

March 4, 2014

Hon. Charles P. Abel
Acting Director, Division of Health Facility Planning
New York State Department of Health
Corning Tower, Room 1805
Empire State Plaza
Albany, NY 12237

Re: Final Scoping Document for the Draft Environmental Impact
Statement relating to the Proposed Jewish Home Lifecare Replacement
Nursing Facility Project - CON Project 121075C

Dear Director Abel:

On behalf of Community Board 7/Manhattan (“CB7”), which serves the Community District in which the above-referenced proposed project is situated (the “Project”), I submit the following responses to the January 28, 2014, “Final Scoping Document,” relating to the Project and the 275-foot-tall/414-bed nursing facility to which it relates (the “Proposed Facility”). CB7 incorporates our October 3, 2014 written response and September 17, 2013, oral testimony on the Project and Proposed Facility.

Overview

It is deeply troubling that the final scoping document fails adequately to address key issues relating to the health and safety of the community.

Despite detailed testimony and written submissions by CB7 and many other neighbors and community members, the final scoping document would deprive the Draft Environmental Impact Statement (and the public) of essential assessments relating to key issues, which I detail below.

Given these failures of the scope of the DEIS, the environmental review cannot satisfy the statutory and regulatory purposes that compel it to be conducted. Accordingly, CB7 respectfully urges you and the Department to further revise the final scope to include at a minimum the following.

Hazardous Materials (Task 10, pages 16-17 of the final scoping document)

Preliminary testing done at private expense and initiative has already revealed the presence of lead on a site already surrounded by a public school, residential high-rises, three health care facilities, numerous other schools and child-care facilities, a public library frequented by children, teens and seniors, and other community facilities. Any fair assessment will confirm and quantify the degree of toxicity.

The DEIS should present the real-world consequences of exposure to lead (particularly among children) even at levels considered “safe” by one standard or another. The very existence of a disparity of opinion on what can be considered “safe” exposure to lead highlights the risk to the community of disturbing the hazardous materials about which we now know.

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Moreover, as CB7 demonstrated, the Project is proposed to be built in a densely populated area. Even a minor percentage risk becomes a statistical likelihood when that percentage is distributed over the thousands who live, work, visit and travel through this congested area on a regular basis.

By assuming its own conclusion that the conditions can be remediated, and by ignoring the unique proximity of dense populations of vulnerable individuals, the final scoping document fails our community in this crucial aspect of its investigation.

Community Facilities and Services (Task 4, pages 10-11)

The final scoping document ignores a key requirement of environmental review by refusing to include a robust assessment of the Project and Proposed Facility on community facilities.

The final scoping document admits that the “*CEQR Technical Manual* states that a community facilities assessment is appropriate if a project would have a direct effect on a community facility or if it would have an indirect effect by introducing new populations that would overburden existing facilities.” (Final Scoping Document at 10.)

The final scoping document, in a single-sentence reference, limits “a direct effect on a community facility” to a discussion of whether it would displace such a facility. The responses to comments repeats this definition without any demonstration of why the myriad other palpable impacts of the Project on the vulnerable populations served by these facilities are not worthy of study.

The final scoping document all but ignores that the site of the Project is surrounded by community facilities. PS 163 lies less than 60 feet to the west; six other schools and day care facilities are within the superblocks making up the site or across the street from them; a New York City Health Department facility as well as two treatment facilities of the Ryan Health Center network are immediate neighbors; the Bloomingdale Branch of the New York Public Library is on the same superblock; and houses for the NYPD 24 Precinct and FDNY Engine 76 and Ladder 22 are across the way.

Only a fair and properly motivated study can adequately quantify the stress and burdens imposed on these facilities by the Project and the Proposed Facility being built and operated in such a close proximity. Yet the final scoping document denies our community that study, and the DEIS will fail its regulatory purpose as a result.

Transportation (Task 14, pages 18-20)

The final scoping document limits its study of the transportation effects of the Proposed Facility to two intersections, the corners of West 97th at Columbus and at Amsterdam. While the corner of West 97th and Amsterdam is the site of one of the two fatal crashes that claimed the life of a child in our community in the months since the first scoping document was released, such a narrow scope of study ignores the realities that will continue to affect the movement of all street users to, through or around the site of the Proposed Facility for years.

West 97th is a truck route that, a block and a half from the site, is the egress from the Central Park transverse road. While CB7 and the New York City Department of Transportation have labored to calm and divert the surge of traffic from the cross-town artery, and tame those seeking quick access to the northbound Henry Hudson Parkway only four blocks west, multiple challenges remain.

The final scoping document relies solely on isolated estimates of increased traffic on the already-congested street on which the Proposed Facility would be built and operated, while ignoring up-stream and down-stream

consequences of that congestion. This cannot present a fair and complete picture of the existing, let alone anticipated, conditions on this street.

Moreover, the responses to comments appended to the final scoping document relating to traffic congestion make clear that an unrealistic window of time will be studied. By studying hours that exclude morning drop-off and afternoon pick-up from the 7+ schools nearby, the DEIS will not present a traffic study that measures the increased congestion at times that make sense.

The response to comments also that assumes without study the ready availability of on-street parking for the increased populations in the area. This is especially troubling since other remedies to cure traffic congestion (both existing and anticipated from the Project) such as commercial loading zones to combat truck double-parking, changes to accommodate bicycles and other street users, and daylighting to enhance safety on our crowded corners will reduce, not increase, the inventory of on-street parking.

Clearly these assumptions require study, not recitation as if fact.

The responses to comments appended to the final scoping document (at page 25) acknowledge that access to the Proposed Facility would be via a shared access road, itself an issue under your Department's regulations, and assumes that the access road would not be used as a through street creating a new traffic pattern, even though currently only bollards prevent its use as a north-south access. Since Access-A-Ride and other vehicles serving residents could only exit using the access road continuing to the other end, and since all surrounding streets are already highly congested, at a minimum the impact of opening another unimpeded route connecting them requires study, and the DEIS will be deficient if it fails to do so.

Solid Waste and Sanitation Services (Task 12, pages 17-18)

The final scoping document makes no reference to the new normal of our community enduring storms whose severity were once rare but are no longer. Since the current levels of solid waste generated by existing facilities already routinely finds release into the Hudson River as a result of now-routine severe storms, the DEIS cannot fulfill its purpose without analyzing this trend in detail and proposing mitigation.

For these reasons, CB7 respectfully urges you and the Department to re-envision the scope of the DEIS required for the Project and Proposed Facility.

Respectfully submitted,



Elizabeth Caputo

Chair/Community Board 7/Manhattan

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Hon. Bill Perkins, New York State Senate, 30th District
Hon. Gale Brewer, Manhattan Borough President
Hon. Melissa Mark-Viverito, Speaker, New York City Council
Hon. Mark Levine, New York City Council, 7th District
Hon. Helen Rosenthal, New York City Council, 6th District
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