

CB7 Youth, Education & Libraries Committee
RSC Report Approved by the Committee on July 15, 2010 (7-0-0-0)

The Project Fails to Satisfy the Core Principles Relating to the Need for a School.

The proposed Riverside Center project (the "Project") fails to satisfy the Core Principles because it fails to provide a new, fully programmed 6-section per grade pre-K through 8 school of at least 151,598 gsf for the District, built in the first building constructed at the site, and fully funded by the Developer.

Instead, the Developer proposes to fund only the exterior walls and floors of raw space of a school half the size needed for the community, leaving the cost of the conversion of that raw space to the School Construction Authority ("SCA"). It also seeks to transfer to the SCA the total cost (exterior walls, floors and fit-out) for the balance of the school needed by the community.

The Proposed School Fails to Meet the Community's Needs.

The building of a new school has been the first priority identified in CB7's Charter-mandated statement of budget priorities for the City's Capital Budget for fiscal years 2009 and 2010.

A. Schools in the District Are Overcrowded.

1. Current Overcrowding.

The Project is located within Community School District 3. By any rational measure, the elementary schools in the southern portion of District 3 are already critically overcrowded. The kindergarten enrollment at PS 199 (9 blocks away) doubled in less than five years after the buildings in the northern part of the Riverside South complex became occupied. PS 199 remains above its target capacity despite changes to its zone lines and the relocation of another school with which it shared space until Fall 2009.

In addition, due to the strength of the educational opportunities offered in the District, demand for public school seats is accelerating rapidly. At PS 87, another school proximate to the Project site, 111 K families were placed on an in-zone waiting list for September 2010 (one of the largest waiting lists in the City), a four-fold increase in zone enrollment in four years. The Department of Education has stated that it views this trend toward ever-increasing use of the public schools as permanent and not a temporary or cyclical anomaly.

While PS 191, in whose catchment zone the Project site is located, is not currently overcrowded, the school facility is of modest size compared to its neighboring schools and could not withstand the cataclysm of over-enrollment visited on PS 199 in the last five years. Moreover, the Department of Education has identified PS 191 as one of the overflow schools to which in-zone families that PS 199 cannot accommodate will receive alternate offers. Simply put, there is less margin for error with over-enrollment at PS 191 than at PS 199. Moreover, with

significant additions to residential capacity in the PS 191 zone coming on line in the near future, the anticipated expansion of its zone in 2010-11, and even more residential units expected from the Fordham redevelopment, PS 191 is expected to be at or above its capacity shortly even without the Project.

2. The DSEIS Confirms Future Overcrowding.

According to the DSEIS, by 2018, the schools within a ½ mile radius of the project will be over capacity unless the 151,598 gsf school is built. Public elementary schools will be at 140% capacity and middle schools at 162% capacity. Even if the FAR permitted by the 1992 Restrictive Declaration – the lower-density alternative examined in the DSEIS – were to be built, a school would be needed to mitigate the effects of the Project.

It is therefore essential that a school be constructed as part of the Project that meets the needs of the District and not just this development.

3. The SCA Declined a Previous Option.

The 1992 Restrictive Declaration governing the Riverside South complex required the developer of those sites to extend an option to the City of New York to allow it to purchase land on which to construct a public school upon the occurrence of certain conditions. Extell succeeded to the obligation in the 1992 Restrictive Declaration, and offered the land to the Department of Education.

The Department of Education, through the SCA, declined the option in November 2006, despite growing evidence that the Riverside South buildings were already taxing the capacity of PS 199, and despite efforts by the community and elected officials to urge the SCA to take a longer-term view of the District's needs.

B. The School that the Community Needs.

CB7 convened a public meeting on May 24, 2010, the date the Project was certified by the City Planning Commission, the focus of which was the need for a school at the Project site. The meeting was co-sponsored by the District 3 Community Education Council and the District 3 Presidents' Council. The meeting was attended by over 240 parents and community members. In addition, at the meeting, over 1,300 signatures were presented in connection with a petition calling for a school to be built at the Project site big enough to serve the entire District.

That meeting followed discussions at CEC and Presidents' Council meetings during 2009-10, as well as at meetings on overcrowding and space utilization in District 3 convened by the Manhattan Borough President in 2009 and 2010, all of which acknowledged the critical need for the creation of new seats in the District. These discussions echoed testimony from parents, educators and elected officials at CB7 full Board, Working Group and committee meetings during 2009 and 2010 all to the same effect.

Based on this testimony and input, CB7 identified the nature and attributes of the school needed by the community that would satisfy the Core Principles. The school to be built at the Project site must:

- Serve grades K-8, with room for a pre-K;
- House 6 sections per grade (a minimum of 1,332 students);
- Be built in the first building constructed at the Project site;
- Offer all necessary program spaces and state-of-the-art equipment, including:
 - large or multiple cafeterias (ensuring reasonable timing of lunch);
 - multiple or dividable gyms (providing weekly access for all students);
 - separate, age-appropriate outdoor play spaces, preferably at grade;
 - dedicated space for art, music, science labs, and student services;
 - wide hallways with lockers for upper grade students;
 - flexible auditorium space; and
 - green features (e.g. green roof, vegetable garden)

If designed and built with care and attention to detail, CB7's research indicates that an effective school that addresses the community's needs could be built in a space of 151,598 gsf.

C. The Proposed School Does Not Meet the Community's Needs.

1. Extell Is Not Funding a School that Meets the District's Needs.

The DSEIS reveals that while the Developer has reserved a total of 151,598 gsf for a school, it is proposing to pay for a fraction of the cost of constructing an approximately 75,000 gsf school. The Developer estimates that a school of that size would be sufficient to accommodate the enrollment that is expected under applicable CEQR regulations to be generated solely by the Project itself.

The half-sized school is not expected to accommodate the enrollment from any of the buildings built or to be built by affiliates of the Developer on other parcels of Riverside South, nor from buildings constructed by predecessors in interest to Developer (e.g. the "Trump" buildings). The school certainly would not accommodate enrollment projected from the proposed development at Fordham or other buildings in the vicinity expected to come on line in the near future. And it pays no heed whatsoever to the growing trend identified by the DoE for increased use of the public schools overall, a trend that DoE has characterized as not temporary.

The outdoor space reserved by Extell for the school also appears inadequate. The outdoor play space envisioned by the Developer would be situated on building setbacks at the fourth floor of Building 2, and would comprise approximately 8,400 gsf. Outdoor play space of this size would potentially be suitable for a school of under 500 students (e.g. the half-sized school proposed by Extell), but is inadequate to meet the needs of the full-sized school needed by the community. CB7's proposal to create truly public open space by removing proposed Building 4 and reconfiguring the open space to accommodate both active and passive use could include the creation of appropriate outdoor space to be used by the school during the school day, while making it available to the general public after hours and on weekends.

Moreover, Extell has shifted the lion's share of the cost of even the half-sized school needed to meet the demand it is creating to the SCA and the City and State taxpayers.

2. The MOU Shifts the Cost of the School from Extell to the SCA.

The Developer entered into a memorandum of understanding (“MOU”) with the SCA in May 2010. In the MOU, the Developer agreed to build and pay for the “core and shell” of a 75,000 GSF school. In this context, the “core and shell” includes the construction of the exterior walls and internal floors of a building, but does not include fitting out that raw space into classrooms, hallways, gyms and other spaces needed for a functioning school, nor does it include mechanicals. The cost of fitting out the raw space was left to the SCA.

Since Extell will build the exterior walls of its 40+-story building regardless of whether a school occupies any of the floors, the Developer’s share of the cost of the school it proposes is de minimis. Indeed, the added value of residential units that will be located on higher floors based on locating the school on the lower floors of its buildings will cover much if not all of the incremental cost of the “core and shell” proposed by the Developer in the MOU.

The MOU also granted the SCA an option to require the Developer to build an additional approximately 75,000 GSF for the school. That option, which the SCA would be required to exercise, if at all, at an undefined interval prior to the commencement of construction of the building in which it would sit, would be entirely at SCA’s cost (i.e. the MOU allocates to the SCA the cost of the core and shell and of fitting out the raw space).

Thus, virtually all of the cost of building half of the half-sized school, and literally all of the balance of the school needed by the community, is being left to the public. This represents a monumental unmitigated impact of the proposed development.

While the cost of the exterior walls and floors is de minimis to Extell, it would not be to the SCA. Extell must build the core so that it will not only house the school, but support a building that will rise more than 500 feet above it. Were SCA to build a stand-alone school, the design specifications would be vastly different. In addition, the site selected by the Developer for the school sits above the Amtrak/Metro North right of way, requiring the construction of a platform sufficient to support the 500+ foot tall tower. Assigning to SCA any share of the costs associated with erecting a building that meets the Developer’s needs for a tower above or platform below would be manifestly unfair, and require constant parsing of expenses and monitoring of construction to ensure that public money is being used only for the incremental cost of adding the school.

CB7’s research into the cost to fit out the school reveals that estimates mentioned in public hearings that the school would cost hundreds of millions of dollars are grossly exaggerated. Fitting out the 151,598 gsf school as a state-of-the-art green facility with the latest technology and connectivity, including Smart-boards, WiFi and networking, and the equipment needed for a rich curriculum that includes science, art, and music, is estimated to cost between

\$350-450 per square foot, or between \$53-68 million. These estimates are of SCA's costs – the Developer likely can trim these costs considerably with its economies of scale and buying power.

As noted above, when the Developer's need to build the walls that form the "core and shell" anyway, and the increase in value to its apartments above by placing them on higher floors, is considered, the effect of the MOU is shift virtually the entirety of the real cost of the school to the SCA.

3. SCA Is Unlikely to Exercise the Option.

The SCA's 2010-14 Capital Plan contains no funding whatsoever for the creation of additional seats in District 3. Similarly, neither the 2005-09 Capital Plan nor any of its annual amendments had any funds for new seats in the District. As noted, the SCA has already declined to exercise an option to build a school at the contiguously adjacent Riverside South complex.

The confluence of SCA's lack of funding and the MOU's requirement that SCA pay for nearly all of the total cost of construction of an inadequately-sized school, and all of the cost of the balance of the school needed by the community, creates an unacceptably high likelihood that the full school needed by the community will not be built, and leaves palpable doubt as to whether even the small scale school will be timely built.

4. Extell Should Fund the Entire School Needed by the Community.

It is fair to require Extell to fund the entire cost of the school needed by the District and not just RSC. Extell, in other sections of Riverside South, created a significant portion of the over-enrollment that has plagued our public schools in the last five years. It succeeds to the development rights that similarly have swamped the adjacent public schools. That those buildings were constructed based on an outdated assessment of community needs does nothing to abate the resources consumed already and projected to be consumed going forward.

Extell should take the entire community in which it seeks to build as it finds it. That should include the steady and recognized trend in the neighborhood in which it seeks to site its development to use public schools in greater numbers than contemplated by the 1992 Restrictive Declaration, let alone the applicable provisions of the zoning resolution.

The full school needed by the community is too important to leave to the uncertainties of the option contained in the MOU. The option would in turn require the creation of an open and transparent process by which the community, included elected officials, the Community Board, and the CEC and Presidents' Council, could assess the Project as actually built, enrollment and projections, and the DoE's and SCA's responses. Such a process would interfere with the swift completion of the Project and any school, and in any event would be difficult to enshrine in an appropriate amended restrictive declaration.

In addition, Extell is consuming for RSC the entirety of the largest undeveloped site within our District. It is the first viable open space on which to locate a new school facility in our area in decades, and may well be the last such parcel available into the foreseeable future.

The opportunity cost of allowing the Project to be built without the construction of the full school needed by the community is staggering, and its effects will be felt for generations.

Building a state-of-the-art school facility at this site will benefit the Developer. For the prospective purchasers of its luxury units, private school could be an option to avoid the current uncertainties of in-zone waiting lists and alternate offers to schools other than the zoned school. Having a viable public school on site could save its purchasers the cost of private school tuition, currently over \$30,000 per year, enabling the Developer to seek to capture a portion of that savings through purchase prices. It also adds to the good will associated with the Project, and enables Extell to include the school in its marketing (in much the way that real estate ads on the Upper West Side included the zoned school until the recent waiting list/overcrowding crisis erupted). When those positives are added to the increase in value of the units placed on higher floors when the school occupies the lower floors, Extell's shouldering the cost of the entire school is still a win-win, and must be a requirement of this Project.

Conclusion.

The absence of a firm commitment by the Developer to build and fully fund the creation of the entire school needed by the community means that the Project fails to satisfy the first "given" identified as flowing from CB7's Core Principles.

For these reasons, CB7 should disapprove Extell's application in its entirety.