks and construction workers coming to the site. There would also be noise, sometimes intrusive, from building construction as well as trucks and other vehicles backing up, loading, and unloading. These disruptions would be temporary in nature and would have limited effects on land uses within the study area, particularly as most construction activities would take place within the project site or within portions of sidewalks, curbs, and travel lanes of public streets immediately adjacent to the project site. Overall, while the construction at the site would be evident to the local community, the limited duration of construction would not result in significant or long-term adverse impacts on local land use patterns or the character of the nearby area.

Socioeconomic Conditions

Construction activities associated with the proposed project would not result in any significant adverse impacts on socioeconomic conditions. Construction of the proposed project would not block or restrict access to any facilities in the area or affect the operations of any nearby businesses, including Glorious Foods—a catering business—west of the project site. Lane closures are not expected to occur in front of entrances to any existing or planned retail businesses, and construction activities would not obstruct major thoroughfares used by customers or businesses. Utility service would be maintained to all businesses. Overall, construction of the proposed project is not expected to result in any significant adverse impacts on surrounding businesses.

Construction would create direct benefits resulting from expenditures on labor, materials, and services, and indirect benefits created by expenditures by material suppliers, construction workers, and other employees involved in the construction activity. Construction also would contribute to increased tax revenues for the City and State, including those from personal income taxes.

Community Facilities

While construction of the proposed project would result in temporary increases in traffic during the construction period, access to and from any facilities in the area, including the Epiphany Community Nursery School west of the project site, would not be affected during the construction period. In addition, the construction sites would be surrounded by construction fencing and barriers that would limit the effects of construction on nearby facilities. At limited times, activities such as excavation and foundation construction may be perceptible and intrusive to the residents and the school located generally west of the site. However, as discussed above in “Noise,” these noise levels would not be considered “long-term” or significant according to CEQR criteria. Further, they would occur at some distance from the sensitive uses which would be shielded by intervening structures as well as the construction fence surrounding the project site. Construction workers would not place any burden on public schools and would have minimal, if any, demands

on libraries, child care facilities, and health care. Construction of the proposed buildings would not block or restrict access to any facilities in the area, and would not materially affect emergency response times significantly. The New York City Police Department (NYPD) and the New York City Fire Department (FDNY) emergency services and response times would not be materially affected due to the geographic distribution of the police and fire facilities and their respective coverage areas.

Open Space

There are no publicly accessible open spaces within the project site, and no open space resources would be used for staging or other construction activities. The nearest open space is the East River Esplanade, which is located across the FDR Drive approximately 70 feet east of the project site. At limited times, activities such as excavation and foundation construction may generate noise that could impair the enjoyment of any nearby open space users, but such noise effects would be temporary. Further, for the East River Esplanade, given the intervening traffic on the FDR Drive and the construction fences around the project site the noise increases may not be perceptible to open space users on the esplanade. Construction of the proposed project would not limit access to the esplanade or other open space resources in the vicinity of the project site. Therefore, construction of the proposed project would not result in significant adverse impacts on open space.

Historic and Cultural Resources

Historic and cultural resources include both archaeological and architectural resources. The study area for archeological resources is the site itself where disturbance from excavation and construction is anticipated. The New York City Landmarks Preservation Commission (LPC) and the New York Office of Parks, Recreation, and Historic Preservation (OPRHP) determined that the project site is not archaeologically sensitive. Since the proposed project is located within 90 feet of the S/NR-eligible Con Edison Steam Plant and the S/NR-eligible garage at 524 East 73rd Street, a CPP would be prepared to avoid inadvertent construction-related impacts on these structures. The CPP would contain measures to avoid construction-related impacts including ground-borne vibration and accidental damage from heavy machinery as appropriate. The CPP would be developed in consultation with LPC and OPRHP and implemented by a professional engineer prior to demolition or construction activities. The CPP would follow the guidelines set forth in Chapter 9, Section 523 of the *CEQR Technical Manual*. With the implementation of the CPP, construction of the proposed project would not result in significant adverse impacts on these architectural resources. Therefore, the proposed project would not result in significant adverse construction-related impacts to historic and cultural resources.

Hazardous Materials

The greatest potential for exposure to any contaminated materials would occur during subsurface disturbance associated with construction of the proposed project. However, the potential for adverse impacts associated with these activities would be avoided by placement of an (E) designation for hazardous materials on the project site and adhering to the following protocols: all remedial activities at the project site (and off-site) would continue to be conducted in accordance with applicable regulations; additional subsurface investigations would be conducted to delineate the extent of the free-phase petroleum product observed within a geotechnical boring on the southeastern portion of the project site to evaluate appropriate remediation measures to address the contamination; if evidence of contaminated soil or rock is encountered, these materials would be disposed of in accordance with applicable federal, state and local

regulations; if any underground storage tanks (USTs) are encountered, they would be properly assessed, and removed in accordance with state and local regulations; if more significant soil and/or groundwater contamination is discovered during excavation activities, such contamination would require further investigation and/or remediation in accordance with all applicable regulations; any demolition debris containing suspect asbestos-containing materials (ACM), lead-based paint (LPB), PCBs, and/or USTs encountered during redevelopment would be characterized and disposed of in accordance with applicable local, state and federal regulations; and prior to excavation activities, testing would be performed to evaluate the need for pre-treatment prior to discharge for compliance with DEP discharge permit/approval requirements. With the implementation of these measures outlined above, no significant adverse impacts related to hazardous materials would be expected to occur as a result of the construction of the proposed project.

ALTERNATIVES

The No Action Alternative is the future without the proposed project described in each of the analysis sections of this document. In this case it assumes that the project site would remain undeveloped with only a surface parking lot and the remnants of the former DSNY garage.

Since all other significant adverse impacts were mitigated, the No Unmitigated Impact Alternative focuses on the significant adverse impacts to open space and to traffic.

- For open space, neither reducing the population nor providing publicly accessible open space on-site ~~were~~ are considered feasible measures. The former would reduce the proposed employee population from 4,516 to ~~570~~ less than 500 to represent a decrease of no more than a 5 percent in the open space ratio. A reduced staffing level of this nature would not yield workable institutional uses. The later would require that a major portion of the proposed project not be constructed. Therefore, there a No Unmitigated Adverse Impact Alternative does not exist.
- For traffic, the proposed project would result in unmitigated traffic impacts at the intersection of York Avenue and East 79th Street. Due to congested No Build conditions at this intersection, even a small increase in traffic would result in unmitigated impacts. Based on a sensitivity analysis of this intersection, no other feasible mitigation measures could be implemented to mitigate the impacts at this intersection and the project generated vehicle trips would have to be reduced by 95 percent for this intersection to be not impacted. This reduction would not yield workable institutional uses. Therefore, no reasonable alternative could be developed to avoid such impacts without substantially compromising the proposed project's stated goals.

MITIGATION

As discussed above in "Transportation," traffic conditions were evaluated at 19 intersections for the weekday AM, midday, and PM peak hours, and the proposed project would result in significant adverse impacts at 11 different intersections, 8 intersections each during the weekday AM, midday, and PM peak hours. As summarized in **Table S-2**, with the implementation of standard mitigation measures (including primarily signal timing changes and daylighting), the significant adverse traffic impacts identified above could be fully mitigated during all three analysis peak hours, with the exception of those at the York Avenue and East 79th Street intersection.

Table S-2
Summary of Significant Adverse Traffic Impacts

Intersection		AM Peak Hour		Midday Peak Hour		PM Peak Hour	
EB/WB Street	NB/SB Street	Significant Impacts	Mit	Significant Impacts	Mit	Significant Impacts	Mit
East 79th St	York Ave	EB-LTR NB-LTR	No No	EB-LTR NB-LTR	No No	EB-LTR NB-TR	No No
East 75th St	York Ave			NB-LTR	Yes		
East 74th St	York Ave	EB-LTR	Yes	EB-LTR WB-LR	Yes Yes	EB-LTR WB-LR	Yes Yes
East 73rd St	York Ave	 NB-LTR SB-DefL SB-TR	 Yes Yes Yes	 NB-LTR SB-LTR	 Yes Yes	WB-LTR NB-LTR SB-DefL SB-TR	Yes Yes Yes Yes
East 72nd St	York Ave	EB-DefL NB-LTR	Yes Yes	EB-DefL NB-LTR	Yes Yes	EB-DefL NB-LTR	Yes Yes
East 71st St	York Ave	NB-LTR	Yes				
East 66th St	York Ave			NB-LTR	Yes	 SB-LTR	 Yes
East 65th St	York Ave	EB-LR	Yes	EB-LR	Yes	EB-LR	Yes
East 61st St	York Ave	WB-R	Yes				
East 72nd St	First Ave					EB-DefL	Yes
East 65th St	First Ave	EB-LT	Yes	EB-LT	Yes	EB-LT	Yes

Notes: EB = Eastbound; WB = Westbound; NB = Northbound; SB = Southbound; L = Left Turn; T = Through; R = Right Turn; and MIT = Mitigation Provided

With respect to construction, the proposed project ~~could~~ would result in significant adverse construction traffic impacts during the PM construction peak hour. These impacts could be mitigated using ~~the same~~ similar measures identified for the operational significant adverse traffic impacts, and likewise, traffic impacts during construction at the York Avenue and East 79th Street intersection would be unmitigated. ~~Between the Draft and Final EIS, in coordination with NYCDOT, additional analysis of construction traffic will be prepared.~~

UNAVOIDABLE ADVERSE IMPACTS

OPEN SPACE

The significant adverse impact of the proposed project on open space would not be ~~fully~~ mitigated. As described above in "Open Space," the proposed project is located in an area that, according to the 2012 *CEQR Technical Manual*, is underserved in terms of open space. Underserved areas are defined as areas having a high population density and being located far from parkland such that the amount of open space per 1,000 residents is less than 2.5 acres. With the proposed project, the passive open space ratio in the study area would decrease by ~~32~~ 34 percent (but would remain above the City's passive open space guidelines with the proposed project), resulting in a significant adverse impact on passive open space. However, the open space ratio would remain above the City's passive open guidelines with the proposed project.

The proposed project would partially reduce the additional demand for open space presented by its worker and student population in the study area by providing interior and outdoor passive spaces that would be attractive and much closer to the employee and student populations generated by the proposed project. These facilities, while not open to the public, would likely serve the needs of MSK and CUNY's workers, students, and faculty members seeking places to

take short breaks, and would decrease the number of non-residents who would seek out public open space resources in the area.

In addition, pursuant to the proposed Zoning Text Amendment that would allow an additional 20 percent of the allowable floor area (2.0 FAR in this case) in connection with an improvement to a public park, MSK would make a substantial contribution to DPR for Phase 2B of DPR's improvement plan for Andrew Haswell Green Park, a 1.98-acre ~~open space~~ public park along the East River Esplanade that is outside the study area. Previously controlled by the Department of Transportation and used as a heliport, DPR took control of the parcel in 2007 and began the process of developing it into a public park. While the ramp down to the site is open to the public, of the 1.98-acre area, 1.1 acres at the grade of the esplanade has not been opened to public access due to lack of sufficient capital funding to complete necessary infrastructure repairs and replacements-in-kind. The funding would be used by DPR for such repairs, replacements-in-kind, and improvements at DPR's discretion. Based on currently available information, including the Phase 2B plans for Andrew Haswell Green Park issued in 2010, work would include repairs to the piers beneath the platform supporting a portion of the Park; upgrades and repairs to structures; landscaping, paving, railings, and public access features. As previously planned, this work would allow DPR to open the portion of Andrew Haswell Green Park at esplanade grade to public access. Because the improvements to Andrew Haswell Green Park are part of the proposed project and would result in a floor area bonus, they are not open space mitigation.

Improvements to parks and public open spaces in the study area were considered, but were not found to be feasible. There are no large unused City-owned properties in the study area. The Upper East Side and Community Board 8 are considered highly desirable places to live, and unutilized or underutilized sites (other than the project site) are not owned by the City.

Since publication of the DEIS, it was announced that two parcels located north and south of the Con Edison oil receiving facility on the waterfront will be improved by Con Edison and opened for public access. These parcels are not under the jurisdiction of DPR.

At 1.1 acres, the area of Andrew Haswell Green Park to be improved and made accessible to the public represents a considerable benefit. John Jay Park to the north of the project site is well-maintained, well-programmed and fully open to the public. Improvements to Andrew Haswell Green Park, therefore, would be more beneficial. ~~The East River Esplanade across the FDR Drive from the project site is a narrow tract adjacent to a Con Edison oil receiving facility that leaves no space for a pedestrian bridge to touch down or even for the placement of smaller improvements.~~ Improvement to this park would allow 1.1 acres of the open space to be opened to the public, and would amount to a substantial contribution to the East River Esplanade in this section of the waterfront and to all the people who use the esplanade for outdoor recreation such as walking and jogging.

TRANSPORTATION

As discussed above in "Transportation," traffic conditions were evaluated at 19 intersections for the weekday AM, midday, and PM peak hours. Under the future with the proposed project, there would be the potential for significant adverse impacts at 11 different intersections, 8 intersections each during the weekday AM, midday, and PM peak hours. With the proposed mitigation measures in place, all the significant adverse traffic impacts could be fully mitigated during all three analysis peak hours, with the exception of those at the York Avenue and East

79th Street intersection. Therefore, the proposed project would result in unavoidable significant adverse traffic impacts.

CONSTRUCTION

As discussed above in "Construction," the peak construction traffic increments would be lower than the full operational traffic increments associated with the proposed project in 2019. Therefore, the potential traffic impacts during peak construction would be within the envelope of significant adverse traffic impacts identified for the Build condition in Chapter 9, "Transportation." Nonetheless, because existing and No Build traffic conditions at some of the study area intersections through which construction-related traffic would also travel were determined to operate at unacceptable levels during commuter peak hours, it is possible that significant adverse traffic impacts could occur at some or many of these locations during construction. In order to alleviate construction traffic impacts, measures recommended to mitigate impacts associated with the operational traffic of the proposed project could be implemented during construction before full build-out of the proposed project. As detailed in Chapter 17, "Mitigation," measures to mitigate the operational traffic impacts in 2019 were recommended for implementation at 10 out of the 11 different impacted intersections during weekday peak hours. These measures would encompass primarily signal timing adjustments and other operational measures, all of which could be implemented earlier at the discretion of NYCDOT to address actual conditions experienced at that time. However, traffic impacts during construction at the York Avenue and East 79th Street intersection would likewise be unmitigated. Therefore, construction under the proposed project ~~c~~would result in unavoidable significant adverse traffic impacts. ~~Between the Draft and Final EIS, in coordination with NYCDOT, additional analysis of construction traffic will be prepared.~~

GROWTH-INDUCING ASPECTS OF THE PROPOSED PROJECT

While the proposed uses would result in increased activity on the project site, they do not represent new types of land uses in the study area, which currently contains institutional, commercial, parking, light manufacturing, and residential uses. As described in Chapter 2, "Land Use, Zoning, and Public Policy," the proposed actions would result in development that would be compatible with and complementary to existing study area land uses. The area surrounding the project site is fully developed, and the level of development is controlled by zoning. As such, the proposed project would not "induce" new growth in the study area. The proposed project and related actions are specific to the project site only.

In addition, as discussed in Chapter 8, "Water and Sewer Infrastructure," the proposed project would not result in any significant adverse impacts to water supply or wastewater and storm water infrastructure. While the proposed project would increase the project site's water consumption, sewage generation, and storm water runoff as compared to the No Build condition, it is expected that there would be adequate water service to meet the proposed project's incremental water demand, and there would be no significant adverse impacts on the City's water supply; the incremental volume in sanitary flow to the combined sewer system would not result in an exceedance of the Wards Island WWTP's design capacity, as per the plant's SPDES permit, ~~and therefore~~ nor would it ~~not~~ create a significant adverse impact on the City's sewage conveyance ~~or treatment~~ systems; and with the incorporation of selected BMPs, the peak storm water runoff rates would be reduced from the future without the proposed project and would not have a significant impact on the City's sewage conveyance or treatment systems.

IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

There are a number of resources, both natural and built, that would be expended in the construction and operation of the proposed project. These resources would include the materials used in construction; energy in the form of gas and electricity consumed during construction and operation of the proposed development; and the human effort (i.e., time and labor) required to develop, construct, and operate various components of the proposed development.

The resources are considered irretrievably committed because their reuse for some purpose other than the proposed project would be highly unlikely. The land use changes associated with the development of the proposed project site may be considered a resource loss. The proposed project would constitute an irreversible and irretrievable commitment of the development site as a land resource, thereby rendering land use for other purposes infeasible, at least in the near term.

These commitments of land resources and materials are weighed against the benefits of the proposed development. The proposed development would bring new institutional uses to an underdeveloped site. This is expected to substantially improve the project site. ✷