



December 5, 2018/Calendar No. 9

M 180506(B) ZSM

IN THE MATTER OF an application submitted by LE1SUB LLC for modification to the previously approved large scale residential development (CP-21885) to update the previously approved plans and zoning calculations to reflect a proposed as-of-right mixed use development on property located at 259 Clinton Street (Parcel 6A - Block 246, Lots 1, 5 and 1001-1057), Borough of Manhattan, Community District 3.

WHEREAS, on June 22, 2018 the applicant, LE1SUB LLC, submitted an application (M 180507(B) ZSM) seeking a modification to the previously approved large-scale residential development (LSRD) (CP-21885) that would facilitate development of a new approximately 63-story, approximately 590,993 square feet mixed residential-commercial building with approximately 2,415 square feet of new ground-floor retail space located at 259 Clinton Street (Block 246, Lots 1 and 5), in a C6-4 Zoning District, Borough of Manhattan, Community District 3; and

WHEREAS, in addition to this modification, the City Planning Commission also received an application (N 180498 ZCM) from the applicant for a Commission certification to waive the retail continuity requirement pursuant to Section 32-435; and

WHEREAS, on June 15, 1973 the City Planning Commission approved (CP-22539 and CP-21885) an authorization pursuant to ZR Section 78-311(d) to permit the location of buildings without regard for yard regulations as required by ZR Sections 23-47 and 23-53; and

WHEREAS, the site is currently developed with one building that has a total floor area of 262,877 square feet and 24 accessory surface parking spaces; and

WHEREAS, the applicant proposes to construct a new predominately residential building totaling approximately 593,407 square feet with 25 percent of the residential floor area reserved for affordable housing and approximately 2,415 square feet of new retail space on land that is currently a vacant lot; and

WHEREAS, the total proposed building bulk and floor area are permitted by the underlying zoning district; and

WHEREAS, this application (M 180506(B) ZSM), along with the application for the related action (N 180498 ZCM), 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 City Planning Commission. The designated CEQR number is 17DCP148M; and

WHEREAS, this application (M 180506(B) ZSM), along with separate but concurrent private applications for proposed developments seeking the same modification action within the same LSRD with similar construction schedules (M 180505(A) ZSM, M 180507(C) ZSM, N 180498 ZCM), undertook a joint Environmental Impact Statement (EIS) to ensure that all cumulative and project-specific potential impacts were identified and could be addressed through the public process mandated by the New York State Environmental Conservation Law; and

WHEREAS, it was determined that the proposed actions may have a significant effect on the environment, and that an EIS would be required. A Positive Declaration was issued on March 27, 2017, and distributed, published and filed, and the applicant was asked to prepare a Draft EIS (DEIS). Together with the Positive Declaration, a Draft Scope of Work for the DEIS was issued on March 27, 2017. A public scoping meeting was held on May 25, 2017, and comments were

accepted by the lead agency through June 8, 2017. A Final Scope of Work was issued on June 22, 2018; and

WHEREAS, a DEIS was prepared and a Notice of Completion for the DEIS was issued on June 22, 2018. On October 17, 2018 (Calendar No. 16), a public hearing was held on the DEIS pursuant to SEQRA and the CEQR procedures. Over 175 public comments were received on the DEIS via individuals, organizations, and petitions. A Final Environmental Impact Statement (FEIS) was completed and a Notice of Completion for the FEIS was issued on November 23, 2018; and

WHEREAS, the FEIS identified significant adverse impacts with respect to public elementary schools, publicly funded child care facilities, open space, shadows, traffic, transit, and pedestrians, as well as traffic and noise during the construction period. These impacts and measures to minimize or eliminate these impacts, where feasible and practicable, are described below:

Public Elementary Schools

The community facilities analysis conservatively assumes that the 200 affordable units that the developers' intend to be exclusively for seniors are instead affordable units for families. If this were to be the case, the proposed projects could result in an increase of more than five percentage points over the No Action condition and elementary school utilization would be just over 100 percent. Therefore, the proposed projects could result in a significant adverse impact on public elementary schools in Community School District (CSD) 1.

The Restrictive Declarations for the proposed projects require the applicants to fund the increase in school seat capacity in CSD 1, if required. The Department of Education (DOE) and School Construction Authority (SCA) would continue to monitor trends in demand for school seats in the area. With the funding provided by the applicants, DOE and SCA responses to identified demand could take place in stages and include administrative

actions and/or enlargement of existing schools. Mitigation measures may include, but are not limited to, relocating administrative functions to another site, thereby freeing up space for classrooms; making space within the buildings in the school study area available to DOE; and/or restructuring or reprogramming existing school space within a district. Absent the implementation of such measures, if needed, the proposed projects would have an unmitigated significant adverse impact on public elementary schools.

Publicly Funded Child Care Facilities

The community facilities analysis conservatively assumes that the 200 affordable units that the developers' intend to be exclusively for seniors are instead affordable units for families. If this were to be the case, the proposed projects could cause child care facilities in the study area to operate over capacity and the increase in the utilization rate would be over five percentage points. Therefore, the proposed projects could result in a significant adverse impact on child care facilities.

The Restrictive Declarations for the proposed projects will require the applicants to work with New York City Administration for Children's Services to consider the need for additional capacity within the 1½-mile study area and the implementation of measures to provide additional capacity, if required, to mitigate the significant adverse impact to publicly funded child care facilities. Absent the implementation of such mitigation measures, if needed, the proposed projects would have an unmitigated significant adverse impact on publicly funded child care facilities.

Open Space

The proposed projects would result in reductions in the total, active, and passive open space ratios in the study area, resulting in significant adverse open space impacts based on the quantitative analysis of indirect effects, as set forth in the *CEQR Technical Manual*.

As partial mitigation for the open space impact, the existing approximately 15,868 square feet (approximately 0.36 acres) of private open space on Site 4 (4A/4B) would be dedicated as publicly accessible open space. In addition, the renovation of existing open spaces in the vicinity of the project sites has been identified as a practicable mitigation measure. Coleman Playground, Captain Jacob Joseph Playground, and Little Flower Playground have been proposed as potential resources to be reconstructed, as described below in “Open Space.” Given that these improvements would improve the quality but not quantity of open space available in the study areas, the significant adverse impacts on open space would not be fully mitigated and therefore the proposed projects would result in unmitigated significant adverse impacts on open space.

Shadows

Two sunlight-sensitive resources would experience significant adverse shadows impacts: the Cherry Clinton Playground and the Lillian D. Wald Playground. These open space resources contain basketball courts, handball courts, playground/fitness equipment, seating areas, trees, and landscaping.

Proposed mitigation measures include dedicated funding for enhanced maintenance at the Cherry Clinton Playground and the Lillian D. Wald Playground to mitigate the significant adverse impact to the users and the trees of the Cherry Clinton Playground, and the users of the Lillian D. Wald Playground. With the implementation of these-mitigation measures, the impacts would be considered partially mitigated. As the significant adverse shadows impact would not be fully mitigated, the proposed projects would result in unmitigated significant adverse shadows impacts to these resources.

Transportation – Traffic

The proposed projects would result in potential significant adverse traffic impacts at multiple locations in the traffic study area. Based on a detailed assignment of project-

generated vehicle trips, 31 intersections were identified as warranting detailed analysis for the weekday AM, midday, and PM peak hours. The detailed analysis concluded that in the future with the proposed projects, there would be significant adverse impacts at six intersections during the weekday AM peak hour, five intersections during the midday peak hour, and 10 intersections during the PM peak hour. While most of the impacts could be mitigated, the significant traffic impacts at two of the study intersections would be unmitigated.

The following intersections could be fully mitigated in one or more peak hours:

South Street and Pike Slip

The significant adverse impact at the southbound left-turn lane group of this intersection during the weekday PM peak hour could be fully mitigated by shifting one second of green time from the eastbound/westbound phase to the southbound phase.

South Street and Clinton Street

The significant adverse impacts at the eastbound approach of this intersection during the weekday PM peak hour could be fully mitigated by shifting four seconds of green time from the northbound/southbound phase to the eastbound/westbound phase.

Madison Street and Pike Street (East and West)

The significant adverse impacts at the eastbound approach of this intersection during the weekday AM and PM peak hours could be fully mitigated by shifting one second of green time from the northbound/southbound phase to the eastbound/westbound phase.

Madison Street and Montgomery Street

The significant adverse impact at the northbound approach of this intersection during the weekday PM peak hour could be fully mitigated by shifting one second of green time from the eastbound/westbound phase to the northbound/southbound phase.

East Broadway and Pike Street (East and West)

The significant adverse impacts at the northbound left-turn lane group of this intersection during the weekday AM peak hour could be fully mitigated by restriping the eastbound approach from one 11-foot moving lane, one five-foot bike lane, and one 10-foot parking lane to one 11-foot moving lane, one five-foot bike lane, and one 10-foot right-turn lane; prohibiting parking (installing “No Standing Anytime” sign) on the south curbside of the eastbound approach for approximately 100 feet from the intersection; and shifting two seconds of green time from the northbound/southbound phase to the northbound phase.

The significant adverse impacts at the northbound left-turn lane group and eastbound approaches of this intersection during the weekday midday peak hour could be fully mitigated by undertaking the above restriping and curbside regulation changes, and shifting one second of green time from the northbound/southbound phase to the northbound phase.

The significant adverse impacts at the northbound left-turn lane group and eastbound approaches of this intersection during the weekday PM peak hour could be fully mitigated by undertaking the above restriping and curbside regulation changes, shifting one second of green time from the northbound/southbound phase to the northbound phase, and shifting one second of green time from the northbound/southbound phase to the eastbound/westbound phase.

Division Street and Market Street

The significant adverse impact at the northbound approach of this intersection during the weekday midday peak hour could be fully mitigated by shifting one second of green time from the westbound phase to the northbound phase.

Canal Street and Allen Street

The significant adverse impact at the eastbound approach of this intersection during the weekday PM peak hour could be fully mitigated by shifting one second of green time from the northbound/southbound phase to the eastbound/westbound phase.

Allen Street and Delancey Street

The significant adverse impacts at the westbound left-turn lane group of this intersection during the weekday midday and PM peak hours could be fully mitigated by shifting one second of green time from the northbound/southbound phase to the westbound phase.

Division Street and The Bowery

The significant adverse impacts at the westbound left-turn lane group of this intersection during the weekday AM peak hour could be fully mitigated by shifting two seconds of green time from the northbound/southbound phase to the westbound phase.

East Broadway and Chatham Square

The significant adverse impact at the southbound left-turn lane group of this intersection during the weekday midday peak hour could be fully mitigated by shifting one second of green time from the westbound phase to the northbound/southbound phase.

The significant adverse impacts at the northbound right turn and southbound left-turn lane groups of this intersection during the weekday PM peak hour could be fully mitigated by shifting two seconds of green time from the westbound phase to the northbound/southbound phase.

Worth Street and Centre Street

The significant adverse impact at the westbound through lane group of this intersection during the weekday AM peak hour could be fully mitigated by shifting one second of green time from the northbound phase to the eastbound/westbound phase.

The following intersections are unmitigated in one or more peak hours:

South Street and Montgomery Street (North and South)

An unmitigated significant adverse impact could occur on the southbound approaches of this intersection during the weekday AM peak hour. Additionally, an unmitigated significant adverse impact could occur on the westbound, northbound and southbound approaches of this intersection during the weekday PM peak hour.

Chatham Square and Worth Street/Oliver Street intersection

An unmitigated impact could occur at the eastbound approach and southbound shared lane of this intersection during the weekday AM, midday, and PM peak hours. Additionally, the significant adverse impact at the westbound right-turn lane of this intersection during the weekday PM peak hour also could not be mitigated.

Transportation – Transit

Subway station circulation elements and control areas were analyzed for the East Broadway-Rutgers Street station (F line) for the weekday AM and PM peak hours. The

proposed projects are expected to result in significant adverse subway stairway impacts at this station's S1 stairway at the northwest corner of Rutgers Street and Madison Street during both the weekday AM and PM peak hours, and the P3 platform stairway for the weekday AM peak hour.

The mitigation measures identified for the proposed projects include building a new subway entrance (street-level stairway S2) at the south end of the subway station on the northeast corner of Rutgers Street and Madison Street and widening the (P3) platform-level stairway and adjoining mezzanine level stairway (ML7). These measures would fully mitigate the identified significant adverse impacts.

Coupled with these stairway improvements would be two new elevators that would make the station compliant with the Americans with Disabilities Act for vertical circulation. These elevators would be located at the north end of the station as the platform at the south end has a column structure that precludes the elevators being built next to the new street and mezzanine stair.

Transportation – Pedestrians

Pedestrian conditions were evaluated at 18 sidewalks, 16 corners, and 12 crosswalks for the weekday AM, midday, and PM peak hours. The proposed projects would result in significant adverse pedestrian impacts at one sidewalk (north sidewalk of Madison Street between Rutgers Street and Pike Street) during the weekday AM and PM peak hours, two crosswalks (Rutgers Street and Madison Street north crosswalk and west crosswalk) during the weekday AM peak hour, one crosswalk during the weekday midday peak hour (Rutgers Street and Cherry Street south crosswalk), and two crosswalks during the weekday PM peak hour (Rutgers Street and Madison Street north crosswalk and Rutgers Street and Cherry Street south crosswalk).

The new street-level stairway and subway entrance proposed as mitigation to the significant adverse impacts related to transit is expected to result in a shift of pedestrian paths leading to/from the East Broadway-Rutgers Street subway station. As a result, the identified significant adverse impacts at the north sidewalk of Madison Street between Rutgers Street and Pike Street, and the north and west crosswalks of the Rutgers Street and Madison Street intersection would also be mitigated.

To accommodate the new stairway, the north sidewalk on Madison Street between Rutgers Street and Jefferson Street would need to be widened. With increased pedestrian flow on the east side of Rutgers Street to/from the new S2 stairway, a new significant adverse impact was identified for the east crosswalk of the Rutgers Street and Madison Street intersection. The potential pedestrian mitigation measures consist of signal timing changes and crosswalk widening, and widening the width of the north sidewalk at the northeast corner of Rutgers Street and Madison Street (in connection with the proposed transit mitigation) to facilitate increased pedestrian space.

Construction – Traffic

The following significant adverse traffic impacts were identified during the construction AM peak hour and the construction PM peak hour:

Construction AM Peak Hour

- East Broadway and Pike Street – northbound left-turn movement; and
- Allen Street and Delancey Street – westbound left-turn movement.

Construction PM Peak Hour

- South Street and Pike Street – southbound left-turn movement;
- South Street and Clinton Street – eastbound left-through lane group;
- South Street (South) and Montgomery Street – southbound left-through lane group;

- Madison Street and Montgomery Street – northbound approach; and
- Chatham Square and Worth Street/Oliver Street – eastbound Worth Street approach.

The same or similar traffic mitigation measures identified to mitigate the operational impacts could be implemented early at the discretion of the NYC Department of Transportation (DOT) to mitigate the temporary impacts during construction. The construction traffic impacts at the two intersections identified as unmitigated in the With Action conditions (South Street and Montgomery Street (North and South) and Chatham Square and Worth Street/Oliver Street would, also remain unmitigated during the peak construction periods.

Construction – Noise

The detailed modeling analysis contained in the FEIS concluded that construction of the proposed projects has the potential to result in construction noise levels that exceed *CEQR Technical Manual* noise impact criteria for an extended period of time at the façades of residences facing the project sites on Cherry Street: the eastern, southern, and western façades of 64 Rutgers Street: 80 Rutgers Slip: the northern, eastern, and a portion of the southern façades of 82 Rutgers Slip: a portion of the northern façade and the eastern and western façades of 265 and 275 Cherry Street: residences immediately adjacent to Site 6A, portions of the northern and western façades of 286 South Street: and portions of the northern and eastern façades of the residences west of Site 4 (4A/4B).

No practicable mitigation measures have been identified that would fully mitigate the construction-period noise impacts. The construction-period noise impacts would remain unmitigated.

WHEREAS, to avoid the potential for significant adverse impacts to occur, the proposed actions

include an (E) designation related to noise (E-489) would be assigned to the parcels, as detailed below:

Noise

To ensure an acceptable interior noise environment, the building façade(s) or future development at the project sites must provide minimum composite building façade attenuation as shown in Table 17-9 of the *Two Bridges LSRD EIS* in order to ensure an interior L₁₀ noise level not greater than 45 dBA for residential and community facility uses or not greater than 50 dBA for commercial uses. To maintain a closed-window condition in these areas, an alternate means of ventilation that brings outside air into the buildings without degrading the acoustical performance of the building façade(s) must also be provided.

The requirements of a previously assigned (E) designation (E-312) related to hazardous materials in connection with prior approvals would continue to apply, as detailed below:

Hazardous Materials

As a part of the environmental review for the Two Bridges/HealthCare Chaplaincy project CEQR no. 12DCP157M) formerly proposed for Site 5, Lot 2 was assigned (E) Designation E-312 for hazardous materials. This designation requires that prior to any new construction entailing subsurface disturbance, the applicant submit to the New York City Office of Environmental Remediation (OER), for review and approval, a Phase I ESA and sampling protocol (for any additional subsurface investigation). A report documenting the subsurface investigation findings along with a Remedial Action Plan (RAP) setting out procedures to be followed prior to, during, and following construction (e.g., for soil management, dust control, air monitoring, health and safety, and vapor controls for the new building) is then submitted for OER review and approval. Documentation that the RAP procedures were properly

implemented is required by OER before New York City building permits allowing occupancy can be issued.

WHEREAS, this application (M 180506(B) ZSM) and the application for the related action (N 180498 ZCM) were referred to Community Board 3 by the Department of City Planning on June 25, 2018 in accordance with the procedures for non-Uniform Land Use Review Procedure (ULURP) matters; and

WHEREAS, Community Board 3 held a public hearing on this application (M 180506(B) ZSM) on August 14, 2018, and on September 28, 2018 adopted a resolution recommending disapproval of the application; and

WHEREAS, on September 26, 2018 (Calendar No. 4), the City Planning Commission scheduled October 17, 2018 for a public hearing on the DEIS (17DCP148M). The hearing was duly held on October 17, 2018 (Calendar No. 16); and

WHEREAS, there were 19 speakers in favor of the application at the public hearing and 60 in opposition; and

WHEREAS, during the public hearing for the DEIS, speakers in favor included representatives and members of JDS Development; representatives and members of L+M Development Partners and CIM Group, representatives and members of Starrett Development; the Settlement Housing Fund; a retail business owner within the LSRD; the Service Employees International Union Local 32BJ; a laborer for a construction services company; and an advocate for disabled persons; and

WHEREAS, during the public hearing for the DEIS, speakers in opposition included the City Council Member representing District 1; the Borough President of Manhattan; the N.Y. State Senator for New York's 26th Senate District; the N.Y. State Assemblymember for New York's

65th Assembly District; representatives and members of Community Board 3; representatives and members of tenant associations within the LSRD; a retail tenant within the LSRD; Henry Street Settlement; the Metallic Lathers and Reinforcing Ironworkers Local 46 union; representatives and members from civic organizations including CAAAV: Organizing Asian Communities, Good Old Lower East Side, Lower East Side Organized Neighbors, and Tenants United Fighting for the Lower East Side; and local neighborhood residents; and

WHEREAS, the applicants and their representatives testified in support of the applications and described the proposed buildings' programs and designs, affordable housing obligations, potential project-related significant adverse impacts, project components related to the environment that would enable the projects to preclude certain significant adverse impacts, proposed mitigation measures, and the applicants' responsibilities associated with the implementation of mitigation measures; and

WHEREAS, a representative of the Settlement Housing Fund spoke in support of the proposed project at 247 Cherry Street and stated that its sale of land and unused development rights for use by the development would result in new permanent affordable housing units and a significant investment in the existing 100 percent affordable senior building at 80 Rutgers Slip. The representative stated that 82 Rutgers Slip and 80 Rutgers Slip would remain in the ownership of Settlement Housing Fund and would remain affordable; and

WHEREAS, a local retail business owner in operation for 30 years spoke in support of the proposed project at 260 South Street and stated that he worked with the property owner to secure a new long-term lease in the enlarged retail space proposed for that site; and

WHEREAS, an advocate for disabled persons spoke in support of the proposed projects and stated that the addition of elevator access from the street to the platform level at the East Broadway

subway station, which is unlikely to receive an elevator through other means in the foreseeable future, would allow disabled individuals to be more independent and remain in the area; and

WHEREAS, three other speakers spoke in support of the proposals. Two members of the Service Employees International Union Local 32BJ stated that the proposed developments had committed to roughly 50 permanent building service jobs that would pay prevailing wages. A representative of a construction services company stated that the proposed development at 260 South Street has proposed significant local hiring plans for its project; and

WHEREAS, a representative for JDS Development, the applicant at the 247 Cherry Street site, clarified that a lawsuit by Little Cherry LLC, the tenant at 235 Cherry Street, does not challenge the right of the Commission to consider the proposed project; and

WHEREAS, multiple speakers expressed concern that the minor modification process did not allow for adequate public input and review of the proposed projects, potential impacts, and proposed mitigation measures; and

WHEREAS, multiple speakers expressed concern that the DEIS did not adequately analyze residential and retail displacement; the strains on mass transit, including subways and buses; open space; shadows; sewage treatment and storm drainage; resiliency; and construction; and

WHEREAS, multiple speakers opposed the classification of the proposed actions as minor modifications to the existing LSRD and requested that the applications be reviewed pursuant to the ULURP; and

WHEREAS, multiple speakers expressed concern that the proposed projects could not meet the authorization or special permit findings enumerated in ZR Section 78-313; and

WHEREAS, multiple speakers expressed concern that the scale of the proposed projects is inconsistent with the existing neighborhood context and does not perpetuate the Two Bridges urban renewal plan that expired in 2007; and

WHEREAS, multiple speakers expressed concern about the displacement of seniors and elimination of existing senior units at 80 Rutgers Slip due to the construction of the proposed building at 247 Cherry Street; and

WHEREAS, multiple speakers expressed concern that the projected 694 affordable units produced as part of the proposed projects would not be sufficient or affordable to area residents; and

WHEREAS, rent-stabilized tenants alleged harassment by their landlords and multiple speakers expressed support for additional services to address tenant harassment; and

WHEREAS, a member of Community Board 3 expressed concern regarding the loss of rent-regulated units and the number of eviction cases filed in the area; and

WHEREAS, multiple speakers requested that the vote on this application be delayed until a proposed text amendment to the LSRD by the City Council Member representing District 1 and the Borough President of Manhattan can be completed, referred for public review, have its public hearings, and return for a vote; and

WHEREAS, a representative of Two Bridges Townhouse Condominiums, located on Parcel 6B within the LSRD, argued that the applications should not be allowed to proceed in the absence of a written owner's authorization from the residents of those condominiums; and

WHEREAS, a representative of Little Cherry, LLC, which holds a lease on a portion of Parcel 4 within the LSRD, requested that the Commission not consider the application for the proposed development at 247 Cherry Street pending resolution of litigation on the extent of its property interests under the lease; and

WHEREAS, two members of the Metallic Lathers and Reinforcing Ironworkers Local 46 union stated that a study should be conducted regarding the effects of the proposed developments on wages, working conditions, and worker safety; and

WHEREAS, this application (M 180506(B) ZSM) was reviewed by the City Coastal Commission 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 30, 2013 and by the New York State Department of State on February 3, 2016, 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 16-071. This action was determined to be consistent with the policies of the WRP; and

WHEREAS, the Commission notes that the public review process included four voluntary public sessions administered by the applicant team, a public scoping meeting, three public meetings held by Community Board 3, and a public hearing on the DEIS held by the City Planning Commission followed by a 10-day written comment period; and

WHEREAS, the Commission notes that the EIS analysis is consistent with the CEQR Technical Manual guidelines and that responses to written comments and the testimony heard at the public hearing are addressed in the Response to Comments section of the Final EIS; and

WHEREAS, the Commission carefully considered the analysis and public comments in determining the appropriate mitigation measures, detailed above, regarding potential impacts in

the categories of community facilities, open space, shadows, transportation, and construction; and

WHEREAS, the Commission concurred with many of the mitigation measures that were identified in the DEIS and explored further following publication of the DEIS based on community input, such as testimony at the DEIS public hearing and written comments, and through consultation with City and State agencies; and

WHEREAS, the Commission determined that additional open space mitigation was necessary, and required that the open space on Parcel 4 be made public and designed in consultation with the Department; and

WHEREAS, the Commission notes that the applicant commits to establish a community construction task force as a forum for coordination with members of the community regarding the proposed projects' construction schedule and activities; and

WHEREAS, the applicant's request for a modification to the previously approved LSRD must comply with the underlying zoning and is subject to the Commission's determination that the findings made for previously granted authorizations and special permits within the LSRD remain valid; and

WHEREAS, the Commission notes that no new zoning actions, no new waivers, and no other modifications are being sought; and

WHEREAS, the Commission acknowledges that a review of the record supporting the Commission's adoption of the LSRD indicates that there are no special considerations that would render an as-of-right development a major modification of the LSRD, which would require a new ULURP; and

WHEREAS, the Commission acknowledges that the proposed projects, while large in scale, include proposed uses and floor area that are permitted as-of-right in a C6-4 Zoning District; and

WHEREAS, the Commission believes that the findings made for previously granted authorizations and special permits within the LSRD remain valid; and

WHEREAS, the Commission notes that the Two Bridges Urban Renewal Plan (URP) was adopted in 1967 to address the deteriorating conditions in the area, and that from 1972 to 1995 buildings were constructed to fulfil the objectives of the URP before it expired by its own terms in 2007; and

WHEREAS, the Commission notes the varied built context of the area, which generally steps up block by block from East Broadway to the East River, consisting of a lower-rise area, characterized by tenement and pre-war buildings generally ranging in height from one to 10 stories, that is ringed by tower in the park building clusters, ranging from 16 to 21 stories, with the buildings beyond, and closest to the East River, ranging from one to 27 stories within the LSRD and with a 13- and a 78-story building adjacent to the LSRD; and

WHEREAS, the Commission notes that there would be no loss of senior units at 80 Rutgers Slip due to the proposed projects and that the relocation of any units or residents would be subject to a regulatory agreement approved by the U.S. Department of Housing and Urban Development; and

WHEREAS, the Commission is aware that 25 percent of the residential units will be permanently affordable through a combination of the R10 Inclusionary Housing program and regulatory agreements with the NYC Department of Housing Preservation and Development (HPD), which it strongly believes is essential as a means of maintaining neighborhood character; and

WHEREAS, the Commission has determined that to ensure completion of the permanently affordable residential units, it would require that applicant not accept a building permit issued by the Department of Buildings pursuant to a new building application authorizing construction of the project until applicant has entered into an affordable housing regulatory agreement with HPD; and

WHEREAS, the Commission notes that units will be available to a range of income levels between 40 and 120 percent of the area median income; and

WHEREAS, the Commission understands that the proposed projects will produce up to 694 permanently affordable units through unsubsidized development on private property, which represents one of the largest affordable housing projects in the City's history; and

WHEREAS, the Commission notes that HPD will instruct the Mayor's Office's Public Engagement Unit to engage with 17 buildings in Community District 3 that have been identified as at risk for tenant harassment to determine whether tenants have received buyout offers in an illegal manner, whether tenants are aware of their rent stabilization status, and whether there are any concerns that intentional actions to displace tenants are occurring; and

WHEREAS, the Commission believes that it would be inappropriate to intentionally delay a completed application for the purpose of allowing another, incomplete application to be completed, referred, heard at a public meeting, and then voted on at the same time; and

WHEREAS, the Commission understands that the condominium owners, located on Parcel 6B within the LSRD, have refused to provide a written "statement of awareness" for the proposed applications, but notes that the "statement of awareness" requirement for LSRDs is intended to provide notice to other property owners but is not intended to create a legal interest that enables

an owner to demand payment to enable a proposed development on an unrelated site to proceed;
and

WHEREAS, the Commission notes the Department’s determination that the “statement of awareness” requirement has been satisfied since the condominium owners have made their awareness of the proposed projects known, and the proposed applications do not affect their property interests or zoning interests; and

WHEREAS, the Commission notes that the litigation concerning Little Cherry, LLC does not affect the ability of the Commission to consider the applications before it; and

RESOLVED, that having considered the FEIS (17DCP148M) for which a Notice of Completion was issued on November 21, 2018, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met:

1. Consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the Proposed Action adopted herein is one that avoids or minimizes 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 through the implementation of mitigation measures, which form part of the action, consisting of:
 - a. payments per public elementary school seat as deemed appropriate by the NYC School Construction Authority;
 - b. payments per publicly funded child care facility slot or providing on-site space for the operation of a publicly funded child care facility as deemed appropriate by the NYC Administration of Children’s Services;

- c. the establishment of two new on-site public open spaces and improvements to neighborhood parks as deemed appropriate by the NYC Department of Parks and Recreation;
- d. a per park payment for a 10-year period for plant maintenance as deemed appropriate by the NYC Department of Parks and Recreation;
- e. traffic signal timing adjustments, lane restriping, and crosswalk widenings as deemed appropriate by NYC Department of Transportation; a new stairway entrance, stairway widenings, and new elevators compliant with the Americans with Disabilities Act at the East Broadway subway station as deemed appropriate by the Metropolitan Transportation Authority; and
- f. the placement of (E) designations for noise and hazardous materials.

The report of the City Planning Commission, together with the FEIS, constitutes 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, the City Coastal Commission finds that the action will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies; and be it further

RESOLVED, by the City Planning Commission that based on the environmental determination, and the consideration and findings described in this report, the application (M 180506(B) ZSM) submitted by the applicants for the grant of a modification to the previously approved LSRD (CP-21885) that would facilitate development of an approximately 501,518 square feet residential building and the enlargement of an existing building with approximately 590,993 square feet mixed residential-commercial building with approximately 2,415 square feet of new ground-floor retail space located at 259 Clinton Street (Block 246, Lots 1 and 5), in a C6-4 Zoning District, Borough of Manhattan,

Community District 3, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (M 180506(B) 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, filed with this application and incorporated in this resolution:

| <u>Dwg. No.</u> | <u>Title</u> | <u>Last Received Date</u> |
|-----------------|----------------------------|---------------------------|
| Z-001.00 | LSRD Zoning Analysis | 2018-06-19 |
| Z-002.00 | LSRD Site Plan | 2018-06-19 |
| Z-003.00 | Zoning Lot Zoning Analysis | 2018-06-19 |
| Z-004.00 | Zoning Lot Site Plan | 2018-06-19 |
| Z-005.00 | Ground Floor Plan | 2018-06-19 |
| Z-006.00 | Zoning Lot Sections | 2018-06-19 |
| Z-007.00 | Zoning Lot Sections | 2018-06-19 |
| Z-008.00 | Zoning Lot Sections | 2018-06-19 |
| Z-009.00 | Zoning Lot Sections | 2018-06-19 |

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. No development pursuant to this resolution shall be permitted until the Restrictive Declaration attached as Exhibit A, as same may be modified with any necessary

administrative or technical changes, all as acceptable to Counsel to the Department of City Planning, is executed by LE1SUB LLC or its successor, and such Restrictive Declaration shall have been recorded and filed in the Office of the Register of the City of New York, County of New York.

The above resolution, is duly adopted by the City Planning Commission on December 5, 2018 (Calendar No. 9).

MARISA LAGO, *Chair*

KENNETH J. KNUCKLES, ESQ., *Vice Chairman*

ALLEN P. CAPPELLI, ESQ., ALFRED C. CERULLO, III,

JOSEPH DOUEK, RICHARD W. EADDY,

CHERYL COHEN EFFRON, HOPE KNIGHT,

ORLANDO MARIN, LARISA ORTIZ, *Commissioners*

MICHELLE DE LA UZ, ANNA HAYES LEVIN,

RAJ RAMPERSHAD, *Commissioners*, voting “No”